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This is a write up which explains the pathetic state of Sports Administration in our country.

It's not about L. Sarita Devi alone:

This year, India sent a contingent of 516 sportspersons to participate in various disciplines in the 17th Asian Games held in Incheon, South Korea from 17.09.2014 to 04.10.2014. Along with the sports persons, 163 officials, coaches, medical attendants, physiologists and trainers were sent to assist the above mentioned sportspersons in their performance. In the last Asian Games, ie. 16th Asian Games held at Guangzhou, China, India had bagged 14 Gold, 17 Silver and 34 Bronze in various disciplines.

In the Commonwealth Games, which were held in October-November, 2010, in New Delhi, India had bagged a total no. of 101 medals.

Apart from the disciplines in which India has been giving an outstanding performance like Hockey, weightlifting, Kabbadi, Badminton and Table Tennis, in the past few years, Boxing and Wrestling have also emerged where India has done extremely well. Credit, of course, goes to the players and coaches who have been doing a commendable job. There has been a long debate within India for enactment of a sports act which will guide the entire country on sports, (the National Sports Development Bill, 2013 is still languishing in the draft stage, with the Ministry of Youth Affairs and Sports suggesting a number of modifications to the bill in its present form). Sports otherwise, is included in List II of the 7th Schedule in our Constitution under Entry 33. Therefore, every State is entitled to have its own Sports Law, but in India, only few states have enacted a Sports Act. The Rajasthan Sports Act, 2005 is under challenge before the Hon'ble Supreme Court in the case of BCCI versus Lalit Kumar Modi and Others.

Apart from the debate on having a Sports Act, which is to be a Central Act, there has been a long standing dispute for sports management by various federations in India. The various Sports Federations are all registered under the Societies Registration Act, 1860 and are working under the guidance of the Ministry of Youth Affairs and Sports. Apart from this, they also receive a whole lot of funds from the Central Government/respective State Governments who are responsible for the functioning of these federations.

All the sports federations have their own Rules and Regulations and are supposedly working democratically by electing executive committees from within their members.

An issue which has been the bone the contention within the country is whether the sports federations should be run by persons who are not sportspersons but who are rather, politicians, bureaucrats and businessmen. These persons know little about the sports/disciplines etc. and are interested in only deriving mileage out of it for their personal gain. It is common knowledge that politicians have been heading various sports federations for years and have successfully managed to manipulate the electoral process year after year. Therefore, it is safe to say that Sports Management in India is mostly an arena which is taken over by politicians. This has led to a lot of heart burn and indiscipline in the selection process and has resulted in politicians enjoying the largesse meted out by the State at the expense of the sports persons.

In this background, it is now important to draw the attention of the public at large as to how this one incident which happened in the field of boxing has exploded the mismanagement of the officials and staff which accompanied the Asian Games Squad. The whole affair has caused a tremendous embarrassment to the entire country and every sports loving person in the country was deeply hurt when they saw one of their leading sports persons being treated in an extremely shabby manner as if she was only an individual without any backing and was not a member of the Indian boxing contingent travelling to the Asian Games.

Therefore, it is time to bring out the true facts, the law, Rules And Regulation involved and the remedies available to a sportsperson and the country in the event of such a mishap.

The idea is to put the entire thing in the public domain so that the concerned sports authorities, officials, etc. do not mislead us and thereby lead us, the countrymen into any future mishap of a similar nature. The outstanding performance of L. Sarita Devi and the shabby treatment meted out to her is an extremely emotional issue for fellow citizens but at the moment, we will concentrate on the pros and cons and what is the right direction to follow in future. It is also important in this exploration that we come to a conclusion that the officials that accompanied the Indian squad, especially the boxing contingent could be made legally liable and brought to book for their abject and rank mishandling of the situation.

Facts related to the event:

On 30.09.2014, the participants from India and Korea faced off for Bout No. 143, which was the semi-final bout in the lightweight category (ie. 57kg to 60kg) held at the Seonhak Gymnasium. The overall silver medal classification on the medals table was to be determined at the conclusion of this bout. As per the respective rules, the bout was to last for 4 rounds of 2 minutes each.

India was in the Blue Corner and the Republic of Korea was in the Red Corner. The coaches who accompanied L. Sarita Devi were Gurbakhsh Singh Sandhu, Blas Iglesias Fernandez and Sagar Mal Dhayal.

The Referee for the Bout was Kheira Hammadi Sidi Yakoub (Algeria) and as per AIBA Technical Rules framed in 2013, three judges were selected out of the nominated 5 judges. The judges for the particular bout were Mohd. Braham (Tunisia), Albino Foti (Italy) and Marlusz Josef Gorny (Poland).

As per Rule 3.1 of the AIBA Technical Rules, all scores have to be given out of a 10 point system.

Extracted herein below, is a short summary of the final results for the sake of convenience.

	Judge A (Tunisia)		Judge B (Italy)		Judge C (Poland)	
	Red	Blue	Red	Blue	Red	Blue
Round 1	10	9	10	9	10	9
Round 2	10	9	9	10	9	10
Round 3	9	10	10	9	10	9
Round 4	10	9	10	9	10	9
Total	39	37	39	37	39	37

As can be seen from the above extracted score sheet, all the three judges held in favour of the competitor from the Republic of South Korea. However, this manner in which the scoring took place was strongly objected by the Indian competitor, who felt that the judges were acting in a manner that displayed clear bias. In fact, those who have viewed the bout or its video recording are all also convinced that the bout was completely dominated by the Indian Boxer.

The Indian boxer put up a sustained protest on the premise that she deserved the medal and had won the fight, though the judges unanimously ruled in favour of the Korean competitor.

This action of L. Sarita Devi was seen to be unsportsmanlike to the Olympic principles and AIBA Disciplinary Code under Article 3.1.

Thereafter, we come to the crux of the instant controversy. **On the day of the bout, the Indian side did not raise any protest or contest the decision.** However, on the next day during the course of the medal ceremony, the Indian participant received the Bronze medal and thereafter, attempted to drape the same on her

opponent, who was the eventual silver medal winner. However, the boxer from the Republic of Korea refused and completely negated the attempt of the Indian boxer. This whole sequence of actions was declared to be against the spirit of the game and highly unsportsmanlike. The medal was left on the stage which was extremely embarrassing.

Immediately thereafter, the matter was referred to the AIBA Disciplinary Committee and the Olympic Council of Asia. The Indian Boxer immediately thereafter, tendered an unconditional apology for her outburst and attempt to handover the bronze medal.

This particular incident was referred to the Olympic Council of Asia, where after, Haider A. Farman, Director of Asian Games Department informed Mr. David B. Francis, AIBA Technical Delegate (Supervisor) vide letter dated 03.10.2014 that they had let off the Indian Boxer with a stern warning and thereafter, considered the matter at an end.

However, subsequent to the reprimand, AIBA went ahead and provisionally suspended the Indian boxer pending confirmation by the Disciplinary Commission on the ground that she had engaged in conduct unbecoming of a sportsperson. Alongside this suspension, there were a number of unsubstantiated rumours from the Korean side that this was a clever ploy on the part of the Indian boxing contingent to manipulate the events so as to particularly favour their participant. However, all such rumours were pre-emptorily squashed.

However, as was seen over the past few days, AIBA led by its President, had not only confirmed the suspension but also suspended the boxing coaches who were accompanying Ms. L. Sarita Devi and the Indian chef-de-mission, Adille Sumariwala vide letter dated 21.10.2014.

On 22.10.2014, Mr. Gurbakhsh Singh Sandhu and Ms. L. Sarita Devi declared in the media that they will take correct legal steps once they receive the formal letter of suspension as they had a 7

day limitation period to draft an appropriate reply, if any, to this suspension.

The Ministry of Youth Affairs and Sports along with certain officials in the Indian Government had belatedly realised the extent and seriousness of the issues at hand and thereafter, as a face saving measure stepped in and issued a half-hearted statement to the effect that they would be consulting legal practitioners to frame an appropriate reply to this letter of suspension. This reply by itself does not amount to anything inasmuch as it is a mere technicality and does not in any manner reverse the decision or otherwise alter the final decision so as to be beneficial to the Indian Boxer.

On 25.10.2014 and 27.10.2014, after a flurry of exchanges between L. Sarita Devi and Boxing India, Boxing India agreed to take up the matter with the AIBA and seek a revocation of her suspension on the ground of her impeccable past record. Boxing India, it is clear was least interested in pursuing the matter on its own, before an appropriate forum. The facts, as they are, disclose that they had no knowledge of the Rules.

Faced with limited awareness, the Indian Boxer challenged the award of the judges whereas the particular Rules clearly specify that an Appeal can only lie against the decision of the Referees delivered within the ring. That due to this misdirected appeal, AIBA had dismissed the said appeal.

The action of AIBA in suspending the Indian Boxer came for heavy criticism from other nations also such as Mongolia, who criticised the flawed scoring system as well as the arbitrary manner in which the AIBA had declared the winner of tournaments.

Thereafter, when AIBA threatened to impose a life-long ban on the Indian boxer, the Sports Ministry belatedly stepped into the picture and promised any and all legal help. In certain reports, it was indicated that the Sports Ministry was contemplating approaching the Court of Arbitration for Sports, however, even this would be pre-mature at this stage as all options in the tribunals below have not been exercised.

The Legal Position:

From the above, it is concluded that the Rules/Regulations that come into operation in the Asian Games, especially boxing, are as follows:

AIBA Technical Rules of 2013

Rule 3.4:

"At the end of each Round, each Judge must determine the winning Boxer of that round by awarding a score of ten (10) points and by awarding nine (9) or less points - down to 6 to the losing Boxer depending on the judgment as to the degree to which the opponent lost the round. Each round must have a declared winner.

Rule 3.14:

The Judges must apply the following criteria to score round:

3.14.1. 10 v. 9: CLOSE ROUND

3.14.2. 10 v. 8: CLEAR WINNER

3.14.3. 10 v. 7: TOTAL DOMINANCE

3.14.4. 10 v. 6: OVERMATCHED

Rule 5:

No protest in AOB, APB and WSB Competitions is permitted and the decisions of the Referee and Judges in a bout are final. However, in AOB Competitions, if the Supervisor believes that the decision has been taken in contravention of any of these Technical Rules and of the AOB Competition Rules, the Supervisor must call for a meeting for the bout to be reviewed at the end of the session by all the participating ITO's and R&Js for the final decision. In such case, the Supervisor must fill out a Bout Review Request Form before the next Bout and inform both Team Delegations immediately.

Rule 10: Referees:

10.1 *In all AIBA Competitions, each Bout must be controlled by a Referee, nominated by the Draw Commission in AOB Competitions, and by the supervisor in APB Competitions and WSB Competitions, who will officiate in the Ring but will not score the Bout.*

AOB Competition Rules of 2013

Draw Commission: *Means a group of minimum 2 persons who will draw R&Js for each Bout in any AOB Competition.*

ITO's: *means International Technical Officials appointed by excluding R&Js such as the Supervisor, the Deputy Supervisors, the Referee's Evaluator, the Judge's Evaluator, the Draw Commission, the Medical Jury members, the R&J Coordinator and the Equipment Manager.*

Judge: *means the person who allocates points during a Bout based on each Boxer's performance on the ring in respect of the AIBA Technical Rules and of these AOB Competition Rules.*

Referee: *means the person who ensures that the AIBA Technical Rules and these AOB Competition Rules are followed by the Boxers during their Bouts in the ring;*

Seconds: *means Coaches or Trainers who are certified by AIBA and who are allowed to act in the corner of the ring;*

Supervisor: *means the person who is appointed by AIBA to be responsible for all technical related issues in any AIBA Competition. A Supervisor may be certified in all AIBA Competitions (AOB, APB and WSB) or only in AOB Competitions.*

RULE 7:

7.2. *In all AOB Elite Women and Youth Girls competitions, the Bouts must consist of four (4) rounds of two (2) minutes each.*

RULE 8:

8.1. A protest must be submitted by the Team Manager or the person with the highest position in the Delegation or Coach of the Boxer no more than 30 minutes after the completion of the Bout.

8.2. A protest during the Finals of a competition must be submitted within 5 minutes of completion of the Bout. The Award Ceremony will be postponed until the results of the evaluation are announced.

8.3. The protest must be made in writing and handed to the Supervisor giving clear reasons for the protest and specifying which rules were violated. **The protest must only challenge the performances of the Referee.**

8.4. **No protest against Judges' decisions will be accepted.**

8.5. The protest fee is US\$ 500.00. An administrative fee of US\$ 150.00 will be deducted from this amount and the remaining amount will be refunded if the protest is upheld. If the protest is rejected, the entire fee will not be returned to the party protesting.

8.6. The Supervisor has the right to accept or reject the protest. The Supervisor will inform the parties involved if the protest has been accepted or not. If the protest is rejected before being reviewed, the protest fee will be fully refunded.

AIBA DISCIPLINARY CODE OF 2013

3.1. All persons subject to this Disciplinary Code must:

(a) respect and abide by the entirety of the AIBA Statutes, AIBA Bylaws, AIBA Technical & Competition Rules and AIBA Code of Ethics;

(b) respect and abide by the entirety of the statutes, bylaws, articles, constitutions of AIBA Confederations and AIBA National Federations;

(c) submit to the final decisions of AIBA, its Confederations or National Federations and, where applicable, WSB;

(d) respect and abide by the World Anti-Doping Code of the World Anti-Doping Agency (WADA);

(e) at all times behave with respect towards each other;

(f) respect the principles of honesty, integrity and sportsmanship; and

(g) act in accordance with the principle of fair-play.

5.2. *Anyone who fails to respect an enforceable decision of a legal body of AIBA, WSB, its Confederations or National Federations or the Court of Arbitration for Sport (if applicable) **will be subject to a fine of up to CHF 10'000 and may also be subject to an exclusion from a particular AIBA Competition, or a suspension from all boxing activities for up to 2 years.***

9.7 Suspension of a Boxer:

9.7.1. The suspension of a Boxer is the removal of the right of the Boxer to participate in current and future AIBA Competitions for a certain period of time, and may include a prohibition on attending AIBA Competitions or being present in the Field of Play.

9.7.2. The suspension will not be more than 2 years, except in exceptional cases.

9.7.3. If the suspension is combined with a fine, the suspension will be automatically extended until the fine has been paid in full.

12.2. *The Judicial Bodies of AIBA, WSB and the Confederations (the “Judicial Bodies” and each a “Judicial Body”) are:*

(a) The Disciplinary Commission; and

(b) The Chairman of the Disciplinary Commission ruling alone.

12.5. *The decision of the Disciplinary Commission or the Chairman of the Disciplinary Commission (in decisions issued in accordance with Art. 12.4) will be final and will not be capable of appeal.*

COURT OF ARBITRATION FOR SPORTS:

REGULATION 47:

APPEAL:

An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of that body.

An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned.

REMEDIES

Therefore, it should be seen as to what should have been done in the wake of the aforesaid legal position.

1. Challenge the ban that has been imposed by the AIBA without any justification and not the award that medal categorisation that has been carried out.
2. File a representation before the AIBA Disciplinary Committee as per Rule 8 of the AIBA Competition Rules, 2013 by the concerned officers within the time limit specified.

This was filed by the Indian Boxer as no officer accompanying the Indian Contingent had done the needful. However, it was seen that the protest had been

preferred against the decision of the Judges, which as per Rule 8.4 of the AIBA Competition Rules, 2013 is not permitted, as only decision of Referees (Rule 8.3 of the AIBA Competition Rules, 2013) can be challenged.

3. After dismissal of the representation, when preferred, the participant should have preferred a petition before the Chairman of the Disciplinary Commission. This was not done.
4. The Ministry of Youth Affairs and Sports had in a belated attempt at restoring National Pride proclaimed that they would be filing an appeal with the Court of Arbitration for Sports at Lausanne, Switzerland. However, as can be seen from the above extracted Regulation 47, there should be a specific arbitration clause that should be present in the Rules and Regulations to enable the parties to approach CAS.

In the Indian Context, it is also important to keep in mind that the official federation for regulating boxing is the Boxing Federation of India, which stands suspended from the AIBA due to election manipulation that had taken place in IOA and AIBA. Similar posts of president of IOA and the BFI were being contested by the same person which resulted in allegations of manipulation. Due to its suspension, no Rules and Regulations framed by the BFI would be applicable to the boxers, till it is reviewed.

In the absence of an official federation, a private entity known as Boxing India was formed as an ad-interim measure, which in late October, 2014 was officially recognised as a permanent member of the AIBA. The recognition from the Central Government and the Ministry of Youth Affairs and Sports is still being awaited.

However, an analysis of the Rules and Regulations of the BFI or BI does not reveal any provision for arbitration, which effectively shuts the door on the provision of applying to CAS in respect of this issue.

India, which is a signatory of Court of Arbitration for Sports, could approach this Tribunal, however, it is important to note that the particular arbitration clause should also be incorporated into the national federation guidelines.

So far, after the announcement made by Mr. Ching-kuo Wu, President AIBA that they will take stern action against the boxer, the Sports Ministry has belatedly expressed their whole hearted support to the Indian Boxer and has also promised all the legal help as may be required. This is a belated development, inasmuch as if the same action had been initiated at the relevant time, better sense would have prevailed.

From the above, it is clear that both the IOA and Boxing India are not following the correct procedure, being ignorant about the particular provisions of the law and the remedies that might be ordinarily available to the Indian Boxer. As the said associations had not approached the AIBA and made provisions for approaching CAS, we should consider the case of L. Sarita Devi as closed at this point of time, unless the Government of India, ie. Ministry of Youth Affairs and Sports itself approaches the issue as a national cause and challenges all the decisions taken so far including the regulation of Article 47 itself as there has to be a review of the decision given by judges in cases of this nature.