

ITEM NO.6

COURT NO.4

SECTION XIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 34373/2014

(Arising out of impugned final judgment and order dated 29/11/2014 in FA No. 158/2001 passed by the High Court of orissa at cuttack)

ORISSA OLYMPIC ASSOCIATION TH.GEN.SECRETARY Petitioner(s)

VERSUS

STATE OF ORISSA AND ANR Respondent(s)

(With appln.(s) for permission to place on record expert opinion and audit report and permission to file additional documents and interim relief and office report)

Date : 09/03/2016 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
 HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Gopal Subramaniam, Sr. Adv.
 Mr. Raju Ramachandran, Sr. Adv.
 Mr. Dayanand Mahapatra, Adv.
 Mr. Raghavendra S. Srivatsa, AOR
 Mr. Rahat Bansal, Adv.
 Mr. Gaurav Khanna, Adv.

For Respondent(s) Mr. Ashok Panigrahi, AOR
 Mr. Surajit Bhaduri, Adv.
 Mr. Santosh Kumar, Adv.
 Mr. Om Swarup, Adv.

 Mr. M.P. Gupta, Adv.
 Mr. r.r. Rajesh, Adv.
 Ms. Anil katiyar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

This Court on 8.10.2015 had passed a long order touching various aspects, the relevant part of the order for the purpose of delineation today reads as follows :

"We will be failing in our duty, if we do not take note of the submissions advanced by Mr. Gopal Subramaniam, learned senior counsel appearing for the petitioner to the effect that though the petitioner will be filing its objections to the report submitted by the Accountant General, there is a fundamental fallacy that the said authority has not taken into consideration the effect of capital acquisition of assets by the Orissa Olympic Association. Learned senior counsel would submit that the said stand will withstand close scrutiny, if in the ultimate eventuate, the right, titled and interest of the Association is established in respect of the disputed 23 shops and the Kalyan Mandap. Needless to say, the said aspect shall be addressed to when we deal with the report of the Committee that has been submitted on 29.09.2015.

At this juncture, Mr. Panigrahi, learned counsel for the State has read out a passage from the impugned judgment which is quite shocking if it is factually correct. Submission of Mr. Panigrahi is that the stand of the Orissa Olympic Association had invested the money for the benefit of the association is an absolute myth, for one of the partners of the M/s. INCON Associates is the son of the General Secretary of the petitioner-Association before this Court. Hence, submits Mr. Panigrahi, the arrangement was so made with the sole purpose of benefiting M/s. INCON Associates. This aspect requires to be seriously dwelt upon, for there is a conflict of interest and it may enter into the realm of fiscal impropriety."

Be it noted, we have been apprised by Mr. Panigrahi, learned counsel for the respondent, that two partners of M/s. INCON Associates are son and son-in-law of Mr. Asirbad Behera, General Secretary of the Orissa Olympic Association. The said fact is disputed by Mr. Gopal Subramaniam, learned senior counsel being instructed on behalf of the petitioner.

However, as far as the son is concerned, the said factum is established. We may hasten to add that Mr. Subramaniam, learned senior counsel would submit that there is no malfeasance or

misfeasance and there were circumstances for which tender was floated and the firm came in. Learned senior counsel submitted that when the contract was entered into for the first time in 1998, the son was not a partner. In reply, Mr. Panigrahi would submit that he was inducted as a partner at a later stage.

Be that as it may, prima facie, the conflict of interest is manifest. Regard being had to the facts and circumstances of the case, we direct that Mr. Asirbad Behera, General Secretary of the Orissa Olympic Association is restrained from functioning as the Secretary of the Association till the next date of hearing. Needless to say, this is without prejudice to the contentions to be raised in the special leave petition.

Let the matter be listed on 13.04.2016 for further hearing at 2.00 p.m.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master