



Let the games begin

In the run-up to the Commonwealth Games, lawyers and athletes have enlisted the courts and the Right to Information Act in their battle against corruption and cronyism in sport

Ranjan Jha and Rebecca Abraham report

After decades as the kings of international hockey – including an unbeaten six consecutive Olympic golds – the fortunes of the Indian hockey team hit rock bottom when they failed to qualify for the Beijing Olympics.

While this was no surprise to many Indians, who are resigned to the nation's teams performing dismally in every sport except cricket, they also saw in it the hand of what one newspaper called “the moth-eaten paraphernalia that goes by the name of Indian sports administration”. But when angry fans demanded something be done, the sports minister at the time said the government was helpless. “We just watch and suffer,” is what he is reported to have said.

Politics in sport

For despite India's abysmal record in sport, the government has had to leave the management of sport to a vast network of autonomous national and state-level sports federations that ostensibly look after the nation's interests in everything from basketball to bobsleigh. Even though many receive public funding, they have taken shelter behind the Olympic Charter, which requires governments to steer clear of sport.

But all of this could be changing. Through public interest litigation (PIL), and with the help of the powerful Right to Information Act, 2005, sports enthusiasts are working to break through the wall of secrecy that surrounds the country's sports federations.

Prominent among such enthusiasts is Rahul Mehra, a Delhi-based lawyer, whose PIL suit to Delhi High Court in 2000 shook the world of sports administration by successfully demanding transparency and accountability in the private body that runs Indian cricket. In December 2009 he followed this up with an even more ambitious PIL to the same high court, which is still being heard. This time he has sought more transparency and accountability in 13 sports bodies, including the Sports Authority of India, the Indian Olympic Association, the All India Football Federation, and Hockey India. He has also demanded that their heads be allowed only two four-year terms, as prescribed in the national sports policy of 1975.

And herein lies the crux of the problem. The bosses of the sports federations, many of whom are politicians doubling as sports administrators, have often held on to their unpaid but powerful jobs for far longer. Notable among them are Suresh Kalmadi, a member of parliament (MP)

In pursuit of fair play?

Athletes challenge restrictive covenants on publicity rights

When Mahendra Singh Dhoni signed a Rs2 billion (US\$43 million) three-year endorsement deal with Rhiti Sports Management and Mindscape One in July, he was said to have won the corporate contract sweepstakes. That there have been no legal challenges to the signing of the Indian cricket captain, whose popularity helps drive sales of everything from Hersheys chocolates to Reebok shoes, is in part due to the past struggles of sports men like Vijender Singh, an Olympic bronze medal-winning boxer, and Yuvraj Singh, a cricketer.

Following his success at the Beijing Olympics, Vijender Singh tried to sign a contract with management company Percept, which would gain him a place on a reality TV show, even though he already had a contract with another company that he could not terminate until 2015. Delhi High Court stepped in and restrained him from signing the deal with Percept until it made its decision. What followed in November 2009 in *Infinity Optimal Solution v Vijender Singh* offered a way out for all sportspeople who found themselves in similar positions. In this landmark ruling the court said, “the contract of representation and services is based on mutual trust and if the trust is lost between the parties, one party cannot be compelled by the court to keep the contract alive”.

Before this judgment, contracts with restrictive right-of-first-refusal clauses appear to have been a regular part of management and endorsement contracts. Now they can be struck down by the courts on the grounds that they restrict athletes’ liberty to deal with the organizations of their choice when arranging endorsements, promotions, advertising or other affiliations. However, some restrictive covenants may continue to be used as long they are reasonable and necessary for the freedom of trade.

In 2008 cricketer Yuvraj Singh was at the receiving end of Percept’s wrath when he signed with a new management company. That dispute ended in Bombay High Court, which was unimpressed by Percept’s claim that it had built the brand “Yuvraj”. Relying on a judgment passed in 2006 by the Supreme Court involving another star cricketer, Zaheer Khan, Bombay High Court held that some of the conditions of the contract were unconstitutional as they restricted Yuvraj Singh’s future prospects. Bombay High Court said Percept could not hinder the cricketer from hiring a new firm on the basis of an illegal, unenforceable condition in a dead agreement.

who has headed the Indian Olympic Association (IOA) for 15 years, and VK Malhotra, another MP, who has been at the helm of the country’s archery association for 37 years. Neither seems ready to quit any time soon.

A change of heart

But they may have to. On 1 May the sports ministry did the unthinkable by restoring limits on the tenure of office bearers of the IOA and all recognized national sports federations. This move was prompted by tremors from Mehra’s PIL and more importantly, a March 2009 ruling by Delhi High Court in *Narinder Batra v Union of India*.

The Narinder Batra judgment, a 157-page commentary on the chaos that is Indian sport, was scathing of attempts by the Indian Hockey Federation to conceal from the court the true picture on the state of what is India’s national game. In it, Justice Gita Mittal held there was no legal reason why the government could not restrict the tenure of an office bearer as a condition for granting recognition or financial assistance.

During the case, the government had justified ignoring its own guidelines on limiting tenure by saying it was not “in the interest of the sports person”. This prompted the court to say the government was displaying “complete disinterest with the fate of the sport persons or the glory of the sport”. In re-imposing limits on the tenure of the bosses of the sports federations while the second Mehra PIL is still in the courts, the government is signalling its desire to not offend the courts any further.

This change of heart by the government reflects both the current mood in the country and the determination of the sports minister, MS Gill, to clean up sport. The minister has repeatedly stressed that a private body that receives public funding and performs a public function cannot shield itself from public scrutiny. While this might have satisfied the International Olympic Committee (IOC), which in June invited the minister to its offices in Switzerland to discuss India maintaining the autonomy of its sports organizations, the sports federations are still looking for a way out.

Demanding information

Many have blatantly refused to open up to people who ask for information on their rules and regulations. Ordinary citizens have been emboldened to do so using the Right to



MAKING WAVES: Athletes and lawyers are pushing for greater transparency in sports bodies.



JOSTLING FOR POSITION: Behind-the-scenes wrangling between India's sports administrators is overshadowing action on the field.

Information (RTI) Act, 2005, but the sports federations have used their status as autonomous private bodies to argue they are beyond the reach of this law. So, once again the courts have stepped in. In a landmark judgment in January Delhi High Court held that although the IOA and the Organising Committee Commonwealth Games 2010 were autonomous bodies, both of them were bound by the RTI act, as they receive assistance from the government.

Keeping up the pressure on the sports bodies, the sports ministry declared on 30 March that all national sports federations that receive government grants of Rs1 million (US\$22,000) or more are "public authorities" as defined under the RTI act. The ministry added that "adhering to RTI guidelines is mandatory" for these federations to get financial assistance from the government. This meant that each sports federation had to appoint a public information officer. To date the sports ministry website lists the names of 40 national sports federations that have done so.

The game continues

This may suggest that the people and government have won the battle, but with India about to host the Commonwealth Games, the spotlight is still on the administrators and not the sports men and women.

The infighting among the bosses of hockey continues. Even though the Indian Hockey Federation was knocked off its pedestal as the sole representative of Indian hockey in May 2008 following a cash-for-selections scandal, it was once again recognized by the sports ministry last month. This followed a Delhi High Court judgment on 21 May that held the earlier de-recognition was illegal. The judgment was followed up by another judgment on 27 July, which ordered the government to stay away from the elections in Hockey India and to re-recognize the Indian Hockey Federation. In the meantime reports suggested the federation had split into two rival bodies – one headed by KPS Gill, a controversial retired police officer, and the other by Vidya Stokes, an 83-year-old politician.

While cases filed by the administrators continue to hit the headlines, India's sports people have also been active.

On 2 August Delhi High Court dismissed a woman wrestler's plea challenging the selection process of players for the forthcoming Commonwealth Games. Sonika Kaliraman, a well known Indian wrestler, had alleged that the selection procedure adopted by the Wrestling Federation of India was unfair. She contended that she had been denied the opportunity to "prove her full ability without any fault of hers". However, the court ruled in favour of the federation.

The weightlifting federation is another that has faced allegations of bias in its selections for the Commonwealth Games. An up-and-coming weightlifter and winner of the bronze medal at the last national games, Mayur Sinhasane, filed a petition in Bombay High Court, alleging bias on the part of the federation while selecting players for the core group in preparation for the Commonwealth Games. The federation's secretary, Sehdev Yadav, vehemently denied the allegations and in early August the court refused Sinhasane

an interim order.

Now with the Commonwealth Games just round the corner and the organizing committee of the games facing corruption charges, the coaches of the national women's hockey and weightlifting teams are mired in sexual harassment allegations. To add to this, allegations of doping among India's weightlifters have re-emerged, even after the Indian Weightlifting Federation paid a US\$500,000 doping fine to enable their weightlifters to participate in the Commonwealth Games. Faced with such humiliations, there are now demands that the federations for wrestling, athletics and swimming be made accountable for the doping incidents among the sportspeople they represent.

Sports legislation mooted

The angst and anger among India's sportspeople continues. At the Beijing Olympics, India won one gold medal – its first in an individual sport – and two bronzes. While this was projected as a proud moment for the country, the gold medal winner, Abhinav Bindra, is reported to have said, "For a country of 1.25 billion people, three medals in an Olympics is pretty poor. I was happy to win the gold but I was also embarrassed that it took our country so long to win one."

It has taken plain speaking like this from both the courts and sports enthusiasts to make the government realize that it can no longer stand by while a small clique calls the shots and Indian sport flounders. There are now reports that the sports ministry is contemplating a sports law to ensure the sports federations act with the nation's interests at heart.

Whatever happens all eyes are now on the new stadiums and other facilities that will host the sports men and women from the 72 nations that plan to be at the Commonwealth Games in Delhi. The run-up has been mired in negative publicity, both in India and overseas. Whether these games turn out to be a source of national pride or collective embarrassment, only time will tell. ■

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