



Mumbai Cricket Association

CRICKET CENTRE, WANKHEDE STADIUM, 'D' ROAD, CHURCHGATE, MUMBAI - 400 020

TEL.: 2279 5500, FAX: 91-022-2279 5566/67/68

E-mail : mcacrik@mumbaicricket.com, Website: www.mumbaicricket.com

President
Dr. Vijay Patil
☎ 2279 5511

Vice President
Amol Kale
☎ 2279 5522

Secretary
Sanjay Naik
☎ 2279 5588

Jt Secretary
Shahalam Shaikh
☎ 2279 5577

Treasurer
Jagdish Achrekar
☎ 2279 5533

MCA/1/972/2022

27th September 2022

To,
Hon. Secretaries,
Ordinary member clubs affiliated to
Mumbai Cricket Association

Dear Sir,

Sub: Special General Meeting of the Association

The Apex Council has decided to hold a Special General Meeting of the Association on 20th October 2022 at 2.00 pm at the MCA Lounge, Wankhede Stadium. Notice and agenda is enclosed herewith.

The Electoral Officer, Mr.J.S.Saharia has drawn up the Election Program for Mumbai Cricket Association's elections to be held on 20th October 2022 which is enclosed herewith for the information of the members.

The Hon'ble Supreme Court of India vide its order dated 14th September 2022 (copy enclosed) has approved certain amendments to the Constitution. MCA Election's will be held as per the amendments approved by the Hon'ble Supreme Court of India.

Please find attached herewith the following documents:

1. Notice and Agenda of the Special General Meeting
2. Letter from Electoral Officer to Secretary, MCA
3. Schedule of MCA Election
4. Election Procedure
5. Two forms of Nomination papers
6. Identity cards of representatives in duplicate
7. Order dt. 14/9/2022 of Hon'ble Supreme Court

Please note that the address list of Ordinary Club members and list of representatives and former international players will be uploaded on the MCA website on 4th October 2022.

Thanking you,

Yours faithfully,


(Sanjay Naik)
Secretary

Encl: As above



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MCA/1/973/2022

27th September 2022

To,
Former International Players,
Ordinary Members affiliated to
Mumbai Cricket Association

Dear Sir,

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Jagdish Achrekar
☎ 2279 5533

MCA/1/971/2022

27th September 2022

NOTICE

A Special General Meeting of the Association has been convened in accordance with rule no. 9 (1) (b) of Memorandum of Association and Rules and Regulations of the Association on Thursday, 20th October 2022 at 2.00 pm at MCA Lounge, Wankhede Stadium.

AGENDA

1. Election and induction of Five (5) posts of Office Bearers and Nine (9) posts Councillors of the Apex Council of MCA.
2. Election and induction of Two (2) representatives of the General Body in the Governing Council of the T20 Mumbai League.


(Sanjay Naik)
Secretary



Mumbai Cricket Association

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FROM THE OFFICE OF THE ELECTORAL OFFICER, MUMBAI CRICKET ASSOCIATION

Date: 26/09/2022

To,
Shri. Sanjay Naik,
Secretary,
Mumbai Cricket Association.

Sub: Program of Elections – MCA 2022 for:

- (1) Office Bearers and Councillors of Apex Council (Rule 6 & 14) and**
- (2) Two representatives of General Body in the Governing Council for T-20 Mumbai (Rule 28(2))**

Dear Sir,

I have been appointed by MCA as the Electoral Officer for the above elections, vide letter dated 20th September 2022 of the Association, following the judgement of Hon'ble Supreme Court dated 14/09/2022 in IA no. 49930 of 2020 in Civil Appeal 4235 of 2014, regarding the cooling off period for Office Bearers and Councilors of Apex Council etc.

2. I had detailed discussions with senior concerned officers and Office Bearers of MCA (including you), as well as with Legal Counsel of MCA during my visits to MCA office on 19th September, 2022 and 24th September, 2022 regarding,

- i. the various provisions of the Constitution of MCA,
- ii. the various judgements of Hon'ble Supreme Court and Hon'ble High Court (especially dated 14/9/22 of Supreme Court in I.A. no. 49930 in Civil Appeal 4235 of 2014 and dated 12/09/2022 of Hon'ble Bombay High Court in Writ Petition no. 28523 of 2022),
- (iii) the fact that the term of the present elected body of MCA is expiring on 3rd October, 2022,
- (iv) the AGM notice dated 22/09/2022 issued by BCCI informing that the Elections to the post of Office Bearers and Apex Council of BCCI shall be held on 18/10/2022 and the Election Program of BCCI declared by the Electoral Officer of BCCI on 24/09/2022.

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26/9/22



Mumbai Cricket Association

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3. After considering the legal position and various relevant factors, I hereby declare the Election Program for the above-mentioned elections as per the enclosed Annexure.

4. You are requested to,

- i. publish the said Election Programme by putting on all the notice boards & website of MCA immediately, and through a press release,
- ii. bring the above Election Programme to the notice of all the members of MCA by post/courier,
- iii. bring to the notice of all members the relevant provisions of the Constitution of MCA (along with Rules framed thereunder), and judgements of Hon'ble Supreme Court dated 14/9/2022 etc.

5. For the free, fair and transparent elections, you are further directed to ensure that the officers and staff of the MCA:

- i. provide all the necessary assistance & clarification etc. (for example regarding the correctness of facts/details provided by members/ candidates, & objections raised etc.) to Electoral Officer & follow his directions,
- ii. make adequate & appropriate arrangements for the smooth conduct of entire election process including updated & correct list of members, election material, identity cards for Representatives, nomination papers, ballot papers etc., and
- iii. follow the provisions of MCA Constitution & Judgement of various courts, in letter & spirit, during the conduct of above elections,

Thanking You,

Yours

J.S. Saharia

26/9/22

(J.S. Saharia)
Electoral Officer,
Mumbai Cricket Association
Mumbai

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Mumbai Cricket Association

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FROM THE OFFICE OF THE ELECTORAL OFFICER, MUMBAI CRICKET ASSOCIATION

Date: 26/09/2022

ANNEXURE TO LETTER OF ELECTORAL OFFICER

Sub: Program of Elections – MCA 2022 for:

- I. **Office Bearers and Councillors of Apex Council (Rule 6 & 14) and**
- II. **Two representatives of General Body in the Governing Council for T-20 Mumbai (Rule 28(2)).**

1. The Electoral Officer, Mumbai Cricket Association (MCA) hereby declares election programme for Electoral Roll and for Elections to the following posts:
 - A. Five (05) posts of Office Bearers under Rule 6 of the Constitution of MCA, to the posts of President, Vice President, Secretary, Joint Secretary & Treasurer.
 - B. Nine (09) posts of Councillors of Apex Council under Rule 14 of the Constitution of MCA.
 - C. Two (02) representatives of the General Body in the governing Council for T-20 Mumbai under Rule 28(2).
2. **Venue of Elections:** MCA Lounge, Wankhede Stadium, D Road, Churchgate, Mumbai 400020
3. The **schedule of the Election Program** shall be as below:

Sr. No.	Event	Day & Date
ELECTORAL ROLL PROGRAM		
A	Declaration of Election Program (with date and venue of Poll) by publishing on all the notice boards of MCA and website of MCA.	Monday, 26th September 2022
B	Period for inviting names of representatives from the Member Clubs and from the former International Players. (Between 11:00 am to 5:00 pm on these days by CEO or Officer designated by CEO)	Tuesday, 27th September 2022 to Monday, 03rd October 2022 (including Saturday & Sunday)
C	Release of final list of representatives & former International Players.	Tuesday, 04th October 2022 at 11:00 am
ELECTION PROGRAM		
D	Period for filing of the Nominations for candidates for 5 Officer Bearers, 9 Councilors of Apex Council and 2 representatives for General Council of T-20 Mumbai.	Thursday, 06th October 2022 to Monday,

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Mumbai Cricket Association

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	(Nominations shall be accepted in the Office of the Electoral Officer between 11:00 am to 05:00 pm on all days (including Saturday & Sunday) by Electoral Officer or an Officer designated by him)	10th October 2022
E	Scrutiny of nominations (Candidates, whose names have been proposed and seconded shall be entitled to attend)	Tuesday, 11th October 2022 from 11:00 am onwards
F	Announcement of valid candidates	After completion of scrutiny on 11th October 2022
G	Withdrawal of nominations (Withdrawal shall be accepted in the office of Electoral Officer between 11:00 am to 05:00 pm on all days after stage 'F' above)	upto 5:00 pm Friday, 14th October 2022
H	Announcement of final list of contesting candidates	Friday, 14th October 2022 after completion of Withdrawal
I	Polls for the 5 posts of Office Bearers, 9 Councilors of the Apex Council and 2 representatives for General Council of T-20 Mumbai	Thursday, 20th October 2022 between 03:00 pm to 06:00 pm
J	Counting & declaration of Results of MCA Elections	Thursday, 20th October 2022 Immediately on completion of polls

4. Contact Details of the Electoral Officer (Returning Officer):

A. Mr. J.S. Saharia,

(Ex-State Election Commissioner, Maharashtra)

B. Officer appointed to assist the Electoral Officer

Mr. Avinash Tukaram Sanas, Deputy Commissioner, State Election Commission, Maharashtra.

C. Contact: Address: Office of Electoral Office, as per letter head

Email: election@mumbaicricket.com

Phone: 022-22795500 **Ext:** Electoral Officer

Mobile: 9619460202 (only in case of urgency)

J.S. Saharia

(J.S. Saharia)

26/9/22

Electoral Officer,
Mumbai Cricket Association
Mumbai

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Election Procedure

1. In order for a representative to be considered for inclusion in the electoral roll for the MCA Election, each Ordinary member shall be required to submit an undertaking in prescribed Form A (Annexure – 1) certifying that the nominated representative is an Office Bearer of the Club within the deadlines specified for receipt of such applications in the Election Program.
2. Each ordinary member will be required to fill and submit the Specimen Cards of their representative at the MCA Office on or before 7.00 pm on 13th October 2022.
3. All candidates willing to contest the elections will be required to submit an undertaking in prescribed form (Annexure – 2 and 3) within the deadlines specified for receipt of such applications in the Election Program.
4. Notwithstanding anything contained elsewhere in these rules, no person who is an employee of the Mumbai Cricket Association (MCA), Board of Control for Cricket in India (BCCI), Indian Premier league (IPL) and Mumbai Indians – IPL franchisee and Garware Club House, either on regular or on contractual basis except any office bearer, Selector, Coach, Umpire and Player elected, appointed or selected by the MCA/BCCI, will be eligible to vote or be elected to the Council or continue as the member of the Apex Council in any capacity.
5. No representatives of a member whose annual subscription and/or other dues is not received on or before 7:00 pm on 13th October 2022 shall be eligible to vote or be elected to the Apex Council.
6. In case of any dispute or objection as to candidacy, disqualification, eligibility to vote, or the admission or rejection of a vote in the elections to the Apex Council, the Electoral Officer shall decide the same and such decision shall be final and conclusive.

ANNEXURE 1

Form A

Undertaking

To,
The Electoral Officer,
Mumbai Cricket Association.

This is to certify, affirm and confirm that:

Mr./Mrs./Shri./Smt. _____ (Representative)
S/o, W/o, D/o, _____ aged _____ years and residing at

has been appointed/nominated as an authorised representative of _____ club
and he/she is holding the office of _____ (Office Bearer) of the above said club
("Ordinary Member") for the purpose of the MCA Election to be conducted on 20th October
2022.

For and on behalf of:

Name of Ordinary Member Club:

Stamp of Ordinary Member Club:

Signature of Authorised Signatory:

Name of Authorised Signatory:

ANNEXURE 2
Contestant Nomination Form

To,

The Electoral Officer, MCA

This is to certify, affirm and confirm that:

Mr./Mrs./Shri./Smt. _____ (Representative)

S/o, W/o, D/o, _____ aged _____ years and residing at _____

has been appointed/nominated as an authorised representative of _____ club and he/she is holding the office of _____ (Office Bearer) of the above said club ("Ordinary Member") for the purpose of the MCA Election to be conducted on 20th October 2022.

- a) The Representative is a citizen of India;
- b) The Representative has not attained the age of seventy (70) years;
- c) The Representative has not been declared to be insolvent or of unsound mind;
- d) The Representative is not a Minister, or a Government Servant.
Note: It is clarified that a former player employed by the Government under 'Sports Quota' will not be treated as being disqualified for being a "Government Servant". If such a Representative is employed by Government under 'Sports Quota', kindly attach a certificate from such Government stating that the Representative is employed with such entity under the 'Sports Quota';
- e) The Representative has not been convicted by a Court of Law for commission of a criminal offence & sentenced to imprisonment.
- f) The Representative has not been an Office Bearer of the MCA for a cumulative period of 9 years;
- g) The Representative is not required to undergo a cooling off period of 3 years in accordance with the MCA Rules and Regulations;

h) In support of the Ordinary Member's application to have the Representative serve as the official representative of the Ordinary Member for the MCA Election to be held on 20th October 2022 attached herewith are the following additional documents:

1. A self-attested copy of the following Identification and Age Proof document of the Contestant (any one): Passport ☐ Voter ID ☐ Aadhaar Card ☐
2. A Contestant Undertaking from the Contestant in the prescribed Form (Annexure 3), duly filled.

The Ordinary Member hereby affirms that the information provided in this Contestant Nomination Form ("Annexure 2") and all the supporting documentation attached to this form is true and accurate. The Ordinary Member understands that the information provided in this Form and the supporting documentation may be independently verified for accuracy, truthfulness and completeness by the Electoral Officer, MCA and in the event that it is found that any information in the Form or in the supporting documentation is inaccurate, false or misrepresented, the Ordinary Member's eligibility to participate in the MCA Election shall be revoked, cancelled or rendered void.

For and on behalf of:

Name of Ordinary Member Club:

Stamp of Ordinary Member Club:

Signature of Authorised Signatory:

Name of Authorised Signatory:

ANNEXURE 3
Contestant Undertaking

I,

Mr./Mrs./Shri./Smt. _____

S/o, W/o, D/o, _____ aged _____ years and residing at

hereby confirm and solemnly affirm that I have been duly nominated by _____ (Ordinary Maidan / Office / School & College Club) to be its representative to participate in the MCA Election to be conducted on 20th October 2022 and that I am holding the office of _____ of the above said club, thereby eligible to be a Representative of the Ordinary Member of MCA as per the norms specified.

I hereby affirm that the information provided by me in this Contestant Declaration (Annexure 3) and the Contestant Nomination Form (Annexure 2) along with all supporting documentation therein is true to the best of my knowledge. I hereby understand that the information provided in this Form or in the supporting documentation may be independently verified for accuracy, truthfulness and completeness by the Electoral Officer, MCA and in the event that it is found that I have acted fraudulently or misrepresented any information in this Form or in the supporting documentation, my eligibility to represent the Ordinary Member and the Ordinary Member's eligibility to participate in the MCA Election shall be rejected by the Electoral Officer, MCA.

Name and Signature of the Representative:

Date:



MUMBAI CRICKET ASSOCIATION

Date : _____

NOMINATION PAPER

We nominate the following Candidates for election of Apex Council of Mumbai Cricket Association for years 2022-2023 to 2024-2025 / Governing Council of T20 Mumbai League for year 2022-2023. They have consented to seek election and to work on the Apex Council of Mumbai Cricket Association / Governing Council of T20 Mumbai League, if elected.

APEX COUNCIL (FOR YEARS 2022-2023 TO 2024-2025)

		Willing to serve if elected (Signature)
President	1. Mr./Mrs./Ms. _____	_____
Vice President	1. Mr./Mrs./Ms. _____	_____
Treasurer	1. Mr./Mrs./Ms. _____	_____
Hon. Secretary	1. Mr./Mrs./Ms. _____	_____
Jt. Hon. Secretary	1. Mr./Mrs./Ms. _____	_____
Members of Apex Council	1. Mr./Mrs./Ms. _____ 2. Mr./Mrs./Ms. _____ 3. Mr./Mrs./Ms. _____ 4. Mr./Mrs./Ms. _____ 5. Mr./Mrs./Ms. _____ 6. Mr./Mrs./Ms. _____ 7. Mr./Mrs./Ms. _____ 8. Mr./Mrs./Ms. _____	_____ _____ _____ _____ _____ _____ _____ _____
(Nine Seats Only)	9. Mr./Mrs./Ms. _____	_____

GOVERNING COUNCIL OF T20 MUMBAI LEAGUE (FOR YEAR 2022-2023)

Chairman	1. Mr./Mrs./Ms. _____	_____
Member	1. Mr./Mrs./Ms. _____	_____

Signature of Proposer : _____

Representative of Club : _____

Signature of Secoder : _____

Representative of Club : _____

P.T.O

NAMES AND ADDRESSES OF CANDIDATES

[illegible]

Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

IA No 49930 of 2020

in

Civil Appeal No 4235 of 2014

The Board of Control for Cricket in India

.... Appellant

Versus

Cricket Association of Bihar & Ors

.... Respondents

J U D G M E N T

Dr Dhananjaya Y Chandrachud, J

1 By the judgment of this Court in **Board of Control for Cricket in India v Cricket Association of Bihar**¹, the draft Constitution of the Board of Control for Cricket in India² was approved. The Court stipulated that any amendment to the Constitution shall not be given effect to without the leave of the Court. Clause 45 of the Constitution, as approved, contains the following provision:

Validity unknown
Digitally signed by
CHETAN KUMAR
Date: 2023.09.26
18:59:28 +0530
Reason:

"These Rules and Regulations of the BCCI shall not be repealed, added to, amended or altered except when passed and adopted by a

1 (2018) 9 SCC 624
2 "BCCI"

3/4th majority of the members present and entitled to vote at a Special General Meeting of the General Body convened for the purpose or at the Annual General Meeting. Any such amendment will not be given effect to without the leave of the Hon'ble Supreme Court."

- 2 On 1 December 2019, certain amendments were approved unanimously at the Annual General Meeting³.
- 3 An interim application has been filed for seeking the leave of the Court to give effect to the amendments. A reference to the relevant clauses which are proposed to be amended would be necessary.
- 4 Clause 6(4) of the existing Constitution contains the stipulation that an office bearer who has held any post for two consecutive terms either in a state association or in the BCCI or a combination of both shall not be eligible to contest any further election without completing a cooling off period of three years. During the cooling off period, there is a prohibition on an office bearer becoming a member of the Governing Council or of any committee of the BCCI or of a state association. The rationale for adopting a cooling off period was elaborated in Section C of the judgment of this Court. The rationale was explained in paragraph 35 of the judgment in the following terms:

"... A cooling-off period has several features which are of utmost importance:

- (i) it is a safeguard against the development of vested personal interests;

- (ii) it ensures against the concentration of power in a few hands;
- (iii) it facilitates a dispersal of authority; and
- (iv) it encourages the generation of a wider body of experienced administrators.

Cooling-off must be accepted as a means to prevent a few individuals from regarding the administration of cricket as a personal turf. The game will be better off without cricketing oligopolies."

- 5 While explaining the proposed provision for a cooling off period after the completion of two consecutive terms, this Court provided the following illustrations:

"However, in our view, it would be appropriate to direct that a cooling-off period of three years would apply after an individual holds two successive terms in office either in BCCI, or in any State Association or a combination of the two. For instance, if an office-bearer has held office for two consecutive terms in any post in a State Association, such an individual must face a cooling-off period of three years. Likewise, if an individual has held any post as an office-bearer of BCCI for a total period of six years in succession, the individual must have a cooling-off period of three years before seeking election again either to BCCI or to a State Association. The cooling-off period would apply also in a situation where an individual holds a post for one term in a State Association followed by a post in BCCI successively or vice versa. This would ensure that after a period of six years involving two consecutive terms, a cooling-off period would be attracted. Allowing an individual to act as an office-bearer for six years in continuation, is a sufficiently long period for experience and knowledge gained to be deployed in the interest of the game without at the same time resulting in a monopoly of power."

- 6 An amendment of Clause 6.4 has been proposed on the ground that the BCCI undertakes its activities both at the national and international level. On the other hand, the activities of the state associations are conducted at the level of each state. Though there may be a degree of overlap between the functions associated at the

state level, on the one hand, and the national level by the BCCI, on the other hand, it has been submitted that the functions are distinct in a large number of areas and activities.

- 7 Mr Tushar Mehta, Solicitor General appearing on behalf of the applicant, submitted that Clause 6(4), as approved by this Court, indicates that a person who has completed one term at the state level followed by one term at the BCCI would have to complete a cooling off period of three years. In other words, though an office bearer at the BCCI has completed only one term at the BCCI, the cooling off period would come into effect. It has been submitted that the unanimous view at the AGM is that this provision should be modified so as to stipulate that the cooling off period would come into effect after an office bearer has completed two consecutive terms at the same level, that is in a state association or at the BCCI. In other words, an office bearer who completes two consecutive terms in a state association would necessarily have to complete a cooling off period of three years before assuming any elected office at the state association. Likewise, an office bearer who completes two consecutive terms at the BCCI would have to mandatorily undergo a cooling off period of three years before seeking any election at the level of the BCCI.
- 8 The amended provision, as proposed at the AGM, seeks to confine the requirement of a cooling off period only to the posts of President and Secretary. The amendment as proposed envisages in other words that the cooling off period will not apply to other posts.

- 9 Mr Maninder Singh, senior counsel, who was requested to assist this Court as an *amicus curiae*, submitted that there would be no justification to confine the cooling off period only to the post of President and Secretary and must extend to all other office bearers of the BCCI and the state associations.
- 10 In order to bring clarity to the position, a tabulated chart has been placed before this Court indicating:
- (i) The existing provision;
 - (ii) The amended provision proposed by BCCI; and
 - (iii) The proposed clause after incorporating the suggestions made by the *amicus curiae*.
- 11 The tabulated position (in track mode) reads as follows:

CLAUSE	EXISTING PROVISION	AMENDED PROVISION PROPOSED BY BCCI	PROPOSED CLAUSE AFTER AMICUS'S SUGGESTION
6(4)	An office bearer who has held any post for two consecutive terms either in a state association or in the BCCI (or a combination of both) shall not be eligible to contest any further election without completing a cooling off period of three years. During the cooling off period, such an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any	A President or Secretary An office bearer who has served in such position held any post for two consecutive terms either in a state association or in the BCCI (or a combination of both) shall not be eligible to contest any further election without completing a cooling off period of three years. During the cooling off period, such 'Office bearer' an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a state association . The expression 'President' or 'Secretary' office bearer should not be permitted to be circumvented by being a member of	6.4.1 An office bearer who has held any post for two consecutive terms in the BCCI shall not be eligible to contest any further election in the BCCI without completing a cooling off period of three years. During this cooling off period, such an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the BCCI. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI, as the case may be.

	state association, as the case may be.	any other committee or of the Governing Council in BCCI or any state association, as the case may be.	<p>6.4.2 If a person has served two consecutive terms each, in the State Association and in the BCCI [or vice versa] continuously without any break, such person shall not be eligible to contest any further election in the State Association or in the BCCI, without completing a cooling off period of three years.</p> <p>During this cooling off period, such an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any state association, as the case may be.</p> <p>The State Associations may separately have the following clause:-</p> <p>6.4.1 An office bearer who has held any post for two consecutive terms in the State Association shall not be eligible to contest any further election in such State Association without completing a cooling off period of three years.</p> <p>During this cooling off period, such an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in the state association, as the case may be.</p> <p>6.4.2 If a person has served two consecutive terms each, in the State</p>
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			<p>Association and in the BCCI [or vice versa] continuously without any break, such person shall not be eligible to contest any further election in the State Association or in the BCCI, without completing a cooling off period of three years.</p> <p>During this cooling off period, such an office bearer shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any state association, as the case may be.</p>
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- 12 As the above tabulation indicates, the *amicus curiae* has proposed a bifurcation, for the sake of clarity, of the existing provision by introducing similar requirements of cooling off periods both at the level of the BCCI and in the state associations. Clause 6(4), as originally incorporated, is hence sought to be bifurcated separately for the BCCI and the state associations. The Solicitor General has stated that the amendment as proposed by the *amicus curiae* is acceptable to the BCCI.
- 13 Having considered the application and the reasons which have been set out, we are of the considered view that the amendment as proposed in the third column above, should be accepted in terms of the suggestions of the *amicus curiae*. The reasons for accepting the above proposal are indicated below.
- 14 The principal rationale for adopting a cooling off period has been explained in the judgment of this Court, extracted above. This Court had adopted the rationale that

the cooling off period would kick in after an individual holds two successive terms in office either at the BCCI or in any state association or a combination of the two. The effective consequence of the existing position is that:

- (i) A person who is elected as an office bearer in a state association for two consecutive terms would have to undergo a cooling off period;
- (ii) A person who is elected as an office bearer at the BCCI for two consecutive period would have to undergo a cooling off period; and
- (iii) A person who is elected as an office bearer in a state association for one term followed by election as an office bearer at the BCCI for one term would similarly have to undergo a cooling off period.

15 The consequence, therefore, is that a person who has held office as an elected office bearer for only one term at the BCCI would have to undergo a cooling off period. The submission is that the application of a cooling off period after one term at a particular level (the BCCI or state association, as the case may be on after an immediately prior term at another level) is unduly stringent and needs to be modified having regard to the purpose for which the cooling off period was introduced.

16 BCCI is an autonomous sports body. The judgment of this court did not abrogate its power, as a registered society, to amend its Constitution. The stipulation that an amendment be carried by a three fourths majority and should not be implemented without the prior leave of this court is in order to ensure that the purpose underlying

the adoption of the Constitution of BCCI is not defeated. The purpose for which the cooling off period was introduced, would not be diluted by the proposed amendment, subject to the stipulations suggested by the amicus curiae. The proposed stipulation that the cooling off period comes into effect after two consecutive terms at the same level namely, at the state associations or the BCCI does not abrogate the purpose of a cooling off period. We, therefore, accept the amendment as set out in Column 3 above.

- 17 The next amendment is proposed to Clause 6(5) of the BCCI's Constitution. As in the case of Clause 6(4), the amendment which was proposed to Clause 6(5) was deliberated upon during the course of the hearing and certain suggestions have been made in the course of the discussion by the *amicus curiae*. The position is tabulated below (in track mode):

CLAUSE	EXISTING PROVISION	AMENDED PROVISION PROPOSED BY BCCI	PROPOSED CLAUSE AFTER AMICUS'S SUGGESTION
6(5)	<p>A person shall be disqualified from being an Office Bearer, a member of the Governing Council or any Committee or a representative to the International Cricket Council or any similar organization if he or she:</p> <p>(a) is not a citizen of India;</p> <p>(b) has attained the age of 70 years;</p> <p>(c) is declared to be insolvent, or of unsound mind;</p> <p>(d) is a Minister or Government Servant or holds a public office;</p> <p>(e) holds any office or post in a sports or athletic association</p>	<p>A person shall be disqualified from being an Office Bearer, <u>or an Apex Council Member of the BCCI</u> a member of the Governing Council or any Committee or a representative to the International Cricket Council or any similar organization if he or she:</p> <p>(a) is not a citizen of India;</p> <p>(b) has attained the age of 70 years;</p> <p>(c) is declared to be insolvent, or of unsound mind;</p> <p>(d) is a Minister or Government Servant or holds a public office;</p> <p>(e) holds any office or post in a sports or athletic association or</p>	<p>A person shall be disqualified from being an Office Bearer, a member of the Apex Council, Governing Council or any Committee of the BCCI if he or she:</p> <p>(a) is not a citizen of India;</p> <p>(b) has attained the age of 70 years;</p> <p>(c) is declared to be insolvent, or of unsound mind;</p> <p>(d) is a Minister or Government Servant;</p> <p>(e) has been an Office Bearer of the BCCI for a cumulative period of 9 years; or</p>

	<p>or federation apart from cricket;</p> <p>(f) has been an Office Bearer of the BCCI for a cumulative period of 9 years or of a State association for a cumulative period of 9 years; or</p> <p>(g) Has been charged by a Court of Law for having committed any criminal offence, i.e. an order framing charges has been passed by a court of law having competent jurisdiction.</p>	<p>federation apart from cricket;</p> <p>(f)(e) has been an Office Bearer of the BCCI for a cumulative period of 9 years; or of a State association for a cumulative period of 9 years; or</p> <p>(f) Has been <u>convicted charged by</u> a Court of Law for <u>commission of a having committed any criminal offence and sentenced to imprisonment for a period not less than three (3) years.</u></p> <p>6.5.2 A person shall be disqualified from being a member of the Governing Council or any Committee of the BCCI if he or she:</p> <p>(a) is not a citizen of India;</p> <p>(b) is declared to be insolvent, or of unsound mind;</p> <p>(c) is a Minister or Government Servant;</p> <p>(d) Has, i.e. an order framing charges has been convicted passed by a Court of Law for commission of a criminal offence and sentenced to imprisonment for a period not less than three (3) years. court of law having competent jurisdiction.</p>	<p>(f) has been convicted by a Court of Law for commission of a criminal offence and sentenced to imprisonment.</p>
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- 18 BCCI has submitted that the disqualification from holding any office or post in a sports or athletic association or federation apart from cricket needs to be modified since several cricketers of eminence are associated with other sporting activities such as football and golf after retirement from cricket and there is no reason to disqualify them on that ground. Secondly, it has been submitted that the disqualification which is attached to a person who is charged of having committed a

criminal offence is proposed to be modified so as to apply to a person who is convicted of an offence and is sentenced to a term of imprisonment of three years. This amendment, it has been submitted, is intended to protect office bearers who may be subjected to frivolous prosecutions. Finally, it has been submitted that the expression "or holds a public office" is over-broad and that the disqualification should only apply to a person who holds office as a Minister or government servant.

19 The stipulation that the disqualification should attach on a conviction of an offence may be accepted. However, the further condition that a disqualification would follow upon a sentence of imprisonment of three years or more cannot be accepted. During the hearing, BCCI agreed that the disqualification would govern a conviction and sentence of imprisonment. The reasons set out for the other amendments are acceptable. Subject to what has been observed above, the amendment as tabulated in column 3 above does not detract from the basic purpose and object underlying the judgment of this Court. The amendment, as proposed in Column 3 above, is hence permitted to be effected.

20 An amendment has been proposed to Clauses 14.3 and 14.4, as well as to Clause 3(b)(vii) which are consequential to the amendments which have been made to Clauses 6(4) and 6(5). The amendments to Clauses 14.3 and 14.4 and Clause 3(b)(vii) are in the following terms:

CLAUSE	EXISTING PROVISION	AMENDED PROVISION PROPOSED BY BCCI	PROPOSED CLAUSE AFTER AMICUS'S SUGGESTION
14(3) and (4)			<p>14.3 A person shall be disqualified from being a Councillor if he or she</p> <ul style="list-style-type: none"> (a) is not a citizen of India; (b) has attained the age of 70 years; (c) is declared to be insolvent, or of unsound mind; (d) is a Minister or Government Servant; (e) has been an Office Bearer of the BCCI for a cumulative period of 9 years; or (f) has been convicted by a Court of Law for commission of a criminal offence and sentenced to imprisonment. <p>14.4.1 Each of the elected Councillors shall have a term of 3 years in office, subject to a maximum of 3 Terms on the Apex Council.</p> <p>A Councillor who has held any post for two consecutive Terms in the BCCI shall not be eligible to contest any further election in the BCCI without completing a cooling off period of three years. During the cooling off period, such a Councillor shall not be a member of the Governing Council or of any committee whatsoever of the BCCI. The expression 'Councillor' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI.</p> <p>14.4.2 If a person has served two consecutive terms each as Councillor, in the equivalent body of a State</p>

			<p>Association and in the BCCI [or vice versa] continuously without any break, such person shall not be eligible to be a Councillor in the equivalent body of a State Association or in the BCCI, without completing a cooling off period of three years. During this cooling off period, such a Councillor shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a State Association. The expression 'Councillor' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any State Association, as the case may be.</p>
3(b)(vii)	<p>There shall be a provision whereby an office bearer or an elected member of the Governing Council / Managing Committee / Apex Council who has held any post for two consecutive terms either in the State Association or in the BCCI (or a combination of both) shall not be eligible to contest any further election without completing a cooling off period of three years. During the cooling off period, such an office bearer or an elected member of the Governing Body / Managing Committee / Apex Council shall not be a member of the Governing Council or of any Committee whatsoever of the BCCI or of a State Association.</p>		<p>3(b)(vii)(A) There shall be a provision whereby an office bearer or an elected member of the Governing Council / Managing Committee / Apex Council who has held any post for two consecutive terms in the State Association shall not be eligible to contest any further election in such State Association without completing a cooling off period of three years. During this cooling off period, such an office bearer or an elected member of the Governing Council / Managing Committee / Apex Council shall not be a member of the Governing Council or of any committee whatsoever of the state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in the state association, as</p>

			<p>the case may be.</p> <p>3(b)(vii)(B) There shall be a provision whereby if a person has served two consecutive terms each, in the State Association and in the BCCI [or vice versa] continuously without any break, such person shall not be eligible to contest any further election in the State Association or in the BCCI, without completing a cooling off period of three years.</p> <p>During this cooling off period, such an office bearer or an elected member of the Governing Council / Managing Committee / Apex Council shall not be a member of the Governing Council or of any committee whatsoever of the BCCI or of a state association. The expression 'office bearer' should not be permitted to be circumvented by being a member of any other committee or of the Governing Council in BCCI or any state association, as the case may be.</p>
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21 Certain amendments of an administrative nature are proposed in Clauses 7(3), 15(3) and (4) and 19(2), which are tabulated below:

CLAUSE	EXISTING PROVISION	AMENDED PROVISION PROPOSED BY BCCI	PROPOSED CLAUSE AFTER AMICUS'S SUGGESTION
7(3)	<p>The Secretary shall;</p> <p>(a) to (e)</p> <p>Have the power to delegate any work to the Honorary Joint Secretary.</p>	<p>The Secretary shall;</p> <p>(a) to (e)</p> <p>(f) Have the power to delegate any work to the Honorary Joint Secretary or any person in management.</p> <p>(g) Exercise all powers in relation to cricketing and non cricketing matters with the respective management personnel including CEO reporting to him on a</p>	<p>The Secretary shall;</p> <p>(a) to (e)</p> <p>(f) Have the power to delegate any work to the Honorary Joint Secretary or any person in management.</p> <p>(g) Exercise all powers in relation to cricketing and non cricketing matters with the respective management personnel including CEO reporting to</p>

		regular basis. (h) the Management personnel, the staff and the CEO shall work under the direct supervision, control and direction of the Secretary.	him on a regular basis. (h) the Management personnel, the staff and the CEO shall work under the direct supervision, control and direction of the Secretary.
15(3) and (4)	<p>(3) The Apex Council shall exercise superintendence over the CEO, the Cricket Committees and the Standing Committees in the discharge of their duties generally, and in particular, in accordance with any general or special direction of the General Body, except for the Governing Council of the IPL which is directly accountable to the General Body.</p> <p>(4) In addition to and without prejudice to the generality of powers conferred directly or by necessary implication under these Rules and regulations and the Memorandum of Association, the Apex Council shall exercise the powers and perform the duties hereafter mentioned:</p> <p>(a) to (c)</p> <p>(d) To institute or defend any action or proceedings for or against the BCCI or against any Office-Bearer or employee of the BCCI.</p> <p>(e) to (m)(n) To frame, in consultation with the CEO, rules for the appointment of Managers, Secretaries, Administrative Officers, Peons and other service personnel and staff and for payment to them and other persons in return for their services rendered to the BCCI, salaries, wages, gratuities,</p>	<p>(3) The Apex Council shall exercise superintendence over the CEO, the Cricket Committees and the Standing Committees through the Secretary in the discharge of their duties generally, and in particular, in accordance with any general or special direction of the General Body, except for the Governing Council of the IPL which is directly accountable to the General Body.</p> <p>(4) In addition to and without prejudice to the generality of powers conferred directly or by necessary implication under these Rules and regulations and the Memorandum of Association, the Apex Council shall exercise the powers and perform the duties hereafter mentioned:</p> <p>(a) to (c)</p> <p>(d) To institute or defend through the Secretary any action or proceedings for or against the BCCI or against any Office-Bearer or employee of the BCCI.</p> <p>(e) to (m)</p> <p>(n) To frame, in consultation with the CEO, rules for the appointment of Managers, Secretaries, Administrative</p>	<p>(3) The Apex Council shall exercise superintendence over the CEO, the Cricket Committees and the Standing Committees, through the Secretary, in the discharge of their duties generally, and in particular, in accordance with any general or special direction of the General Body, except for the Governing Council of the IPL which is directly accountable to the General Body.</p> <p>(4) In addition to and without prejudice to the generality of powers conferred directly or by necessary implication under these Rules and regulations and the Memorandum of Association, the Apex Council shall exercise the powers and perform the duties hereafter mentioned:</p> <p>(a) to (c)</p> <p>(d) To institute or defend, through the Secretary, any action or proceedings for or against the BCCI or against any Office-Bearer or employee of the BCCI.</p>

	pensions, honorariums, compensations, any exgratia payment and/or provident fund and to regulate discipline by suspending, fining, removing or dismissing such employees.	Officers, Peons and other service personnel and staff and for payment to them and other persons in return for their services rendered to the BCCI, salaries, wages, gratuities, pensions, honorariums, compensations, any exgratia payment and/or provident fund and to regulate discipline by suspending, fining, removing or dismissing such employees.	(e) to (m) (n) To frame, in consultation with the CEO, rules for the appointment of Managers, Secretaries, Administrative Officers, Peons and other service personnel and staff and for payment to them and other persons in return for their services rendered to the BCCI, salaries, wages, gratuities, pensions, honorariums, compensations, any exgratia payment and/or provident fund and to regulate discipline by suspending, fining, removing or dismissing such employees.
19(2)	(2) The day-to-day management of the BCCI shall be conducted by professionals in both cricketing and non-cricketing matters.	(2) The day to day management of the BCCI shall be conducted by the professionals in both cricketing and non-cricketing matters under the direct supervision, direction and control of the respective Office Bearers.	(2) The day-to-day management of the BCCI shall be conducted by the professionals in both cricketing and non-cricketing matters under the direct supervision, direction and control of the respective Office Bearers.

22 The above amendments as tabulated in Column 3 above are accepted.

23 An amendment was sought in Clause 45 to delete the provision requiring the leave of the Court to amend BCCI's Constitution. The proposed amendment is not pressed by BCCI.

24 Paragraphs 45.2 and 45.3 of the earlier judgment of this Court dated 9 August 2018 reported in (2018) 9 SCC 624 contains the following directions:

"45.2. Upon the registration of the said Constitution of BCCI, each of the members shall undertake registration of their respective Constitutions on similar lines within a period of 30 days thereafter. A compliance certificate must be furnished to the CoA, which shall file a status report before this Court with reference to the compliance undertaken by the State Associations; and

45.3. In the event that any State Association does not undertake compliance with the abovesaid directions, the directions contained in the orders of this Court dated 7-10-2016 [BCCI v. Cricket Assn. of Bihar, (2016) 10 SCC 23] and 21-10-2016 [BCCI v. Cricket Assn. of Bihar, (2016) 10 SCC 231] shall revive."

25 The above directions shall also apply to the amendments as approved by the present judgment.

26 Mr Akhilesh Kumar Pandey, counsel, appeared in these proceedings on behalf of two individuals who were earlier, members of an entity called Association of Bihar Cricket. While opposing the amendments, counsel submitted that any modification of the clauses in the terms as proposed would affect the underlying object of the provisions in the original Constitution.

27 Having carefully assessed the grievance, we do not find any merit for the reasons which we have already indicated.

28 The interim application is accordingly disposed of in the above terms.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hima Kohli]

New Delhi;
September 14, 2022
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