

# The shove to reform Indian Cricket: The Lodha Report

Cricket, India's most popular sport has been recently involved in serious investigations which have uncovered disreputable practices by the organisation's chiefs and leaders. The Indian Supreme Court reacted appointing the Lodha Committee to impose sanctions and review the state of the sport in the country. In this first installment of a two part article, Amrut Joshi, Founder of GameChanger Law Advisors and member of the *World Sports Law Report* editorial board, discusses the events that led to the incorporation of the Lodha Committee, the task it was assigned and the reasons why the recommendations issued by this Committee may prove invaluable to the reform of Indian cricket.

On 4 January 2016, the Supreme Court-appointed committee comprising of Justice R.M. Lodha, former Chief Justice of India, Justice Ashok Bhan, former Judge of the Supreme Court and Justice R.V. Raveendran, former Judge of the Supreme Court (hereinafter referred to as the 'Lodha Committee'), issued a landmark and game-changing report with comprehensive suggestions on how to revamp various functional aspects of the Board of Control for Cricket in India ('BCCI')<sup>1</sup>.

In this first installment, I will examine the genesis of the Lodha Committee Report, which will be followed by a second part article in next month's issue focused on the specific recommendations of the Lodha Committee, and its particular ramifications for cricket in India.

## Genesis of the Lodha

### Committee Report

The Lodha Committee Report has its genesis in the landmark judgment of the Supreme Court of India in the case of *BCCI v. Cricket Association of Bihar*<sup>2</sup> (more famously known as the *N. Srinivasan* case, on account of the involvement of the son-in-law of the then BCCI President, Mr. N. Srinivasan).

The trigger for this case was the commencement of investigations by the police and law enforcement authorities in India against Gurunath Meiyappan, son-in-law of N. Srinivasan - the then President of BCCI and promoter of India Cements Ltd., which was the owner of Indian Premier League ('IPL') franchise Chennai Super Kings ('CSK'), on allegations of his involvement in spot-fixing and betting during IPL matches. Soon after the arrest of Gurunath Meiyappan, the BCCI constituted a Probe Commission comprised of two former Madras High Court Judges to probe allegations of betting and spot-fixing against Meiyappan. The Probe Commission appointed by the BCCI submitted its report stating that no valid evidence or findings were recorded against Meiyappan for his alleged involvement in the betting and spot-fixing scandal.

It was then that the Cricket Association of Bihar ('CAB') filed a Writ Petition in the Bombay High Court seeking the following relief: (a) to declare the Probe Commission appointed by the BCCI to be *ultra vires* with regard to the IPL Operational Rules and Regulations; (b) to constitute another panel to conduct an enquiry against Meiyappan and others for their alleged involvement in betting and spot-fixing; and (c) to suspend Srinivasan from the post of President of the BCCI pending the probe<sup>3</sup>.

The Bombay High Court passed an order dated 30 July 2013 wherein it declared that the two-member probe panel was not validly constituted by the BCCI<sup>4</sup>. However, the Court declined to grant any further relief and stated that the constitution of another probe commission was BCCI's prerogative under its Operational Rules<sup>5</sup>. In response, the CAB filed an appeal before the Supreme Court, which then set up a Probe Committee headed by Justice Mukul Mudgal (the 'Mudgal Committee') to probe the allegations against Meiyappan and Raj Kundra (a team official of the Rajasthan Royals franchise).

The Mudgal Committee conducted independent inquiries and came to the conclusion that Gurunath Meiyappan was (i) an integral part of the CSK franchise; (ii) regarded as a team official of CSK within the meaning of the IPL Operational Rules, even though he was not the *de facto* owner of CSK; and (iii) would regularly place bets in IPL matches both in favour and against his team (CSK)<sup>6</sup>. The Mudgal Committee, on the basis of these findings, held Meiyappan guilty of betting, which in its opinion was accentuated by his position in the CSK.

While submitting its report to the Supreme Court, the Mudgal Committee highlighted the issue of conflict of interest arising out of the situation where Mr. N. Srinivasan (Father in Law of Gurunath Meiyappan) was acting as the President of the BCCI on the one hand and CEO of India Cements Ltd. on the other.

The Committee recognised that this issue was not within its terms of reference but, crucially it stated that "(w)hile it is evident that the questions raised before us about conflict of interest are serious and may have large scale ramifications on the functioning of cricket, we

do not deem it proper to pronounce our opinion on this issue as it is not directly in our terms of reference. However, since several stakeholders repeatedly stressed on this issue, we thought it proper to bring this issue to the attention of this Hon'ble Court."

The Supreme Court, based on the findings of the Mudgal Committee and the contentions put forth by the CAB, held Gurnath Meiyappan and Raj Kundra to be guilty of betting. The question then arose as to whether the Supreme Court should impose a suitable punishment itself or leave it to the BCCI to carry out the necessary punishments. The Court was mindful that the power to punish Meiyappan and Kundra for misconduct did vest within the BCCI and that it did not want to thwart the BCCI's jurisdiction in this regard. At the same time, given the extensive discussion on conflict of interest, the Court concluded that in this case, the award of a suitable punishment could not be left to the BCCI.

It was then that the Court decided that it would be best to leave the awards of punishment for misconduct to an independent committee to exercise that power for and on the behalf of BCCI. This, the Court felt, would not only remove any apprehension of bias and/or influence but would also make the entire process objective. And this is how the Lodha Committee came to be.

The Lodha Committee was assigned the following tasks by the Supreme Court:

(1) Determine the quantum of punishment to be imposed against Gurnath Meiyappan and Raj Kundra; and

(2) Examine the role and involvement, if any, of Mr. Sundar Raman, Chief Operating Officer of the BCCI in the match-fixing scandal of the IPL in 2013.

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The Court then requested the Lodha Committee to examine and make suitable recommendations on the following aspects:

(i) Amendments considered necessary to the memorandum of association of the BCCI and the prevalent rules and regulations for streamlining the conduct of elections to different posts/officers in the BCCI including conditions of eligibility and disqualifications, if any, for candidates wanting to contest the elections for such posts including the office of the president of the BCCI.

(ii) Amendments to the memorandum of association, and rules and regulations considered necessary to provide a mechanism for resolving conflicts of interest should such a conflict arise despite Rule 6.2.4 prohibiting creation or holding of any commercial interest by the administrators, with particular reference to persons, who by virtue of their proficiency in the game of cricket, necessarily play a role as coaches, managers, or commentators, etc.

(iii) Amendments, if any, to the Memorandum of Association and the Rules and Regulations of BCCI to carry out the recommendations of the Probe Committee headed by Justice Mudgal, subject to such recommendations being found acceptable by the newly appointed Committee.

(iv) Any other recommendation with or without suitable amendment of the relevant Rules and Regulations, which the Committee may consider necessary to make with a view to prevent sporting frauds, conflicts of interest, streamlining the work of the BCCI to make it more responsive to the expectations of the public and to bring transparency to practices and procedures followed by BCCI.

**First report of the Lodha**

### **Committee**

The Lodha Committee in its first report dated 14 July 2015 passed the following sanctions<sup>7</sup>:

(1) The CSK Franchise and the Rajasthan Royals Franchise were suspended from playing in the IPL for a period of two years; and

(2) Gurnath Meiyappan and Raj Kundra were suspended for life for indulging in betting and bringing disrepute to the IPL as well as the sport of cricket.

The report of the Committee was submitted to the Supreme Court and accordingly, the necessary sanctions were passed against Gurnath Meiyappan and Raj Kundra and their respective franchisees.

### **Second report of the Lodha Committee**

The second report of the Lodha Committee, submitted on 4 January 2016, runs to 159 pages and covers every aspect of how the game of cricket is currently governed, and what the Committee believes, needs to be changed. One could argue that the report of the Lodha Committee contains a blueprint, not just for a revamp of the administration of the BCCI's affairs and the game of cricket in India, but also for administration of sport in India in general.

Some of the key recommendations made by the Lodha Committee:

(1) Decentralisation of Governance of the BCCI: An Apex Council that can exercise all crucial powers and functions hitherto bestowed exclusively on the President of the BCCI, has been mooted;

(2) Appointment of a Professional Management Team: A distinction has been made between 'cricketing' and 'non-cricketing' matters, with cricketing matters being left exclusively to ex-cricketers, while a professional

team headed by a CEO would be responsible for all non-cricketing, operational and logistical matters;

(3) Establishing an Independent Players' Association: India is the largest cricket-playing nation in the world today, and yet the BCCI has not allowed the establishment of a Players' Association that could voice the concerns of players on a range of issues;

(4) Registration of Player Agents: The Committee has mooted norms for the registration of Player Agents, in a move that is widely acknowledged as being necessary to protect the interests of otherwise ill-informed players; and

(5) Redressal of Conflicts of Interest: The Committee has, for the first time, spelt out specific types of conflict of interest, and applied them to individuals employed with, or connected to the BCCI. The Committee has also recommended the appointment of an Ethics Officer, who would be responsible for administering the policy as regards conflicts of interest for the BCCI.

### Are these recommendations binding on the BCCI?

Most judicial observers agree that the recommendations outlined in the second report of the Lodha Committee are just that: recommendatory. However, given the extent of judicial intervention that has preceded the establishment of the Lodha Committee, it would not be surprising if these recommendations are accorded judicial sanctity. For one, the Lodha Committee has taken pains to ensure that every recommendation has been based on sound judicial principles and/or best practices in sports governance adopted in countries outside India and across different sports. It is this author's considered view that the BCCI would be hard pressed to



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challenge the principle behind most, if not all, of the recommendations. Further, the argument of judicial overreach in the BCCI's affairs has already run its course. Implicit in the Supreme Court's order in the *Srinivasan* case was an understanding that there were several flaws in the BCCI's governance structure, which needed to be remedied, and the Supreme Court obviously felt that an independent committee was best placed to recommend such remedies, and that the BCCI was not to be allowed an opportunity to set its house in order.

In the second part of this article I will analyse the recommendations made in the second report of the Lodha Committee and the potential 'transformative effect' that such recommendations may have on sports administration in India.

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1. See the full text of the second report submitted by the Lodha Committee to the Supreme Court, available at: <https://lodhacommittee.wordpress.com/2016/01/04/report-on-cricket-reforms/>
2. See the Supreme Court of India's judgment in *Board of Control for Cricket in India v. Cricket Association of Bihar and Ors*, available at [http://supremecourtindia.nic.in/FileServer/2015-01-22\\_1421928541.pdf](http://supremecourtindia.nic.in/FileServer/2015-01-22_1421928541.pdf)
3. See Paragraph 8 of the Supreme Court's Judgment in *Board of Control for Cricket in India v. Cricket Association of Bihar and Ors*, available at [http://supremecourtindia.nic.in/FileServer/2015-01-22\\_1421928541.pdf](http://supremecourtindia.nic.in/FileServer/2015-01-22_1421928541.pdf)
4. The Bombay High court in its judgment held that the probe commission was not duly constituted and was contrary to the provisions of Rules 2.2 and 3 of Section 6 of the IPL Operational Rules.
5. See Paragraph 9 of the Supreme Court's Judgment in *Board of Control for Cricket in India v. Cricket Association of Bihar and Ors*, available at [http://supremecourtindia.nic.in/FileServer/2015-01-22\\_1421928541.pdf](http://supremecourtindia.nic.in/FileServer/2015-01-22_1421928541.pdf)
6. See Paragraph 11 of the Supreme Court's Judgment in *Board of Control for Cricket in India v. Cricket Association of*

Bihar and Ors, available at [http://supremecourtindia.nic.in/FileServer/2015-01-22\\_1421928541.pdf](http://supremecourtindia.nic.in/FileServer/2015-01-22_1421928541.pdf)  
7. See the full text of the first report submitted by the Lodha Committee to the Supreme Court, available at: <https://lodhacommittee.wordpress.com/2015/12/30/part-one-meiyappan-kundra-csk-rr/>