



GOVERNMENT OF INDIA

MINISTRY OF YOUTH AFFAIRS & SPORTS

DOSSIER FOR THE
INTERNATIONAL OLYMPIC
COMMITTEE

ON

GOVERNMENT OF INDIA
GUIDELINES ON GOOD
GOVERNANCE IN SPORTS
BODIES

INTRODUCTION

1. The Government of India recognises the IOC's commitment to the Olympic Charter, the fundamental principles of good governance and ethical values enshrined therein, and believes that the IOC would not support any body or organization, which contravenes the fundamental basis of the Olympic Movement viz., Good Governance and Ethical practices.
2. The Government of India, Ministry of Youth Affairs And Sports, issued a communication dated 1st May 2010 restoring 'limits on the duration of tenure of office bearers of Indian Olympic Association and all recognized National Sports Federations' (**'1st May 2010 communication'**), in deference to the binding observations made by the High Court of Delhi in various proceedings regarding poor governance practices in National Sports Bodies in India, including the unrestricted tenures of office bearers of the Indian Olympic Association (**'IOA'**), as well as National Sports Federations (**'NSFs'**).

Annexed herewith and marked as **Annexure 1** is a copy of the 1st May 2010 communication issued by the Government of India, Ministry of Youth Affairs and Sports.

3. The National Sports Policy 2001 recognizes that the management and development of sports are the function of the IOA and NSFs, which are autonomous bodies and which, in turn, have affiliated state level and district level associations. The Government and other concerned agencies and the Federations/ Associations have, therefore, to work together harmoniously and in a coordinated manner to fulfill the objectives of National Sports Policy 2001. At the same time, the IOA and NSFs are expected to demonstrate tangible results, following good governance practices.

Annexed as **Annexure 2** is the National Sports Policy 2001 issued by the Government of India.

4. The High Court of Delhi echoed the prevailing public sentiment regarding the inadequacy of transparency and good governance practices in the IOA/NSFs, coupled with their failure to produce any credible results in the performances of Indian sportspersons (with the exception of a notable few) in international sporting events over the last few decades. The general perception being that the IOA and most NSFs had lost sight of their principal objective of development and promotion of sports and the welfare

of sportspersons, and that membership was limited to a few, many of whom, had little or no connection with the sport itself.

5. The tremendous international support enjoyed by the Olympic Movement is reflective of the recognition of Sport as a *'force for good and is a unique and indispensable tool for sustainable development, as well as a means to promote peace, culture and education'*.¹ Thus, while Sport is increasingly seen as a *'growing social and economic phenomenon'*, it is *'...also confronted with new threats and challenges...such as commercial pressure, exploitation of young players, doping, racism, violence, corruption and money laundering'*.²

6. It is in this context that the following Recommendations of the XIII Olympic Congress at Copenhagen in 2009 (**Olympic Congress**) are relevant:

"29. The relevant intergovernmental organisations and governments should acknowledge the necessary and essential autonomy of the Olympic Movement including, in particular, respect for and enforcement of the rules of good governance, equality and fairness and sport and sport administration, as

¹ Recommendations of the XIII Olympic Congress at Copenhagen, 2009, Chapter 3.

² Commission of the European Communities, White Paper on Sport, Brussels, 11.7.2007, COM(2007) 391 Final, p. 2

established by the Olympic Movement and set out in the Olympic Charter, to ensure the best and fairest possible practice of sport.

...

33. Appropriate institutionalised forms of mutually beneficial cooperation partnerships should be developed between governments and the members of the Olympic Movement in areas which should include: the development and the encouragement of participation in sport for all; the organisation of competitive sports events for young people throughout the world; health protection for young people and athletes; the fight against doping; and support for athletes reaching the end of their careers in competitive sports and transitioning to a lifetime away from the podium.

...

35. All constituents of the Olympic Movement should review their rules and activities to ensure that they fully comply with the Olympic Charter and the fundamental principles and values of Olympism.

...

37. In accordance with the principles and values of Olympism, the practice of sport must be run by independent, autonomous sport organisations, which are in full compliance with applicable laws. Co-operation between governments and institutions of the Olympic Movement in every area where it may be mutually beneficial should underlie the relationship between sport and state bodies, so

that the autonomy of the Olympic movement is fully respected by governments.

38. The relationships between the Olympic Movement, public bodies and governments, as well as those between all national organisations belonging to the Olympic Movement and their respective governments, should be based on the principle of respect for applicable law by all constituents of the Olympic Movement, while at the same time seeking to influence public Policy makers wherever possible to ensure that national and supranational laws and regulations are consistent with the fundamental principles of Olympism.

...

41. The legitimacy and autonomy of the Olympic Movement depends on upholding the highest standards of ethical behavior and good governance. All members of the Olympic Movement should adopt, as their minimum standard, the Basic Universal Principles of Good Governance of the Olympic Movement, as proposed by the IOC. All members of the Olympic Movement must always demonstrate integrity, accountability and transparency, as well as the highest level of management skills; and they must ensure that at all times their legal status is both fully consistent with their activities and responsibilities and wholly compliant with the laws of the land (applicable laws).

42. All members of the Olympic Movement should keep annual accounts in accordance with acknowledged standards of accounting; ensure they have an independent audit or verification

of the accounts; adopt rules, norms and practices under which those who cannot comply with good governance may lose financial support or be sanctioned; adopt and implement a code of ethics based on the principles and rules of the IOC Code of Ethics; and always seek to protect and promote the interests of the athletes they represent.

...

44. All constituents of the Olympic Movement should further develop and embrace democratic and representative structures and procedures, making provisions in their statutes for the holding of regular general meetings and democratic elections for specified terms of office.” [emphasis supplied]

7. The Government of India, acknowledges the substantial role in the Olympic Movement for governments and fully endorses the need for all constituents of the Olympic movement to conform to applicable laws within their respective jurisdictions.
8. The aforesaid declarations of the Olympic Congress also, unequivocally, acknowledge the substantial impact of Sport and Sports Bodies in the public area.
9. For the same reasons, Sport, especially in the context of Sports Bodies can no longer claim protection from scrutiny/ regulation

under the guise of being 'private bodies', in as much as their functions are clearly of a public character.

10. Consequently, the continued insistence of IOA/ NSFs on autonomy without supervision in this context is antithetical to the universally accepted Principles of Good Governance, and contrary to existing legal and moral norms governing the regulation of entities performing public duties and functions.
11. The Supreme Court of India, through pronouncements in various cases, recognizes the inherent right of the Courts, as well as the Executive to regulate, albeit by varying means and methods, the performance of such public functions/duties even by private bodies.
12. The following extract from the decision of the Hon'ble Supreme Court of India in **Binny Ltd. vs. V. Sadasivan**, (2005) 6 SCC 657 is particularly instructive in this regard:

"11. Judicial review is designed to prevent the cases of abuse of power and neglect of duty by public authorities. However, under our Constitution, Article 226 is couched in such a way that a writ of mandamus could be issued even against a private authority. However, such private authority must be discharging a public function and the decision sought to be corrected or enforced must

be in discharge of a public function. The role of the State expanded enormously and attempts have been made to create various agencies to perform the Governmental functions. Several corporations and companies have also been formed by the Government to run industries and to carry on trading activities. These have come to be known as public sector undertakings. However, in the interpretation given to Article 12 of the Constitution, this Court took the view that many of these companies and corporations could come within the sweep of Article 12 of the Constitution. At the same time, there are private bodies also which may be discharging public functions. It is difficult to draw a line between public functions and private functions when they are being discharged by a purely private authority. A body is performing a "public function" when it seeks to achieve some collective benefit for the public or a section of the public and is accepted by the public or that section of the public as having authority to do so. Bodies therefore exercise public functions when they intervene or participate in social or economic affairs in the public interest. In a book on Judicial Review of Administrative Action (5th Edn.) by de Smith, Woolf & Jowell in Chapter 3, para 0.24, it is stated thus:

Public functions need not be the exclusive domain of the State. Charities, self-regulatory organisations and other nominally private institutions (such as universities, the Stock Exchange, Lloyd's of London, churches) may in reality also perform some types of public function. As Sir John Donaldson, M.R. urged, it is important for the courts to 'recognise the realities of executive power' and not allow 'their vision to be clouded by the subtlety and sometimes

complexity of the way in which it can be exerted'. Non-Governmental bodies such as these are just as capable of abusing their powers as is Government."

Annexed herewith as **Annexure 3** is a copy of the decision of the Supreme Court of India in **Binny Ltd. vs. V. Sadasivan**, reported as (2005) 6 SCC 657.

13. Specifically in the context of Sports Bodies, dealing with a question whether the Board of Control for Cricket in India (**BCCI**) was amenable to judicial scrutiny under the Writ Jurisdiction under Art. 32 of the Constitution of India, as a 'public authority', a Constitution Bench comprising Five Judges of the Supreme Court of India in **Zee Telefilms Ltd. vs. Union of India**, (2005) 4 SCC 649 held as under:

"31. Be that as it may, it cannot be denied that the Board does discharge some duties like the selection of an Indian cricket team, controlling the activities of the players and others involved in the game of cricket. These activities can be said to be akin to public duties or State functions and if there is any violation of any constitutional or statutory obligation or rights of other citizens, the aggrieved party may not have a relief by way of a petition under Article 32. But that does not mean that the violator of such right would go scot-free merely because it or he is not a State. Under the Indian jurisprudence there is always a just remedy for the violation

of a right of a citizen. Though the remedy under Article 32 is not available, an aggrieved party can always seek a remedy under the ordinary course of law or by way of a writ petition under Article 226 of the Constitution, which is much wider than Article 32.

32. This Court in the case of Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani, (1989) 2 SCC 691 has held: (SCC pp. 692-93)

“Article 226 confers wide powers on the High Courts to issue writs in the nature of prerogative writs. This is a striking departure from the English law. Under Article 226, writs can be issued to ‘any person or authority’. The term ‘authority’ used in the context, must receive a liberal meaning unlike the term in Article 12 which is relevant only for the purpose of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non-fundamental rights. The words ‘any person or authority’ used in Article 226 are, therefore, not to be confined only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The form of the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of positive obligation owed by the person or authority to the affected party, no matter by what means the duty is imposed. If a positive obligation exists mandamus cannot be denied.”

33. Thus, it is clear that when a private body exercises its public functions even if it is not a State, the aggrieved person has a remedy not only under the ordinary law but also under the

Constitution, by way of a writ petition under Article 226. [emphasis supplied]”

Annexed as **Annexure 4** is a copy of the decision of the Supreme Court of India in **Zee Telefilms Ltd. vs. Union of India**, reported as (2005) 4 SCC 649.

14. That the dividing line between public and private functions, and remedies in regard to them, is no longer clear was also expressly recognized by the Supreme Court of India in **LIC of India vs. Consumer Education & Research Centre**, (1995) 5 SCC 482 in the following terms:

“... 23. Every action of the public authority or the person acting in public interest or any act that gives rise to public element, should be guided by public interest. It is the exercise of the public power or action hedged with public element (sic that) becomes open to challenge. If it is shown that the exercise of the power is arbitrary, unjust and unfair, it should be no answer for the State, its instrumentality, public authority or person whose acts have the insignia of public element to say that their actions are in the field of private law and they are free to prescribe any conditions or limitations in their actions as private citizens, simpliciter do in the field of private law. Its actions must be based on some rational and relevant principles. It must not be guided by irrational or irrelevant considerations. Every administrative decision must be hedged by reasons.

...

26. *This Court has rejected the contention of an instrumentality or the State that its action is in the private law field and would be immune from satisfying the tests laid under Article 14. The dichotomy between public law and private law rights and remedies, though may not be obliterated by any strait-jacket formula, it would depend upon the factual matrix. The adjudication of the dispute arising out of a contract would, therefore, depend upon facts and circumstances in a given case. The distinction between public law remedy and private law field cannot be demarcated with precision. Each case will be examined on its facts and circumstances to find out the nature of the activity, scope and nature of the controversy. The distinction between public law and private law remedy has now become too thin and practicably obliterated." [emphasis supplied]*

Annexed as **Annexure 5** is a copy of the decision of the Supreme Court of India in **LIC of India vs. Consumer Education & Research Centre**, reported as (1995) 5 SCC 482.

15. In keeping with this jurisprudence, and recognizing the dismal state of affairs in the arena of Sports and Sports Bodies, Courts in India have, in the recent past, questioned the inability of the Government of India to ensure some degree of regulation and transparency in the functioning of IOA/ NSFs and other Sports Bodies that have been dependent on public funding since their

inception. In particular, they have taken strong exception to the Government's passive role and the weak implementation of existing Guidelines that are intended to ensure that they perform their duties in a non-arbitrary, democratic and transparent manner, while protecting the autonomy of the IOA/ NSFs and other Sports Bodies.

16. The 1st May 2010 communication has therefore, been issued with a view to complying with judicial orders and, views expressed by elected representatives in the Parliament of India, the strong public opinion, the current best practices of the International Olympic Committee as well as leading International Sports Federations, and with a view to encouraging professional management, good governance, transparency, accountability and democracy in the IOA and the NSFs.

17. It may be relevant to mention that the 1st May 2010 communication revives the tenure clause initially introduced on 20th September, 1975 (**'1975 Guidelines'**) that had been kept in abeyance on account of representations received from the IOA and the NSFs. The 1975 guidelines sought to bring about good governance practices in their constitutions as well as in their

internal workings, including *inter alia*, by means of changing their respective Constitutions and enabling fresh elections where necessary.

Annexed as **Annexure 6** is a copy of the 1975 Guidelines issued by the Government of India, Ministry of Education and Social Welfare (now Ministry of Youth Affairs and Sports).

18. It is also relevant to mention that upon the issuance of the 1975 Guidelines, several NSFs did, in fact, make changes in their respective Constitutions to bring them in line with the Guidelines. However, subsequently, many of them retracted the said amendments and opposed the implementation of the Tenure Clause in the Guidelines while welcoming the other proposals. This is evident, *inter alia*, from the Minutes of the meeting dated 11th October 2001 organised by the Government of India, Ministry of Youth Affairs & Sports, with the office bearers of various NSFs to discuss the implementation of the 2001 Guidelines.

Annexed as **Annexure 7** is a copy of the Agenda & Minutes of the Meeting dated 11th October 2001 organised by the Government of India, Ministry of Youth Affairs & Sports with the Office Bearers of various National Sports Federations to discuss the implementation of the 2001 Guidelines, along with notice dated 1st October, 2010.

19. After over 9 years of this meeting, and notwithstanding the recommendations of the Olympic Congress, the IOA and most NSFs have taken no steps to implement Good Governance Principles and/or democratic processes within their respective Constitutions. As a result, the Constitutions of most bodies are not only at variance with the Olympic Charter and the fundamental principles and values of Olympism, but also ignore its fundamental tenets, such as a proper and transparent procedure for internal elections, provisions regarding anti-doping, etc.

20. The salient features of the 1st May 2010 communication should be considered in this perspective. They are:
 - a. The President of any recognised NSF, including the IOA can hold the office for a maximum period of 12 years, with or without break.

 - b. The Secretary/Secretary General/General Secretary and the Treasurer of any recognised NSF and the IOA, may serve a maximum of two successive terms of four years each, after which a minimum cooling off period of four years would apply to seek fresh election to either post.

 - c. The President, Secretary and the Treasurer of any recognised NSF and the IOA, would cease to hold the post on attaining the age of 70 years.

- d. The other provisions in respect of the tenure limit as contained in the 1975 Guidelines were to remain unaffected
 - e. It would not disturb the current tenure of any member, provided he/she has been properly elected to the post and would be operative for all future elections to be conducted as per the normal course in the IOA as well as NSFs.
 - f. Compliance with the aforesaid directions would be a mandatory precondition for receiving any form of assistance, financial or otherwise from the Government of India as well as to derive the authority to perform public functions of selection, deputation of national teams for participation in recognised continental and world level international sports competitions which involve representation of member countries, and to represent the country in international associations, events, meets, conferences etc.
21. The Guidelines are neither intrusive, nor do they intervene into the affairs of the IOA/NSFs. In fact, they are in consonance with the Recommendations of the IOC Seminar on Good Governance and the Olympic Congress and, are aimed at ensuring adoption of good governance principles in the light of the observations of Courts and as such, the IOA/ NSFs are bound by the said decisions.

22. The Government of India was, therefore, dismayed to note the vehement opposition to the 1st May 2010 communication by the IOA and the NSFs, and, the fact that the Secretary General of the IOA was formally deputed to make a complaint in this regard to the IOC and the Olympic Council of Asia ('OCA'). The manner in which this has been done also raises several other issues, including possible issues of conflicts of interest, which the Government of India will draw attention to such issues further during the course of discussions with the IOC.

23. The IOC and the OCA, therefore, appear to have been drawn into this issue without being apprised of the complete facts. The communications dated 3rd May 2010 and 4th May 2010 from the IOC and the OCA in this regard were forwarded to the Government of India under cover of the IOA's letter dated 4th May 2010.

Annexed as **Annexure 8** is a copy of the letter dated 4th May 2010 received from the IOA.

Annexed as **Annexure 9** is a copy of the letter dated 3rd May received from the IOC.

Annexed as **Annexure 10** is a copy of the letter dated 4th May 2010 received from the OCA.

24. Notably, by its response dated 7th May 2010, the Government of India reaffirmed its total support to the Olympic Movement and its

Charter, and noted the recognition by the IOC of the fundamental role of Governments in the development and promotion of sport at the national level, as also the fact that national sports bodies exist only within the context of sovereign states.

25. It was pointed out that the Guidelines formulated by the Government of India, were occasioned on account of the repeated failure of national sports bodies to voluntarily adopt good governance practices and/or to follow international best practices in that regard. Additionally, they were aimed at introducing accountability and transparency in view of the substantial government funding provided to national sports bodies, which were discharging public functions viz., regulating sports, selecting national teams and representing the country at the international level.
26. In order to place the matter in perspective, reference was also made to international practices including the existence of sports legislations in various jurisdictions as well as State practice in this regard to emphasize that the issuance of the 1st May Communication was not a threat to the autonomy of the IOA/NSFs, particularly since it had merely restored the 1975 and 2001

Regulations in a milder form, which were in conformity with IOC governance norms.

27. Reference was also made to the decisions of the Delhi High Court upholding the tenure clause as being in consonance with the Olympic Charter, and its observation that the Government of India was fully competent to make regulations for national sports bodies. The Court had taken a serious view of the unlimited tenures of office-bearers of national sports bodies, and had directed the Government to take urgent action. The Government, therefore, expressed the view that there appeared to be misconceptions with regard to the intent of the 1st May 2010 communication, and an attempt was made by IOA and NSFs to deflect the core issue of accountability by raising the issue of 'threat to their autonomy'.

Annexed as **Annexure 11** is a copy of the letter dated 7th May 2010 addressed by the Jt. Secretary, Government of India, Ministry of Youth Affairs & Sports to the IOC.

28. In turn, by its letter dated 10th May 2010, addressed to the Minister of Youth Affairs & Sports, Government of India, the IOC responded by stating that the 1st May Communication constituted measures relating to the internal operations of the IOA/NSFs and *'must not be decided or imposed by law or an external body's*

decision but, must be decided freely and democratically by the competent organs of those organisations, on a case-by-case basis, and this must be reflected in their respective statutes/constitutions.' It also conveyed its willingness to organise a meeting to discuss these aspects at the earliest possible while stating that until this dialogue was established the said Guidelines would not be imposed on a mandatory manner on the organisations of the Olympic movement in India, failing which it would be "*obliged to consider the protective measures provided for in the Olympic Charter*".

Annexed as **Annexure 12** is a copy of the letter dated 10th May 2010 addressed by the IOC to the Hon'ble Minister of Youth Affairs & Sports, Government of India.

29. Therefore, by its letter dated 12th May 2010, the Government of India was constrained to draw attention to the IOC's own decision in 1999 to impose Age Limits and Term Limits for Committee Members and Office Bearers which step had been widely welcomed. At the same time it highlighted the ambiguity in the stand of the IOC *viz.*, on the one hand, bringing about substantial changes in its constitutional framework to incorporate limits of tenure and its emphasis on transparency, accountability and good

governance by all constituents of the Olympic Movement, while on the other, questioning the 1st May 2010 communication of the Government of India which, in effect, only required the IOA/NSFs to ensure compliance with the recommendations of the Olympic Congress by fulfilling the commitment to bring about Good Governance practices in their Constitutions and their internal workings.

30. The Government of India reiterated that the issuance of the 1st May 2010 communication was in compliance with legally binding judicial orders, and, further that the Guidelines would apply only to future elections, and, therefore, did not impinge upon existing office bearers/constitute an intrusion into the autonomy and affairs of the IOA/NSFs. They were meant to ensure better accountability within the IOA/NSFs.

Annexed as **Annexure 13** is a copy of the letter dated 12th May 2010 addressed to the IOC by the Government of India, Ministry of Youth Affairs & Sports.

31. It is therefore important to appreciate the factual and legal backdrop in the context of which the 1st May 2010 communication was issued. The Government of India Guidelines are in complete conformity with the Olympic Charter and its fundamental

principles. The opposition to the said Guidelines by the IOA as well as NSFs, *inter alia*, is not only misconceived but reflect their total disinclination to adopt the recommendations of the Olympic Congress as well as the universally accepted fundamental principles of Good Governance. Moreover, such objections constitute callous disregard for binding judicial orders passed by Courts in their country.

32. Simultaneously, the Government of India addressed a communication dated 17th May 2010 to the President of the IOA, all recognised NSFs, as well as to the Secretary-General/General Secretary/Secretary of the IOA /NSFs, highlighting the fact that Sports constituted a part of the public domain and Sports governance was a public function, involving both public and national interest. Reference was made to international developments concerning good governance of the Olympic Movement and in International Sport with particular reference to the necessity for incorporating clear, transparent and fair rules in the functioning of sports bodies and for democratic elections with a view to ensuring, avoidance of conflict of interest, regulated tenures, as well as cooperation, coordination and consultation with the Government, to preserve autonomy. It was specifically

highlighted that majority of the NSFs, including the IOA, were yet to implement these fundamental principles of good governance, despite the 1975 and 2001 Guidelines have been held to be legal, valid and enforceable by the Hon'ble High Court of Delhi and which were in conformity with the principles recognised by the IOC and the Olympic Congress. The IOA was, therefore, requested to ensure circulation of this communication amongst the members of its Executive Council, as well as its General Assembly, to enable a thorough and proper deliberation of the issues involved, and for a decision to be taken thereon. The IOA was also advised to consider intimating its position in this regard, to the Hon'ble High Court of Delhi in the Writ Petition No. 195/2010 titled 'Rahul Mehra vs. Union of India', which was sub judice and which was then, listed for hearing on 19th May 2010. A copy of this communication was marked to the IOC, and also posted on the Ministry's website for information of all stakeholders including the general public.

Annexed as **Annexure 14** is a copy of the communication dated 17th May 2010 addressed by the Government of India, Ministry of Youth Affairs & Sports.

33. Notwithstanding the above, the IOA at a special Annual General Meeting held on the 18th May, 2010, "expressed its disappointment on the August 2001 Guidelines issued vide letter No. F.6-6/94/SP-III dated 14th August, 2001 and the amendment thereto issued by the Ministry of Youth Affairs and Sports (MoYAS) vide letter No. 8-17/2009/SP.III on 1st May 2010, in an ad hoc and arbitrary manner", and adopted the following resolutions:

"... the General Body of the IOA unanimously resolved that -

i. They decline to accept the Government guidelines issued vide letter of August 2001 including the amendment issued vide letter of 1 May 2010 to protect their autonomy in accordance with IOC Charter and International Federations' Statutes.

ii. No steps will be initiated by IOA /any NSF to amend their constitution to incorporate any provisions/part of these Guidelines as this will be seriously in breach of the Olympic Charter and render the IOA/NSFs vulnerable to suspension and deprive their teams from international participation.

...

iv. All NSFs will set up Athletes' Commission in their sport following the practice embraced by their respect IFs.

...

vii. The General Body authorized Raja Randhir Singh, Member IOC from IOC and Secretary General, Indian Olympic Association, to interact with the International Olympic Committee on all matters relating to autonomy as enshrined in the Olympic Charter on behalf of the Indian Olympic Association and National Sports Federations."

Annexed as **Annexure 15** is a copy of the Resolution of the Special General Body Meeting of the IOA held on 18th May, 2010 at New Delhi.

34. The Resolution is at complete variance with the stand adopted by the IOA and NSFs at the meeting held with the Government of India, in October 2001, wherein the very same bodies had welcomed the 2001 Guidelines and had only expressed a reservation with respect to the tenure clause, requesting that it be kept in abeyance. As such, the rejection of these Guidelines which essentially implement the IOC and Olympic Congress's recommendations on adoption of Basic Universal Principles of

Good Governance, and that too after about 9 years clearly reflects the reluctance of the IOA and the NSFs in India to adopt principles of Good Governance in their Constitutions and continue their opaque functioning.

35. Pursuant thereto, a letter dated 21st May 2010 was addressed by the IOC to the Hon'ble Minister of Youth Affairs & Sports, Government of India, taking note of the unanimous position adopted by the IOA/NSFs opposing the 1st May 2010 communication issued by the Government of India. IOC also conveyed its intention to report the matter to the next IOC Executive Board Meeting in June, 2010 if the Government implemented the 1st May 2010 communication on the Olympic movement in India even in the context of future elections.

Annexed herewith as **Annexure 16** is a copy of the letter dated 21st May 2010 addressed by the IOC to the Hon'ble Minister of Youth Affairs & Sports, Government of India.

36. In view of this, by a further letter dated 25th May 2010, the Government of India reiterated that it had not imposed any new regulation but had revived the tenure regulation of 1975, which had been kept in abeyance in October 2001 at the request of the IOA/NSFs. Moreover, the 1st May 2010 communication had further

relaxed the norms prescribed in the existing Guidelines. It was specifically stated that this was done in compliance with binding judicial orders pertaining to good governance in Sports and Sports Bodies. The conduct of the IOA/NSFs in agreeing to the said prescriptions as far back as 1975, in incorporating changes to their respective constitutions, and then unilaterally backtracking from the same, was also highlighted stating that such conduct was antithetical to the principles embodied in the Olympic Charter.

37. The Government of India drew the attention of the IOC to Sports regulations in more than 30 jurisdictions, many of which had enacted Sports Legislations containing several mandatory provisions relating to regulation of Sports Federations and their right to receive recognition and financial assistance. Specific references were also made to leading sporting nations, including the USA and France, and some Asian countries such as Malaysia and Sri Lanka. In view of this, it was stated that by implementing the 1975 and 2001 Guidelines, the Government of India had supported the Olympic Charter and reiterated that the Guidelines were, in any event, not intrusive in any manner but aimed at ensuring compliance with the principles recognised by the IOC and endorsed by the Olympic Congress.

38. It was also pointed out that there was no reason for the IOA to escalate the matter to the IOC without discussing these issues with the Government of India in the first instance. Since the issue of unlimited tenures of office bearers in national sports bodies was *sub judice* before the High Court of Delhi, where the IOA was a party Respondent, it was pointed out that the strong opposition to 1st May 2010 communication indicated existence of vested interests in preserving the unacceptably long tenures of interested persons. It was not based on a commitment to the preservation of the autonomy of the IOA/NSFs. In view of the above, the Government of India recorded its expectation that the IOC would acquaint itself fully with the complete facts of the case before arriving at any concrete decision in the matter.

Annexed as **Annexure 17** is a copy of the letter dated 25th May 2010 addressed by the Government of India, Ministry of Youth Affairs & Sports to the IOC.

39. Subsequent to the above, on 31st May 2010, the Government of India, forwarded a detailed statement on sports legislations and good governance prescriptions prevailing in various jurisdictions to the IOC and the OCA for their perusal and to place matters in perspective.

Annexed as **Annexure 18** is a copy of the Statement dated 31st May 2010 forwarded by the Government of India, Ministry of Youth Affairs & Sports to the IOC & the OCA.

40. Thereafter on 2nd June 2010, the IOC invited the Government of India to a meeting organized on 18th June 2010 to discuss these issues.
41. In the abovementioned backdrop, the Government of India proposes to place on record, the following factual and legal background in order to enable IOC appreciate the basis for the 1st May 2010 communication and that the steps taken are, in fact, in consonance with the principles of the Olympic Charter viz., the Fundamental Principles and essential values of Olympism, respect for universal fundamental ethical principles, the absence of discrimination, proper and transparent organization, administration and management of sports by independent sports organizations, to oppose any political and commercial abuse of sport and athletes, *inter alia*.
42. By this dialogue, the Government of India expects that all concerned parties would be able to resolve the present difference of opinion and find a permanent solution aimed at attaining the larger objective of Good Governance in Sports in the country.

43. It must also be emphasized that these Guidelines would apply to all sports bodies which perform functions of a public character, and which seek recognition as a National Sports Federation and/or a dominant regulatory position. Government support, in any form, including financial and other assistance, would only be available to bodies falling in this category. Consequently, these Guidelines would have no application to all other private bodies which would essentially have the status of private clubs etc. which did not discharge any public functions and merely constituted associations of persons achieving a mutually beneficial common object.

FACTUAL & LEGAL BACKGROUND

44. Over three decades ago, in view of growing criticism in Parliament and the media, on account of adverse public opinion of the extremely poor standard of sports and games organised by various Federations/Associations in India, including the IOA, and after taking into consideration the views of various stakeholders including the IOA, NSFs and the All India Council of Sports, the Government of India Ministry of Education and Social Welfare, introduced the 1975 Guidelines, conveying its decision that it

would henceforth, render financial, and other assistance, only to those National Sports Bodies/Organizations which fulfill certain conditions, including *inter alia*:

- (i) *“An office bearer of a National Federation/Association may hold office as such for one term of 4 years, and may be eligible for re-election for a like term or period.*
- (ii) *No such office bearer shall hold office consecutively for more than two terms or more than 8 years. “*

45. The 1975 Guidelines also noted the following:

- a. *The primary responsibility for the development and management of sports and games in the country especially as the necessary base for competence in competitions overseas, rests with the IOA/NSFs/Associations.*
- b. *That the Government being aware of the autonomy of the said Federations/Organizations had no ‘desire to interfere’ in their internal working or autonomy autonomous functioning*
- c. *And that the Government was merely laying down norms with reference to assistance being rendered by it, consistent with its own obligations at ensuring transparency and financial accountability*

46. The 1975 Guidelines therefore, sought to balance the autonomy of the IOA/NSFs/Associations while seeking to enforce adherence to universal fundamental ethical principles of good governance and

transparency all of which were ultimately aimed at encouraging and promoting the development of sports and games in the Country.

47. Notwithstanding the above, and despite the commitment expressed by the IOA and the NSFs that they would bring their Constitutions in line with the 1975 Guidelines, the actual situation on the ground continued to remain far from satisfactory with several NSFs introducing some changes and retracting them subsequently. Many NSFs took no steps to make any changes while continuing to receive Government funding for their activities.
48. Consequently, development of the sport and the welfare of sportspersons, took a backseat in many cases.
49. Judicial notice of these facts was taken by the Supreme Court of India speaking through a Bench comprising three Hon'ble Judges headed by Hon'ble the Chief Justice of India, in **K. Murugan vs. Fencing Association of India**, (1991) 2 SCC 412 in the following terms:

"...12. This does not appear to us to be a matter where individual rights in terms of the rules and regulations of the Society should engage our attention. Sports in modern times has been considered to be a matter of great importance to the community.

International sports has assumed greater importance and has been in the focus for over a few decades. In some of the recent Olympic games the performance of small States has indeed been excellent and laudable while the performance of a great country like India with world's second highest population has been miserable. It is unfortunate that the highest body in charge of monitoring all aspects of such sports has got involved in group fight leading to litigation and the objectives of the Society have been lost sight of. The representation of India in the IOA has been in jeopardy. The grooming of amateurs has been thrown to the winds and the responsibility placed on the Society has not been responded. This, therefore, does not appear to us to be a situation where rights to office will have to be worked out by referring to the provisions of the law relating to meetings, injunction and rights appurtenant to elective offices. What seems to be of paramount importance is that healthy conditions must be restored as early as possible into the working of the Society and a fresh election has to be held as that seems to be the only way to get out of the malady. The entire nation is looking up to the results of the competitions at the international games when they are held. As we have already pointed out, IOA has great responsibilities to discharge in organising and streamlining the national sport activities intended for international events. The monitoring has to be a continuous one and unless the scheme is ongoing and is made result-oriented, the international performance cannot be up to any appreciable level.

...

17. Before we leave this matter we would like to point that the Union of India should take greater interest in organising sports both for national and international purposes. Sports have a role to play in building up good citizens. That aspect should be kept in view. We have a feeling that while a lot of money is allotted for the purpose of improvement of sports, the result has been considerably poor and deceptive. We hope and trust that this aspect of the criticism heard from everywhere in this country shall also be given due consideration." [emphasis supplied]

Annexed as **Annexure 19** is a copy of the Judgment rendered by the Supreme Court of India in **K. Murugan vs. Fencing Association of India**, reported as (1991) 2 SCC 412.

50. A similar view was echoed by another Bench of the Supreme Court of India in 1996, in a matter concerning the Triathlon Federation of India in **M.P. Triathlon Association vs. Indian Triathlon Federation & Ors.**, (1996) 11 SCC 593:

"1. It is rather unfortunate and we feel that every Indian citizen would feel ashamed of the fact that not even one sports-person out of the huge population of 94 crores could find a place on the victory stand in the Olympic Games 1996 held at Atlanta. Instead, all these Associations are busy in the court proceedings and spending their spirit on litigation instead of inculcating spirit of sports in the track and field. These cases are some instances of the deplorable state of affairs. But, it is heartening to note that all of

them have agreed for the settlement of the disputes in terms of Rule XIX of the Indian Olympic Association Rules... “[emphasis supplied]

Annexed as **Annexure 20** is a copy of the Judgment rendered by the Supreme Court of India **M.P. Triathlon Association vs. Indian Triathlon Federation & Ors.**, reported as (1996) 11 SCC 593.

51. Despite the issuance of the 1975 Guidelines and reassurances made by the IOA/NSF's that they would bring their constitutions in line with the said Guidelines, virtually no steps were taken in this regard. As a result most constitutions, including that of the IOA/NSFs', continued to remain in violation of fundamental principles of good governance in general, and as enshrined in the 1975 Guidelines, by continuing to receive funding from the Government of India for their activities. On its part, the Government of India continued to support the NSF's and the IOA, both financially and otherwise, with a view to avoid any adverse impact on the development of sports in the country, particularly on the athletes, and in the earnest hope that the promises made by the IOA/NSF's would be made good, voluntarily.
52. It was in this context that reacting to strong criticism of the claims by NSF's of autonomy without accountability, the Late Shri Rajiv

Gandhi, former Prime Minister of India, in his capacity as President of the Sports Authority of India observed that "*national sports federations should play a role in improving the standards of their concerned sports disciplines and that if the federations did not follow the Guidelines laid down by the Government , such federations would have to exist on their own resources.*" This was particularly in view of the general practice of blaming the Government for the failure of Indian sportspersons to perform in international sporting events, despite the fact that the Government continued to take steps to support the IOA/NSFs and placed substantial funds at their disposal to ensure that they fulfill their objectives.

53. In view of this, the Government of India, Department of Youth Affairs & Sports, Ministry of Human Resource Development issued Revised Policy and Guidelines in 1988 (**'1988 Guidelines'**) which specifically mandated, *inter alia*, that the Government would not clear any sports official who held office in violation of the 1975 Guidelines, in respect of his participation in international events, in any capacity whatsoever. The 1988 Guidelines also made it incumbent on NSFs to attend detailed review discussions with the Government to review implementation of the aforesaid Guidelines

and placed strong emphasis on the requirement of financial transparency and accountability. Federations were specifically required to give prior intimation to the Government of the meetings of its various bodies where elections of office bearers were to take place, so as to enable the Government to depute observers if necessary. Most importantly, the office bearers of the respective federations were made personally responsible to ensure that information furnished to the Government was factually correct.

Annexed as **Annexure 21** is a copy of the 1988 Guidelines issued by the Government of India.

54. Revised Guidelines for assistance to NSFs were issued on 16th July 1997, (**1997 Guidelines**) to “... *provide a new direction and better support to the sports federations in general and to the outstanding sportspersons in particular and will, in turn, lead to outstanding performance in the coming international events.*”
55. The 1997 Guidelines demonstrate the importance attached by the Government of India to the development of sports in general, and to the achievement of excellence in the Olympics and other international events. They also reflect the Government’s

continued support and assistance to the various NSFs, while recognizing and respecting their autonomy.

56. The emphasis on administrative autonomy of the Federations was duly recognised in the following terms:

“III. Role and responsibility of the Department of Youth Affairs and Sports, National Sports Federations and the Sports Authority of India

...

(b) National Sports Federation

Shall be fully responsible and accountable for the overall management, direction, control, regulation, promotion, development and sponsorship of the discipline for which they are recognised by the concerned International Federation. They will be expected to discharge the responsibilities in consonance with the principles laid down in the Olympic Charter or in the charter of the Indian Olympic Association or the relevant International Federation, as the case may be.”

57. The 1997 Guidelines laid down conditions for NSFs in order for them to be eligible for government recognition and consequently, for government assistance. The intent being to ensure that the NSFs *“... maintain certain basic standards, norms and procedures with regard to their internal functioning, which conform to the high principles and objectives laid down by the concerned International Federation and which are also in complete consonance with the*

principles laid down in the Olympic Charter or in the constitution of the Indian Olympic Association.”

58. A perusal of the aforesaid eligibility criteria demonstrates that primary emphasis was on a genuine commitment to the sport in question, and the compliance with the fundamental ethical values of the Olympic movement including, *inter alia*, democracy, transparency and accountability.

Annexed as **Annexure 22** is a copy of the Guidelines for Assistance to National Sports Federations dated 16th July 1997 issued by the Government of India.

59. The 1997 Guidelines were intended to ensure adherence to the core values of the Olympic Charter by the IOA/NSFs/Sports Bodies while protecting their autonomy. But they could not be implemented due to strong opposition from the IOA and the NSFs.
60. The Government of India, on its part therefore, introduced Revised Guidelines for Assistance to National Sports Federations on 14th August 2001, (**‘2001 Guidelines’**) the salient features of which, are as under:

“I. INTRODUCTION

Sports and games have been widely recognised as an essential ingredient of Human Resource Development. The Government of

India attaches considerable importance to development of sports in general and achieving excellence in the Olympics and other international events in particular. Performance of Indian team in important International Sports events has, however remained far from satisfactory, which is a matter of serious concern for the Government . It has been the endeavour of the Government to streamline the procedures for effective coordination among various agencies involved in promotion of sports and extend required infrastructure, training and other facilities to the sportspersons for achieving excellence in the international events in the coming years.

1.2 Over the years the number of National Sports Federations (NSFs) have come up for development of specific games/sports disciplines. The Government of India in achieving their objectives has actively supported these Federations. Existing Guidelines for assisting National Sports Federations had been reviewed and revised based on the experience of our preparation For Asian Games, 1994 and Olympic Games, 1996 as well as recommendations of the Committees setup for promotion of sports. The revised Guidelines were given effect from 10th July 1997. Keeping in view the discussions held with IOA and National Sports Federations some provisions of these Guidelines have again been amended.

1.3 These Guidelines mark an important departure from the approach followed in the past. The major innovations and changes included in these Guidelines are:

(i) A clear demarcation and identification of the role and responsibility of the agencies involved in sports development and promotion.

(ii) Clearly defined criterion for determining priority categories for Government assistance

...

(v) Binding tripartite agreements between NSFs, the Department and the SAI to be drawn up.

(vi) An emphasis on professionalising and upgrading the administrative and financial management of Federations.

(vii) An emphasis on systems to handle players grievance

(viii) The appointment of registered chartered accountants to ensure maintenance of proper and transparent accounts

...

(ix) The flow of funds to Federations will also include a substantial portion of the funds of other major schemes of the Department apart from Grants to National Federations.

1.4 In short, these Guidelines propose to replace the present approach with annual sanctions against an agreed programme for the development and promotion of each sports according to its unique requirements. This, in turn, requires significant improvements in the internal management practices of Federations. An important perspective in this exercise is to help

Federations attain financial self-sufficiency over a period of time thereby reducing their dependence on the Government.”

61. The objectives of the 2001 Guidelines, were stated to be as under:

“Firstly to define the areas of responsibility of the various agencies involved in the promotion and development of sports.

Secondly, to identify National Sports Federations eligible for coverage under these Guidelines, to set priorities, and to detail the procedures to be followed by the Federations, to avail of Government sponsorship and assistance.

Thirdly, to state the conditions for eligibility which the Government will insist upon while releasing grants to Sports Federations.”

62. The 2001 Guidelines once again, recognised that National Sports Federations would be *“...fully responsible and accountable for the overall management, direction, control, regulation, promotion, development and sponsorship of the discipline for which they are recognised by the concerned International Federation...”* And that they would be *“...expected to discharge these responsibilities in consonance with the principles laid down in the Olympic Charter or in the charter of the Indian Olympic Association or the relevant International Federation, as the case may be.”*

63. The 2001 Guidelines, therefore, set out detailed criteria for recognition of NSFs with the earnest expectation that they would

maintain "certain basic standards, norms and procedures with regard to the internal functioning, which conform to the high principles and objectives laid down by the concerned International Federation, and which are also in complete consonance with the principles laid down in the Olympic Charter or in the constitution of the Indian Olympic Association.'

64. As per the 2001 Guidelines, NSF's seeking recognition would have to apply to the Government which, while considering the same, would be guided by the following, *inter alia*:

- a. *The current legal status of the Organization*
- b. *Recognition by the international and Asian Federation*
- c. *Its undisputed status as an Apex Body in India*
- d. *Its all India spread*
- e. *The role and contribution of the organisation in promoting and developing Sports in India*
- f. *Its internal financial and management practices and standards*
- g. *Its electoral practices*
- h. *Its protection and promotion of players interests and welfare*

65. Additionally, in order to be eligible for financial and other assistance from the Government, the NSFs were required to meet the following criteria, *inter alia*:

- a. follow proper, democratic and held the management practices which provide for greater accountability and transparency at all levels
- b. have proper accounting procedures at all levels and produce annual financial statements
- c. produce an annual report within six months of completion of the year
- d. have impartial and transparent selection procedures
- e. provide a positive exposure to the Department of Youth Affairs and Sports as a major sponsor of sport in India
- f. ensure that dope test of all its players be conducted regularly as per normal/standards laid by the International Federation of the concerned discipline.

66. Annexure II to the 2001 Guidelines set out further conditions for recognition of NSFs including, the imposition of any restrictions of office bearers as follows:

“3.5 Tenure of the Office Bearers: The tenure of office bearers shall be in accordance with the Government Orders issued under letter No. 11-4/74-SP.I dated 20th September 1975. As per above Orders, office bearers of NSF's may hold office for one term of four years and may be eligible for re-election for a like term or a period provided the office bearers have secured not less than 2/3 vote of the members. However no such office bearers shall hold office consecutively for more than two terms or eight years.

3.6 No office bearer of a National Federation shall hold office simultaneously, in any other National Federation, excepting the Indian Olympic Association.

3.7 The Federation should have accepted Mercantile system of accounting. The accounts should be maintained properly and audited annually by registered Chartered Accountants.

...

3.9 The membership of the Federation should be confined to the corresponding State/UT and other special units affiliated (like Sports Control Boards etc) and where Federation grant membership to individual clubs or individual persons, such membership does not confer on such members the right to vote in any of the Federation's meetings.

...

3.13 The Federations are required to intimate Government well in advance about its General Body Meeting and other meetings where election of office bearers and other important decisions are

to be taken. Wherever considered necessary, the Government will have the right to send its observer to the above meetings.

3.14 The Federation shall update their accounts immediately after completion of the financial year and bring out annual report covering salient features of their activities during the year. The Federation shall appoint a practising Chartered Accountant to audit their accounts. The records and accounts of the Federation will be accessible to the Government and these shall have to be produced as and when asked to do so.

3.15 Where an international federation for the sport exists, the National Federation must be affiliated to the respective international federation.

3.16 Wherever the National Federation is affiliated to an international federation, it must provide the Department with an attestation from the international federation certifying that the National Federation is a member in good standing.

3.17 The Federation must be autonomous and resist all pressures of any kind, whatsoever, whether of a political, religious, racial or economic nature.

3.18 The federation must hold a General Body Meeting At least once in a year and a special meeting convened over four years (or earlier as required under the tenure of office bearers) to elect the members of the Executive Body including the President, Secretary etc.

...

3.20 Inclusion of prominent sportspersons of outstanding merit as members of the respective sports federations on the tenure basis. The strength of such prominent sportspersons with voting rights should be a certain minimum percentage (say 25%) of the total members representing the Federation and selection of such sportspersons should be in consultation with this Department."

Annexed herewith as **Annexure 23** is a copy of the letter dated 14th August 2001 issued by the Government of India, Ministry of Youth Affairs & Sports enclosing the 2001 Guidelines.

67. As mentioned hereinabove, the introduction of the 2001 Guidelines were duly welcomed by the IOA and NSF's, with the sole exception of the tenure clause which was requested to be kept in abeyance to be considered along with the report of the working group constituted under the Chairmanship of President, IOA.
68. It was in view of this request, and on the understanding that all other provisions contained in the 2001 Guidelines would be implemented with immediate effect, that the tenure clause prescription was kept in abeyance in October 2001.
69. There are several instances where the same office bearer(s) have held office for over two decades and in certain cases for over three decades. Given the poor performances of the Indian teams in a

large number of disciplines and the poor progress made in the development of several sports and sports infrastructure, there is considerable public dissatisfaction on the lack of accountability and transparency in these bodies which in effect perform a public duty viz., the promotion and the development of sports and for which they receive substantial funding from the public exchequer.

Annexed as **Annexure 24** is a tabular representation of the substantial tenures enjoyed by certain individuals in the IOA/NSFs/Sports Bodies in India.

Annexed as **Annexure 25** is a tabular representation of the analysis of the Constitution's of 31 sports federations in India which substantially reflects the virtual absence of principles of good governance apart from being at variance with the provisions of the Olympic Charter.

70. The tabular statement reveals that most NSFs are non-compliant. Since most of them depend substantially on public funds received from the Government of India and other public authorities such intransigence has drawn widespread criticism, especially as India's sports in the world continues to be poor. Therefore, the insistence by the IOA/NSF's on autonomy without accountability, despite admittedly performing duties of a public character while depending substantially on public funding, is unsustainable, both on legal and ethical grounds.

71. It must be recognized that autonomy of sports bodies is not an end in itself but a means to enable Sports Bodies perform the functions and duties expected of them. Good governance practices are therefore, a means of securing and preserving autonomy which cannot be wished away by Sports Bodies discharging Public Functions irrespective of whether they are 'private bodies' or are supported by the State. Hence, the argument that advice to adopt good governance principles by the Government is an invasion on their autonomy lacks force.

Annexed as **Annexure 26** are extracts of certain media clips reflecting public opinion on this issue.

72. The elected representatives, in Parliament and outside, have also discussed these issues pertaining to the independence and autonomy of the IOA/NSFs as well as the need to enhance transparency and accountability in their functioning by appropriate regulations including tenure limits for office bearers.

Annexed as **Annexure 27** is a tabular representation of certain Parliamentary debates reflecting the general opinion and consensus of the elected representatives in the country on the issue of unrestricted tenures and lack of good governance in Sports bodies.

73. It was in this context that the Hon'ble High Court of Delhi in its recent decision dated 7th January 2010, *inter alia*, held that the IOA constituted a 'Public Authority' within the meaning of the expression under the 'Right to Information Act, 2005, in the following terms:

"65. ... Having regard to the pre-eminent position enjoyed by the IOA, as the sole representative of the IOC, as the regulator for affiliating national bodies in respect of all Olympic sports, armed with the power to impose sanctions against institutions even individuals, the circumstance that it is funded for the limited purpose of air fare, and other such activities of sports persons, who travel for events, is not a material factor. The IOA is the national representative of the country in the IOC; it has the right to give its nod for inclusion of an affiliating body, who, in turn, select and coach sportsmen, emphasizes that it is an Olympic sports regulator in this country, in respect of all international and national level sports. The annual reports placed by it on the record also reveal that though the IOA is autonomous from the Central Government, in its affairs and management, it is not discharging any public functions. On the contrary, the funding by the Government consistently is part of its balance sheet, and IOA depends on such amounts to aid and assist travel, transportation of sportsmen and sports managers alike, serves to underline its public, or predominant position. Without such funding, the IOA would perhaps not be able to work effectively. Taking into consideration

all these factors, it is held that the IOA is "public authority" under the meaning of that expression under the Act. [emphasis supplied]

Annexed as **Annexure 28** is a copy of the decision of the Hon'ble High Court of Delhi in W.P. (C) No. 876/2007 titled 'Indian Olympic Association vs. Veeresh Malik'.

74. In a similar vein, the Delhi High Court has taken judicial notice of developments in other jurisdictions where Sports Bodies exercising monopolies are increasingly coming under judicial scrutiny and that *'the distinction between public law and private law in respect of such monopoly sporting associations is minimal'*. [See: Ajay Jadeja vs. Union of India, ILR (2001) 2 Del. 306]

Annexed as **Annexure 29** is a copy of the decision of the Delhi High Court in **Ajay Jadeja vs. Union of India**, reported as ILR (2001) 2 Del. 306.

75. Despite the clear intent of the law and public opinion, the Government of India has chosen to respect the autonomy of the IOA/NSFs /Sports. The consequence has not been encouraging and, in fact, has witnessed a significant deterioration of performance and facilities in a large number of sports, primarily due to stiff and continued resistance of sports bodies to become transparent and accountable.

76. In this context, dealing with a Writ Petition filed by a Member of the Jammu & Kashmir Hockey Association alleging irregularities in the functioning of the Indian Hockey Federation, the Hon'ble High Court of Delhi by a detailed speaking order in W.P. (C) No. 7868/2005, titled '**Narinder Batra vs. Union of India**' has held, *inter alia*, as under:

"85. It may be desirable that sports federations have autonomy in areas of the actual conduct of sports. However to represent India as a nation at international sports meets as well as international fora, it is an essential part of Government function that scrutiny is effected by the sporting event or the forum in which participation is proposed. The source of the legislative competence of the Government to do so is derived from entry 10 and 13 of List I which read thus:

10. Foreign affairs, all matters which bring the Union into relation with any foreign country.

13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

86. There can be no argument that international sporting events have been considered an essential part of diplomatic relations of the nations. Nuances of hostility in political relations, issues of defence, security concerns of players, objections on account of policies of discrimination, apartheid and perceived human right violations have guided nations in decisions to or not to participate in sporting events in different countries. Political and diplomatic

clearance is required by the Indian teams before participation in the international tournaments and forums. No State Government would have the competence or the jurisdiction to undertake such exercise. This is clearly the province of the Union Government.

...

219. In view of the principles laid down by the Apex Court in the aforenoticed judicial pronouncements, there can be no dispute that the Government is entitled to frame the Guidelines for dispensation of its largesse which will take the nature of financial assistance; assistance in the nature of expert coaches, national level facilities etc. Certainly, the Government is entitled to notify and evolve a procedure for dispensation of the financing assistance which runs into crores of rupees as well as Guidelines for recognition of the national sports federation and cannot permit the same to be disbursed arbitrarily without any clear directives in this behalf. The Guidelines issued by the Government and modified from time to time have been therefore validly issued and are binding for the purpose for which they have been issued.

In view of the above discussion, it has to be held that a National Sports Federation regulating the game of hockey in the country can be compelled by the Government in discharge of its executive powers and functions to abide by the rule of law as well as executive Guidelines framed for such recognition and dispensation.

...

239. By the Guidelines, the Government has not prohibited formation of an association, society or federation with regard to

any sport. It has only mandated that in order to be entitled to financial assistance or recognition as a national level body by the union Government , it would require to be a society or an association or federation which enforces democracy by fixing the tenure of the office bearers. There is no comparison between the election as an office bearer of a national level sports body with the member of the parliament who represents his constituency in the parliament. For the foregoing reasons, the conditions and criteria for recognition and grant of assistance is neither arbitrary nor whimsical.

240. It is noteworthy that the national level federations enjoy a monopoly position and are directly concerned with selection of teams to represent the country. Though it should not, but there is every possibility that vested regional biases and interests may influence decision making especially in selection of teams. Thus office bearers from a particular region, religion, political affiliation or having other clout may be able to control selection and other matters relating to the national sports federations influencing the development of the sport in the country.

241. If such a tenure clause was not enforced, the office bearers could be repeatedly elected from a particular region and continue to dominate the affairs of the association/federation after having created a monopoly over the sport. Tremendous damage could result to the sport itself inasmuch as vesting of the control in authorities from a particular region may result in diversion of funds, selection of players from and development of a sport from only a particular region. The national sports federation would then not

remain representative of the hope and aspirations of the sports persons of the entire nation.

242. A limited office tenure, certainly would have the impact of minimising, if not eliminating, allegations, criticism and elements of nepotism, favouritism and bias of any kind. In a country having the federal structure of the nature that India possesses, the office bearers being in circulation and there being change in the representation on the executive of a national level body would go a long way in promoting the diversity and expertise in the sport. There must be states who have never been represented on the national teams. It would contribute to mainstreaming sport persons who are marginalised on account of lack of regional representation at the higher managerial echelons of the sports bodies or are otherwise not visible. Hundreds of sports persons without means, resources or sources from every corner could hope for recognition of their skills and representation on regional and national teams.

243. Certainly the prescription by the Government of the office bearers to two tenures which brings a length of the total office held by them to 8 years as a condition for eligibility for recognition as a national sports federation or for entitlement of financial assistance from the Government , cannot by any measure be considered insufficient for any office bearer to impart his best to the organisation or the development of the sport or to make a difference. Such a restriction would ensure new office bearers with fresh ideas, enthusiasm and the wealth of their experience making a valuable addition to the organisation. It would also ensure

circulation and removal of such who are corrupt or undesirable in the organisation who perhaps by virtue of exercise of political might or other resources, are able to get repeatedly re-elected which would really sounds a death knell for the sport and talented players.

This is not to say that regional representation alone is the benchmark for selection of a national team. Merit alone can guide selection. However inability of a state to ever produce player(s) who reach national trials or the national team would certainly reflect on the failure of a national sports federation to develop the sport nationally which is its prime mandate.

...

251. Before this Court, a submission was also made that the international Olympic Charter prohibited any intervention by the Government in the affairs of a society. Firstly, I see no interference by the stipulation of the tenure condition as a condition for grant of recognition and assistance by the Government . Secondly, the same does not enable the Government to have any say of any kind in the affairs of running of the sports body. Thirdly, I find that the respondent No. 2 has placed an extract of the rules and regulations of various international bodies including the ICC; Federation Internationale de Football Association and the International Olympic Committee. It is disclosed that the International Olympic Committee is the supreme authority of the Olympic movement. Its executive board was founded in 1921 and consists of the president, four vice presidents and ten other members. All the members of

the executive board are elected for a four year term by the session in a secret ballot by a majority of votes cast.

252. Perusal of the document placed before this Court shows that a tenure prohibition is to be found even in the rules governing the duration of some of the office members of the International Olympic Committee. It is prescribed in Rule 19.2.2 that the duration of the terms of office of the Vice-Presidents and of the ten other members of the IOC Executive Board is four years. A member may serve for a maximum of two successive terms on the IOC Executive Board, regardless of the capacity in which he has been elected.

In case of a member having completed two successive terms of office pursuant to Rule 19.2.2 above, he may be elected again as a member of the International Olympic Committee executive board after a minimum period of two years.

253. This stipulation in the international Charter shows the enforcement of democratic values and the reaffirmation of the principle that the governing sports body has to be representative and cannot be controlled by any particular person or set of persons and is very similar to the stipulation contained in the tenure Clause 3.5.

254. Therefore it has to be held that there is no legal prohibition to the restriction of the tenure of an office bearer as a condition for grant of recognition or financial assistance by the authority or person awarding or dispensing the same. Such condition does not adversely impact any fundamental right guaranteed under the Constitution of India. The objection to this effect raised by the

respondent has no legal basis and is opposed to the spirit, intendment and the purpose of the Societies Registration Act; the interests of national sports and hence, national as well as public interest.

...

264. It is an admitted position that the Guidelines were framed and circulated in 1975, amended in 1997 and in 2001 with the approval of the Ministry of Finance, Department of Expenditure. State revenue was involved. It was incumbent on all those working the Guidelines to ensure that the Guidelines were strictly complied with. Certainly, there cannot be dispensation of state largesse which include large amounts of funding and other technical assistance, without compliance of the Guidelines laid down for such dispensation.

265. The consequence of such failure to abide by the Guidelines is that dispensation of state largesse admittedly running into several crores of rupees has been effected in violation of the Guidelines framed by the Government of India for the same.

266. This matter assumes significance and importance in the light of nature and extent of assistance rendered by the Central Government in matters of sports relating to the various disciplines.

267. A submission was made by learned standing counsel for the Union of India that the approval of the Finance Ministry was confined to the provisions in the Guidelines governing finance alone. This view certainly undermines the importance and nature

of the approval of the Ministry of Finance and is also not borne out by the communication dated 14th August, 2001 or the Guidelines. The Ministry of Finance would be concerned certainly with not only the nature and manner of expenditure but also with the nature of the body to whom the dispensation was being effected. It is required to take a holistic view in the matter and is certainly expected to take into its consideration all provisions in the Guidelines.

268. The facts placed before this Court and the representations of the petitioner to the Central Government also display complete disinterest with the fate of the sport persons or the glory of the sport. Complete autonomy and arbitrariness in the functioning of NSFs is being permitted by the Government . Players and coaches remain almost unrepresented on the sports body or in forums where their voice and representation may ensure not only the interest of the sports persons but also that the national interest and glory of the sport is restored.

269. It takes a sportsman to understand the finest nuances of the game; the psychology involved in mentally blocking out rowdy spectators supporting a home team; the herculean effort entailed in focussing on the game against extreme provocations of the opponents. Only someone who has played or been involved in the game can understand why some days are good, others not at all; the positive support needed when "off form" and how insensitive criticism can demolish the confidence of an able player. The essentiality of a good diet and rest regime, a clean environment and adequate facilities can be also best ensured by those who have

been involved. Sports persons also, understand the importance of 'rest' and 'retirements'.

270. The success of a sports board needs no further evidence than the performance story of the team it endorses. It is also not the credentials or laurels of those who constitute the Board on which its capability is to be evaluated but again the success of the game, nationally and internationally. Such success may not be evaluated by medals won but can equally be measured by the spread of the game in the country, availability of modern facilities in its remote corners, creation of a body of fit and able coaches and players and, of course, the increase in popularity of the game amongst the masses.

...

277. Other than the objection to the stipulation with regard to the re-election and a tenure of the office bearers, the respondents have no objection to any intervention by the Government in these Guidelines in its activities which includes selection of national coaches, prescription of priority sports etc.

278. It is noteworthy that the revised Guidelines have guided dispensation of the largesse of the Government which partook the nature of grants, financial assistance and other infrastructure and logistic support to the National Sports Federations. Neither the Indian Olympic Committee nor any of the Sports Federations including the Indian Hockey Federations/respondent No. 2 herein have ever assailed the action of the Government or any stipulation in the Guidelines. It would therefore be apparent that the

respondents have accepted the authority and competence of the Government to lay down conditions and Guidelines for eligibility and the manner in which recognition of a federation or an association as a national level body as well as the manner in which dispensation of the funds and state largesse would be effected.”

[emphasis supplied]

Annexed as **30** is a copy of the Judgment dated 2nd March 2009 passed by the High Court of Delhi in W.P. (C) No. 7868/2005 titled '**Narinder Batra vs. Union of India**'.

77. While the IOA has been the fulcrum of factional litigation on several occasions, a large number of Federations are presently in Court on account of similar disputes between members. The Indian Hockey Federation ('IHF') is a case in point, and has been one of the prime reasons for the 1st May Communication. The national sport has been at the centre of a lot of public attention on account of India's dismal performances over the past years and more importantly on account of the factional disputes between members at the helm of its affairs.
78. In 2009, the IOA suspended the IHF and withdrew the recognition granted to it. Thereafter, the IOA was instrumental in creating a new Society called 'Hockey India' to administer the Sport of Hockey in India.

79. While the Government of India acted on the basis of the IOA's decision, and withdrew the recognition granted to the IHF, the actions of the IOA have not been consistent with the IOC's principle of allowing NSFs to remain independent of the NOC.
80. The IHF, on its part challenged the decision of the IOA and the Government of India before the High Court of Delhi by way of a Writ Petition No. 3713/2008, titled '**Indian Hockey Federation vs. Union of India & ors.**', wherein by a detailed Judgment dated 21st May 2010, the High Court of Delhi has quashed the decisions of the IOA suspending and disaffiliating the IHF. Similarly, the decision of the Government of India to temporarily withdraw the recognition of the IHF and its subsequent decision derecognising the IHF were also quashed on the ground that the Government had not given the IHF a show cause notice as mandated by its own Guidelines.
81. While so doing, the High Court of Delhi has taken strong exception to the conduct of the Government of India in acting as a passive bystander and in not enforcing the aforesaid Guidelines. The following extract from the decision is particularly instructive and

would place the subsequent steps taken by the Government in perspective:

“63. This Court finds that the MYAS [Ministry of Youth Affairs and Sports] has been largely indifferent to what has been happening with the IHF and has left the entire control to be taken over by the IOA. This is contrary to the spirit of the 2001 Guidelines which have been adverted to earlier. The MYAS has not been able to enforce or implement the Guidelines as far as IHF is concerned. Although this Court is not called upon to examine the validity of the formation of Hockey India, it must be pointed out that despite the order of this Court, the MYAS has not explained on what basis it granted recognition to Hockey India and whether it followed the 2001 Guidelines while doing so.

64. The IOAs actions in this case, and consequently those of the MYAS stemmed from a knee-jerk reaction to the pressure brought to bear upon the IOA by the FIH. That the FIH was left confused wondering whether the IHC represents Indian hockey at all is evident from its advisory note dated 7th May 2008 where it says "it is not our wish or intention that the IHC should cease to be a member of the FIH." Even if FIH was understandably in some panic, there was no need for the IOA to react likewise and place the IHF itself under suspension. It required some calm and collective thinking on what should be the most appropriate corrective action vis-a-vis the office bearer who was allegedly found accepting a bribe in the "Sting Operation". Incidentally this Court has been informed that the criminal case registered pursuant to that "Sting

Operation" is still under investigation and no charge-sheet has been filed. This only shows that an action taken in haste can do irreversible damage if the status quo thereafter is allowed to continue indefinitely. Even now if the appropriate corrective action is taken, the apprehensions of the FIH can be suitably allayed.

...

76. This court believes that even now it is not too late for the MYAS to get its act together and set things in order with the cooperation of both the IHF and the IOA and any other body that may have been set up. Instead of again panicking about the revival of the IHF, it requires to be seen how the interests of hockey in India can be best served. Sports bodies have to have a degree of autonomy with the Government playing the role of an effective regulator. They must be allowed to function in a democratic manner with persons really interested in developing the game participating in its affairs. The knee-jerk reaction to losses at international events, which are inevitable in competitive events, and looking for persons to blame, cannot be conducive to a healthy development of any national sport. For a proper enquiry into the problems besetting Indian hockey the cloud of suspension over the IHF should be lifted. The past should be put behind and a new beginning made. The submission made by Mr. Harish Malhotra that IHFs suspension should continue is accordingly rejected." [emphasis supplied]

Annexed as **Annexure 31** is a copy of the Judgment dated 21st May 2010, passed in Writ Petition No. 3713/2008, titled '**Indian Hockey Federation vs. Union of India & Anr.**'

82. Furthermore, in Rahul Mehra's case (*supra.*), the High Court of Delhi is presently examining the question of unlimited tenure of office bearers in Sports Federations and the IOA, and the Government of India was called upon to file an affidavit explaining its position, *inter alia*, on the question of the unlimited tenure of office bearers in Sports Federations and the Guidelines formulated by it in 1995 and 2001. Additionally, the government was directed to produce before the Court "*the original file on the basis of which the Guidelines issue by the Government of India (Page 203) have been kept in abeyance, as well as the objections on the basis of which the said guidelines have been kept in abeyance...*"
83. This Petition was last listed for hearing as recently as 26th May, 2010, when the Hon'ble High Court of Delhi was pleased to renotify the same for hearing on 18th August 2010, on which date it would consider the plea taken by the private Respondents, namely that the policy formulated by the Government would not apply to them. It was in keeping with this directive of the Hon'ble High Court of Delhi viz., that Sports bodies have to have a degree of autonomy with the Government playing the role of an effective regulator, that the Government of India issued the 1st May Communication, reviving the previous Guidelines restricting

financial and other assistance only to such NSFs/other bodies which satisfied the criteria stipulated therein including *inter alia*, limitations on the tenure of their office bearers and the requirement of financial transparency and accountability.

84. The said Guidelines, having held to be legal, valid and binding by a Constitutional Court would also prevail upon the IOA/NSFs, being applicable law. That there has been no legal challenge to the aforesaid decisions only amplifies their binding nature on all stakeholders viz., the Government, the IOA & NSFs, *inter alia*.
85. It must be noted that event the Recommendations of the Olympic Congress, recognize that IOA/NSFs were bound to comply with applicable laws. Furthermore, the fact that these Guidelines are also in conformity with the fundamental principles of good governance contained in the Olympic Charter and recognised by the Olympic Congress, merely serves to enhance their applicability and validity.

INTERNATIONAL LEGAL POSITION & OTHER INTERNATIONAL DEVELOPMENTS

86. In the context of the ongoing discussion with the IOC on the issue of autonomy of sports bodies, the Government has examined

sports regulations across the world and finds that there exist wide-ranging practices, including sports legislations that have greater enforceability and regulatory teeth. This also shows the model path as many of the world's leading sporting nations such as USA and France have enacted sports legislations to regulate the functioning of their sports bodies.

87. The Guidelines issued by the Government of India is in conformity with international practice in several jurisdictions which have enacted Sports Law legislation regulating the conduct of Sports bodies and in some cases, even prescribing detailed conditions for their recognition in those jurisdictions.
88. By way of example, The Ted Stevens Olympic Amateur Act of 1978 enacted by the United States of America requires the US Olympic Committee to establish and maintain several provisions with regard to governance including *inter alia* as under:
 - a. reservation of 20% of membership and voting rights in favour of amateur athletes who are actively involved in the sport or have represented the United States in the past 10 years

- b. requirement of issuing public notifications inviting objections prior to making any alterations in its constitution and bylaws
 - c. specifically prohibiting the engagement in any business for profit and prohibiting the issuance of stocks
 - d. providing for an ombudsman to give advice to athletes free of cost
 - e. mandating the composition of an athletes advisory Council
 - f. requiring it to submit a report of its accounts and in respect of its operations to the president and Congress periodically
89. Similarly, in Malaysia the Sport Development Act, 1997 was brought into effect in 1998, and provides *inter alia* as under:
- a. All associations, agencies or bodies that are involved in sports shall consult and coordinate with the Minister in relation to any sportsman sports matter as may be prescribed by the Minister and the regulations.

- b. Its provisions are made applicable to the Olympic Council of Malaysia and other sports bodies within the country
 - c. It provides for monetary penalty as well as for imprisonment on the failure to comply with directions imposed by the Commissioner for Sports
 - d. It requires all sports bodies to be registered under the society and makes recognition by the Commissioner of sports, a precondition to carry out any sporting activity
 - e. It provides powers to the Minister to make regulations for the internal procedures for resolving disputes within a sports body and Guidelines for issuance of a licence to a Company under the Act.
90. Similar legislations have been enacted by several jurisdictions, which emphasise the regulatory power of the state and the need for compliance by sports bodies with such regulations within those jurisdictions.
91. In fact, there exists a considerable amount of regulation in the domain of Sport particularly in the context of Doping and unfair

practices. The fact that nearly 139 countries are signatories to the International UNESCO Convention against Doping in Sport is in itself a reflection of the fact that Sport/Sports Administrators can no longer claim isolation from scrutiny, especially in regard to these crucial aspects.

92. It is important to mention that the Government of India has shown the highest commitment to the movement against doping in sports. It is a signatory to the UNESCO Convention against Doping in Sport and a member of World Anti-Doping Agency (**WADA**). In addition, it has constituted the National Anti-Doping Agency (**NADA**) in India on lines of WADA, and has put in place a system of disciplinary panel and appeal. Furthermore, it has set up a state-of-the-art WADA accredited laboratory, the services of which are being utilized internationally.
93. The Government of India believes that issues of transparency, accountability and Good Governance are fundamental to the existence of such Institutions particularly given the public nature of their functions and their transnational character. Moreover, when unfair practices on the part of athletes are being combated with the backing and resolve of Governments the world over and

as a part of a larger International effort including at the level of the United Nations, there is no justification in insulating the sports bodies from public scrutiny and regulation.

94. The IOC will note that while the power of the Government to legislate on Sports is expressly recognized by the Constitution of India, it has elected to respect the autonomy of the IOA and the NSFs and has implemented Guidelines with a view to ensuring conformance with universal Good Governance Principles, which, admittedly, are in conformity with the Olympic Charter. However, the Government of India maintains that 'absolute autonomy' and/or 'autonomy without accountability' is no longer a credible option in the present day context, especially in a functioning democracy like India.
95. Furthermore, given that it expends a substantial amount of public monies in the development of Sports and in assisting the IOA and the NSFs with over US\$ 60-70 Million annually in the last three years, the Government can no longer countenance a situation of absolute and unrestricted autonomy to the IOA/NSFs.
96. As mentioned hereinabove, the requirement of reintroducing the 1st 2010 May communication, *inter alia*, was a result of failure on

the part of IOA/NSFs coupled to keep their commitment to bring in adequate self regulation to ensure good governance, which they have failed to keep in spite of repeated commitments in 1975, 1988, 1997 and 2001. That the Constitutions of the IOA and the NSFs, in most cases, are contrary to the core principles and ethical values of the Olympic Charter is pertinent to the present discussion.

97. The IOA's Constitution itself raises several issues in relation to Good Governance which need immediate redressal as is evident from the following:

- Chapter 4 of the Olympic Charter prescribes the procedure and Guidelines for the National Olympic Committee (NOC), including, *inter alia*, composition of members.
- Rule 29.1 contains the mandatory composition of an NOC
- Sub Rule 1.3 thereof, makes provision for active athletes and retired Olympians, to be included in the composition of the NOC with the condition that they must retire from their posts at the latest by the end of the third Olympiad after the last Olympic Games in which they took part.
- No such mandate for inclusion of athletes exists in the Charter of the Indian Olympic Association despite the fact

that adherence to the Rule 28 & 29 are mandatory for the recognition of the NOC.

- Moreover, the List of Members appended to the IOA Constitution reveals the absence of reservation for active/retired athlete (Olympian) in its membership.
- Similarly, Rule 29.2 of the Olympic Charter recognises the ability of an NOC to include as Members (i) National Federations affiliated by the IOC, sports of which are not included in the Programme of the Olympic Games; (ii) multi-sports groups and other sports oriented organisations or their representatives as well as nationals of the country liable to reinforce the effectiveness of the NOC or whoever render distinguished services to the cause of sport and Olympism. However, no right of voting is contemplated in regard to these bodies and the same is restricted only to National Federations affiliated to International Federations governing sports included in the Olympic Games or their representatives.
- A perusal of the IOA Constitution however, reveals that in addition to the the National Federations referred to in Rule 29.1.2 of the Olympic Charter, the IOA Constitution empowers various 'State Olympic Associations' and Federations/ Sports Associations to vote, which is a clear departure from the binding mandate of the Olympic Charter.

- Similarly, a large number of national federations dealing with indigenous sports have also been given voting rights whereas the Indian Golf Union, which falls within Rule 29.1.2 of the Olympic Charter, has been denied recognition for reasons best known to IOA and its application for membership remains pending for long without any overt justification.
 - Additionally, the disproportionate voting rights given by the IOA to entities other than National Sports Federations dealing with Olympic Sport and/or International Federations recognized by the IOC also heightens the possibility of misuse and defeats the intent expressed by the Olympic Charter of National Sports Federations constituting a voting majority in every NOC.
98. Similarly, the Constitutions of most NSFs in India are severely lacking in good governance practices, which is unacceptable to the democratic principles on which India is governed. Many of them do not even have prescriptions against doping and the democratic procedure is virtually non-existent in many.
99. The significance accorded by most NSFs to anti-doping, is also evident from the fact that most NSFs did not formally consent to the Anti-Doping Rules prepared and circulated by NADA, in compliance with the WADA Code, as far back as July 2008. Only 6

out of 68 Federations have intimated their acceptance of the said Rules, in addition to the IOA, the Indian Weightlifting Federation and the Amateur Athletics Federation of India, which have accepted the same with some comments/suggestions. The other Federation were, therefore, deemed to have accepted the said Rules.

Annexed as **Annexure 32** is a copy of the Email dated 14th June, 2010, received from the Project Officer, NADA, intimating the said facts, along with its attachment, being a tabular analysis of acceptance of the aforesaid Rules by NSFs.

100. This apart, the IOA and NSFs, with a few exceptions, have failed to discharge their primary responsibility for developing and promoting the sport at the grassroots levels. The Government of India has been expending substantial amounts on the development of sport and sports infrastructure. It was in furtherance of this intent, that the Government has recently launched the Panchayat Aur Yuva Krida Aur Khel Abhiyan (Rural Youth Sports Programme) which is aimed at developing sports infrastructure in over 250,000 village panchayats, in a phased manner, over the next 10 years. The Government has allocated Rs. 1500 crore (around US\$ 3.5 billion) for this purpose during the 11th Five Year Plan period (2007-08 to 2011-12).

101. With regard to promoting sports excellence, which is primarily the responsibility of the IOA and NSFs, the performance has not been commensurate with that of a country with a population of more than 1.2 billion with more than 70% below the age of 40 years. It is therefore, imperative for the sports bodies in India to introspect into their functioning and bring about structural reforms and infuse good governance practices for the furtherance of Olympic and sports movement in the country.
102. These facets have been judicially noticed in India and the situation continues to be monitored presently by the High Court of Delhi in Rahul Mehra's case which is *sub-judice* wherein the issue of unrestricted tenure of office bearers of the IOA/NSFs has been challenged among other issues of lack of good governance in sports bodies. The Government of India as well as the IOA/NSFs would therefore, have to ultimately abide by the decision of the Court, being legally bound to do so.
103. Before concluding, it would also be relevant to place on record the Government of India's commitment to have the best ever Commonwealth Games in Delhi in October of this year, for which

the Government of India is expending over US\$ 3 Billion in creating sports infrastructure and for staging the Commonwealth Games.

104. The Government of India therefore, reiterates its continued commitment to the Olympic Charter and expresses an expectation that the present intervention by IOC will result in the Sports Bodies in India adopting, as their minimum standard, the basic universal principles of good governance.

CONCLUSION

105. In conclusion therefore, the Government of India:
- a. REITERATES its unconditional support to the Olympic Movement and its recognition of the important role played by the IOC and its constituents in the development of Sport;
 - b. ACKNOWLEDGES the recognition of the IOC of the fundamental role of government authorities in the development and promotion of sport at national level, and the need for sports bodies to maintain harmonious relationships with competent government bodies or public authorities, in order to develop relations on good

terms and result in complementary actions for the benefit of sport and the athletes;

- c. STATES that the implementation of the 1975 and 2001 Guidelines in the light of the 1st May 2010 communication, is in compliance with its binding obligation under Indian Law to implement judicial orders;
- d. STATES that the said Guidelines are entirely in conformity with the fundamental values and ethical principles recognised by the Olympic Charter and in furtherance thereof;
- e. STATES that the implementation of the said Guidelines was necessitated on account of the total failure of the IOA/NSFs to take remedial measures despite having agreed to do so for decades;
- f. STATES that the insistence of autonomy without public accountability is antithetical to the fundamental principles enshrined in the Olympic Charter and contrary to the recognition by the Olympic Congress of

the Role of States in the development of Sports and the growth of the Olympic Movement;

g. STATES that the actions of the Government of India do not in any manner tantamount to a transgression into the autonomy and/or the internal workings of the IOA/NSFs;

h. EXPECTS that the IOC would reconsider the entire matter in the light of these facts and taking into account the conduct of its constituents prior to arriving at any final view on the matter.

i. EXPECTS that, despite the above, should the IOC decide to place this matter before its Executive Board, it would also forward this dossier and the enclosed documents to enable the Executive Board to have the benefit of the complete facts.

106. Needless to say, the Government of India would be more than willing to participate in any further discussions both at the level of the IOC or the Executive Board with a view to arriving at a robust and amicable solution that would result in the furtherance of the

Olympic Charter and the fundamental values and ethical principles
it stands for.

Sd/-

Injeti Srinivas
Joint Secretary (Sports)
Ministry of Youth Affairs & Sports
Government of India

New Delhi
16th June 2010