

BEFORE JUSTICE DEEPAK VERMA (RETD.), OMBUDSMAN

DELHI & DISTRICT CRICKET ASSOCIATION

HEARD (THROUGH VIDEO CONFERENCING) ON 12.05.2020

FROM 5:00 PM TO 7:40 PM, NEW DELHI

ORDER PASSED ON 14.05.2020

1. Following persons were present in today's hearing:
 - i. Mr. Ankur Chawla - Advocate
 - ii. Mr. Gautam Dutta - Advocate
 - iii. Mr. Saurabh Chadha – Advocate (Erstwhile Standing Counsel of DDCA)
 - iv. Mr. S.N. Sharma – Director cum authorized Signatory for the cheques appointed by Hon'ble High Court of Delhi vide Order dt. 13.03.2020
 - v. Mr. Sanjay Bhardwaj – Director (Cricket)
 - vi. Mr. Ravikant Chopra (Ex-CFO of DDCA), through his Counsel Mr. Saurabh Chadha

2. Before stating the Agenda of today's hearing, it is pertinent to mention that I had issued Show Cause Notices to various Directors (namely Mr. Rajan Manchanda, Mr. Nitin Gupta, Mr. Alok Mittal, Mr. Apurv Jain, Mr. Sudhir Agarwal, Ms. Renu Khanna, Mr. S.N. Sharma and Mr. Sanjay Bhardwaj) and certain Office Bearers of DDCA to attend the hearing before me on 01.05.2020, however an email was received by me (on behalf of 6 Directors i.e. Mr. Rajan Manchanda, Mr. Nitin Gupta, Mr. Alok Mittal, Mr. Apurv Jain, Mr. Sudhir Agarwal and Ms. Renu Khanna) on the same date at 4:55 PM, which stated that previous Orders passed by me were de hors the jurisdiction, biased and that I had formed an ex-parte opinion against these Directors.

3. In view of the above, these Directors declined to attend the hearing dated 01.05.2020. Vide Order dated 01.05.2020, it was clarified by me that no ex-parte opinion has been formed against these Directors as the Complaints filed against

them are still pending and has not attained finality. Therefore, in order to present their case and reply to the Complaints filed against them, these Directors were provided another opportunity to attend the hearing today. It was also clarified to all the Directors and Office Bearers that, if they willfully decline to attend the hearing again, then ex-parte Orders shall be passed against them.

4. In terms of the above, Matter was fixed today for taking up the following Agenda:

- i. Disciplinary Proceedings against Mr. Rajan Manchanda (Jt. Secretary) and Mr. Maqsood Kareem filed by Apex Council through Disciplinary Committee.
- ii. Enquiry against members of Infrastructure Committee and Finance Committee on Complaint filed with respect to MSL JANGID JV (wherein Financial Fraud had been alleged).
- iii. Orders to be passed for proper enquiries relation to award of tender, agreement and payment relating to M/s MSL JANGID JV.
- iv. Forensic Audit of DDCA Accounts.
- v. Contempt/disregard/disobedience of the Order(s) passed on 15.04.2020 and 22.04.2020.
- vi. Enquiry of Proceedings in FAO – 92 of 2020 pending before the Hon'ble High Court of Delhi.
- vii. Consideration of Complaints against Mr. Neeraj Sharma.
- viii. Consideration of complaints made by Mr. Saurabh Chadha, Mr. Neeraj Sharma, Mr. Rajan Manchanda and Mr. Sanjay Bhardwaj.
- ix. Any other issue raised by parties during the proposed Hearing.

5. Date and timing of the hearing today was intimated to everyone, 3 days in advance. As scheduled, hearing was started at 5 PM, all others were already present however, since Mr. Rajan Manchanda, Mr. Apurv Jain, Mr. Nitin Gupta, Mr. Alok Mittal and Ms. Renu Khanna had not joined the meeting, therefore I

thought it fit to wait for some time. Till the start of the hearing, no mail, message or text had been received from either of them informing whether or not they will be attending today's Hearing.

6. Thereafter, at around 5:10 PM, I received an mail from email ID – generalenquiry@ddca.co. Surprisingly, at the end of the mail it does not disclose the names for and on whose behalf the said mail has been sent. But from the body of the mail, it has been given to understand that the same has been sent by and on behalf of Mr. Rajan Manchanda, Mr. Apurv Jain, Mr. Nitin Gupta, Ms. Renu Khanna, Mr. Alok Mittal and Mr. Sudhir Aggarwal.
7. In Para 2 of the said mail, it has again been reiterated that since they have no faith, confidence on the working of the Ombudsman, therefore they have decided not to appear before me even today. In other words, they have reiterated the same Prayer which was made by them on 1st of May 2020.
8. However, this fact was seriously opposed by Mr. Ankur Chawla, Ld. Counsel appearing for DDCA, on the following, amongst other grounds: -
 - i. The mail does not disclose or reflect the names or signatories of the same.
 - ii. Only with an intention to show that they have complied with provisions of Section 175 of the Companies Act, they have disclosed Six names as Directors.
 - iii. The said mail has not even been marked to Ms. Renu Khanna and Mr. Sudhir Aggarwal only with an intention so that they may not object to it that the same has not been sent on their instructions. The same appears to be an engineered and self serving mail.
9. It is also pertinent to mention here that even on 1st of May 2020, admittedly Ms. Renu Khanna had not appeared before me and on being contacted on phone, she had told me that she had already sent a text that she will not attend the Meeting. But later on it was projected that even she was Signatory to the

mail sent by Mr. Rajan Manchanda for himself and others mentioning her name too, whereas she had not mentioned any such step to have been taken by her.

10. It is also pertinent to mention that all were already intimated as far back as on 01.05.2020 as also on 09.05.2020 vide Reminder Notice that all those who will not be present, would be proceeded ex-parte, then why the mail has been sent today after 5:00 PM i.e. at 5:09 PM.
11. In the light of aforesaid contentions having been advanced and after having heard the Ld. Counsel for DDCA, in my considered view, it is highly doubtful if the same has been sent by Six of the Directors. Other Two Directors present today i.e. Mr. S.N. Sharma and Mr. Sanjay Bhardwaj are also not aware of such mail having been sent by Mr. Rajan Manchanda for himself and others.
12. To show the authenticity of the said mail, even in the Lockdown during last 11 days, signatures of all the 6 could have been obtained by Mr. Manchanda at the end of the mail, and could have been sent to him after getting it scanned or by writing their own emails. This only leads to a grave doubt that it appears to have been sent by 4 persons only namely Mr. Rajan Manchanda, Mr. Alok Mittal, Mr. Apurv Jain and Mr. Nitin Gupta. It has not been sent on instructions of Ms. Renu Khanna and Mr. Sudhir Aggarwal, to have 6 number of Directors out of 10 Directors.
13. In fact, Para 2 of the said mail had categorically mentioned that they would not appear before me even for today's Hearing. Thus, in light of my previous Order dt. 01.05.2020 and Reminder Notice sent to all on 09.05.2020, there is no choice or option but to proceed ex-parte against them, after waiting for them even today for a considerable period.
14. However, before dealing with the merits/Agenda of the Hearing, I deem it fit to deal with the objections of by Mr. Rajan Manchanda and other Directors in

the joint reply sent on 17.04.2020 and 23.04.2020. In the joint reply, they have raised following objections:-

- i. That, I have no jurisdiction to pass any Interim Order and is bound by the Articles of Association (AOA) of the Company;
- ii. Power to suspend a person pending enquiry, does not lie with the Ombudsman.
- iii. That, I have no jurisdiction if the Reference has not been made by the Apex Council;
- iv. That, I am biased and hence they have no faith or confidence in the enquiry being held by me;
- v. Assumption of Jurisdiction by me is against Article(s) 41 and 42 of AOA

15. On the first two objections raised by the Directors that Ombudsman lacks power to pass any Interim Order or that Ombudsman has no power to suspend any person, it is stated that, the argument (on the face of it) is liable to be rejected because it is a settled law that an authority which has powers to pass a Final Order is always competent to pass an Interim Order as well. Moreover, a bare perusal of **DDCA Regulations Regarding Conduct & Discipline of Players, Match Officials, Team Officials, Administrators, Members and other persons associated with the DDCA (Hereinafter referred to as "DDCA Regulations")** clearly show that Ombudsman has the powers to pass Interim Orders in appropriate cases. Said Rule and Regulations had been approved by Apex Council on 31.08.2019. It is pertinent to note that each and every Director who had filed the joint reply dated 17.04.2020 is signatory to the said Minutes of Meeting of the Apex Council and has ratified the said DDCA Regulations. Said DDCA Regulations have been framed under Article 41 (3) of the Articles of Association (AOA) of DDCA.

16. Clause 3 of DDCA Regulations provides that these Regulations shall apply to all Players, Match Officials, Team Officials, DDCA Members, Administrators,

Clubs affiliated with DDCA, Committee Members, League Committee and other persons and entities associated with DDCA.

17. Clause 6 of DDCA Regulations deal with the Procedure to be followed in case of a misconduct by any person related to DDCA. Clause 6(iv) of the DDCA Regulations make it abundantly clear that I as an Ombudsman have power to pass Interim Orders and also to temporarily or permanently remove a person from his post/office in the Association and also his/her membership. Relevant Clause has been reproduced herein below:

“Rule 6 – PROCEDURE

- i. An act of misconduct, by or on the part of a person or entity to whom/ which these Regulations apply, shall be adjudicated upon by the Ombudsman as referred to him in terms of and in accordance with the procedure prescribed under Article 42 of the Articles of Association of the DDCA or otherwise.*
- iv. The Ombudsman shall have powers to pass such interim order/ measures including but not limited to suspending any Player, Team Official, Match Official, Administrator, Member etc. as he may deem necessary in the interest of the DDCA or the game of Cricket.”*

18. Furthermore, Rule 7(c) and 7(d) of the DDCA Regulations which deal with Penalties and Punishments make it abundantly clear that I as an Ombudsman have power to temporarily or permanently remove a person from his post/office in the Association and also his/her membership. Hence the objections to my authority/ competence to pass interim orders is hereby rejected. Relevant parts of Rules 7(c) and 7(d) has been reproduced herein below:

“7. PENALTIES & PUNISHMENTS

c. Temporary or permanent removal from membership of the Association.

d. Temporary or permanent removal from the post/ office held in the Association”

19. In terms of the above, contention raised by certain Directors that I have no power to pass Interim Order and to suspend a person temporarily, is hereby rejected. Bare perusal of the Rules, mentioned hereinabove, makes it abundantly clear that Ombudsman is competent and has jurisdiction to deal with such type of objections.
20. On the third objection, it may be noted that the argument/ objection regarding jurisdiction of an Ombudsman is totally misconceived and has no basis in law. In the instant case, DDCA's AOA & DDCA Regulations prescribe and grant me the power and jurisdiction to adjudicate and take appropriate action against any misconduct. However, in my view, power of the Ombudsman is not limited or circumscribed by the Articles of Association of the Company. It may be noted that there is no provision in The Companies Act, 1956 for appointment of an Ombudsman but the institution of Ombudsman is a special institution created by the Hon'ble Supreme Court in pursuance of the reforms suggested by Committee headed by Hon'ble Justice R.M. Lodha (Former Chief Justice of India). Recommendations made by Justice Lodha Committee were accepted and made a law by the judgement reported in “(2016)5 SCC 835” in the case of “Board of Control for Cricket in India v. Cricket Association of Bihar and others”. The Hon'ble Supreme Court in the above-mentioned matter has held as follows:-

“24. In Chapter Seven, the Committee has dealt with need for Ombudsman, Ethics and Electoral Officer. The Committee notes that several disputes that exist within BCCI are born out of years of apathy in governance and gross mismanagement. The Committee has found that the relationship between the associations, on the one hand, and BCCI, on the other, has rarely been equitable and balanced, with the latter exercising its hegemony over the former. The Committee has therefore recommended moderation of such relationship in

an objective manner. The Committee has referred to the problems of disgruntlement and litigation in the States of Bihar, Rajasthan, Delhi and Jammu and Kashmir. The Committee has found that absence of suitable dispute resolution mechanism has compounded the situation. Even the arbitration system that has hitherto existed has been found to be insufficient and palpably inappropriate when two unequals are pitted against each other, especially with the State Associations remaining beholden to the Board for matches, grants and revenues. In order to reduce the judicial role and the burdening of the courts and to expedite dispute resolution, the Committee has recommended the appointment of a retired Judge of the Supreme Court or a former Chief Justice of a High Court as the Ombudsman of BCCI, to be appointed once a year at the annual general meeting to investigate any complaint received by him/her or suo motu and to resolve any dispute between the Board and any of the above entities or among themselves by following the principles of natural justice, production of evidence and fair hearing. So also the Committee has recommended an Ethics Officer for monitoring adherence to the principles governing avoidance of conflict of interest. The Committee has recommended that Ethics Officer shall have powers inter alia of laying down of additional guidelines or bye-laws on ethics, initiation of investigation or adjudicatory proceedings and the award of warnings, fines, reprimands, suspensions or other action as may be recommended to BCCI.

37.

“6. Of the recommendations contained in the Report, BCCI has accepted and has either implemented or is implementing the following recommendations:

(a) Appointment of an Ombudsman: BCCI has amended its Rules and Regulations to provide for the appointment of an Ombudsman at every annual general meeting to deal with complaints of conflicts of interest and any act of indiscipline or misconduct or violation of any Rules and Regulations of BCCI by an administrator. Thus, the Ombudsman now contemplated by the amended Rules and Regulations of BCCI effectively combine the functions of the Ethics Officer and the Ombudsman within the scope of the Ombudsman's functions whilst omitting disputes between the BCCI and IPL franchisees, which are covered by existing arbitration agreements. The Hon'ble Mr Justice A.P. Shah, former

Chief Justice of the Delhi High Court, has been appointed as the Ombudsman and has taken cognizance of and disposed of several complaints already.

(b) Avoidance of conflict of interest: BCCI has formulated Rules on Conflict of Interest, pursuant to which several persons have resigned from positions on account of conflict of interest. Any person can make a complaint to the Ombudsman regarding conflict of interest. The Rules on Conflict of Interest provide that every complaint shall be decided within a period of 30 (thirty) days from the receipt of the complaint and the decision of the Ombudsman shall be final and binding. A copy of the Rules on Conflict of Interest is annexed hereto and marked as Annexure A.”

21. It may be noted while looking at the recommendations for appointment of an Ombudsman for dispute resolution, Supreme Court also referred to DDCA. Perusal of the afore said judgment shows that Ombudsman has even Suo Moto powers to take cognizance of any matter which relates to the well being of the institution and pass appropriate orders. My view is also fortified by Rule 8 of the DDCA Regulations, which confers residuary powers on an Ombudsman and is reproduced below:

“8. RESIDUARY POWERS OF THE OMBUDSMAN

Notwithstanding anything contained in these Regulations or any other Regulation for the time being in force, the Ombudsman shall have power to pass such orders or direct such measures, towards resolution of disputes and redressal of grievances, including undoing of actions taken and revoking of orders passed, as he may deem necessary in the facts and circumstances of a case.”

22. In light of the above, I hold that the objections to jurisdiction and argument that complaint must be made to Apex Council in all cases at first instance and cannot be made directly to Ombudsman is without basis hence is rejected. Although, I would like to add that normally a complaint must be made to Apex Council before invoking jurisdiction of Ombudsman but in exceptional cases

where there are allegations made against the members of Apex Council, who may form majority based on common interest, there is no absolute bar to directly approach the Ombudsman.

23. On the issue that I am biased against these Directors, they have lost faith in me and that I should not conduct the enquiry, I deem it fit to reject it too. To this effect, I would like to state that, it has been held repeatedly that “Real Bias” and not mere “apprehension of bias” is the correct test in India. This has been held by the Hon’ble Supreme Court in the case of “*Lalit Kumar Modi v. Board of Control for Cricket in India and others*” reported in “(2011) 10 SCC 106” where in Hon’ble Supreme Court while dealing with allegations of bias against the members of Disciplinary Committee rejected the challenge and held that in cases of Club, the complaint against a delinquent is required to be adjudicated by members of the Club or as per Rules and Regulations of the Club. In the relevant paras, Hon’ble Supreme Court held as under:-

“9.It held that the substitution of the President by Shri Jyotiraditya Scindia was acceptable on the basis of the doctrine of necessity. It repelled the argument with respect to bias and held that whatever decision is rendered by the Committee could be challenged by the petitioner after the decision became available. The Court further held that in case the petitioner had any grievance against the functioning of any of the members of the Committee, he may apply to the Committee that such a member may recuse himself from the Committee. This order has been challenged in First SLP (C) No. 27157 of 2010.

28. In reply, Shri Sundaram, learned counsel for BCCI submitted that the members of a society have to abide by the rules and regulations thereof and submit themselves to the jurisdiction of the domestic tribunal, though some of the members of the tribunal may even appear to him to be acting like prosecutors. A member cannot place himself above the institution. He is bound by the rules and cannot complain unless the inquiry disclosed mala fides or unfair treatment. A society is comparable to a club or a Masonic Lodge. A

judgment in *T.P. Daver v. Lodge Victoria* [AIR 1963 SC 1144] is relevant in this behalf wherein this Court has held in para 8 thereof as follows: (AIR pp. 1146-47)

"8. Another aspect which may also be noticed is how far and to what extent the doctrine of bias may be invoked in the case of domestic tribunals like those of clubs. The observations of Maugham, J. in *Maclean case* [*Maclean v. Workers' Union*, (1929) 1 Ch 602 : 1929 All ER Rep 468] in this context may be noticed. The learned Judge observed in that case thus:

'A person who joins an association governed by rules under which he may be expelled ... has in my judgment no legal right of redress if he be expelled according to the rules, however unfair and unjust the rules or the action of the expelling tribunal may be provided that it acts in good faith.... The phrase, "the principles of natural justice", can only mean in this connection the principles of fair play so deeply rooted in the minds of modern Englishmen that a provision for an inquiry necessarily imports that the accused should be given his chance of defence and explanation. On that point there is no difficulty.

Though it is advisable for a club to frame rules to avoid conflict of duties, if the rules sanction such a procedure, the party, who has bound himself by those rules, cannot complain, unless the enquiry held pursuant to such rules discloses *mala fides* or unfair treatment."

31. With respect to the doctrine of necessity, Shri Sundaram referred to the judgment of this Court in *Election Commission of India v. Subramaniam Swamy* [(1996) 4 SCC 104] where in the context of the disagreement amongst the Election Commissioners, this Court had applied this doctrine of necessity. He pointed out that this Court had even observed that: "16. ... If the choice is between allowing a biased person to act or to stifle the action altogether, the choice must fall in favour of the former as it is the only way to promote decision-making."

41. As we have noted, the petitioner has, in clear terms stated that he was not making any personal allegations against two members of the Disciplinary Committee viz. Shri Jaitely and Shri Scindia. Even the grievance against the third member Shri Amin cannot be said to be well founded. The petitioner was alleging institutional bias against the

members of the Committee, which was only on the basis of their participation in the meetings of the first respondent society. In this way, institutional bias can be alleged against every member of the Governing Council of IPL and the General Body of the first respondent which cannot be accepted. The petitioner may have an apprehension, but it is not possible to say from the material on record that he was facing a real danger of bias. We cannot presume that the three-member Committee will not afford the petitioner a fair hearing, or that it will not render unbiased findings. Taking a view as canvassed by the petitioner will lead to a demand for interference in the enquiries conducted by all other societies in such situations, and that cannot be approved in view of the law already laid down by this Court.”

24. The position of law has been further reiterated in *Supreme Court Advocates-on-Record Assn. (Recusal Matter) v. Union of India (Recusal Matter)*, (2016) 5 SCC 808 wherein it has been held that:-

“73. According to Mathew, J. in S. Parthasarathi v. State of A.P. [S. Parthasarathi v. State of A.P., (1974) 3 SCC 459 : 1973 SCC (L&S) 580] , in case right-minded persons entertain a feeling that there is any likelihood of bias on the part of the Judge, he must recuse. Mere possibility of such a feeling is not enough. There must exist circumstances where a reasonable and fair-minded man would think it probable or likely that the Judge would be prejudiced against a litigant. To quote:

“16. The tests of ‘real likelihood’ and ‘reasonable suspicion’ are really inconsistent with each other. We think that the reviewing authority must make a determination on the basis of the whole evidence before it, whether a reasonable man would in the circumstances infer that there is real likelihood of bias. The Court must look at the impression which other people have. This follows from the principle that justice must not only be done but seen to be done. If right-minded persons would think that there is real likelihood of bias on the part of an inquiring officer, he must not conduct the enquiry; nevertheless, there must be a real likelihood of bias. Surmise or conjecture would not be enough. There

must exist circumstances from which reasonable men would think it probable or likely that the inquiring officer will be prejudiced against the delinquent. The Court will not inquire whether he was really prejudiced. If a reasonable man would think on the basis of the existing circumstances that he is likely to be prejudiced, that is sufficient to quash the decision [see per Lord Denning, H.R. in Metropolitan Properties Co. (FGC) Ltd. v. Lannon [Metropolitan Properties Co. (FGC) Ltd. v. Lannon, (1969) 1 QB 577 : (1968) 3 WLR 694 (CA)], WLR at p. 707]. We should not, however, be understood to deny that the Court might with greater propriety apply the 'reasonable suspicion' test in criminal or in proceedings analogous to criminal proceedings."

74. There may be situations where mischievous litigants wanting to avoid a Judge may be because he is known to them to be very strong and thus making an attempt for forum shopping by raising baseless submissions on conflict of interest. The Constitutional Court of South Africa in President of the Republic of South Africa v. South African Rugby Football Union [President of the Republic of South Africa v. South African Rugby Football Union, (1999) 4 SA 147 : 1999 ZACC 9], has made two very relevant observations in this regard: (ZACC para 46)

"46. ... 'Although it is important that justice must be seen to be done, it is equally important that judicial officers discharge their duty to sit and do not, by acceding too readily to suggestions of appearance of bias, encourage parties to believe that by seeking the disqualification of a Judge, they will have their case tried by someone thought to be more likely to decide the case in their favour.' ...

It needs to be said loudly and clearly that the ground of disqualification is a reasonable apprehension that the judicial officer will not decide the case impartially or without prejudice, rather than that he will decide the case adversely to one party.' [Ed.: See also JRL, ex p CJL, In re, (1986) 161 CLR 342, 352 : (1986) 66 ALR 239.]

*75. Ultimately, the question is whether a fair-minded and reasonably informed person, on correct facts, would reasonably entertain a doubt on the impartiality of the Judge. **The***

reasonableness of the apprehension must be assessed in the light of the oath of office he has taken as a Judge to administer justice without fear or favour, affection or ill will and his ability to carry out the oath by reason of his training and experience whereby he is in a position to disabuse his mind of any irrelevant personal belief or predisposition or unwarranted apprehensions of his image in public or difficulty in deciding a controversial issue particularly when the same is highly sensitive.”

25. In view of the law laid down and especially when there is no allegation that I have any monetary or any such interest in DDCA, which would be satisfied by proceedings against these Directors, I don't find any real apprehension of bias much less real bias, which can be the sole ground for seeking my recusal. It must also be noted that, in terms of the judgment of the Hon'ble Supreme Court, I was appointed the Ombudsman by the General Body of the DDCA as far back as on 29.12.2020, and not the Apex Council. In terms of the Articles of Association of DDCA, the duty is conferred on me to adjudicate on the disputes that may arise and there is no other alternative forum prescribed, hence it is but obvious that if I was to relinquish charge or recuse from adjudicating in these complaints then the whole process and procedure stipulated by the Hon'ble Supreme Court would be rendered otiose and the purpose for creation of the institution of Ombudsman would be defeated. Hence, I reject this argument only on basis of law and not by making reference to specific instance and actions which were created to embarrass and humiliate me personally.
26. At this juncture, it is necessary to refer to the Preamble of DDCA Regulations, regarding conduct and discipline of players, match officials, team officials, members and other persons associated with DDCA. Said Rules and Regulations have been framed under Article 41 (3) of the Articles of Association of DDCA.

“PREAMBLE: The game of cricket should not only be played within its Clauses but also within the spirit of the game. Any action which is seen as abuse of this spirit causes injury to the game itself. These regulations governing the Delhi & District Cricket Association intend to deal with all such behavior as is not only ungentlemanly but is against the spirit of the game.” (emphasis supplied by me)

27. I indeed fail to understand that DDCA is one of the most important and oldest body of Cricket Association, which was created with an intention to promote and train upcoming young cricketers, who could ultimately represent India, in future. It is certainly not meant for such type of politics, which is being played more frequently rather than the game of cricket. I am deeply pained and constrained to see the affairs and in which manner DDCA is being run and operated today. The same is far away from the game of the cricket, for which it was formed as is clearly made out from the Preamble produced hereinabove.
28. Even though several serious and baseless allegations were made against the Ombudsman too. Nevertheless, keeping them aside, Hearing fixed on 01.05.2020 was adjourned for today to grant one more opportunity to them too, for the same purposes and for same Agenda as mentioned hereinabove.

AGENDA No. 1

29. Now coming back to the Agenda of today's hearing, and before dealing with Agenda No. 1 (Disciplinary Proceedings against Mr. Rajan Manchanda (Jt. Secretary) and Mr. Maqsood Kareem filed by Apex Council through Disciplinary Committee). In view of this the reference has been made by Apex Council on basis of a complaint received by it and being placed before the Disciplinary Committee, which gave ample opportunity to both the persons to give reply and hence followed the principles of natural justice in letter and spirit. It is pertinent to mention here that Mr. Rajan Manchanda himself had sent a mail to me on 12.03.2020 at 8:16 PM mentioning therein the reasons for

reference of his removal as member of the Finance Committee. The relevant para is re-produced below:-

"I seek your kind indulgence to place on record that:-

A. Mr. Alok Mittal and Mr. Apurva Jain are members of Infrastructure Committee and also members of Disciplinary Committee and since I had opposed payment to Contractor namely MSL Jangid JV, they misused the powers to make a reference to your Lordship.

B. It was a clear conflict of interest and it was with an intent to make illegal and authorised payment that I was sought to be suspended and a reference was made to your Lordship".

30. This clearly reflects that till 12.03.2020, Mr. Rajan Manchanda had been opposing the action taken by other members such as Mr. Alok Mittal, Mr. Nitin Gupta and Mr. Apurv Jain with regard to the payment made to the Contractor MSL JANGID JV. This also shows that till date he had reposed full faith in me and accepted the jurisdiction of the Ombudsman to pass interim orders. He himself filed a complaint before me complaining against Mr. Nitin Gupta, Mr. Alok Mital and Mr. Apurv Jain, who were members of Infrastructure Committee and some members of Finance Committee complaining of irregularity in tender, agreement and payment to the Contractor.
31. Surprisingly, in their mission to cause hurdle in smooth and proper working of DDCA, they have now joined hands to create all sorts of obstructions in my way in reaching to the root of the matter. This shows their malafide intentions now. However, this observation is matter of record, therefore it is being brought to the notice of all, but of course, without prejudice and bias to any of the Parties, from my side.
32. Earlier, a reply had been filed by Mr. Rajan Manchanda but had prayed for more time to file detailed reply on the ground that he has not been able to get all

necessary documents. Some of the Video Clippings available with DDCA had already been forwarded to Mr. Rajan Manchanda.

33. Complaint has filed against Mr. Rajan Manchanda and Mr. Maqsood Kareem by the Apex Council through its Disciplinary Committee. Disciplinary Committee in the said complaint dated 07.03.2020 had stated that, culprits with regard to the ruckus created in AGM dated 29.12.2020 were Mr. Rajan Manchanda and Mr. Maqsood Kareem. Show Cause Notices dated 29.02.2020 were also issued against these 2 members mentioned above by Secretary of DDCA, Mr. Vinod Tihara.
34. After receiving the said Show Cause Notice, Mr. Rajan Manchanda filed a response on 06.03.2020 mentioning therein that he does not have a complete videography of the AGM and thus was unable to respond fully. Another ground taken by him was that vide Order dt. 29.2.2020, the Ld. Additional District Judge has stayed the Resolution passed by the AGM on 29.12.2019, thus no enquiry can be held against him in the light of the said restraint Order.
35. An additional reply was filed by him on 7.3.2020, mentioning therein that he has received three clippings of the said AGM and has not received the full videography, thus he is handicapped to file his detailed reply. On 8.3.2020, in the light of the said reference made by Disciplinary Committee, Show Cause Notice was issued by me (Ombudsman) calling upon him to submit their response to the same.
36. Mr. Rajan Manchanda of course filed his reply to the same mentioning the same facts, which were mentioned by him to show a Show Cause Notice, which was issued to him by the Disciplinary Committee consisting of Mr. Apurv Jain, Mr. Alok Mittal and Mr. S.N. Sharma. However, as already mentioned hereinabove by me, it is further alleged by him vide his email dated 12.03.2020 that it is a conspiracy hatched by Mr. Alok Mittal and Mr. Apurv Jain, members of the

Disciplinary Committee to suspend him as he had refused to sign the cheques in favor M/s MSL JANGID JV.

37. On 13.3.2020, email was sent to Mr. Rajan Manchanda by Disciplinary Committee mentioning therein that full and complete opportunity was given to Mr. Rajan Manchanda and all principles of natural justice were observed. The documents which were available with the Members of the Committee were handed over to him and he had gone through the same already. Only thereafter a unanimous decision was taken by Disciplinary Committee comprising of Mr. S.N. Sharma, Mr. Apurv Jain and Mr. Alok Mittal. Hence the reference before me.
38. On 1st May 2020, it was already clarified vide my Order that whatever photographs have been taken or videography has been recorded during the Meeting of AGM on 29.12.2019, the same have already been provided to him. Nothing more is available with DDCA, thus, it cannot be supplied.
39. After having heard Ld. Counsel for DDCA Mr. Ankur Chawla and after having gone through the record in presence of Mr. S.N. Sharma who was also the member of Disciplinary Committee and has supported the findings of the Committee and reference made to me, it is clearly made out that Mr. Rajan Manchanda had played an important and vital role in the ruckus and the chaotic situation caused during the AGM held on 29.12.2019. There is sufficient evidence available on record to pin point his role in the said Meeting, which is clearly seen in the clippings itself, wherein he has been found initially sitting on the dias, participating in the meeting, but after some time he snatched the mike from the hands of Mr. Vinod Tihara, the Secretary of DDCA, who was conducting the Meeting and indulged in fist fight and assault on others. Only thereafter, a huge ruckus was caused on the Dias itself as many persons jumped on the dias to take back the mike from the hands of Mr. Rajan Manchanda and to give it back to Mr. Vinod Tihara, so that Meeting could be convened once again. The clippings show that Mr. Masood at this point of time intervened and

sought to snatch the mine from Mr. Rajan Manchanda and there was a physical fight between them. It leaves no amount of doubt, in my mind that he was solely instrumental in causing huge hungama and ruckus on the stage on 29.12.2019. Such type of action, behaviour and attitude was highly uncalled for in the AGM, more so from a Joint Secretary of DDCA.

40. I am reminded of the Preamble which clearly mentions the words “ungentle manner”, what else could be ungentle manner can’t be described in more words than the action which had been taken by Mr. Rajan Manchanda. Such type of Members cannot be permitted to be allowed to continue as Director of DDCA or as Members of any of the Committees. Obviously, this amounts to guilty of mis-conduct under Rules 5(1)(a), 5(1)(b), 5(1)(e), 5(1)(f), 5(1)(g), 5(1)(l), 5(1)(z) and 5(1)(za) of the DDCA Regulations read with Article 42(1)(b) of Articles of Association. In the light of this, exercising the powers conferred on me under Rules 6 and 7 of DDCA Regulations and read with Article 41 of the Articles of Association, I hereby recommend that necessary action be taken against him by the General Body of the DDCA on recommendations made herein above. I am making this recommendation to the General Body because Mr. Rajan Manchanda has been elected as Director by the General Body and it is the General Body which must take the decision to remove him.

41. Therefore, I direct that this order shall be placed before the General Body (either in Extra Ordinary Meeting or Annual General Meeting, whichever is earlier) as an agenda item and a final decision shall be taken by the General Body but till such time exercising the Powers under Clause (6)(iv), 7(c) and 7(d), he is hereby restrained from exercising his powers either as Joint Secretary and or member of any of the Committee of the DDCA until Final Order/decision is taken in this regard by the General Body. Thus, the last direction is in the nature of an Interim Order as such a member cannot be permitted even for a temporary period to continue to discharge his duties, till a final decision is taken by the General Body of the DDCA.

42. Now coming to complaint against Mr. Maqsood Kareem, it is pertinent to mention here that he had not filed any reply at all, either before the Committee nor before me, even after grant of opportunity to him. However, he had appeared before the Committee and had regretted his mis-conduct on the said date. This has been confirmed by Mr. S.N. Sharma, who is present today. Thus, he is also held equally liable for such mis-conduct. Thus, the same would also be equally applicable to him as has been directed for Mr. Rajan Manchanda. However, no Interim Order is required to be passed against Mr. Maqsood Kareem as he is not holding any post in DDCA and the matter is left to be considered by the General Body of DDCA.

AGENDA No. 2

43. 2nd Agenda deals with Complaint filed by Mr. Sanjay Bhardwaj with respect to MSL JANGID JV (wherein financial fraud had been alleged). Mr. Sanjay Bhardwaj had filed a Complaint before me for stopping a payment of cheque in favour of MSL JANGID JV (Hereinafter referred to as "Contractor"), which he had himself signed. He stated that, before signing the cheque, he had asked Mr. Alok Mittal to show the Documents/Agreements in relation to the Contractor, however he was told that the same will be shown to him in some time. On assurance of Mr. Alok Mittal and being a colleague, he signed the said cheque in good faith, however, on not being shown the related documents, he searched for the documents himself but was unable to find them. It was after this, Mr. Sanjay Bhardwaj had filed a Complaint against them before me. It was also stated that, no Documents/Agreements in relation to the Contractor were available with DDCA. Although payment of said cheque was stopped vide my Order. However, Show Cause Notices were issued, to every member of Finance Committee and Infrastructure Committee to appear before me and also provide me with all the documents in relation to the said Contractor. However, till date, none of the office Bearers except for Mr. Sanjay Bhardwaj has been able to produce even a single Document/Agreements in relation to the said Contractor.

44. Mr. Sanjay Bhardwaj had later on sent a video footage wherein he had personally gone to the office address of Contractor i.e. 540, Street No.10, Sadarpur Colony, Sector-45, Noida-201301, however on reaching there, it was found that last house in the said street of the said Colony is 480, whereas in the Agreement the House number mentioned is 540. Obviously, there is no such house on the said street and moreover, it was a residential colony where no office could have ever existed. Mr. Sanjay Bhardwaj present today, has confirmed about all these facts. There is nothing to rebut the same.
45. According to Mr. Ankur Chawla, Ld. Counsel for DDCA, this alone is sufficient ground to come to a conclusion that no such entity by the name of M/s JANGID JV existed at all meaning thereby that even if such an entity exists, it has no office of its own. He further stated that, it had not met all the qualification criteria as per Tender, which required that the Annual Turnover of the Bidder should not be less than Rs. 2 crores on an average for passed 3 years whereas turnover of M/s JANGID JV was shown to be Rs. 1,40,000/- only which is far too less than Rs. 2 Crores annually.
46. Mr. Ankur Chawla, further stated that, this Agreement related to renovation of Bar, library and Restaurant of DDCA and the earlier estimate dt. 31.01.2019 submitted to the Members of the Apex Council as recorded in the Minutes of the Meeting was only to the tune of Rs. 45 Lakh but was subsequently enhanced to Rs. 6 Crores 17 Lakh plus GST. He stated that, such a phenomenal rise could not be comprehended by him within such a short time of about 2 months only. He further went on to say that, this area where renovation was sought to be undertaken fell within the area declared as Historical Monument by Archaeological Survey of India (ASI), therefore no construction could be carried out therein, unless prior permission from ASI had been taken.
47. I was made to understand that certain documents might be available with erstwhile Standing Counsel, CEO and CFO of DDCA. To this effect, I had called upon Mr. Saurabh Chadha, (erstwhile Standing Counsel of DDCA) Mr.

Ravi Kant Chopra (ex-CFO of DDCA) and Mr. P.C. Vaish (ex-CEO of DDCA) to assist me with respect to Agenda No. 2, so that a just a fair conclusion could be reached. In reply to this, Mr. Chopra's sent an email stating that he had already resigned in the month of November 2019 and handed over documents to Mr. P.C. Vaish. Thus, as per him, he will not be of any assistance to me. However, he has further assured should there be any further need, he will assist the Ombudsman, in the best possible manner. Thus, presently nothing is required to be done as far as Mr. Ravi Kant Chopra is concerned.

48. Mail has also been received from Mr. P.C. Vaish mentioning therein that before his Resignation, he had handed over all the relevant papers to the Officials of DDCA and he is no more in possession of any of the documents of DDCA. However, he has not mentioned as to whom from DDCA, he had actually handed over all the documents. Thus, his email sent in the form of reply, does not lead to any conclusion. Therefore, he is directed to give details of the Officer to whom he had handed over the documents including the date, month and year and if any acknowledgement was obtained from him, in this regard. The same be produced by him on the next date of Hearing.
49. However, Mr. Ankur Chawla, Ld. Counsel appearing for DDCA and Mr. Sanjay Bhardwaj informed me that on 18.02.2020, Mr. P.C. Vaish vide his email had refused to hand over the documents to any one. Be that as it may, it calls for an explanation from him, in this regard. To this effect, Mr. P.C. Vaish is hereby directed to file a reply or appear in next date of hearing, as to present custody of the Documents/Agreements etc. and to whom he had handed over the same. Let it be done by him before the next date of Hearing.
50. It is to be noted that I had withdrawn show cause against Ms. Renu Khanna vide my order dated 14.04.2020 on her assurance that she was not aware of any agreement with M/s MSL JANGID JV and she was appointed later in the month of December as a member of Infrastructure Committee. She had also submitted that she had not attended any meeting of Infrastructure Committee

where such an agreement was discussed. Later on, one Mr. Manjit Singh had filed an application seeking recall of the order dated 14.04.2020 on the ground that she was part of the Infrastructure Committee and hence her role should also be enquired into. I had issued notice to her and sought reply but no reply has been filed till date to the said application by Mrs. Renu Khanna. Documents filed with the joint reply dated 17.04.2020 shows that she was also appointed on the Infrastructure Committee along with other members in the meeting of Apex Council. In light of these facts, I would take up the application of Mr. Manjit Singh in next date fixed as Mr. Manjit Singh has sent an email to me that he would not be able to attend the hearing today due to some personal difficulties.

51. In light of the above, Agenda No. 2 shall now be taken up in the next date of hearing for further consideration.
52. In today's Agenda, Agenda pertains to Forensic Audit of the Accounts of DDCA for those years, for which no Forensic Audit has been conducted, for the said years, so far. Apart from the above, it was also informed that an Application for my removal as an Ombudsman is also pending, before Hon'ble High Court of Delhi in FAO No. 92 of 2020. But no specific Order has been passed in this regard, so far, nor the proceedings have been stayed. The said Application has not been supplied to me by the aggrieved person of the said Application till date. Thus, it is not clear even to me as to at whose instance the said Application has been moved. In the Order dt. 1.5.2020, I had mentioned about it. Since today's Meeting has already taken more than 2 hours and 30 minutes, thus it is not possible to hear the matter further and is adjourned for next date.
53. Before completing today's hearing, certain material facts are required to be mentioned hereinbelow:-

- i. It is to be brought to notice of all, once again that vide my Order(s) dated 15.02.2020 it was directed that Elections for the Post(s) of President of DDCA be held. Thereafter, post of Treasurer also fell vacant and it was directed that election for the said post be held/done along with the election of post of President of DDCA.
 - ii. Pursuant thereto, Mr. Navin Chawla, Former Chief Election Commissioner of India was requested to act as Election Officer in order to hold Elections for vacant posts in DDCA. Mr. Navin B. Chawla vide his email and telecon dated 10.02.2020 agreed to act as Election Officer. Thereafter, we both had met to work out the modalities in this regard.
 - iii. This is reflected in my subsequent Order dt. 08.03.2020. All this would have gone smoothly, but for the rapid and fast spread of Coronavirus, total Lockdown has been imposed throughout the country w.e.f. 25.03.2020, which is still continuing, being extended from time to time. It is anybody's guess, when it will be completely lifted and to what extent. Thus, the process of Election, for which, ball was already set rolling, has gone topsy turvey.
 - iv. But it may be clarified that, once things attain normalcy, Elections would take place at the earliest, so as to enable DDCA, to function, in accordance with its Articles of Association and adhering to the provisions of Indian Companies Act.
54. While the Hearing was still going on, I had been informed by Mr. Ankur Chawla, Ld. Counsel for DDCA that another mail has been sent from generalenquiry@ddca.co to Mr. Sanjay Bhardwaj, also marked to Mr. Rajan Manchanda, Mr. Apurv Jain, Mr. Alok Mittal, Mr. Nitin Gupta, Ms. Renu Khanna but not marked to Mr. Sudhir Aggarwal or Mr. S.N. Sharma. It is also not marked to Independent Director of DDCA Mr. B.K. Rao (Government Nominee).
55. The said mail addressed to Mr. Sanjay Bhardwaj is in the nature of Show Cause Notice calling upon him to respond the same, thus no cognizance of such

Notice can be taken at this stage, as the same presently appear to be without any Authority.

56. That the two emails received from the email id "generalenquiry@ddca.co" do not have any name of the person who has sent these emails and neither the attachment therein have been signed or contain names of any person who has authorised the same. The email is marked to few people. A serious objection has been taken about the authenticity of the emails including the email sent from the same email address to Mr. Sanjay Bharadwaj today during the Hearing. In the past all the emails that have been sent, have been sent from email address of respective directors.
57. Therefore, I deem it fit and proper to direct Mr. Sarvapreet Singh, Incharge I T services, DDCA to ascertain and report to me by 18.05.2020:-
- A. Whether this is the address created for DDCA and connected to the server of DDCA?
 - B. Whether these emails were sent using the server of DDCA?
 - C. Who had operated to this email address?
 - D. Who operated this server and had sent these emails?
58. During the end of the today's hearing, Mr. Ankur Chawla insisted that Agenda No. 6 of Notice, pertaining to the action taken by Mr. Neeraj Sharma deserves urgent Hearing as he is interfering with the working of DDCA beyond his own powers and Jurisdiction. He was already noticed as far as back on 26.04.2020 and again for today's Hearing on 01.05.2020 as also vide my Reminder Notice dt. 9.5.2020.
59. On 1.5.2020, he informed me that he is unable to get me through on the Zoom. Even though all those concerned had appeared. He was given sufficient time on that day to appear and join me but he did not prefer to appear either on the said date or even today. However, Hearing on this Agenda is adjourned for the next date of Hearing but in the meanwhile, as an interim measure he is

restrained to exercise any other jurisdiction or power beyond of conditions of his Appointment Letter, failing which I shall be constrained to bring it to the Notice of Hon'ble High Court of Delhi, to draw an appropriate Contempt Proceedings against him.

60. Mr. Ankur Chawla informed me that Mr. P.K. Banerjee has already been appointed specifically as Head of HR and Legal. It is for DDCA to deal with this situation, but till the next date it may be dealt with the Committee constituted by Hon'ble High Court of Delhi.
61. **Matter is now fixed for 20.5.2020 at 4:30 PM for taking up further Agenda and is directed to be listed through Online Hearing such as Zoom, Skype, Webex, CODR, especially taken by me. Details for logging in the Video Conferencing shall be provided in due course to all.**
62. All are thus noticed in this regard to appear before me through Video Conferencing and the said Order be uploaded in the Official Website of DDCA, for the information of all the members of DDCA.



Date: Heard on 12.05.2020

Place: New Delhi

Justice Deepak Verma
Ombudsman
DDCA