

Verdict on Cricket Board case put off to April 26

By V. Varathasuntharam

The verdict on the extension or otherwise of the enjoining order on the Board of Control for Cricket in Sri Lanka was reserved for April 26 by Colombo District Judge A. W. Salam yesterday.

Court extended the enjoining order till April 26. The enjoining order that restrains the newly elected Cricket Board from functioning was issued by Court sequel to an application by Clifford Ratwatte.

Plaintiff's Counsel Romesh de Silva (PC) stated that the counsel for the defendant has converted the proceedings into an inquiry into the application for an injunction. There is no application by the defendants to suspend the enjoining order. There is no application by the defendants to vary or set aside the enjoining order. The defendants have only filed objections.

Though there is provision in law for the respondents to move for the suspension of the enjoining order, they had not done so. In the absence of any application to vary or set aside the enjoining order, the Court has to extend the enjoining order as a prima facie case has been established.

Prima facie, the plaintiff states that if elections had been held in a fair manner, the plaintiff would have won, because, the vote is... the plaintiff had mandated

fifty eight sure votes.

There had been thuggery, and intimidation at an unprecedented level at the annual general meeting where the said election was held. There were unauthorised persons, impersonators at the meeting. There was pandemonium. There was an aura of violence. The Rupavahini has filmed the proceedings and the Court could view the video at the appropriate stage.

Silva: I have a still.

Gunasekera: I object to the still being produced at this stage. It should have been annexed with the plaint.

"The results are not the necessary criteria to assess the validity of the election. Even on that matter, the plaint has indicated sure votes for the plaintiff."

"But what is important is the manner in which an election is conducted. The protem chairman was proposed by the chair, while the protem chairman himself was a candidate for the election and was himself a supporter of the first defendant. Therefore it was not a proper election."

Silva: There are cases before Your Honour. Court could take judicious view of them.

Gunasekera: It is unfair to refer to such cases. If my learned friend wants to do so, it should be by way of pleadings in the case. Otherwise I am taken unawares.

Silva: In that case, I will not refer to them. I do not intend to place my learned friend at a disadvantage!

Counsel Silva continued that the contract form D17 has already been signed. It is binding between England and Sri Lanka. They cannot prevent Sri Lankan team from participating in the tournament.

"Therefore the submission that the relevant contract could not be signed due to the enjoining order is a falsity".

"The only problem that could arise is the contract in respect of the conduct of the players. Such contract ought to have been signed by March 31. Why can't the Chief Executive sign on behalf of the Board?"

Court: Is the Chief Executive created by the Constitution of the Board?

Silva: Yes!

He concluded that if there was an impasse, the law would take its own course. The minister could step in and take adequate steps.

Defendant's Counsel S. L. Gunasekera in reply submitted that the pivot of the argument of the counsel for the plaintiff was that the clubs came on mandates to vote for the election at the AGM. But he could not quote a single provision from anywhere in the Board's constitution or from sports law to support his contention.

"Article 18(a) of the Board's constitution

stipulates that each affiliated representative shall have one vote".

"The plaintiff's Counsel maintained that the issue of mandate votes was a matter of law, but it is not so. It is purely a provision of the Constitution of the Board. The existence of a provision in a Constitution is a fact and certainly not a matter of law".

"It was the contention of the plaintiff's counsel, that since he had made out a prima facie case, the enjoining order ought to be extended. It is totally a wrong premise".

"The law permits an enjoining order to be issued even exparte if delay would cause immense damage. It is so even in case of dissolution of the enjoining order. Law clearly stipulated that an enjoining order can be granted only for 14 days for very good reasons. The issue or non-extension of an enjoining order is discretionary power of court".

"The defendants are entitled to urge by way of an application or pray in the objections that the enjoining order be not extended. There is a board that has been elected for a year".

"He continued that the fact that there was violence was evident. But what is important in this case was whether the alleged violence affected the results of the election".

"Then there was the argument that the protem chairman was a supporter of the first defendant. Everyone present there was a supporter of either the plaintiff or the defendant."

"The defendants by requesting court not to extend the enjoining order, only seeks discretionary relief from court in view of the national interest referred to".

This is not an issue merely between two individuals. It is an issue that relates to the control of cricket in Sri Lanka and the world championship in cricket. It is an issue about which every citizen is interested in".

"Could the court make an order that could adversely affect the national interest on the ground that a prima facie case has been established in respect of an unfair election, he posed.

Romesh de Silva PC with Harsha Amarasekera, Palitha Kumarasinghe instructed by G. G. Arulpragasam appeared for the plaintiff.

L. C. Seneviratne (PC) with S. L. Gunasekera, Ronald Perera, Hemaka de Alwis, and Sudath Perera of Paul Ratnayake Associates appeared for the defendants.

Hiran de Alwis with Iyomy Perera appeared for the 2nd, 5th and 13th respondents.