

**K.L.Balaji Vs. Unknown**

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**SooperKanoon Citation :** [sooperkanoon.com/964929](http://sooperkanoon.com/964929)

**Court :** Chennai

**Decided On :** Jan-11-2013

**Judge :** Vinod K.Sharma

**Appellant :** K.L.Balaji

**Respondent :** Unknown

**Judgement :**

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED:

11. 01/2013 CORAM THE HON'BLE MR.JUSTICE VINOD K.SHARMA OA.20 of 2013 K.L.BALAJI FOR PETITIONER : GANTHIMATHI FOR RESPONDENT : ORDER: O.A.No.20 of 2013 in C.S.No.19 of 2013 VINOD K.SHARMA,J., The plaintiffs/applicants have filed suit for declaration and injunction, challenging the order, placing the plaintiffs under suspension from the membership of Tamil Nadu Cricket Association.

2. Along with the suit, the plaintiffs/applicants have moved this application under Order XIV Rule 8 of O.S.Rules r/w Order XXXIX Rules 1 & 2 of the Code of Civil Procedure, for interim injunction from from enforcing the order of suspension.

3. The order of suspension reads as under: "Sirs, In the Executive Committee Meeting of the Tamil Nadu Cricket Association held on 10th August, 2012, your petition to the Chief Secretary, Government of Tamil Nadu dated 27th March, 2012 was discussed. The Executive Committee was unanimous that action should be

taken against all of you for having acted against the interest of the TNCA. Now, it has been decided that the disciplinary action will be taken against you as per the rules and bye-laws. Meanwhile, it has also been decided by the Executive Committee today to suspend your respective memberships' pending the disciplinary action. Therefore all your rights and privileges as Member of the TNCA stand withdrawn. Yours truly, Sd/- (K.S.Viswanathan) Hon Secretary" 4. Learned Senior Counsel appearing on behalf of the plaintiffs/applicants vehemently contends, that the plaintiffs/applicants as members of Tamil Nadu Cricket Association raised bonafide grievance to the Chief Secretary against irregularities committed by the respondent, which cannot be the ground to suspend members from the Association or take any action against members on this account.

5. Learned Senior Counsel also referred to Rule 14 of the Tamil Nadu Cricket Association, to contend that defendant did not follow the procedure laid down for taking action against members, therefore, the impugned order prima facie is not sustainable in law.

6. The Rule 14 of Tamil Nadu Cricket Association reads as under: "14. GENERAL CONDUCT OF MEMBER (a) The Executive Committee shall have the power to suspend or expel any affiliated Club/District Association who in their opinion merit such treatment, subject to confirmation by the General Body at the next Special Meeting. (b) If any Member wilfully refuses or neglects to comply with any provision of the rules by laws or shall be guilty of such conduct as the committee may consider like to endanger the harmony or affect the character, stability or interest of the Association, the Committee may, after giving a reasonable opportunity to the member of being heard, recommend the expulsion of such member to General Body, which after giving opportunity to the member concerned of being heard in a specially convened General Meeting, may expel him or the Club-District Association concerned if two thirds of those present and voting are in favour of such expulsion. Such meetings shall be held within 60 days from the date of recommendation by the Executive Committee for expulsion. (c) No affiliated Club/District Association shall arrange any fixtures with any Club/District Association which is under suspension or has been expelled from the Association and no Club/District Association shall include in its team any individual member

who is under suspension or who has been expelled from the Association and no such member shall play for any Club/District Association which is a Member. (d) A Member desiring to resign from the Association shall, in writing, inform the Hon.Secretary. The Committee may accept the resignation provided no amount is due by the Member so resigning. The General Body may also inflict such lesser punishment as they deem fit." 7. The contention of learned Senior Counsel therefore is that in terms of Rule 14(b), it is pre-requisite for the defendant to give reasonable opportunity to the members and thereafter to recommend the expulsion of such member to General Body, who again is required to give notice to the member concerned.

8. The contention of learned Senior Counsel also is that the order of suspension is without jurisdiction, inasmuch as the power to expel a member is only with the General Body and not with the Executive Committee, therefore suspension order could not be passed by the Executive Committee in absence of any provision.

9. It is also the contention, that the inherent power to suspend can only be exercised by the General Body and not by the Executive Committee, besides the fact, that the order is outcome of malafide of members of Executive Committee. However, no member has been impleaded or named as party to the suit.

10. The reading of Rule 14 clearly shows, that before recommending expulsion, it is necessary for the Executive Committee to issue show cause notice, and thereafter make recommendation to the General Body.

11. The impugned order, therefore, is prima facie contrary to the Rules. The plaintiffs/applicants have been able to make out prima facie case. The balance of convenience is also in favour of the plaintiffs/applicants, as the members are likely to suffer irreparable loss, as they will be debarred to participate from the activities of the Association.

12. Notice of this application is issued to the respondent for 24.01.2013.

13. In the meantime, the respondent / defendant is enjoined from giving effect to the order of suspension. 11.01.2013 Index: Yes / No Internet: Yes / No ar Note:

Issue order copy on 21.01.2013. VINOD K.SHARMA.J., ar O.A.No.20 of 2013 in C.S.No.19 o

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