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National Seminar on

Status of Judicial Activism in India

Editor -In-Chief

Prof. Rahul Pandit

Principal

Dr. Bhaskar Shelke

सहकार सहर्षी शिवाजीराव तथा दादासाहेब काळे
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Emerging Sports Law in India

Anil Kisan Bade

College Directed Of Physical Education,
S.S.C.College Junnar,
Tal- Junnar, Dist-Pune

Introduction

Sports law is based on how the law in general interacts with the sports activity. Different from theoretical laws, it is a pure law. Sports law is not only an applied law in the field of sports, physical education and its related field(s); but also a blend of laws in a number of jurisdictions.

Jurisdictions

Some jurisdictions have passed separate legislation relating to sports. For example, in India sports information is in the Concurrent list of the Seventh Schedule (entry 33) of the Constitution on which both the union and state legislatures are proficient to put together laws. There are 3 States; Rajasthan, Himachal Pradesh and Uttar Pradesh, which have enacted laws on regulating sports activity including registration, regulation and recognition of Sports Associations (Uttar Pradesh has since repealed the Act).

History

Human beings are drawn in sports activities since times immemorial. From the initial days of human civilization till date, sports have evolved from a source of personal entertainment to a global industry encompassing more than 3% of world trade. In the UK, sports provide employment to more than 420,000 people. It is one of the main revenue generating industries of the world and with the propagation of the Internet and other forms of media, the sports industry is growing at a faster tempo. An industry of billions of dollars with an all-encompassing worldwide presence is bound to raise its own disputes. This has resulted in the growth and development of sports law as a separate regulation in its own right.

Recently

The front pages of newspapers are generally reminders of human idiocy - dishonesty, corruption, rape, kill, illicit sex and drug abuse. Therefore, many sidestep the front news and move on to the sports section to explore something more exciting. However, recently sports have had an unusual sprint on the front page owing to its own flawing. Chronicles of the Peter Korda drug doping affairs, the Olympic Games bidding disgrace, Cricket series of falls over mach fixing, payments from bookies and Ranatunga muddle, reveals the cynicism of sports.

Functioning of Sports

The international sports body for each sport, made up of national bodies of different countries is at the top of the hierarchy. The national sports bodies comprise the provincial or state bodies of different countries. The provincial state bodies comprise the different districts or clubs.

In many countries, such as India, national as well as provincial sports bodies, clubs, associations or societies are more often than not set up under the law of societies. These are autonomous non-profit making private bodies. Additionally, many of these are also established as non-profit associations under the company law jurisdiction in the UK and commonwealth countries including India. These associations cannot dole out their surplus or make payment of dividends to members. Their surplus, if any, has to be exclusively and wholly applied for furtherance of organizational objectives.

In many states, such as India, these national sports bodies field the national team on behalf of the country for participation in international competitions where first-rate performance is a matter of pride for the whole country. They mull over the players for participation and selection. These bodies also grant telecasting and broadcasting rights to the successful bidder for heavy sums and also receive revenues from advertisement in sports events. They also take punitive action against the erring players including debarring

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them from the game. These bodies control even domestic matches or games within the country. Despite the fact that these are private bodies, up till now in realism they are performing significant public functions in the field of sports where national or public interest is at bet, similar to public or governmental authorities as regulators and facilitators of the game in the field of sports. In view of that, in the said countries including India for enforcement of their public duties and obligations right Constitutional Writs of High Courts lie against these private bodies like any public or Government Authority. In India, the budding "Sports Law" is newly-fangled. There are some pressing issues that need awareness:

1) Indian Sports Policy with reference to the Competition Law:

Indian Sports Act must ensure proper structure and liabilities of the sports bodies; and key policies for sports bodies including code of conducts, policies for discipline, selection, harassment, conflict of interests, recruitment and awards, etc.

2) Sports Injuries with regard to the Issues of Liability:

This comprises potential liabilities; claim and compensation; and risk assessment insurance provisions.

3) Employment Issues In Sports:

Employee contract agreements must ensure that all contractual agreement accrues matters of intellectual property between employee and employer.

4) Harassment in Sports:

This includes review of the laws and policies for the harassment of fair sex in sports; means and methods for equality rights for fair sex, girl child and female participants of sports; internal investigations and inquiries on the harassment in sports; and humanitarian and constitutional law for prevention of racial and gender harassment.

5) Organizational Matter:

The Alternate Dispute Resolution (ADR) may administer amateur sports in India as well as all appeals and adjudication under the Indian law on penalties for doping in sports and sports related disputes like match fixing, corruption, breach of contract, violence, etc.

6) Research:

Research must be undertaken to promote, encourage and support the law fraternity. The research topics may include: drafting Sports Act of India; contribution of Indian legislative body for support of Indian sports; standing of the sports administrator in India; regulation of violence between players in contact sports; development of risk management programmes for safety in sports; concerns of racial discrimination and national identity in sport; changes in contractual dynamics in professional football; regulation of the sports coach/child athlete relationship; legal support for women's participation in sport; judicial pronouncement of Indian in addition to International Courts; and relationship of coordinative abilities to performance in certain games.

Call to Action:

The Aim of Sports Law should be to provide: educational opportunities and disseminate data and information regarding specific areas of sports law; and create a forum for lawyers representing athletes, teams, leagues, conferences, civic recreational programs, educational institutions and other organizations involved in professional, collegiate, Olympic, physical education and amateur sports. The Government must encourage discussions of legal problems affecting sports and promote the exchange of a variety of perspectives and positions of sports law. Establishing rules of ethics for sports persons and practicing professional of law involved in sports law will support the sports industry.

Additionally, sports law should endeavor to: produce high quality research in the field of sport and the law; provide up to date information on current sports law issues including a resource of sports law

material, provide consultancy to sportsmen and sports bodies concerning sports law issues; promote undergraduate and postgraduate study, research and continuing education in sports law; promote ethical solutions to legal issues in sport and notions of "Fair-Play"; and positively address all issues of discrimination in sport.

Conclusion

The emergent interaction between sports and law has shaped a new need for a greater understanding of how the law relates to the sporting world. India needs expert sports law consultants to meet an amalgam of diverse legal disciplines such as sports law and policy, contract, tort, taxation, labor, competition, TV rights, match fixing and related criminal laws. In my opinion – legal practitioners and sports persons must come together to understand, advance, promote and ethically practice sports law in India.

Disclaimer.

This article is for informational purpose only

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