

Bill No. 56 of 2016

THE NATIONAL SPORTS ETHICS COMMISSION BILL, 2016

By

SHRI ANURAG SINGH THAKUR, M.P.

A

BILL

to provide for the constitution of a National Sports Ethics Commission to ensure ethical practices and fair play in sports including elimination of doping practices, match fixing, fraud of age and sexual harassment of women in sports and for matters connected therewith or incidental thereto.

WHEREAS the United Nations in its resolution 58/5 adopted by the General Assembly on the 3rd day of November, 2003 recognizes sport as a means to promote education, health, development and peace:

AND WHEREAS the International Convention adopted on the 19th day of October, 2005 at Paris provides for action against doping in sports and India ratified the said Convention on the 10th day of September, 2007.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the National Sports Ethics Commission Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "athletic competition" means any sports competition at local, national or international level in which sportsperson compete;

(b) "coach" means a person or a group of persons engaged in imparting training to, and promotion of professional skills of, a sportsperson;

(c) "eminent athlete" means an athlete who has either won an Olympic Medal, Asian Games Medal, a World Cup/World Championship medal or a Commonwealth Games Medal in an Olympic or non-Olympic sport;

(d) "executive body" means a group of elected Office bearers and members including nominees of the Federation Committee, by whatever name called, who collectively manages and controls the affairs of a Sports Federation;

(e) "Federation Committee" means a Federation Ethics Committee to be constituted by every Sports Federation under section 3;

(f) "National Commission" means the National Sports Ethics Commission constituted under section 6;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "sportsperson" means a person who participates in sports;

(i) "Sports Federation" means—

(a) a federation recognised by the International Olympic Committee in respect of an Olympic sport;

(b) a federation which regulates the sport at international level in respect of non-Olympic sports;

(c) any other federation which regulates any other sport internationally; and

(d) any other sports federation recognised by the Central Government.

CHAPTER II

ESTABLISHMENT AND FUNCTIONS OF BODIES

Constitution of the Federation Ethics Committee.

3. (1) Every Sports Federation shall, within six months of the coming into force of this Act, frame its own rules for constituting, by election or nomination, a Federation Ethics Committee.

(2) The Federation Committee shall consist of elected members, coaches, eminent athletes and such other persons which the executive body may deem appropriate.

(3) The Federation Committee shall be constituted within six months of the framing of rules under sub-section (1).

(4) The term of the members of the Federation Committee shall be for four years from the date of election or nomination or attainment of age of seventy years, whichever is earlier.

(5) A member of the Federation Committee shall not be eligible for the re-election or re-nomination.

(6) Every Sports Federation shall, within one year of the coming into force of this Act, evolve a mechanism for receiving complaints and removal of a member of the Federation Committee.

4. (1) Every Federation Committee shall, within one year from the date of its constitution, frame a Code of Ethics comprising rules and regulations for prevention, monitoring and detection of unethical practices in sports and offences under this Act. Functions of the Federation Committee.
- (2) Every Federation Committee shall submit the evidence and its report thereon in regard to any offence committed by its sportsperson to the National Commission within such time as may be provided for in its Code of Ethics.
5. Every Federation Committee shall submit an annual report to the National Commission in respect of its functioning, precautionary initiatives and such other matters as the National Commission may specify. Annual reporting by Federation Committee.
10. **6. (1) The Central Government shall, within six months from coming into force, constitute a National Sports Ethics Commission for enforcing the Code of Ethics and adjudicating upon offences referred to in Chapter III.** Constitution of the National Sports Ethics Commission.
- (2) **The National Commission shall consist of six members to be appointed by the Central Government in such manner, as may be prescribed:**
15. **Provided that four members of the National Commission shall be appointed by the Central Government from amongst persons, who have been Judges of the Supreme Court or a High Court in consultation with the Chief Justice of India or his nominee Judge.**
7. (1) The National Commission shall sit in Benches of three members. Seat and Benches of the National Commission.
- (2) Every Bench shall have two judicial members and shall be presided over by such judicial member as the Chief Justice of India may specify.
20. (3) The term of the members of the National Commission shall be for four years from the date of appointment or attainment of the age of seventy years, whichever is earlier.
- (4) A member of the National Commission shall not be eligible for re-appointment.
- (5) No member of the National Commission, after serving as a member, shall be entitled to seek any position or benefit in any Sports Federation.
25. (6) **The salary and allowances payable to and the other terms and conditions of service of the members of the National Commission shall be such as may be prescribed.**
- (7) A member shall, while discharging his duties, be governed by the conduct rules applicable to the members of the Union Public Service Commission to the extent that such rules are not inconsistent with the provisions of this Act.
30. **8. (1) The head office of the National Commission shall be in New Delhi and the National Commission may establish branch offices at such other places, as it may deem necessary.** Office and staff of the National Commission.
- (2) **The National Commission shall have a Secretariat with such number of officers and staff as may be required for carrying out the purposes of this Act.**
- (3) **The salary and allowances payable to and other terms and conditions of service of officers and staff of the Secretariat shall be such as may be prescribed.**
- (4) **The National Commission may engage experts in the field of sports on a contract basis for a period not exceeding three years at a time and on such terms and conditions as the Central Government may prescribe.**
40. **9. (1) No member of the National Commission shall be removed from his office except in accordance with the provisions of this section.** Removal of members of the National Commission.
- (2) The Central Government may, by order, remove from office any member, if he—
- (a) has been adjudged an insolvent by the competent court; or
45. (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his function; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has been guilty of proven misbehaviour; or

(g) has failed to discharge his duties.

(3) No member shall be removed from his office unless a recommendation to this effect is made by the Chief Justice of India in case of a judicial member and by the Central Government in case of a non-judicial member:

Provided that no member shall be removed from his office on a ground specified in clauses (d), (e), (f) or (g) of sub-section (2) unless an enquiry has been conducted for this purpose and the member has been given an opportunity to defend himself.

Duties and
functions of
National
Commission.

10. (1) The National Commission shall exercise, perform and discharge its powers, functions and duties reasonably with fairness, impartiality and independence and in a manner that is timely, transparent, proportionate, accountable and consistent with this Act and the applicable laws.

(2) The National Commission may—

(i) *suo motu* order report from a Sports Federation against any sportsperson regarding commission of any offence under this Act;

(ii) frame guidelines for structure of annual reports and other documents expected from Federation Committee; and

(iii) order any Sports Federation to amend its Code of Ethics if, in the opinion of the National Commission, it is not in consonance with the laws and principles enshrined in this Act or the Constitution of India.

(3) The National Commission shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely, for:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of section 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing an application for default or deciding it, *ex-parte*;

(h) setting aside any order of dismissal of any application for default or any order passed by it, *ex-parte*; and

(i) any other matter which may be prescribed.

Transfer of
pending case.

11. (1) All civil cases in which Sports Federations have been impleaded as party and pending adjudication before any court or authority other than a High Court or the Supreme Court shall, immediately before the date of Constitution of National Commission, stand transferred to the National Commission.

(2) Any case pending adjudication before a High Court except a case under article 226 or 227 of the Constitution of India, in which a Sports Federation is a party, may, with the leave of the Court, be transferred to the National Commission.

(3) The cases transferred to the National Commission under sub-section (1), shall be heard and adjudicated from the stage at which such case was pending in the court or the authority, as the case may be, unless the National Commission is of the opinion that such case needs to be heard afresh.

12. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the National Commission is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Bar on jurisdiction of a civil court.

13. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law, and appeal shall lie against any order, not being an interlocutory Order, of the National Commission to the High Court or the Supreme Court on one or more of the grounds specified in section 100 of that Code.

Appeal to High Court and Supreme Court.

(2) No appeal shall lie against any decision made by the National Commission with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the decision of the National Commission:

Provided that the Supreme Court or a High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

14. (1) An order passed by the National Commission under this Act shall be executable as a decree of civil court, and for this purpose, the National Commission shall have all the powers of a civil court.

Orders passed by the National Commission to be executable as decree.

(2) Notwithstanding anything contained in sub-section (1), the National Commission may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

CHAPTER III

OFFENCES AND PENALTIES

15. (1) The provisions of this Chapter shall be in addition to, and not in derogation of the provisions of any other law providing for prosecution for offences thereunder.

Power to frame guidelines.

(2) The Code of Ethics referred to in section 4 shall be made by Federation Committee in accordance with the guidelines of the National Commission.

16. (1) Without prejudice to any provisions of law, judgement of court or rules made by the Central Government to prohibit sexual harassment, any person including a member of any sports federation, a coach or a sportsperson, who has been found guilty of sexual harassment, shall be debarred by the Sports Federation from participating in any existing or future sports event in any capacity, whether as a member of any Sports Federation or coach or sportsperson or otherwise.

Penalty for sexual harassment.

(2) The National Commission shall ensure that all Sports Federations follow the guidelines framed under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

14 of 2013.

17. (1) For the purpose of this section 'match fixing' means—

Penalty for match fixing.

(a) instances where an individual sportsperson or coach or member or Sports Federation or a group of them receives money individually or collectively to underperform;

(b) instances where an individual sportsperson or coach or member of Sports Federation or a group of them places bets in athletic competitions in which they play or influence decision that shall naturally undermine the performance;

(c) instances where an individual sportsperson or coach or member of Sports Federation or a group of them passes information to a betting syndicate about team composition, probable result or any other insider information regarding the sports;

(d) instances where grounds men are given money to prepare a pitch in a way which suited the betting syndicate; and

(e) instances where former or current individual sportsperson or coach or member of Sports Federation or a group of them are used by bookies to gain access to Indian and foreign players to influence their performance for a monetary consideration.

(2) Without prejudice to any provisions of law, judgement of court or rules made by the Central Government, any person including a member of any Sports Federation, a coach or a sportsperson, who has been found guilty of match fixing, shall be debarred by the Sports Federation from participating in any existing or future sports event in any capacity, whether as a member of any Sports Federation or coach or sportsperson or otherwise.

(3) Any person found guilty of match fixing shall be punished with rigorous imprisonment for a term which shall not be less than ten years and or with fine which shall be five times the amount involved in the match fixing.

Penalty for false age or gender.

18. (1) Any sportsperson, his guardian, a coach or a member of Sports Federation who withholds the information regarding true age or gender of a sportsperson shall be—

(i) punished with rigorous imprisonment for a term which shall not be less than six months and with a fine of one lakh rupees; and

(ii) debarred by the Sports Federation from participating in any existing or future sports event in any capacity, whether as a member of any sports federation or coach or sportsperson or otherwise.

(2) Any sportsperson, not being minor, along with the guardian, coach or member of Sports Federation who internationally allows that sportsperson to participate in an athletic competition, which is not suitable for the age or gender of that sportsperson shall be—

(i) punished with imprisonment for a term which shall not be less than one year and with fine of five lakh rupees; and

(ii) debarred by the Sports Federation from participating in any existing or future sports event in any capacity, whether as a member of any sports federation or coach or sportsperson or otherwise.

Penalty for doping.

19. (1) Any sportsperson, who under this discretion or under the influence of a coach or a member of Sports Federation, indulges in substance abuse or any form of doping as specified in the Code of Ethics of Sports Federation, and the Coach or the member of Sports Federation who influenced the sportsperson, shall be—

(i) punished with rigorous imprisonment for a term which shall not be less than ten years and/or with a fine of ten lakh rupees; and

(ii) debarred by the Sports Federation from participating in any existing or future sports event in any capacity, whether as a member of any Sports Federation or coach or sportsperson or otherwise.

Penalty for wilful failure to comply with orders of Commission.

20. (1) Any sportsperson or coach or member of Sports Federation or any other person, who willfully fails to comply with the order of the National Commission, shall be punished with fine which may extend upto one lakh rupees and in case of a second offence with fine which may extend upto two lakh rupees and in the case of continuing contravention with additional fine which may extend upto twenty thousand rupees for each day during which such default continues.

(2) Where the National Commission is of the opinion that an application before it is frivolous or *mala fide*, it may impose a fine on the applicant which shall not be less than ten thousand rupees but which may extend upto one lakh rupees.

(3) The National Commission may award costs of litigation to a party.

CHAPTER IV
MISCELLANEOUS

21. No suit, prosecution or other legal proceedings shall lie against any person or authority for anything which has been done or intended to be done in good faith under this Act or the rules made thereunder. Protection of action taken in good faith.
22. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty: Power to remove difficulties.
- 10 Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.
- (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.
23. (1) The Central Government may, by notification in the Official Gazette, make rules Power to make rules.
- 15 for carrying out the purposes of this Act.
- (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid,
- 20 both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Recently, corruption and match fixing charges were thrown up in Indian cricket and other sports by multiple players. It was only about a few years back, when the racket of 'match fixing' in Indian cricket came to fore when eminent players were all charged with 'fixing' the matches. The concerned players are currently charged under inappropriate sections of Dishonesty and Cheating under Indian Penal Code, 1860 as well as the Prevention of Corruption Act, 1988 which do not apply to their profession. Although action against players were taken by Sports Federations and they have been banned for life, there is still an issue because there is nothing in any of the Indian law which bring match fixing and such offences under specific criminal law. There are other latches and loopholes for cases of false age or gender or doping charges and there is an urgent need to check such offences under the legal system.

United Nations in its resolution 58/5 adopted by the General Assembly on the 3rd November, 2003 has recognized sport as a means to promote education, health, development and peace. The International Convention adopted on the 19th October, 2005 at Paris provides for action against doping in sports and India ratified the said Convention on the 10th September, 2007. The Bill fulfils the purpose of fair play, conducive environment for sports and justice to those wronged by others.

Hence this Bill.

NEW DELHI;
February 10, 2016.

ANURAG SINGH THAKUR

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for establishment of a National Sports Ethics Commission. Clause 8 provides for establishment of offices, Secretariat and staff of the Secretariat of the Commission. It also provides for engagement of experts on contractual basis. Clause 21 provides that all sums realised by way of penalties shall be credited to the Consolidated Fund of India. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty crore per annum.

A non-recurring expenditure of about rupees twenty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill provides for engagement of experts on a contractual basis. Clause 10 empowers the National Sports Ethics Commission to frame guidelines. Clause 23 empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules relate to matters of details only, the delegation of legislative power is of normal character.

LOK SABHA

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BILL

to provide for the constitution of a National Sports Ethics Commission to ensure ethical practices and fair play in sports including elimination of doping practices, match fixing, fraud of age and sexual harassment of women in sports and for matters connected therewith or incidental thereto.

(Shri Anurag Singh Thakur, M.P.)