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## Dispute Resolution in Sports: A Legal viewpoint

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*In India, specializing in sports law is like a hidden gem. Not many attorneys and other legal professionals have the specialized knowledge and experience necessary to handle sports-related legal matters. Although the Parliament has passed a few laws and the Supreme Court has issued a few rulings, sports in India are not governed by any central legislation. Also, Indian athletes lack access to a fair and timely legal system because of a lack of a reliable dispute settlement process. Because of this, this article examines whether or whether the International Model of Arbitration is an efficient and practical process for resolving conflicts concerning sports in India, as well as the role of the court in this area. Finally, the paper finishes by proposing a different approach to the issue at hand: the establishment of a quasi-judicial body to deal with the issues now plaguing Indian sports.*

**Keywords:** *sports, legal system, dispute resolution, international model of arbitration, quasi-judicial.*

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### INTRODUCTION

The integration of sports and legal systems is a consequence of globalization and the increased commercialization of sports in general. As a result, the sports business has become a massive sector of the economy. The sports sector has seen enormous expansion in a very short period. It's grown into a billion-dollar industry around the world. As sports increasingly become a business, more and more people are profiting from it. Not just spectators, but also athletes profit greatly from sports. The pace and GDP of the sports sector are growing as a result of new

sporting initiatives in India including Khelo India, the Fit India Movement, and numerous sports leagues like the Pro Kabaddi League, the Indian Premier League, the Indian badminton league, etc. Private research indicates that India's sports market is expected to grow five times, from a value of USD 27 billion in 2020 to a value of USD 100 billion by 2027. India has advanced from being a single-sport nation to a multi-sport nation. India continues to experience a surge in the sports industry, assisting athletes and the sports industry in taking charge.

Sports law is now necessary to manage and regulate sports-related practices because, in the past, sportsmanship was the only thing that mattered. However, since sports have acquired popularity and recognition, several malicious practices compromise the integrity of sports. Due to the increase in sports-related disputes, it is necessary to include a litigation alternative to deliver swift justice within reach. In this sense, arbitration must be taken into account as a useful method to settle such disagreements. India lacks a particular sports law. Since sports are included in the concurrent list of the Indian Constitution,<sup>1</sup> both the union and state legislatures may create legislation governing them. In the lack of a single specific law governing sports, a variety of laws, including contract law, employment law, tax law, competition law, privacy law, and defamation laws, among others, regulate sports-related activities in India for various professional or amateur sports.

## **BODIES RESPONSIBLE FOR REGULATION & COMPLIANCE WITH SPORTS GUIDELINES IN INDIA**

For the past century, India has consistently produced elite athletes, even if only in limited numbers. In addition to uniting us, sports can bring us joy, disappointment, a variety of work prospects, financial gain, and other positive emotions. Anything that has a significant social influence needs to be regulated. Who therefore oversees sports in India? Some organizations have taken on the duty of developing and regulating sports in India while keeping in mind specific legal guidelines and rules. This is a list of them:

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<sup>1</sup> Constitution of India 1950

- *Sports Authority of India*

The Ministry of Youth Affairs and Sports established the Sports Authority of India (SAI) in 1984 as an apex agency to oversee and organize numerous sports events across the nation. The government was inspired to concentrate on the growth of sports in India and to promote youth physical health after several successful sporting events in the nation. The Sports Authority of India has expanded its sphere of influence to support all sports and to establish guidelines for young people to focus their energies on obtaining athletic greatness. It also set up programs to help, like putting physical education into schools and making people more aware of fitness and sports. It also gave out sports scholarships to encourage young people to get involved in sports, and it set up plans to give incentives to people who need the training to improve the skills of Indian athletes.

- *Ministry of Youth Affairs and Sports*

The Ministry of Youth Affairs and Sports is responsible for establishing the prerequisites necessary for different National Sports Federations to be recognized and awarded funding to support the promotion of sports events. It oversees, supports, and provides assistance as necessary to the bodies that oversee Indian sports. The Ministry also implements long-term development plans to reach the excellence objective.

- *Sports law and welfare association of India*

The Sports Law and Welfare Association of India is a specialized non-profit group that operates at the national level to promote the moral application of sports law in India. Its objective is to comprehend, refine, and make sure that the sports-related laws comply with all applicable laws to support the sports business. It accomplishes this by bringing lawyers and athletes together and offering guidance on any legal problems the individual may be facing. In addition to this, the association serves as a consultant on issues such as governing body regulation in sports, general sports-related conflicts, issues involving intellectual property, internet advocacy, and promotion, etc. It also intends to debate any legal issues that may be influencing sports or any sportspersons and to provide different legal viewpoints. Additionally, it will serve as a platform

for all legal professionals who work for associations associated with amateur, Olympic, and physical education sports as well as teams, leagues, conferences, and organizations that represent athletes. To guarantee that sports ethics are upheld, this forum will aid in the establishment of rules.

- *Indian law on sports broadcasting*

In 2007, the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act<sup>2</sup> was passed. Its goal was to give a large number of listeners and viewers free access to sports events that were important to the country as a whole. This can be done by giving Prasar Bharati access to the signals used for sports broadcasting.<sup>3</sup> The Act says that a TV or radio broadcasting service provider who owns or holds the rights to the content can't show a live TV broadcast on a cable, direct-to-home network, or radio unless it is constantly sharing broadcasting signals. This is done to draw a huge crowd, generate interest in sports, and promote the sports to a large audience.

## **COURT OF ARBITRATION FOR SPORTS(CAS)**

The term "Alternative Dispute Resolution" (ADR) refers to the process of resolving conflicts between the parties without resorting to legal proceedings. In most cases, parties to the arbitration agreement that any disputes between them will be resolved by the arbitration tribunal, and the tribunal's judgment will be binding on all parties. The same agreement also talks about the same's jurisdiction. To resolve all sports-related disputes in the global arena through arbitration or mediation, a special court called the Court of Arbitration for Sports (CAS) was formed in Lausanne, Switzerland, in the year 1984.

### *CAS (Court of Arbitration for Sports) in India*

To settle any disagreements about sports in India, this regulating body was established in 2011 and given the role of Chairmanship by Dr. AR. Lakshmanan, who had previously served as a

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<sup>2</sup> Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act 2007

<sup>3</sup> *Ibid*

judge on the Supreme Court and as the Chairman of the Law Commission. Justices M. R. Culla, R. S. Sodhi, B. A. Khan, Usha Mehra, J. K. Mehra, Lokeshwar Prasad, and S. N. Sapra make up the remaining seven members of the ICAS. Establishing an alternative dispute resolution centre for the sports industry is a progressive move in the field of sports law. This advancement is beneficial in resolving disagreements as soon as feasible. When determining sports-related matters, the Court should bear in mind that athletes' lives are relatively short, and they cannot afford to waste time in the long lines of the Litigation courts. There should be another option for it. The Indian CAS is the first-ever option for athletes to get their disputes handled as soon as possible.

### *The prominence of ICAS (Indian Court of Arbitration for Sports)*

**Speedy dispute resolution tool:** The quicker the disagreement may be heard and resolved, the better it is for the athlete involved in the competition. ICAS helps make this happen. Everyone is aware that a sportsperson's profession spans only a little portion of their entire existence, and if there is ever a disagreement between them at any point in their career, it may be problematic for both them and their career. Therefore, to resolve the disagreement as quickly as possible, ICAS will take up the responsibility.

**Possibilities for a Judicial review:** The Court of Arbitration for sports at Lausanne, Switzerland exclusively hears disputes involving athletes and sports speculation at the international level. If someone wants to contest the Doping Agency's ruling, they may do so solely with the CAS. However, only professional athletes or fans can appeal. The CAS does not accept appeals from players at the national or state levels. Every athlete and spectator can settle a disagreement through ICAS. This allows people the ability to appeal a judgement that they believe is incorrect.

**More effective than regular courts in making decisions:** When deciding on a disagreement, the Indian Court of Sports Arbitration is superior to civil courts. Because of the reasons made by their supporters, athletes were frequently favoured by civil courts. In one of the instances involving doping, the court rejected the IAAF's claim that because the athlete was an amateur and had no employment, there could be no constraint. However, the court ruled that any

conduct that restricts a person's ability to engage in commerce constitutes a restriction of trade. Setting up an alternate technique, such as ICAS, can therefore aid in accurately resolving the cases.

## **DIFFERENT TYPES OF SPORTING CONFLICTS WITH RELEVANT CASE LAWS**

As long as the parties have a legal agreement to arbitrate their differences, the Court of Arbitration for Sport (CAS) has the authority to adjudicate on any issues involving sports, whether such conflicts are directly or indirectly related to the sport. Given that the parties to the dispute were two Australian sportsmen, the CAS arbitral award in the famous case of *Angela Raguz v Rebecca Sullivan & Ors* [2000]<sup>4</sup> was challenged in an Australian court. The court ruled that because the arbitration agreement was a "foreign" one, it was outside of its purview and that it only had jurisdiction over "domestic" arbitration agreements, and vice versa. In addition, this court will hear cases from athletes and organizations involved in sports, such as the BCCI in India. Sporting disputes can be categorized into 2 branches:

**Disciplinary conflicts:** Disciplinary conflicts generally include issues like doping, racism, on-field violence, and ethical disagreements. In these situations, the athlete is often subject to disciplinary punishment by the sports authority overseeing that specific activity or event, and CAS serves as an appeals court for the organization. The case is only admissible, though, if there is an international arbitration agreement and the athlete has used every domestic remedy open to him in his nation. The appeal arbitration procedure is available for appeal against any federation or club and is not merely restricted to disciplinary concerns, according to the Code of Sports-Related Arbitration and Mediation Rules.<sup>5</sup>

**Business-related conflicts:** This area includes disagreements over the performance of a contract, including broadcasting and media rights, licensing and merchandise for sporting events, and commercial agency connections between athletes, coaches, agents, and clubs. disputes involving

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<sup>4</sup> *Angela Raguz v Rebecca Sullivan & Ors* [2000] NSWCA 240

<sup>5</sup> Code of Sports-related Arbitration 2020

legal responsibility matters, such as accidents involving athletes competing. Unless the parties to the agreement agreed otherwise, Swiss law normally controls these conflicts.

### CASE LAWS RELEVANT TO SPORTS CONFLICT RESOLUTION

**The Secretary, Ministry of Information & Broadcasting v Cricket Association of Bengal & Anr.**<sup>6</sup>: Since sports have a strong public interest and a major portion of the population was not accessible via private cable connections at the time, this case has established a standard for how sports should be aired on public television. The event took place in 1993 when the "Cricket Association of Bengal" hosted an international ODI cricket competition as part of its "diamond jubilee" celebrations. The auction for the rights to air the aforementioned ODI was abandoned when Doordarshan submitted the lowest offer. The commercial business "Trans World International," which had submitted the highest proposal, was given the telecasting rights after the CAB rejected the bid of a national interest corporation, Doordarshan<sup>7</sup>. The Supreme Court received a plea from Doordarshan challenging the Cricket Association of Bengal. The Supreme Court ruled that the CAB had the right to enter into a contractual agreement under which it would sell the broadcasting rights to private news channels, but it is important to note that because the airwaves and frequencies used for broadcasting are public property, businesses cannot monopolize them. The Indian government was instructed by the court to ensure that the rules for telecasting such competitions are in the best interest of the general public given where the air frequencies are located.

**New Delhi Television Ltd. v ICC Development (International) Ltd. & Anr.**<sup>8</sup>: In this instance, the NDTV was brought before the court on charges of breaking the broadcasting guidelines established by the ICC for the 2011 World Cup. The Broadcasting Rules limited how the news outlets could utilize match information, limiting them to ball-by-ball statistics and prohibiting them from releasing match video footage. Regarding NDTV's alleged infringement of the broadcasting regulations, the ICC spoke with the High Court of Delhi. The High Court of Delhi

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<sup>6</sup> *Secretary, Ministry of Information & Broadcasting v Cricket Association of Bengal & Anr* (1995) AIR 1236

<sup>7</sup> *Ibid*

<sup>8</sup> *New Delhi Television Ltd v ICC Development (International) Ltd & Anr* FAO(OS) 460/2012

upheld the ICC rules and determined that, while posing as a news outlet, NDTV had broadcast several significant clips of a wicket falling and a century. In an explanation, NDTV said that since the broadcasting footage included a component of news that is covered by Section 39(1) of the Copyright Act,<sup>9</sup> it did not violate the ICC's broadcasting laws. According to the court, "news reporting" and "news analysis" are two distinct things.<sup>10</sup> Since the special programs come under the category of "news analysis," the transmission of the video is not protected by the "fair dealing" clause.<sup>11</sup>

**Zee telefilms and others v Union of India and Ors.**<sup>12</sup> This case is regarded as the Indian sports law's Magna Carta. The broadcasting contract arrangements with Zee telefilms were cancelled unilaterally by the Board of Control for Cricket in India or BCCI. The test matches would be televised thanks to the agreements. In response to the breach of its rights, the aggrieved party petitioned the Supreme Court under Article 32 of the Indian Constitution.<sup>13</sup> Only those government entities that fall under the definition of "state" as defined in Article 12 of the Indian Constitution may be the subject of a petition brought under Article 32.<sup>14</sup> Whether or whether the sports governing body BCCI is under the purview of Article 12<sup>15</sup> was the legal issue before the supreme court. According to the majority of the judges on the bench, BCCI does not fall inside the purview of the State as defined by Article 12 of the Constitution.<sup>16</sup> Justice Sinha was among the justices who disagreed with the majority and believed that the BCCI should be included in the scope of the "State" under Article 12 since it performs a similar state-like role to "recruiting of players on merit basis."<sup>17</sup>

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<sup>9</sup> Copyright Act 1995, s 39(1)

<sup>10</sup> *New Delhi* (n 9)

<sup>11</sup> *Ibid*

<sup>12</sup> *Zee telefilms & Ors v Union of India & Ors* Writ Petition (Civ) 541/2004

<sup>13</sup> Constitution of India 1950, art 32

<sup>14</sup> *Ibid*

<sup>15</sup> Constitution of India 1950, art 12

<sup>16</sup> *Ibid*

<sup>17</sup> *Zee Telefilms* (n 13)



## CONCLUSION

Sports Arbitration is a novel idea in India and should be encouraged in every sport. Sports in India are suffering as a result of the relatively low level of awareness about sports law there. Many athletes are ignorant of the rules and regulations governing the sports they play. The sportsperson does have a limited window of time in which to file an appeal with CAS. Due to their whole reliance on the Federation, athletes miss a lot of knowledge because the Federation does not notify them of their legal rights.

In settling disputes, having a sports tribunal may be advantageous to both athletes and spectators. Indian Court of Sports Arbitration may be useful in settling disputes and providing athletes with the opportunity to appeal. But in India, where sports are on the rise thanks to leagues like the Indian Premier League, the government should step in and support the industry. The sports industry is thriving, but where is the judicial support for sports? The government needs to be responsible for providing judicial aid in sports. It's not only because sports are popular, but the economy also benefits from sports' presence, and athletes put in significant effort on behalf of their nation. On the judicial side, Indian athletes need to be treated fairly.