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Case Comment: Delhi Gymkhana v Union of India

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WHAT IS PUBLIC INTEREST?

Public Interest can be identified where the public at large has some interest by which their legal rights or liabilities are affected. It does not mean anything about the particular localities that may be affected. A matter of public or general interest 'does not mean that which is interesting as a gratifying curiosity or a love of information or amusement; but that in which a class of the community has a pecuniary interest or some interest by which their legal rights or liabilities are affected.

In simple terms, the public interest is something in which the general public has an interest. The concept of PIL (Public interest Litigation) is also formed for where the rights of the general public are secured by an individual or a group of individuals. Per Contra, a Company is formed for the sole purpose of Profit making, still, it must make sure that the rights of the general public are not affected or degraded by any of its actions. Section 241[1] of the Companies Act 2013 provides that if a company is managed in such a way that it is Prejudicial to public Interest i.e. harmful

[1] Companies Act 2013, s 241

to the general public, then in such cases the Central Government can take effective measures to conduct the management of the company effectively.

DELHI GYMKHANA v UNION OF INDIA[2]

Facts

A Sports Club i.e. Delhi Gymkhana was formed in the year 1913 as a company under the Companies Act, 1913 as a non-profit company. The Facility was formed on the 27 acres of land provided to it on lease by the Central Government. The main objective of the establishment i.e. club was to promote polo, hunting, racing, tennis, and other games, athletic sports, and pastimes. The club was working seamlessly for the past century and performed its functions as described in its MOA and AOA.

In 2016 the ministry of corporate affairs decided to take legal action against the management of the club as it was violating its basic functions. The legal action was taken under section 206(5)[3] of the Companies Act, 2013. The government filed a petition in the Tribunal under section 241(2) - application to the tribunal for relief in cases of oppression. And it was also established in the tribunal that the affairs of the club were conducted in a way "prejudicial to the public interest". Tribunal granted interim relief to the government, and the management of the club was transferred to the Government because the club was working against its MOA & AOA. The parties applied to the Appellate Tribunal (NCLAT) for the Adjudication of the following issues.

Issues

- Whether the affairs of the club conducted in a manner prejudicial to the public interest?
- Whether the affairs of the club amenable to Public interest?
- Whether there was a prima facie case against the club while warranting interim relief?

[2] *Delhi Gymkhana v Union of India* [2021] SCC OnLine 76 (NCLAT)
[3] Companies Act 2013, s 206(5)

Arguments are given by the Club

It was submitted from this side that the club has no requirement to make sure its policies are by the general public or it benefits the public. The club is a private institution and its main purpose is to benefit its members and no public interest matters. The tribunal has no jurisdiction under Section 241- 246 of the Companies Act 2013[4] to direct the governance of the club.

For the application of section 241 (2) these 2 conditions need to be fulfilled:

- The formation of an opinion by the Central Government.
- That the affairs of the company are being conducted in a manner prejudicial to the public interest.

None of these conditions can be fulfilled by the UOI, so this section can't be applied in this case. The club has absolute power to govern itself, per contra the public has no interest in it. The management and membership of the club are private interest, no public law aspect or any violation of statutory rights or fundamental rights is involved therein. As per the MOA of the company the club is for the enjoyment of the members of the club, hence the club doesn't come under the purview of article 14 of the Constitution as it does not extend to the membership of the club.

Arguments are given by the Union of India

It was contended that the working of the club must be called into question as it violated its memorandum and also comes under the acts defined in section 241 of the Companies act. The public interest is hugely affected in this matter, the club was formed for sports purposes, and however, the club now mostly focuses on recreational purposes and only on the members of the elite. More than 60% of the club's income is spent on its recreational functions, and its MOA does not even mention any plans for recreational functions. The management of the club is violating its MOA and the membership of the club is also hit by nepotism and various other issues, where only the rich can join the club and their children will become members of the club

[4] Companies Act 2013

by default. The large government property was given to the club in perpetuity only for the benefit of the general public, which must be attained by its functions, and if not then action must be taken by the court of law. The activities of the club are prejudicial to the interest of the public because the public lacks to take benefit from the resources that are given to them, and only a few private individuals are benefiting from the government property.

Judgement

The court decided that the term "prejudicial to the interest of the public" differs from the facts and circumstances of each case, which may be determined by the court and there is no hard rule regarding that. The court, in this case, held that the affairs of the club were amenable and prejudicial to the interest of the public. The doors for membership are essentially only open to those with blue blood in their veins, perpetuating apartheid and undermining the most cherished constitutional goal of securing social justice and equality of status and opportunity. This is done under the cover of the Club's distinctive character, a remnant of the Imperial past.

It is crystal clear that misappropriating the club for recreational and sporting purposes, denying access to membership despite accepting the increased membership fee, and placing applicants on a long waiting list while using the portion of interest allowed on their invested membership fee for the benefit of permanent members and users seriously jeopardised the interests of these potential members and involved public interest.

The court referred to the case of ***Krishan Lal Gera v State of Haryana***[5], where it was held that "*If a chunk of a government stadium, being prime land in the heart of the city meant for developing sports and athletics is misused or illegally allowed to go into private hands, it cannot be said that no public interest is involved*."

ANALYSIS

This case has worked for the evolution of the rights of the minority. It's always understood that big eat small, but in contrast, the constitution provides for safeguarding against this. Right to

[5] *Krishan Lal Gera v State of Haryana* [2011] 10 SCC 529

equality has always been part of our basic structure, and thus as this law is under the constitution, it must satisfy the basic structure. So, the policy of big eats small shall not work here, and if something of this sort happens the courts must provide a remedy for the same.

This recent landmark judgement has provided safety for the public interest. The public interest was prejudiced by the club because it was misusing the membership fees by the prospective members for the benefit of the permanent members. The club used to call for the application of membership while there are predominant members who have already taken the seats. Public interest is not only the interest of the whole public but if any sector of society is affected no matter how small, the public interest will be affected in such a case. The court also said that when a sports facility is taken over by private individuals for recreational purposes and is hit by nepotism and favouritism, the government may initiate proceedings under section 241.

CONCLUSION

Sections 241 and 242 of the Companies Act deal with oppression and mismanagement. These sections give wide powers to the tribunal, which include the removal of the managing director, manager, or any of the directors of the company and recovery of undue gains. The rule of the majority is a common norm as the majority holds the most power, this also creates a scenario where the small shareholders are oppressed and denied their powers. Any member who is oppressed by the majority is given power under this section to apply to the tribunal to keep in check the activities of the majority. These sections play an important role in corporate governance and ensure that no right is violated.