

Team Code- 28

BEFORE THE HON'BLE SUPREME COURT OF INDIGO

**SPECIAL LEAVE PETITION UNDER ARTICLE 136 OF THE
CONSTITUTION OF INDIGO**

SOCIETY FOR CONTROL OF CRICKET IN INDIGO.....APPELLANT

V.

MR. DEV AND OTHERS.....RESPONDENT

**BEFORE SUBMISSION TO HON'BLE CHIEF JUSTICE AND HIS
COMPANION JUDGES OF**

**THE HON'BLE SUPREME COURT OF
INDIGO**

MEMORIAL ON BEHALF OF THE RESPONDENT

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LIST OF ABBREVIATIONS:

¶	Paragraph
A.I.R.	All India Reporter
All.	Allahabad
Cal.	Calcutta
ALJ	Allahabad Law Journal
RLW	Rajasthan Law Weekly
Del.	Delhi
Co	Company
Ed.	Edition
Ltd	Limited
I.C.	Indian Cases
Mad.	Madras
Ori.	Orissa
DLT	Delhi Law Times
P&H	Punjab and Haryana
Pat.	Patna

ITR	Income Tax Report
r/w	Read With
Raj.	Rajasthan
S.C.	Supreme Court
S.C.C.	Supreme Court Cases
S.C.J.	Supreme Court Journal
S.C.R.	Supreme Court Reporter
Sec.	Section
u/s	Under Section
v.	Versus

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STATEMENT OF JURISDICTION:

The Hon'ble Supreme Court of India has jurisdiction to hear the instant matter under Article 136 of the Constitution of India.

Article 136 of the Constitution of India reads as:

“136. Special leave to appeal by the Supreme Court

(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.”

STATEMENT OF FACTS:

1. Society for Cricket Control in Indigo (SCCI) was established in Indigo to control the sport of Cricket. It was registered under the Societies Registration Act, 1860 and with its Head Office situated in Erupadi in Maha Pradesh (MP), it was also registered as a trust under The Trumbay Public Trust Act 1952 which was in force in the State of MP.
2. SCCI has dominant position and controls almost all the State Level Cricket Associations functioning like Cricket Federation. It has absolute power to select the players for Indigo Cricket team. Allegation of match fixing and betting by the SCCI became rampant and several related parties like players and middlemen were involved in the scam.
3. A former Cricketer of Indigo, Mr. Dev filed a PIL in the High Court (HC) of MP alleging that the top management of SCCI was involved in corruption in elections to BOD, match fixing and betting. Further due to nepotistic selection of cricket players by the SCCI, the quality of Cricket in Indigo was deteriorating.
4. The HC passed orders constituting a Commission headed by Former Judge of the HC Mr. Yodha to suggest reforms for a better functioning of the SCCI. SCCI accepted those suggestions which did not make any major changes in its management and objected to major portion of the report on grounds that the suggestions would affect the autonomy and fundamental right guaranteed under Constitution of Indigo.
5. The HC issued interim directions to SCCI to conduct elections to its BOD as per the recommendations of Yodha Commission. SCCI did not comply with the interim direction citing impossibility of performance. The HC ordered the freezing of the accounts and the appointment of an administrator. Aggrieved by the orders of the HC, the SCCI filed a Special Leave Petition in Supreme Court of Indigo.

STATEMENT OF ISSUES

ISSUE 1

WHETHER THE PUBLIC INTEREST LITIGATION FILED BY MR. DEV IN THE HIGH COURT IS MAINTAINABLE

ISSUE 2

WHETHER THE HIGH COURT DECISION AMOUNTED TO JUDICIAL LEGISLATION

ISSUE 3

WHETHER A WRIT OF MANDAMUS CAN BE ISSUED AGAINST THE SCCI

ISSUE 4

WHETHER THERE HAS BEEN A VIOLATION OF FUNDAMENTAL RIGHTS BY THE SCCI

SUMMARY OF ARGUMENTS

ISSUE 1

**WHETHER THE PUBLIC INTEREST LITIGATION FILED BY MR. DEV IN THE
HIGH COURT IS MAINTAINABLE**

The PIL against SCCI has been filed under Article 226 of the Constitution. It is contended that the same is maintainable due to the wide ambit of the same and availability of alternative is no bar.

ISSUE 2

**WHETHER THE HIGH COURT DECISION AMOUNTED TO JUDICIAL
LEGISLATION**

The decision passed by the High Court did not amount to Judicial Legislation since it was an exercise of Judicial Review and did not involve a policy decision. *Arguendo*, it was valid as the issue was unconstitutional in nature.

ISSUE 3

WHETHER A WRIT OF MANDAMUS CAN BE ISSUED AGAINST THE SCCI

A writ of mandamus may be issued against the SCCI since it is an instrumentality of state. *Arguendo*, it performs public functions and hence a writ may be passed.

ISSUE 4

**WHETHER THERE HAS BEEN A VIOLATION OF FUNDAMENTAL RIGHTS BY
THE SCCI**

It is contended that the arbitrary acts of SCCI, specifically in the selection of players for the National Cricket Team of Indigo have resulted in a violation of Fundamental Rights namely Articles 14, 19 and 21.

ARGUMENTS ADVANCED**ISSUE 1****WHETHER THE PUBLIC INTEREST LITIGATION FILED BY MR. DEV IN THE HIGH COURT IS MAINTAINABLE?**

1. The Public Interest Litigation before the High Court of Maha Pradesh has been filed under Article 226. It is contended that the same is maintainable as the ambit of Article 226 is wide [1], and the availability of alternative remedies is not a bar to maintainability in cases of writ petition [2].

1.1 Article 226 has a wide ambit

2. It is contended that the petition filed by Mr. Dev is valid owing to the wide ambit of Article 226. Although Society for Cricket Control of Indigo (*hereinafter referred to as "SCCI"*) is not a statutory body, it is a trust and society that performs public functions and hence a Public Interest Litigation may still be filed against the same.¹ A High Court may also exercise discretionary and equitable jurisdiction under Article 226.²
3. Similarly, assuming but not admitting that there has been no violation of fundamental rights, it is still maintainable as Article 226 may be invoked for any 'other purpose' as well.³ The orders passed by the Court need not be restricted to the writs as the sole remedy; but may include any other such directions as the High Court may deem fit.⁴

¹ *Shri Ram Chandra Mission & Ors. v. The State of Uttar Pradesh. and Ors.* 2016 (4) ALJ 502;

² *Uttar Pradesh State Sugar Corporation Ltd. v. Kamal Swaroop Tondon* (2008) 2 SCC 41; *Secretary, ONGC Ltd. v. V.U Warrior* (2005) 5 SCC 245

³ Dr. Das, Durga, "Constitutional Law of India", 8th Edn. 2008

⁴ *Swayambar Prasad v. State of Rajasthan* AIR 1972 Raj 69; *Guajarat State Financial Corporation v. Lotus Hotel* AIR 1983 SC 848; *Air India Statutory Corporation v. United Labour Union* AIR 1997 SC 645

4. Hence in light of the above it is contended that the wide ambit of Article 226 *prima facie* allows the petition to be maintainable.

1.2: Exhaustion of alternate remedies is not a bar

5. It is contended that the PIL filed by Mr. Dev must not be barred on the basis of availability of alternate remedies as there were no alternate remedies and *arguendo*, even on existence of the same, a PIL cannot be barred. Section 92 of the Civil Procedure Code is not applicable since it vests authority to file a suit only with ‘persons having interest’ in the trust, which has been defined to be ‘members’ of SCCI in the instant case.⁵ Even if it is to be considered a society then the Registrar, although empowered to enquire on his own motion has not done so and the members too have not filed a motion for the same.⁶ Therefore, for Mr. Dev being a non-member but affected by SCCI’s activities, there was no remedy left to be exhausted.
6. *Arguendo*, even if alternate remedies are available, it does not eliminate the option of filing a PIL, as the relief under Article 226 of the Constitution of India can be granted in spite of the availability of alternate remedy under a statute.⁷
7. It has been held that denying a petition due to the presence of an alternative remedy is a matter of discretion and not a rule of law.⁸ Accordingly, it is a settled practice for the

⁵ Section 2 (10) – Bombay Public Trust Act, 1950.

⁶ Section 25 and 27 – Karnataka Societies Registration Act, 1960 .

⁷ *Aditanar Educational Institution v. Assistant Director of Income-tax* (297 I.T.R. 376)

⁸ *A.V Venkateswaran v. R.S Wadhvani* AIR 1961 SC 1506; *Atulya Kumar De v. Director*, AIR 1953 Cal 548; *Harbans Lal Sahnia v. Indian Oil Corporation Ltd.*, [2003] 2 SCC 107; *Rashid Ahmad v. Municipal Board, Kairana*, AIR 1960 SC 163;

Supreme Court not to interfere with the exercise of discretion by the High Court when it has already entertained a writ.⁹

8. It has been held that in a matter where there is no rule or regulation governing the situation or where there is one, but is not violated, the Court will not overturn the determination unless it would be unfair not to do so.¹⁰ In the instant case, the High Court has not only heard the petition but has also passed interim orders on the same.
9. Accordingly, in light of the above it is contended that the order must not be set aside.

⁹ *State of U.P v. Indian Hume Pipe Co.* (1977) 2 SCC 724; *State of U.P v. Mohd. Nooh* AIR 1985 SC 86; *State of Himachal Pradesh v. Gujarat Ambuja Cement Ltd.* AIR 2005 SC 3856; *Baburam v. Zila Parishad* AIR 1969 SC 556; *First Income-Tax Officer, Salem v. M/s. Short Brothers (P) Ltd.* [1966] 3 SCR 84

¹⁰ *Shitla Prasad Shukla v. State of Uttar Pradesh* AIR 1986 SC 1859

ISSUE 2**WHETHER THE DECISION OF THE HIGH COURT AMOUNTED TO JUDICIAL LEGISLATION**

11. It is contended that the decision passed by the High Court did not amount to Judicial Legislation. The Court exercised Judicial Review, which is part of the basic tenets of the Constitution [1] and the decision did not deal with a matter of policy. [2]

2.1 The Court has exercised Judicial Review

12. It is contended that the Court in the instant case has exercised its function of judicial review as the actions of SCCI were affecting the public at large. The High Court under a Public Interest Litigation has adequate authority to pass such decisions as may cure the injustice faced by the petitioner, as it has the authority to mould the relief sought by the petitioners to meet the requirements of the country.¹¹

13. Since the actions performed by SCCI were essentially public functions affecting the people at large, it is amenable to judicial review. The very principle of Public Interest Litigation is built on the modern legal jurisprudence practiced by Courts in many parts of the world, based on the principle of 'Liberty and Justice for All'.¹²

It is contended that the instant case is one of Judicial Review, which cannot be barred by any Statute.¹³ It has been held to be a basic feature of the Constitution¹⁴, and the heart and soul of the Constitutional Scheme.¹⁵

¹¹ *Dwarka v. I.T.O.*, AIR 1996 SC 81

¹² *Janata Dal v. H.S Choudhary* AIR 1993 SC 892

¹³ *Surya Dev Rai v. Ram Chander Rai*, (2003) 6 SCC 675

¹⁴ *S.P Sampath Kumar v. Union of India* (1987) 1 SCC 124; *L. Chandra Kumar v. Union of India* (1997) 3 SCC 261; *Air India Statutory Corporation v. United Labour Union* (1997) 9 SCC 377

¹⁵ *Debu v. State of Maharashtra* (2000) 8 SCC 437

14. It has also been held that law should move forward with changing socio-economic norms¹⁶, and it should assume a dynamic role in the process of social transformation.¹⁷

15. It is hence contended that the High Court holds sufficient power to review the prevailing social scenario and may mould the reliefs sought based on the same. Considering the wide spread corruption in SCCI and the effect of the same on Indigo, the High Court's decision must not be set aside.

2.2 Not a matter of policy:

16. In the instant case, the orders passed by the High Court did not deal with a matter of policy and hence, did not amount to judicial legislation. A remedy for a writ petition under Article 226 includes directions, orders, or writs.¹⁸ Hence, the High Court may, in the exercise of its discretion, pass orders in terms of public interest and equity. Since it is a public interest litigation, the court may even go beyond the issues raised and grant unsought remedies as well.¹⁹

17. Even if any executive decision is termed to be a matter of policy, it is not beyond the pale of judicial review as long as it is unconstitutional.²⁰ Hence *Arguendo*, even if it does include a matter of policy, it cannot be held to be a case of judicial legislation since the constitutional and fundamental rights have been violated.²¹

In light of the above it is contended that the decision passed by the High Court of Maha Pradesh was in line with its authority and did not constitute judicial legislation.

¹⁶ *M.C Mehta v. Union of India* AIR 1987 SC 1086

¹⁷ *National Workers Union v. P.R Ramakrishnan*, AIR 1983 SC 75

¹⁸ *State of Uttar Pradesh and others v. Dr. Vijay Anand Maharaj* AIR 1963 SC 946

¹⁹ *Padma v. Hiralal Motilala Desarda* (2002) 7 SCC 564

²⁰ *DDA v. Joint Action Committee, Allottee of SFS Flats* (2008) 2 SCC 672; *Associated Stone Industries (Kotah) Ltd. v. Union of India (UOI) and Anr* RLW 2007 (2) Raj 1602

²¹ Memorial on behalf of Respondents - Issue 4

ISSUE 3

WHETHER A WRIT OF MANDAMUS CAN BE ISSUED AGAINST THE SCCI

18. It is humbly submitted before the Hon'ble Court that a writ of *mandamus* can be issued against the SCCI because the SCCI is an instrumentality of State under Article 12 [1] and even if it is not an instrumentality of State under Article 12, it still performs a public function and is amenable to writ jurisdiction under Article 226. [2]

3.1: SCCI is an Instrumentality Of State within Article 12 of The Constitution of Indigo

19. It has been previously established that societies such as SCCI that have been registered under the Societies Registration Act, 1860²² may be considered an 'other authority' within the meaning of Article 12 of the Constitution.

20. A registered society performing a public function and having deep State control is characterised as an "other authority" for the purpose of Article 12 of the Constitution.²³ The SCCI hosts international cricket one day and test matches, has the absolute authority to select players for the same and controls all State Level Cricket Associations acting like a Cricket Federation.²⁴ It has also been held that where the functions performed by a body are of an important public nature akin to a governmental function, the body will be regarded as an instrumentality of State under Article 12 despite it being recognized as an autonomous body.²⁵

21. Even though SCCI has not been created by a statute, it has undisputed monopoly in the field of cricket. It has been held that where a body has State like monopoly, it can be

²² Societies Registration Act, 1860 (Act No. 21 of 1860)

²³ *Ajay Hasia and Ors. v. Khalid Mujib Sehravardi and Ors.*, AIR 1981 SC 487

²⁴ Moot Proposition, Paragraph 3&4

²⁵ *Zee Telefilms Ltd. and Anr. v. Union of India (UOI) and Ors.* AIR 2005 SC 2677

regarded as an instrumentality of State under Article 12.²⁶ It may not be a complete monopoly but a de facto monopoly.²⁷ It is evident that the SCCI has complete control over game of cricket in Indigo since they are the sole deciding body for selections to the Indigo Cricket Team and they have the authority to conduct International Cricket Tournaments.

22. In furtherance of the same, even in the International Scenario, it has been held that where Sports Associations have the authority to dismiss and appoint the players, their decisions should be amenable to writ jurisdiction in the event where a grievance occurs.²⁸ It has also been held that where Sports Associations are supported by the Government financially, they are considered to be performing public functions and fall within the ambit of Article 12.²⁹ The SCCI has access to Government stadiums and lands at meagre prices and all hidden charges of the game like visa clearances are borne by the Government³⁰, making it financially dependent on the Government and thereby an instrumentality of State under Article 12 of the Constitution. Accordingly, it is contended that the SCCI will be amenable to writ jurisdiction.

3.1.1: SCCI is amenable to Writ Jurisdiction since it performs a Public Function

23. *Arguendo*, it is contended that even if the SCCI is a private body and not an instrumentality of State under Article 12, it is amenable to writ jurisdiction under Article 226 of the Constitution owing to the fact that it performs a public function.

²⁶ Ibid

²⁷ Ibid

²⁸ *St. Johnstone Football Club Ltd. v. Scottish Football Assn. Ltd.*, 1965 SLT 171.

²⁹ *Ajay Jadeja v. Union of India*, (2002) 95 DLT 14

³⁰ Moot Proposition, Paragraph 11

24. Determining amenability of writ jurisdiction on the sole basis of the nature of the body is incomplete. A body, public or private, cannot be categorised as "amenable" or "not amenable" to writ jurisdiction³¹. The "function" test is the accepted method to test maintainability.³² If a public duty or public function is involved, any body, public or private, qua that duty or function, and limited to that, would be subject to judicial scrutiny under the extraordinary writ jurisdiction of article 226.³³ The SCCI is responsible for hosting International Cricket Tournaments and the selection decisions made by the SCCI are accepted by all sections of society for their collective benefit.

25. Public function is not restricted only to Governmental bodies and may be extended to private bodies and registered societies as well.³⁴ The nature of duties performed by the body is relevant and not its form.³⁵ It can be reasonably said that such functions which are similar to or closely related to those performable by the State in its sovereign capacity are deemed to be public functions.³⁶ Where the duty performed by the body is for the collective benefit of the public and accepted by all sections of society, the function will be regarded as a public function.³⁷ The SCCI's power to select cricket players to the National Team and host International Cricket Tournaments is a sovereign function that is accepted by all sections of the public. It is for the collective benefit of the country and not the personal benefit of the selectors. Therefore, it is contended that the SCCI performs a public function.

³¹ *Ajay Jadeja v. Union of India*, (2002) 95 DLT 14

³² *Ibid*

³³ *Ajay Jadeja v. Union of India*, (2002) 95 DLT 14

³⁴ De Smith, Woolf & Jowell, *Judicial Review of Administrative Action* (1999)

³⁵ *Anadi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani*, 1989 (2) SCC 691

³⁶ *G. Bassi Reddy v. International Crops Research Institute*, AIR 2003 SC 1764

³⁷ *Board of Control for Cricket in India v. Cricket Assn. of Bihar*, (2015) 3 SCC 251.

26. A writ of Mandamus can be issued against a person or body to carry out the duties placed on them by the Statutes even though they are not public officials or statutory body.³⁸ It can be said that a writ of *mandamus* can be issued against a private body which is not a State within the meaning of Article 12 of the Constitution as long as a public law element exists and such body will be amenable to the jurisdiction under Article 226 of the Constitution allowing the High Court to exercise judicial review of the same.³⁹
27. It is thus submitted that the SCCI is amenable to writ jurisdiction due to the public nature of its function even if it is not characterized as an instrumentality of State.

³⁸ *Praga Tools Corporation v. Shri C.A. Imanual & Ors.*, 1969 3 SCR 773

³⁹ *Binny Ltd. and Anr. v. Sadasivan and Ors.* AIR 2005 SC 3202

ISSUE 4**WHETHER THERE HAS BEEN A VIOLATION OF FUNDAMENTAL RIGHTS BY THE SCCI**

29. It is humbly contended before the Court that there has been a violation of fundamental rights by the SCCI. There has been a violation of the Right to Life and Personal Liberty under Article 21 [1] and violation of Article 14, 16 and 19 (1) (g) on the grounds of arbitrary selection of cricket players to the Indigo Cricket Team. [2]

4.1 Right To Life And Personal Liberty under Article 21 The Constitution Of Indigo has been violated by the SCCI:

30. It is contended that right to receive corruption free service from the State and its instrumentalities should be considered a fundamental right of citizens. It has already been established that the SCCI is a private body performing a public function and thus, amendable to writ jurisdiction and capable of fundamental right violation.

4.1.1 The ambit of Article 21 may be widened:

31. The ambit of Article 21 is ever expanding⁴⁰ and therefore it is contended that it may be considered in this case for the purpose of complete justice. The Apex Court has extended the dimensions of Article 21 and made it more comprehensive by using it as a weapon for judicial activism.⁴¹ Article 21 has embraced substantive rights to personal liberty and provided procedure for their deprivation.⁴² This Article embodies constitutional value

⁴⁰ *Francis Coralie v. Administrator, Union Territory of Delhi*, AIR 1981 SC 746

⁴¹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

⁴² *Ibid*

of supreme importance.⁴³ The Supreme Court has asserted Article 21 as the heart of the Fundamental rights.⁴⁴

32. Article 21 imposes positive obligation upon the State to ensure that individuals have an opportunity for better enjoyment of his life and dignity.⁴⁵ The right to life does not mean a right to mere survival or an animal existence but living with human “dignity”.⁴⁶

33. A state with malpractices like corruption would fail to ensure a meaningful life to its citizen and hence it would not have the values of equality and fairness based system.

4.1.1.1 The Concept Of A Welfare State

34. It is humbly submitted before the Hon’ble Court that the concept of welfare state is one of the salient features of Indian Constitution.⁴⁷

The presence of directive principles of state policy⁴⁸ further strengthens Indigo’s position as a welfare state⁴⁹- a state rendering social services to the people for the promotion of their general good and citizens all round development. Corruption is a disservice to citizen and discourages the concept of welfare state.⁵⁰

⁴³ *P.S.R Sadhanantham v Arunachalam*, AIR 1980 SC 856

⁴⁴ *Unnikrishnan v. State of Andhra Pradesh*, AIR 1993 SC 2178

⁴⁵ *Vishakha v. State of Rajasthan*, AIR 1997 SC 3011; *D.K Basu v. State of West Bengal*, AIR 1997 SC 610; *Chairman Railway Board v. Chandrima Das*, AIR 2000 SC 988; *Olga Tellis v Bomaby Municipal Corporation*, AIR 1986 SC 180; *PUCL v Union of India*, AIR 1997 SC 568; *M.C Mehta v. Union of India*, (2003) 10 SCC 561 *Karak Singh v. State of U.P* AIR 1964 (1) SCR 332

⁴⁶ See Supra Note 6

⁴⁷ *Narain Das Jain v. Agra Nagar Mahapalika*, (1991) 4 SCC 212; *Jagdish Prasad v. M. C .D*, AIR 1993 SC 1254; *K.K Konchuni v State of Madras and Kerala*, AIR 1960 SC 1080, *Lala Ram v Union of India*, (2015) 5 SCC 813, *Dantuluri Ram v. State of A.P.*, (1972) 1 SCC 421

⁴⁸ Constitution of India, Part V

⁴⁹ *Unnikrishnan v. State of Andhra Pradesh*, AIR 1993 SC 2178; *Dalmia Cement (Bharat) Ltd. v. Union of India*, (1996) 10 SCC 104, *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802; *Subhash Kumar v. State of Bihar*, AIR 1991SC 420; *Chameli Singh v State of Uttar Pradesh*, AIR 1996 SC 1051 *Shashibhushan v. Mangla*, AIR 1953 Ori 171; *Balbir Singh v. State of Assam*, AIR 1958 Ass 173

⁵⁰ Article 38 (1) of the Constitution of India, 1950

35. Indigo, being a welfare state believes in the notion of wellbeing of every citizen in the country. It is humbly submitted to the Hon'ble Court that the Society for Cricket Control of Indigo has disrupted the ideals of a welfare state by disregarding the fair team selection process⁵¹ and allegedly indulging in match fixing and betting during tournaments⁵² and requests the Court to remedy the wrong committed by the SCCI.

4.1.1.2 Directive Principles Of State Policy support the concept of a corruption free state

36. The Directive Principles of State Policy (*hereinafter referred to as 'DPSP's*) promote the concept of welfare state and lay down some socio economic goals, to be achieved by the State.⁵³ Although DPSP's are not enforceable in a court of law, they are fundamental in the governance of the country and the State is obligated to apply these principles while making laws.⁵⁴ Article 38 states that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.⁵⁵

37. It is thus contended that due to the accommodative nature of Article 21 and considering the concepts of natural justice and welfare state, the petitioners right to lead a corruption free life has been violated and therefore this should be considered as violation of the fundamental right under Article 21.

⁵¹ Moot Proposition, Paragraph 4

⁵² Moot Proposition, Paragraph 5

⁵³ M.P Jain, "Indian Constitutional Law", 7th edition, 1406

⁵⁴ *Kumari Shrelekha Vidyarthi and Ors. v. State of U.P. and Ors*, AIR 1991 SC 537

⁵⁵ Article 38 – The Constitution of India, 1950

4.2: Arbitrariness in selection of players violative of The Fundamental Rights

38. It is humbly contended that there has been a violation of Article 14 and 16 [3.2.1] and Article 19 (1) (g) [3.2.2] on the grounds of arbitrary selection of players to the Indigo Cricket Team.

4.2.1. ARBITRARY SELECTION OF PLAYERS VIOLATES ARTICLE 14 & ARTICLE 16:

39. The main objective of Article 14 is to secure to all persons, citizens or noncitizens, the equality of status and opportunity referred to in the Preamble of the Constitution.⁵⁶ Article 14 ensures to every person equality before law and equal protection of law⁵⁷ and Article 16 lays down that there shall be equality of opportunity for citizens in matters relating to employment and appointment to any office under State.⁵⁸ The classifications made by the State must accordingly be reasonable.⁵⁹ The doctrine of 'reasonable classification' recognizes that State Legislature may classify it must be reasonable; it should ensure that persons or things similarly situated are all similarly treated.⁶⁰ A violation of the said doctrine would amount to arbitrariness under Article 14.

40. It is well established that equality as defined under Article 14 is not equality amongst all but is a qualified equality- equality among equals.⁶¹ In keeping with this reasonable classification adopted for the exercise of Article 14 to avoid injustice, it may be stated that the selectors have a duty under Article 14 to select the players to the Cricket Team on the basis of standardised criteria to ensure that the selection made is uniform and fair.

⁵⁶ *Natural Resources Allocation*, In Re (2012) 10 SCC 1 (77)

⁵⁷ Article 14 of the Constitution of India, 1950.

⁵⁸ Article 16 of the Constitution of India, 1950.

⁵⁹ *Mohammad Shujat Ali and Ors. v. Union of India (UOI) and Ors.*, AIR 1974 SC 1631

⁶⁰ *Ibid.*

⁶¹ *T.Devadasan v. The Union Of India And Anr.*, 1964 AIR 179

There have been claims of nepotistic team player selections after which the public interest litigation was filed.⁶² The SCCI had clearly not followed the pre-determined criteria for player selection.

41. It is, thus, contended that the actions of SCCI violate Article 14 of the Constitution as they breach the doctrine of reasonable classification. It is humbly submitted before the Hon'ble Court that the contentions of arbitrariness on part of the SCCI be examined and appropriate action be taken.

4.2.2: Arbitrary Selection Of Players To The Indigo Cricket Team Is violative Of Article 19 (1) (G):

42. The SCCI has the absolute monopoly to make decisions with respect to player selection to the Indigo Cricket Team.⁶³ There have been claims of arbitrary selection of players on the basis of nepotistic considerations. The only reasonable classification that can be made with regard to selection is technical and skill based qualification.⁶⁴ When a selection committee takes decisions on the basis of consideration other than skill or technical based qualification, the decision may be rendered invalid on grounds of arbitrariness.⁶⁵

43. The SCCI, while making selections, needs to ensure that uniform criteria are used for the selection process and every player goes through the same selection process.⁶⁶ Where considerations for making the selection are irrelevant, the qualification will not be a reasonable restriction to Article 19 (6) and violative of Article 19 (1) (g).⁶⁷ It is thus

⁶² Moot Proposition, Paragraph 4 & 6

⁶³ *Ibid.*

⁶⁴ Article 19 (6) (i) of the Constitution of India

⁶⁵ *Ram Abhilash Maurya and Ors. v. State of U.P. and Ors.* 2009 2 AWC1672All

⁶⁶ *Master Sagar Prakash Chhabria v. The Board of Control for Cricket in India and Ors.* 2016 (5) Bom CR 673

⁶⁷ Article 19 (1) (g) & Article 19 (6) of the Constitution of India, 1950

submitted before the Hon'ble Court that the arbitrariness in selection of players be recognized as a violation of right to occupation under Article 19 (1) (g) and appropriate action lie against the SCCI.

PRAYER:

Wherefore in the light of the Issues Raised, Argument Advanced and Authorities Cited, the Hon'ble Supreme Court may be pleased to:

1. Declare that Mr. Dev had *locus standi* to file Public Interest Litigation against SCCI under u/a 226.
2. Order the High Court decision to not be set aside on grounds of judicial legislation.
3. Issue a writ of *mandamus* to remedy the fundamental rights violation committed by the Appellants.

AND/OR

Pass any other order, direction or relief that it deems fit in the interest of *Justice, Equity and Good Conscience*.

For this act of kindness, the Appellants shall duty bound forever
pray.

Sd/-

(Counsel for the Petitioners)