

**BEFORE HON'BLE JUSTICE M.M. KUMAR  
FORMER CHIEF JUSTICE, HIGH COURT OF J&K  
OMBUDSMAN-CUM-ETHICS OFFICER (DDCA)**

**IN THE MATTER OF :**

RUPESH RAJ ..... Complainant

Versus

SIDDHARTH SAHIB SINGH ..... Respondent

**Appearances :**

For the Complainant: Mr. Raghavendra Mohan Bajaj, Advocate

For the Respondent : Mr. Samar Bansal, Mr. Shrutanjaya Bhardwaj  
and Mr. Zeeshan Diwan, Advocates

For DDCA : Mr. Saurabh Chadda and Mr. Rohit Bhagat, Advocates

**ORDER**  
**(Dated 30.11.2024)**

1. The present complaint has been filed by the Complainant-Mr. Rupesh Raj against Mr. Siddharth Sahib Singh, Secretary DDCA alleging conflict of interest, corruption, unfairness, abuse of office and powers, and undue influence in cricketing matters viz. selection process of cricketers.
2. After the pleadings were completed in the captioned matter, on 17.6.2024, an Application dated 14.6.2024 has been filed on behalf of the Respondent- Mr. Siddharth Sahib Singh, Secretary DDCA whereby the Respondent has requested to cross-examine the Complainant in person before the me. The reason for filing the aforesaid application, as mentioned therein, is being reproduced hereinbelow:-

*"1...The Respondent has doubts about the identity of the Complainant. Further, the Complaint has been filed maliciously at the behest of certain persons who hold ill-motives against the Respondent, and its continuance has resulted in serious harm to the Respondent's reputation. BCCI's Practice Directions dated 10.05.2019 regarding proceedings before the Ombudsman-cum-Ethics Officer require the Complainant to disclose several important details including the source of the information, his*



*personal details, etc., failing which the complaint is not maintainable and cannot be entertained even at the threshold. Therefore, to ascertain the truth of the matter, it is crucial that the Complainant be directed to remain present before the Hon'ble Ombudsman on a convenient date, and the Respondent be allowed to cross-examine the Complainant. Such cross-examination is also an essential requirement of natural justice."*

3. In view of the aforesaid, the Respondent has sought to summon the Complainant to appear physically/ in person for cross-examination by the Respondent.
4. That neither the Complainant nor the DDCA filed a reply to the aforesaid Application. However, their respective counsel vehemently opposed the Application, and sought for a summary dismissal.
5. Accordingly, the Parties were heard at length on 11.10.2024, and were given liberty to file written submissions. Thereafter, written submissions have been filed on behalf of the Complainant and the Respondent only.

#### **Submissions of the Parties**

6. Mr. Samar Bansal, the Ld. Counsel for the Respondent has broadly put forth the following submissions:
  - 6.1. As per the Practice Directions of DDCA dated 30.11.2023, every complaint has to mandatorily contain:-
    - (i) the Complainant's full name, father's/ husband's/ mother's name, age, complete postal address along with pin code, phone no., email id, and government ID/address proof;
    - (ii) source of information and/or exact conflict of interest if any alleged; and
    - (iii) be supported by a notarised Affidavit.
  - 6.2. Similar conditions are contained in BCCI's Practice Directions dated 10.05.2019 regarding proceedings before the Ombudsman-cum-Ethics Officer of BCCL. Thus, both sets of Practice Directions require the Complainant's identity to be established, and for the source of the information to be disclosed by the Complainant. However, the Complaint dated 11.02.2023 fails to disclose any of the aforesaid details. Hence, in the absence of the aforesaid requirements, the complaint must be summarily rejected.



- 6.3. Further, certain factual averments have been made in Para 2, 3, 5, 7, 8, 9 and 11 of the Complaint against the Respondent without producing any evidence to back them. Since the Complainant has made allegations based on his personal knowledge and not on public documents. Therefore, the Complainant ought to be questioned to bring out the truth. Thus, as per the Respondent the cross-examination is required to ensure compliance with the principles of natural justice.
- 6.4. Lastly, it has been submitted that the Respondent has serious doubts about the identity of the Complainant. Moreso, since the Respondent has never been shared the original Vakalatnama of the Complainant by his counsel, despite repeated requests/objections made by the Respondent. Further, the Respondent has alleged that Complainant has never appeared in person before the Ld. Ombudsman, despite his presence being recorded in the orders passed by the Ld. Ombudsman.
- 6.5. To support the aforesaid submissions, the Respondent has relied upon Para 32 of the judgment of the Hon'ble Supreme Court in *K.L. Tripathi v. State Bank of India, (1984) 1 SCC 43*.
7. Mr. Raghavendra Mohan Bajaj, the Ld. Counsel for the Complainant – Mr. Rupesh Raj submitted as follows:
- 7.1. The Respondent has failed to disclose the reasons to cross-examination the Complainant in its Application and the counsel for the Respondent has argued beyond pleadings in the Application. Hence, the application should not be considered by the Ld. Ombudsman.
- 7.2. The Respondent has made insinuations about the Complainant, though the Complainant had appeared before the Ld. Ombudsman on 11.02.2023 and his appearance is also recorded in the said Order. Also, the complaint is duly signed by the Complainant.
- 7.3. Further, the Counsel for the Complainant has filed the Vakalatnama on behalf of the Complainant, wherein the Counsel has identified the signatures of the Complainant. Hence, doubting the identity of the Complainant, directly casts aspersions on the Counsel of the Complainant.
- 7.4. The BCCI Practice directions dated 10.05.2019 state that the source of information and the authentication should be mentioned in the Complaint. The same has been complied with since the present Complaint is based on publicly available information including Registrar of Companies (ROC) details and the video footage that is

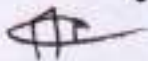


available in the public domain. Accordingly, both the identity of the Complainant and source of information have been duly disclosed. Thus, there is adequate compliance with the practice directions in that regard. Hence, there no requirement of cross-examination.

- 7.5. Lastly, it has been argued that the proceedings before the Ld. Ombudsman are quasi-judicial in nature and the Ld. Ombudsman is only required to follow the principles of natural justice. Further, the proceedings are summary in nature. Hence, it is not mandatory for the Ld. Ombudsman to allow every request for cross-examination. For the said purpose, the Counsel for the Complainant has also relied upon the same judgment as the Respondent i.e. *K.L. Tripathi v. State Bank of India, (1984) 1 SCC 43*. Further, he has relied upon the judgment of the Hon'ble Delhi High Court in *U.S. Awasthi v. Adjudicating Authority, 2023 SCC Online Del 401*.
8. Mr. Saurabh Chadda, the Counsel for DDCA, has not filed any submissions, however he has advanced the following contentions:-
- 8.1. That there is no doubt about the identity of the Complainant, as he has himself appeared in-person before the Ld. Ombudsman on 11.2.2023. In fact, in the connected complaint filed by the Complainant, he had appeared on multiple occasions, including on 04.10.2022, 04.02.2023 and 11.02.2023, wherein his personal presence is recorded by the Ld. Ombudsman.
- 8.2. The DDCA has filed a report of the Company Secretary dated 24.05.2023, which has also been supplied to the Respondent, wherein all the allegations made by the Complainant have been substantiated. Hence, even if the submissions were made by the Complainant from his personal knowledge, now the objection thereto does not survive since they have independently been verified.
- 8.3. The Respondent has failed to disclose, what prejudice will be caused to Respondent, in case the Complainant is not cross-examined. The said application has been filed only with an intent to browbeat the Complainant, and coerce him to withdraw the complaint. Hence, ought to be dismissed.

**Analysis and Conclusion:**

9. The present Application emerges out of a pending complaint against the Respondent - Mr. Siddharth Sahib Singh, Secretary DDCA alleging conflict of interest, corruption, unfairness, abuse of office and powers, and undue influence in cricketing matters viz. selection process of cricketers. Accordingly, the jurisdiction of the "Ethics Officer" has



been invoked in terms of the Articles of Association of DDCA ("AoA").

10. The Ethics Officer has been defined in Article 1(A)(s) of the AoA as follows:-

*"(s) "ETHICS OFFICER" is the person appointed, to administer the Conflict of interest principles, as set out in Article 40."*

11. The Appointment, the jurisdiction and powers thereto of the Ethics Officer have been provided in Article 40 of the AoA, which is as follows:-

**"40. THE ETHICS OFFICER**

*(1) The DDCA shall appoint an Ethics Officer at the Annual General Meetings for the purpose of guidance and resolution in instances of conflict of interest. The ethics Officer shall be a retired Judge of a High Court so appointed by the DDCA in keeping within the dignity and stature of the office. The term of an Ethics Officer shall be one year, subject to maximum of 3 terms in office.*

*(2) Any instance of Conflict of Interest may be taken cognizance of by the Ethics Officer:*

*(a) Suo Motu;*

*(b) By way of a complaint in writing the official postal or email address; or*

*(c) On a reference by the Apex Council;*

*(3) After considering the relevant factors and following the principles of natural justice, the Ethics Officer may do any of the following:*

*(a) Declare the conflict as Tractable and direct that:*

*(i) The person declare the Conflict of interest as per Article 39(3)(a); or*

*(ii) The interest that causes the conflict be relinquished; or*

*(iii) The person recuse from discharging the obligation or duty so vested in him or her.*

*(b) Declare the conflict as intractable and direct that:*

*(i) The person be suspended or removed from his or her post; and*

*(ii) Any suitable monetary or other penalty be imposed; and*

*(iii) The person be barred for a specified period or for life from involvement with the game of cricket.*



*The Ethics Officer is wholly empowered to also direct any additional measures or restitution as deemed fit in the circumstances."*

12. On a perusal of the aforesaid Articles, it is clear that an Ethics Officer is to be appointed by DDCA, for the purpose of dealing with the cases of Conflict of Interest. For the said purpose, the Ethics Officer may take cognizance either suo-moto, on a complaint in writing or by reference made by the Apex Council of DDCA. While, adjudicating any instance of a conflict of interest, an Ethics Officer has to consider the relevant factors by following the principles of natural justice. Thereby, the Ethics Officer is neither akin to a civil court nor the procedure under Civil Procedure Code is applicable. The Ethics Officer is governed by its own procedure, subject to, adhering to the principles of natural justice.

13. In light of the aforesaid, I proceed to adjudicate the present Application filed by the Respondent seeking to cross-examine the Complainant in-person, before me.

14. It is pertinent to mention that initially, an application was filed by the Respondent on 06.01.2024 seeking the same relief, wherein the following averment was made in Para 1 thereto:

*"1. The captioned complaint has been filed by an anonymous complainant who has, despite the Respondent's repeated oral and written requests, failed to show himself or be present before the Hon'ble Ombudsman. Neither has the Complainant's counsel shared the original Vakalatnama with the Respondent, despite repeated objections made by the Respondent to this effect. This places the Complainant's very identity in serious doubt."*

14.1. The aforesaid Application was vehemently contested by the Ld. Counsel for the Complainant, since the Ld. Counsel for the Complainant had filed the Vakalatnama on behalf of the Complainant and had duly identified him. Therefore, he had submitted that neither the complaint was anonymous, as it was signed by the Complainant with his name mentioned therein, nor the identity of the Complainant could be questioned.

14.2. Pursuant thereto, vide Order dated 09.5.2024, the Respondent was granted time to file a fresh/amended Application. The relevant portion of the Order dated 09.5.2024 is as follows:-

*"On being confronted with the contents of Para 1 of the Application filed on behalf of the Respondent -Mr. Siddharth Sahib Singh, Mr. Bansal, learned Counsel appearing on behalf of the Applicant / Respondent states, after obtaining instructions, that the Application seeking to cross-examine the complainant,*



needs to be amended with respect to the averments made in paragraph 1 of the said Application. Accordingly, he seeks two weeks' time to amend the Application."

*(emphasis added)*

- 14.3. Thereafter, the present Application was filed on 17.6.2024, wherein in Para 1 of the Application, as reproduced above in Para 2, has again doubted the identity of the Complainant. Further, the Ld. Counsel for the Respondent has filed the written submissions to *inter alia* raise his doubts over the identity of the Complainant.
15. Nevertheless, the Respondent, in the present application and the submissions thereto, has based his request to cross-examine the Complainant, broadly on the following:-
  - (i) Doubts over the identity of the Complainant;
  - (ii) Absence of details of the Complainant viz. father's name, age, address, mobile number and email,
  - (iii) Non-disclosure of source of information and explanation of certain facts.
16. Consequently, the aforesaid submissions are being dealt with hereinbelow.
17. The question regarding the identity of the Complainant, is contrary to the record. In this regard, it is imperative to mention that my Ld. predecessor, Hon'ble Ms. Justice Indu Malhotra, has recorded the presence of the Complainant, in-person, in the Order dated 11.02.2023 whereby notice was issued in the present Complaint. Further, the Ld. Counsel for DDCA has rightly pointed out that in the connected complaint filed by the Complainant, he had appeared on multiple occasions, including on 04.10.2022, 04.02.2023 and 11.02.2023, wherein his personal presence is recorded by my Ld. Predecessor. Further, all these Orders are in public gaze and are available on the website of DDCA. Therefore, by allowing the doubt over the identity of the Complainant would tantamount to doubting the judicial record of the Office of Ombudsman-cum-Ethics Officer, which cannot be permitted.
- 17.1. Further, the Ld. Counsel for the Complainant has submitted the original vakalatnama duly signed by the Complainant and identified by the Ld. Counsel for the Complainant.
- 17.2. On the contrary, the Respondent, despite being aware of the aforesaid document, has never requested any inspection of the record of the present case available with the Ombudsman-cum-Ethics Officer. Therefore, questioning the identity of the Complainant cannot be sustained. The submission is devoid of merit and is hereby rejected.



18. Now coming to the argument that the mandate of the BCCI's Practice Directions dated 10.05.2019 and DDCA's Practice Directions dated 30.11.2023 have not been complied with by the complainant since he has failed to disclose his father's name, age, address, email; and source of information.
- 18.1. In this regard, the reliance of the Ld. Counsel for the Respondent on the BCCI's Practice directions is liable to be rejected because the DDCA is bound by its own Articles of Association, regulations and rules and if any deviation exists in the function of the BCCI the same may not have binding effect, and in any case the procedure of any other organization would not be binding on DDCA.
- 18.2. It was in the aforesaid backdrop, that the practice directions of DDCA were separately formulated by the Ld. Ombudsman on 30.11.2023. However, any reliance on the said directions would also not be of any assistance to the Respondent, as the said directions were not notified with retrospective effect. In the present case, the present complaint was filed by the Complainant vide email dated 11.02.2023 i.e. much prior to the aforesaid Practice Directions being made effective.
- 18.3. It is further imperative to reproduce the email dated 11.02.2023 by which the present complaint was filed before my Ld. predecessor by the Complainant:-

*"Subject: Complaint against Sidharth Sahib Singh Secretary of DDCA*

*From Rupesh Raj <rupeshraj13@gmail.com>*

*To <ombudsman3@ddca.co>*

*Date 2023-02-11 11:03 AM*

*COMPLAINT OF DDCA.pdf(~1.8 MB)*

*VID-20230211-WA0000.mp4(~14 MB)*

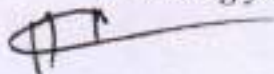
*Hon'ble Ombudsman,*

*PFA as above.*

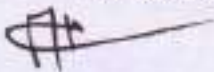
*Video clip which is part of the complaint is also attached below.*

*Also, it is requested that since the complainant is a resident of Bihar and currently is out of Delhi, it is requested to allow me to join through virtual mode in today's hearing.*

*Thanking you,*



- 18.4. The aforesaid email along with the signed complaint was sent by the Complainant from his own personal email address. Further, the complainant requested to join the proceedings via virtual mode. Thereafter, his presence was recorded in the Order dated 11.02.2023, as mentioned above. This leaves, no room for doubt over the identity of the complainant. The Respondent is trying to mix his doubt about the identity of the Complainant and linking it with his credibility. These are different components of a personality having different meaning, and cannot be equated to seek the right of cross-examination. There has to be a reasonable basis for seeking the said right. Identity of the person is not one of those, keeping in mind that the Complainant has appeared before the Ombudsman on multiple occasions and has been identified by his Counsel on record.
- 18.5. Further, during the course of hearing, I had enquired from the Ld. Counsel for the Respondent, whether he would wish to seek answers from the Complainant to specific questions by way of Interrogatories. However, the Ld. Counsel for the Respondent stated that he had specifically sought instructions from the Respondent, who had declined to seek answers by way of Interrogatories. The aforesaid also goes on to show that the actual intent of the Respondent his qua the identity of the Complainant, and not his credibility. As discussed in the preceding paras, the identity of the Complainant is not in dispute and cannot be allowed to be doubted.
19. Thereafter, the Ld. Counsel for the Respondent has further argued that the cross-examination is required since the of source of information has not been disclosed and explanation of certain facts in Paras 2, 3, 5, 7, 8, 9 and 11 of the Complaint have been alleged against the Respondent on his personal knowledge and not on public documents.
- 19.1. On a perusal of the Complaint, it is clear that the Complainant has based his averments on the basis of the documents available on the website of Registrar of Companies, documents of DDCA available on the website of DDCA, and the video of Mr. Harshit Rana which is also in public domain having been published online. Accordingly, the Complainant has sufficiently disclosed the source of information in his complaint.
- 19.2. Further, the only submission made by the Complainant, which can be attributed to his knowledge is mentioned in Para 7 of the Complainant. However, the said factual submission has been admitted by the Respondent in his reply. Therefore, the said averment can also not be used to seek the cross-examination of the Complainant.



- 19.3. A close examination of all the averments of the Complainant, it is clear that they are his explanations and interpretations, and cannot cause any prejudice to the Respondent. The said explanations of the Complainant are, in any case, to be adjudicated during the final hearing of the present complaint.
- 19.4. Furthermore, it is also of vital importance to mention that after the present complaint was filed, the DDCA filed a status report verifying the allegations of the Complainant. The status report was based on an enquiry into the said allegations which was conducted by an independent company secretary, and a report was submitted. The said report has also been provided to the Ld. Counsel for the Respondent. Despite getting the report of the independent company secretary, the Respondent has not filed any objections thereto, till date.
- 19.5. It is also worthwhile to note that no oral testimony has been led nor is intended to be used against the Respondent. The Complainant has not entered the witness box as a witness.
20. In light of the aforesaid, no ground is made out for cross-examination of the Complainant. The concept of cross-examination in administrative, judicial or quasi-judicial proceedings vis-à-vis principle of natural justice has been succinctly explained by the Hon'ble Supreme Court in *K.L. Tripathi (supra.)*:-

*"32. The basic concept is fair play in action administrative, judicial or quasi-judicial. The concept of fair play in action must depend upon the particular lis, if there be any, between the parties. If the credibility of a person who has testified or given some information is in doubt, or if the version or the statement of the person who has testified, is, in dispute, right of cross-examination must inevitably form part of fair play in action but where there is no lis regarding the facts but certain explanation of the circumstances there is no requirement of cross-examination to be fulfilled to justify fair play in action. When on the question of facts there was no dispute, no real prejudice has been caused to a party aggrieved by an order, by absence of any formal opportunity of cross-examination per se does not invalidate or vitiate the decision arrived at fairly. This is more so when the party against whom an order has been passed does not dispute the facts and does not demand to test the veracity of the version or the credibility of the statement.*

*33. The party who does not want to controvert the veracity of the evidence from record or testimony gathered behind his back cannot expect to succeed in any subsequent demand that there was no opportunity of cross-examination specially when it was not asked for and there was no dispute about the veracity of the statements.*



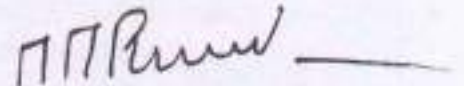
Where there is no dispute as to the facts, or the weight to be attached on disputed facts but only an explanation of the acts, absence of opportunity to cross-examination does not create any prejudice in such cases.

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41. It is true that all actions against a party which involve penal or adverse consequences must be in accordance with the principles of natural justice but whether any particular principle of natural justice would be applicable to a particular situation or the question whether there has been any infraction of the application of that principle, has to be judged, in the light of facts and circumstances of each particular case. The basic requirement is that there must be fair play in action and the decision must be arrived at in a just and objective manner with regard to the relevance of the materials and reasons. We must reiterate again that the rules of natural justice are flexible and cannot be put on any rigid formula. In order to sustain a complaint of violation of principles of natural justice on the ground of absence of opportunity of cross-examination, it has to be established that prejudice has been caused to the appellant by the procedure followed. See in this connection the observations of this Court in the case of Jankinath Sarangi v. State of Orissa [(1969) 3 SCC 392]. Hidayatullah, C.J., observed there at p. 394 of the Report: "... there is no doubt that if the principles of natural justice are violated and there is a gross case this Court would interfere by striking down the order of dismissal; but there are cases and cases. We have to look to what actual prejudice has been caused to a person by the supposed denial to him of a particular right". Judged by this principle, in the background of the facts and circumstances mentioned before, we are of the opinion that there has been no real prejudice caused by infraction of any particular rule of natural justice of which appellant before us complained in this case. See in this connection the observations of this Court in the case of Union of India v. P.K. Roy [AIR 1968 SC 850 : (1968) 2 SCR 186 : (1970) 1 LLJ 633] where this Court reiterated that (SCR p. 202) "the doctrine of natural justice cannot be imprisoned within the strait-jacket of a rigid formula and its application depends upon the nature of the jurisdiction conferred on the administrative authority, upon the character of the rights of the persons affected, the scheme and policy of the statute and other relevant circumstances disclosed in a particular case". See also in this connection the observations of Hidayatullah, C.J., in the case of Channabasappa Basappa Happali v. State of Mysore [(1971) 1 SCC 1 : AIR 1972 SC 32 : (1971) 2 SCR 645]. In our opinion, in the background of facts and circumstances of this case, the nature

*of investigation conducted in which the appellant was associated, there has been no infraction of that principle. In the premises, for the reasons aforesaid, there has been in the facts and circumstances of the case, no infraction of any principle of natural justice by the absence of a formal opportunity of cross-examination. Neither cross-examination nor the opportunity to lead evidence by the delinquent is an integral part of all quasi-judicial adjudications."*  
(emphasis supplied)

21. Therefore, in the aforesaid facts and circumstances and the judgment of the Hon'ble Supreme Court in *K.L. Tripathi (supra.)*, I am of the view that the Respondent has failed to establish the actual prejudice which would be caused to him in case no cross-examination is allowed. Infact, for the reasons discussed in the preceding paras, it has been established that no meaningful purpose will be served by cross-examination of the Complainant. Accordingly, the request is not accepted.
22. In terms of the aforesaid, the present Application fails and the same is dismissed.
23. Let the main matter be listed for further hearing on 21.12.2024 at 12pm via VC.



**JUSTICE M.M. KUMAR**  
**FORMER CHIEF JUSTICE, HIGH COURT OF J&K**  
**OMBUDSMAN-CUM-ETHICS OFFICER (DDCA)**