

Dr.Vivek Venkataswamy Gaddam/G.Vivekanand, Serial No. 148 in the voter list had filed two nominations (with two names) for the post of President, HCA.

Nominations were taken up for scrutiny along with other nominations at the appointed time namely 5:00pm onwards on 21.09.2019.

Md. Azharuddin, one of the contesting candidates for the post of President raised objection to the nomination of Dr.Vivek Venkataswamy Gaddam / G.Vivekanand.

He had also filed a copy of the orders of the Ombudsman, HCA dated 08.03.2018. He had contended that the Ombudsman of HCA had given verdict of conflict of interest viz-a-viz Dr. G.Vivekanand during his tenure as President of HCA on account of the commercial contract between M/s. Visaka Industries of which he is a Director and HCA. He also stated that the said order of the Ombudsman dated 08.03.2018 had not been stayed or suspended by the Hon'ble High Court for the State of Telangana and for the State of Andhra Pradesh at Hyderabad so far. Therefore he contended that the candidate is in disqualification. He argued that *"Dr.G.Vivekanand cannot be allowed to participate in the elections of Hyderabad Cricket Association and his nomination shall be rejected"*.

His objection was contested by R.Rajanikanth, Advocate who represented the candidate Dr. G. Vivekanand during scrutiny. The contention of the advocate for the candidate is that the conflict of interest if, at all, was only for the last spell of office of Dr. G. Vivekanand and it cannot operate as disqualification for contesting the elections in 2019. Dr. K. Anil Kumar another candidate for the office of President HCA also supported the contention of the advocate and argued that the objection is not sustainable and his nomination should be accepted. As it is a case relating to the former President of HCA relevant records are available in the organization as well as in the public domain. It is a fact that the Hon'ble Ombudsman, HCA in his order in case no. 3 of 2018 & 4 of 2018 dated 08.03.2018 had given a clear finding of "Conflict of Interest" viz-a-viz Dr.G.Vivekanand, the then President of HCA on account of the commercial contract between M/s. Visaka Industries of which he is a Director, and HCA. Therefore the Ombudsman had declared that he stands disqualified from holding the office of the president of the HCA. It is also noticed that when Dr. G. Vivekanand had approached the Single Judge Bench of Hon'ble High Court for the State of Telangana and for the State of Andhra Pradesh at Hyderabad, the Hon'ble Judge in WP No. 8433 of 2018 had given relief as follows, by suspending the orders of Ombudsman.

"Admittedly, the petitioner herein has been functioning as President of the Association since 31.03.2017 and all the above aspects raised by the learned counsel for petitioner and the learned Advocates for respondents need to be examined in

detail after filing counter affidavits. In the considered opinion of this Court, balance of convenience is in favour of the petitioner.

In view of the same, there shall be interim suspension as prayed for.”

The matter was further taken up in Writ Appeals, W.A. No. 544 of 2018 and 545 of 2018 of Hon'ble High Court for the State of Telangana and for the State of Andhra Pradesh at Hyderabad. While setting aside the orders of Single Judge Bench, the Division Bench has recorded the conclusion.

“For the reasons, aforementioned, the order of the learned Single Judge, in I.A. No.1 of 2018 in W.P. No.8433 of 2018 dated 15.03.2018, is set aside, and I.A. No. 1 of 2018 is restored to file. It is open to the Learned Counsel, appearing on behalf of the respondent – writ petitioner, to request the Learned single Judge to take up I.A. No. 1 of 2018 out of turn, and to consider grant of interim relief we have no reason to doubt that, on such a request being made, the Learned Single Judge would give it, its due consideration. We make it clear that we have not expressed any opinion on the validity or otherwise of the order dated 08.03.2018 passed by the Learned Ombudsman-cum Ethics Officer, and all questions relating thereto shall be examined by the Learned Single Judge on its merits and in accordance with law.”

From the above sequence of events, it is clear that the finding of conflict of interest and consequential, disqualification of Dr.G.Vivekanand subsists even now.

Regarding the contention of the Advocate Sri R.Rajanikanth and Dr.Anil Kumar that the disqualification, if at all will operate only for the last spell of office and is not a bar to contest the present election, their attention was drawn to the following provision in Rule 41(4) of Chapter –IX “Ombudsman” of Memorandum of Association and Rules and Regulations – 2018.

“Any Administrator, Player, Match Official, Team Official, Selector or other individual associated with the HCA on being found guilty and expelled by the HCA shall forfeit all their rights and privileges.

He or she shall not in future be entitled to hold any position or office or be admitted in any committee or any role on the HCA”.

It is also noticed that the term ‘Administrator’ is defined in Rules and Regulations Chapter – I in Definitions, I (A) 1(a) as follows.

“Administrator” shall mean and include present and former Presidents, Vice Presidents, Honorary Secretaries, Honorary Treasurers, Honorary Joint Secretaries of the HCA, past and present Presidents and Secretaries of Members affiliated to the HCA, a representative of a Member of the HCA, and any person connected with the governance and Management of the affairs of the HCA or of its Committees.”

From the above it is clear that the bar of disqualification is not limited only to the last spell of office of Dr. G. Vivekanand, When the Ombudsman of HCA gave his ruling

of Conflict of Interest, but continues in future also, including the current spell, and applies to the election to be held on 27th September, 2019.

Under the above said submissions, both the nominations of Dr.Vivek Venkataswamy Gaddam/ G.Vivekanand stand rejected in scrutiny.

V.S. Sampath
Electoral Officer
Hyderabad Cricket Association