

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 22903 OF 2024**

Kavin Kartik & Ors. ...Petitioners
Vs.
The Board of Control for Cricket in India ...Respondent

**WITH
INTERIM APPLICATION (L) NO. 28986 OF 2025**

Mr. Kunal Cheema a/w Datta Mane for the Petitioners.

Dr. Birendra Saraf, Senior Advocate a/w Ankit Lohia, Ranjit Shetty,
Tejas Gokhale i/by Argus Partners for the Respondent.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 26 September 2025

P.C.:-

1. Heard Mr. Kunal Cheema for the Petitioners and Mr. Ankit Lohia for the Respondent-BCCI.
2. The Petitioners challenge BCCI's resolution adopted in its meeting held on 18 December 2023, which has the effect of not allowing the Petitioners, who are OCI cardholders, to play in domestic tournaments in India.
3. The impugned resolution reads as follows: -

“6. ITEM 4: TO CONSIDER ANY OTHER BUSINESS WHICH THE

***CHAIRPERSON MAY CONSIDER NECESSARY TO BE INCLUDED
IN THE AGENDA.***

(a) Documents for eligibility criteria: Mr. Abey Kuruvilla, GM-Game Development apprised the members that currently many players are playing in domestic tournaments in India despite not having an Indian passport and solely with an OCI card. This implies that players are able to play in India without having Indian citizenship. It is therefore proposed that players must have Indian passport to participate in domestic tournaments in India. The members deliberated on the suggestion and approved the same.”

4. Mr Cheema submits that the above decision is manifestly arbitrary because until last year, OCIs were allowed to play in domestic tournaments. He points out that the Petitioners, without prejudice to their contention, have applied for Indian citizenship, but the applications are pending.

5. Mr. Cheema relies on the decision of the High Court of Punjab and Haryana in the case of ***Sorab Singh Gill Vs. Union of India & Ors.***¹ to submit that in similar circumstances, the OCIs were granted relief even to represent at the national level. He fairly pointed out that the Union of India appealed this matter, but the Appeal was disposed of as infructuous, keeping the question of law open.

6. Mr. Cheema also relied upon a decision of the Hon’ble

¹ AIR 2010 P&H 83

Supreme Court in the case of *Anushka Rengunthwar & Ors. Vs. Union of India & Ors.*² in the context of OCIs participation in the NEET and securing admissions in educational institutions. He submitted that the Hon'ble Supreme Court found fault with the retrospective application of the notification barring NRIs or OCIs.

7. Mr Cheema submitted that the right to play sport is a part of personality development as envisaged under Article 21 of the Constitution of India. He submitted that the impugned resolution contravenes Articles 14 and 21 of the Constitution of India.

8. Mr. Cheema relied upon *Dorab Cawasji Warden Vs. Coomi Sorab Warden & Ors.*³ to submit that if an interim mandatory injunction is in fact not granted, then the Petitioners will suffer irreparable prejudice which cannot be compensated in terms of money. He submitted that the Petitioners have made out a case of manifest arbitrariness; therefore, the prayer for an interim mandatory injunction may now be considered.

9. Mr. Lohia learned counsel for the BCCI submitted that for the present, only Indian nationals are considered for selection into the national team to represent India. He submitted that the selections are usually from among the players participating in the domestic tournaments. He therefore submitted that the BCCI, in its collective wisdom, has resolved that even participation in domestic tournaments should be restricted to Indian nationals.

² (2023) 11 SCC 209

³ (1990) 2 SCC 117

10. Mr Lohia pointed out that the OCIs were informed that they could obtain Indian citizenship, and then, there would be no difficulties to their participation. Some of the Petitioners did apply for Indian citizenship, but if they have not obtained the same, there is no question of their participation as provided in the impugned resolution. He submitted that this is a collective decision of the Board, which comprises experts in this area. He submitted that no case of manifest or arbitrariness is made out, and the arguments, now advanced, do not even make out any prima facie case, much less a case of a standard higher than a prima facie case as warranted in the decision of *Dorab Cawasji Warden* (supra).

11. Mr Lohia pointed out that the impugned decision was taken on 18 January 2023, and at this point in time, no ad interim relief of a mandatory nature, which would have the effect of virtually granting the reliefs in the Petition, may be granted. He also submitted that the decisions of the Punjab and Haryana High Court or the Hon'ble Supreme Court were in a context not comparable to the context of the present matter.

12. Rival contentions now fall for our determination.

13 At this stage, we are only concerned with whether the Petitioners have made out any case for the grant of interim relief in a mandatory form.

14. The locus classicus on the above subject is the decision in the case of *Dorab Cawasji Warden* (supra), upon which learned counsel for both parties relied. In this case, the Hon'ble Supreme

Court has held that the Courts have the power to grant an interim mandatory injunction, but before that, the Court should be satisfied that there is a strong probability of the Petitioners securing the relief prayed for in the Petition. Notably, the Petitioners' case should be of a higher standard than the prima facie case normally required for a prohibitory injunction.

15. Today, we are concerned with the decision of the BCCI, which is held not to be a State, under Article 12 of the Constitution of India. However, when the BCCI discharges public functions, it would be amenable to the writ jurisdiction of a Constitutional Court. One of the issues is whether the BCCI, when regulating domestic tournaments as opposed to international-level tournaments, is discharging any public functions.

16. Even if we proceed on the premise that the BCCI is discharging public functions, we do not think that a case of manifest arbitrariness has been made out, warranting the grant of the extraordinary relief of an interim mandatory injunction. The BCCI has reasoned that ultimately its objective is to select players for the national team. They have further stated on affidavit that only Indian nationals are selected for the national team. Therefore, there is no question of allowing those who are not Indian nationals or citizens of India to participate in domestic tournaments, as it is only Indian citizens who can ultimately form the pool for selection to the national team.

17. Mr Cheema submitted that the petitioners are not

claiming any right to be selected at the national level. However, the selection of petitioners at the domestic tournament level might come at the cost of an Indian Citizen player, who will then miss an opportunity to be considered at the international level.

18. At this stage, we are not exactly sure whether the approach of the BCCI is correct or not. Much would be said on both sides. The observations in the decision of the Punjab and Haryana High Court do, to some extent, help the Petitioners. However, this does not necessarily mean that a case of manifest arbitrariness has been established or that a case of a standard higher than a normal prima facie case has been made out by the Petitioners. Grant of the relief now claimed could virtually amount to allowing the Petition.

19. At this stage, we are not fully apprised of the impact that such an order would have on players, who are already Indian nationals. Because allowing the Petitioners to participate in domestic tournaments would, to some extent, be at a cost of the Indian nationals, who would then proportionately not find a place in the team as prima facie observed above.

20. At this stage, all that we say is that a case of prima facie manifest arbitrariness has not been made out. A case with a standard higher than the normal prima facie case has not been established. The question of irreparable prejudice cannot be considered only from the perspective of the Petitioners. The decision of the Hon'ble Supreme Court in the case of NEET participation cannot be compared to the fact situation in the present case. The

decision of the Learned Single Judge of the Telangana High Court, which was cited before us by Mr Cheema, appears to be an ad interim order which contains no reason.

21. For all the above reasons, we are not inclined to grant any interim order of a mandatory nature as prayed for in the Petition or in the Interim Application. Accordingly, we dismiss the Interim Application (L) No.28986 of 2025 seeking such relief.

22. We direct that the main Petition be posted for admissions on **17 October 2025**.

23. However, at the request of Mr Cheema, we record that it would be open to the Petitioners to represent to the BCCI for prospective application of their decision. Mr Cheema states that this request is made without prejudice. If such a representation is made, we are confident that the BCCI will consider it in accordance with the law and its policies.

24. The BCCI must endeavour to take an expeditious decision on such representation because ultimately, they are dealing with the hopes and aspirations of young children, who we presume have been working hard to excel in cricket. The BCCI may consider whether any relief could be provided to these children, given the circumstances in which they are placed.

(Advait M. Sethna, J)

(M. S. Sonak, J.)