

**BEFORE THE INDIAN SUPER LEAGUE APPEAL COMMISSION
HON'BLE MR. JUSTICE KSHITIJ R VYAS (FORMER CHIEF JUSTICE,
BOMBAY HIGH COURT)
IN THE MATTER OF APPEALS AGAINST THE ORDER DATED 5TH MAY
2016 PASSED BY THE ISL REGULATORY COMMISSION**

Appeal No. 1 of 2016

Goan Football Club Private Limited
(operating a football club known as "FC Goa") ...Appellant

Versus

(1) Football Sports Development Limited
(operating a football sports league known as "ISL")

(2) Chennaiyin Football Club ...Respondents

Appeal No. 2 of 2016

Mr Shrinivas Dempo ...Appellant

Versus

(1) Football Sports Development Limited
(operating a football sports league known as "ISL")

(2) Chennaiyin Football Club ...Respondents

Appeal No. 3 of 2016

Mr Dattaraj Salgaocar ...Appellant

Versus

(1) Football Sports Development Limited
(operating a football sports league known as "ISL")

(2) Chennaiyin Football Club

...Respondents

Appeal No. 4 of 2016

Football Sports Development Limited
(operating a football sports league known as "ISL")

...Appellant

Versus

Goan Football Club Private Limited
(operating a football club known as "FC Goa")

...Respondents

Mr. Naushad Engineer, Sr. Counsel along with Mr. Rohan Dakshini, Ms. Nikita Mishra instructed by Federal & Rashmikant along with Mr. Jonathan D' souza for Goan Football Club (Pvt.) Ltd. and Mr. Dattaraj V. Salgaocar and Mr. Shrinivas Dempo.

Mr. Rohit Kapadia, Senior Advocate, Mr. Sunisen, Mr. Sachin Mandlik, Mr. Rahul Dutt, Mr. Vishal Shriyan, Mr. Haabil Vahanvaty Advocates instructed by Khaitan & Co. for football Sports Development (Pvt.) Ltd. (ISL).

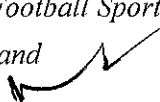
Mr. Nitish Jain, Mr. Saurabh Sarogi, Mr. Gaurav Singhi, Advocate instructed by Shardul Amarchand Mangaldas along with Mr. Bhupendra Dusara.

Order

1. Separate appeals have been filed by Goan Football Club Private Limited ("FC Goa"), Mr Shrinivas Dempo, Mr Dattaraj Salgaocar and Football Sports Development Limited against the Order dated 5 May 2016 passed by ISL Regulatory Commission in the proceedings/complaints filed before the ISL Regulatory Commission. The proceedings/complaints before the ISL Regulatory Commission were filed in relation to the incidents post the final match between FC Goa and Chennaiyin FC (Match No 61) of the 2015 edition of the Indian Super League at Fatorda Stadium Goa on 20 December 2015.

The following breaches were alleged:-

- i.) Allegations of match fixing by FC Goa officials against ISL;

- ii.) Harassments and threats to International Referee Group In-charge of the ISL finals by FC Goa players and officials;
 - iii.) Boycott of the post-match and League Award Ceremony by FC Goa;
 - iv.) Non-adherence to Rules (Rules. 25 “Dispute Resolution”) by filing FIR against Mr Elano Blumer
 - v.) Criticism of match officials and ISL in public by FC Goa.
2. The Order dated 5 May 2016 passed by the ISL Regulatory Commission is a common order in relation to following four cases:
- i) Case No. 1 of 2015 – 16 filed by Football Sports Development Limited (Indian Super League) filed on 22 December 2015 against Goan Football Club Private Limited (FC Goa);
 - ii) Case No. 2 of 2015 – 16 filed by FC Goa filed on 22 December 2015 against Chennaiyin Football Club FC (Chennaiyin FC);
 - iii) Case No. 3 of 2015 – 16 filed by FC Goa on 20 December 2015 against Elano Blumer; and
 - iv) Case No. 4 of 2015 – 16 filed by Chennaiyin Football Club on 23 December 2015 against FC Goa.
3. The common order dated 5 May 2016 has imposed the following sanctions:
- “86.1
- a) *FC GOA team shall be docked 15 (fifteen) points in the next ISL season in which they participate;*
 - b) *Mr D. Salgaocar shall be banned from associating with any activity pertaining to ISL matches (including entering stadium) for 3 (three) ISL seasons;*
 - c) *Mr Srinivas Dempo shall be banned from associating with any activity pertaining to ISL matches (including entering stadium) for 2 (two) ISL seasons;*
 - d) *A sum of Rs 10,00,00,000/- (Rupees ten crores only) shall be paid by FC GOA to Football Sports Development Ltd. towards penalty/fine as well as costs; and*
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e) *A sum of Rs 1,00,00,000/- (Rupees one crore only) shall be paid by FC Goa to Chennaiyin FC towards costs."*

4. Parties have filed written objections in these proceedings against these appeals. Counsels for the parties have appeared before the Appeal Commission and have put forth their arguments.
5. In essence, counsel for the Football Sports Development Limited has argued that docking the FC Goa team with 15 points for the next ISL season is unfair as neither the players nor the fans of FC Goa were in anyway responsible for the incident in issue. This sanction, if continued, will tantamount to punishing the players and the fans of FC Goa. End result of continuing this sanction would really be that the game of football will suffer. Therefore the imposition of this sanction is not called for. In fact, Football Sports Development Limited has in its appeal supported FC Goa by appealing against the docking of the 15 points against FC Goa.
6. The counsel for Mr. Shrinivas Dempo and Mr. Dattaraj Salgaocar has argued, among other things, that the ISL Regulatory Commission does not have jurisdiction in this matter, sanctions imposed both by the AIFF and ISL Regulatory Commission in the same matter amount to double jeopardy, principles of natural justice have been violated in this matter, and in the facts of the case the Regulatory Commission has erred in imposing any sanctions on Mr. Dattaraj Salgaocar, Mr. Shrinivas Dempo and the FC Goa team when none was called for, since, as a matter of fact, they were the victims in the incident.
7. Before dealing with the other issues, it is necessary to settle first the issues regarding jurisdiction and double jeopardy.
8. On the point of jurisdiction, I have heard arguments made by the learned counsels of the parties. I have also reviewed the relevant rules and documents relied upon by parties.

Learned counsel for FC Goa, Mr Naushad Engineer, after inviting my attention to the AIFF Disciplinary Code, as well as the ISL League Rules, argued that only AIFF has jurisdiction to decide the disputes involved in the matter. On the other

hand, Mr Rohit Kapadia, learned counsel appearing for the Football Sports Development Limited (ISL), and Mr Nitesh Jain, learned counsel for Channayin FC, has supported the reasoning and conclusion arrived at by the Regulatory Commission.

I have considered the AIFF Disciplinary Code, the AIFF Constitution, and the ISL League Rules.

Before I decide the issue of jurisdiction, it is necessary to reproduce relevant provisions of the AIFF Disciplinary Code and the ISL League Rules.

Article 71 of the said AIFF Disciplinary Code is as follows:

"ARTICLE 71: GENERAL RULE

- 1. With regard to matches and competitions not organised by AIFF (cf. art. 2), Member Associations and sports organisations that organise matches for cultural, geographical, historical or other reasons (cf. art 39 par. 2 b) are responsible for enforcing sanctions imposed against infringements committed in their area of jurisdiction.*
- 2. The judicial bodies of AIFF reserve the right to sanction serious infringements of the statutory objectives of AIFF (cf. final part of art. 2) if Member Associations, and other sports organisations fail to prosecute serious infringements or fail to prosecute in compliance with the fundamental principles of law.*
- 3. Member Associations and other sports organisations shall notify the judicial bodies of AIFF of any serious infringements of the statutory objectives of AIFF."*

Rule 1.7 of the League Rules provides that participation in the ISL constitutes an agreement between the relevant parties, which includes FC Goa and the ISL. It also clarifies that the parties would also be bound by and shall comply with the AIFF Regulations.

In terms of the League Rules, the disciplinary matters are to be referred to the jurisdiction of the Regulatory Commission, and appeals therefrom to be referred to this Appeal Commission.

Rule 2.3 provides that the regulations and guidelines and circulars issued by the ISL are binding on FC Goa.

Rule 14.1 requires FC Goa to ensure that each of its Team Officials complies with the regulations.

Rule 24 provides that the ISL may impose sanctions for any matter under the ISL Regulations in addition to any sanctions imposed by the AIFFDC.

Rule 25 provides that all complaints and/or breaches of the regulations or charges of misconduct under the Regulations shall be decided by the Regulatory Commission.

In addition, I have seen a copy of the letter issued by the AIFF on 12 January 2016, under which AIFF has confirmed that Football Sports Development Limited has the:-

“full right and ability to decide upon the format, rules and structure of the League, as per the League Regulations formulated by the Company and which have been approved and sanctioned by the AIFF”

I have also seen another communication, signed by the ISL and also by the AIFF, addressed to one Jonathan D Souza of FC Goa. It is undated but I have been informed it was sent to FC Goa on 8th February 2016, as a reply to FC Goa's communication dated 29th January 2016 to the ISL. This communication is in the context of “hearings before ISL Regulatory Commission”, and has clarified the issue of jurisdiction, as between the AIFF Disciplinary Committee and ISL Regulatory Commission in the matter with which we are concerned.

From the said communication, the following becomes clear:-

- AIFF Disciplinary Committee having jurisdiction over matters relating to discipline under AIFF Disciplinary Code, on matters affecting football, does not preclude the ISL from taking parallel action and imposing sanction on matters directly affecting the League's reputation, credibility and which amounting to breach of its regulations.
- Rules 22.2 and 24 of the League Rules clearly authorise the ISL to impose additional sanctions for breach of League Regulations in addition to any disciplinary sanction under the AIFF Disciplinary Code.
- Without prejudice to the above, there are issues raised by the ISL in its complaint dated 22 December 2015 which are in addition to those raised by AIFF in its show cause notice.

From the above, it is clear that:-

- (i) Football Sports Development Limited has the right to make its own rules and regulations;
- (ii) The AIFF has approved and sanctioned the League Rules / Regulations;
- (iii) the AIFF, despite having its own disciplinary code, agrees that its code does not preclude the ISL from taking parallel action and imposing sanctions on matters directly affecting the ISL's reputation and which amounting to breach of its regulations and the ISL has the right to impose additional sanctions for breach of its rules.

On a conjoined reading of all the above, clearly not only does ISL have the right to frame its own rules for the League and deal with related issues, including disciplinary issues, but in fact the AIFF has required ISL to regulate and sanction disciplinary issues.

It is also clear that the ISL and the AIFF can take parallel action and impose sanctions independently.

In so far as FC Goa is concerned, by agreeing to participate in the ISL, and signing the Participation Agreement it has agreed to be bound by the League Rules. Therefore, at this stage it is necessary to refer to the Participation Agreement.

The following provisions of the Participation Agreement are required to be considered:-

- (a) Clause 3.3 of the said Participation Agreement provides that FC Goa's enjoyment of the "Team Rights" is subject to its compliance of the Regulations.
- (b) Under clause 4 of the Participation Agreement, FC Goa must comply with the provisions and obligations set out in Schedule I to the Participation Agreement.
- (c) Under Clauses 2(d), 2(e) and 2(n) of Schedule I to the Participation Agreement FC Goa must operate the "Team" in accordance with the (League) Regulations, procure the compliance of the Regulations by its players and officials, and be in compliance with the Regulations at all times.

It is clear that FC Goa has agreed to be bound by the League Rules. This has the agreed position as between the various clubs, including FC Goa, and ISL under the Participation Agreement.

Apart from this, significantly, FC Goa has itself invoked the jurisdiction of the Regulatory Commission by filing complaints against Chennai FC, Elano Blumer and a counter-claim against Football Sports Development Limited.

From the foregoing, and the material already on record, it is clear that Football Sports Development Limited has the right to establish and conduct the ISL as per its rules and regulations, and the various clubs, including FC Goa, are bound by the rules and regulations framed by the Football Sports Development Limited from time to time, including in relation to the disciplinary matters, hearings and appeals.

The ISL rules and regulation have not been impugned and these cannot, as a matter of fact, be impugned in these proceedings. To my mind, if this contention

of the appellant is accepted, and if, in matters of this nature, ISL cannot exercise its disciplinary jurisdiction, then conduct of tournaments and matches would become impossible. It is not possible to accept the argument that in matters of discipline and enforcement, the jurisdiction of ISL Regulatory Commission can in any manner be constricted. As a matter of fact, the disciplinary jurisdiction is unfettered.

In view of the above discussions, I see no merit in the submission advanced by the learned counsel appearing for FC Goa, namely, that, since ISL is a league run under the sanction and authority of the AIFF, and the AIFF is the apex body that governs the sport of football in India, therefore ISL is subordinate to and is bound by the decisions of the AIFF and its Disciplinary and Appeal Committee in so far as the matters before us are concerned.

The authority cited and relied upon by the learned counsel for FC Goa, namely the decision of the Hon'ble High Court of Bombay, AIR 1989 BOM 189, is not applicable in the facts of the case.

There is no dispute as to the fact that the AIFF is the apex body that governs the sport of football in India. However, as stated above, FC Goa, like other clubs, is bound by the ISL rules and regulations established by Football Sports Development Limited.

It cannot be said that FC Goa is bound only by the decisions of the AIFF.

It is also not possible for me to accept the submission raised on behalf of FC Goa that in view of Rule 1.7 of the ISL League Rules and the order dated 25 January 2016 passed by the AIFF Disciplinary Committee holding that it had exclusive jurisdiction to determine the disputes, the Regulatory Commission could not have proceeded and decided the issue regarding jurisdiction against FC Goa.

In my opinion, the submissions advanced on behalf of FC Goa are not well founded, and it is in any case too late for it to raise the contention of jurisdiction.

In the present case, FC Goa has already invoked and submitted to the jurisdiction of the Regulatory Commission by filing complaint/ claims against Chennai FC,

Mr Elano Blumer and a counter-claim against Football Sports Development Limited.

True, in the present case, the AIFF DC and AIFF Appeals Committee have exercised their respective jurisdiction. However, the said fact by itself cannot oust the jurisdiction of the Regulatory Commission.


As per settled principles of law, there can be exclusive jurisdiction vested in a body or an authority, excluding jurisdiction of all others. But for this, the relevant law, provision, rule or regulation has to be unambiguous and specific in terms. This has to be not only shown but proved by the party who asserts such a position.

Further, as far as the present case is concerned, both the authorities, ISL as well as the AIFF, exercised concurrent jurisdiction to decide the disputes between the parties. There is nothing in the ISL Rules, or the AIFF DC, which excludes the jurisdiction of the Regulatory Commission in relation to the disputes at hand.

To the contrary, the provisions are clear and unambiguous so as to vest the Regulatory Commission with jurisdiction and powers to take up and decide on the subject matter of these proceedings. Not only that, the ISL Rules enjoin a duty upon the Regulatory Commission to undertake this exercise.

In order to make good their submission, the learned counsel for FC Goa contended that the AIFF Appeals Committee having passed the order of status quo would suggest that the said authority is a superior authority, and ISL, instead of proceeding further, should have maintained status quo.

I see no merit in this submission. The AIFF Appeals Committee can exercise jurisdiction and powers only qua the parties appearing before it, that is, FC Goa only. In fact, FC Goa challenged the order passed against it by the AIFF DC, before the AIFF Appeals Committee. In view of the same, at the most, the order of status quo passed by the AIFF Appeals Committee is essentially an operation of the order made by the AIFF DC against FC Goa, and I am not convinced that it binds the ISL. None of the other parties in these proceedings were parties before AIFF Appeals Committee, and therefore the order of status quo is, even on this count, not applicable to them.



Apart from the above, in any event in my opinion AIFF Appeals Committee cannot exercise jurisdiction as a superior forum in any hierarchy of authorities in so far as the ISL Regulatory Commission is concerned.

I am therefore of the view that the Regulatory Commission could not have been asked to desist from going ahead with the proceedings, as contended by the learned counsel for FC Goa.

As regards the argument advanced by the learned counsel for FC Goa that the AIFF DC had exclusive jurisdiction over all matters relating to discipline under the AIFF Disciplinary Code, including those relating to the ISL, I agree with the ISL Regulatory Commission that this argument is shorn out of context, as the Regulatory Commission does not seek to exercise any jurisdiction qua any matter or any provisions under the AIFF Disciplinary Code, nor does it seek to enter that arena.


In view of the said reasoning, I see no merit in the submission that since FC Goa is bound by the order / directions of the AIFF DC / AIFF Appeals Committee, hence it found itself unable to participate in the present proceedings.

Accordingly, and for all of the above reasons, I find that the Regulatory Commission has jurisdiction to hear and pass orders in these matters, as it has.

9. On the issue of double jeopardy, the learned counsel for FC Goa submitted that the parallel enquiries by both the AIFF Disciplinary Committee and the ISL Regulatory Commission are bad in law on the ground of principle of double jeopardy.

I have heard arguments made by the learned counsels of the parties and also reviewed the legal provisions and case laws, the Participation Agreement, and other documents relied upon by parties.

The parties' submissions and the Regulatory Commission's order has set forth the case laws and the arguments advanced by the parties, and it is not necessary to repeat those here.



The Regulatory Commission has found that the various provisions of law and Articles of the Constitution of India relied upon by FC Goa to contend that the principle of double jeopardy is attracted in the present case, do not apply.

I agree with the findings of the Regulatory Commission in this regard.

Article 20(2) of the Constitution of India, Section 26 of the General Clauses Act, 1897, Section 300 of the Code of Criminal Procedure, 1973, all come into play when there is a "criminal offence" committed which is "punishable under a law" and which is heard before "courts of law" or "judicial tribunals" in accordance with "statutes".

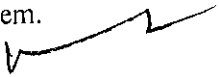
The benefit of the protection for double jeopardy applies to "criminal offences" under applicable laws.

I am not convinced that the principles of double jeopardy, as have been statutorily recognised in the realm of criminal offences, law, courts, and statutes, can *mutatis mutandis* be made applicable to the present facts of the case.

Be that as it may, we also need to examine whether double jeopardy, as a general principle, can apply to the present case, which is concerned with disciplinary proceedings and contractual commitment of agreeing to be bound by the regulations of the ISL.

For this, it is first important to understand, even if in the broadest terms, how the AIFF and the leagues established under its auspices can operate together and independently, and what are their respective scopes and mandates.

AIFF is the national body overseeing football across the country, and not concerned only with the football played under the auspices of the ISL. AIFF has among other things a supervisory role in the game of football across the country, irrespective of the entity by whom it is conducted. ISL may be one such entity. AIFF has specifically allowed, and in fact required Football Sports Development Limited to establish the ISL, to frame its own rules and enforce them.



Football Sports Development Limited can of course only regulate its own league, namely, ISL, and matters arising therefrom. The scope and mandate therefore of Football Sports Development Limited, is limited to matters related to the ISL.

It is clear that that the various concerned football bodies have their own mandates and scope, and their own rules and regulations. Sometimes, these mandates and scopes may overlap, simply due to the way the game of football is structured in India, and indeed internationally.

For example, the AIFF would primarily be interested in looking at a particular football related incident from the point of view and perspective of the game of football in the country. On the other hand, Football Sports Development Limited would view the incident from the perspective of the ISL / its league. Both these bodies, being concerned with football, but having their respective mandates and scopes, would necessarily have to be able to have independent rule making and enforcing authority. Certain incidents may be subject to the discipline and purview of both.

Nothing would prevent AIFF to adopt disciplinary proceedings against a club or an individual and impose a sanction, or the ISL doing the same under its rules and regulations and vice versa. There is also nothing which provides that if the AIFF imposes a particular monetary fine, the ISL cannot impose its own fine for the same. It is irrelevant whether the second fine is more or less than what the AIFF imposed.

In fact, this structure augurs well for the game of football and good overall governance. It allows leagues like the ISL enough freedom to be able to penetrate a country as large and diverse as India and promote the game of football, which would not be possible without freedom to independently establish and conduct the league, of course under the overall aegis of the AIFF.

This regulatory machinery is necessary for the proper promotion and preservation of the game of football.

In fact, the case of *Fernbache Spor Kulubu versus UEFA (CAS 2013/A/3256)* also highlights this. The case dealt with two different football authorities (namely, the Turkish Football Federation, and the Union of European Football Associations)

which applied their own rules and regulations, and sanctions, to the same set of events. It was held that the principle of *ne bis in idem* (meaning “not twice in the same thing” – analogous to “double jeopardy”) would not apply. In the circumstances, I agree with this principle enumerated in the above cited case.

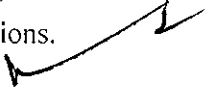
The only question to be then considered is whether all parties concerned have agreed to this regulatory machinery.

The answer to this is in the affirmative.

FC Goa has mindfully agreed to submit itself to the jurisdiction, including the sanction making authority of the Regulatory Commission, by agreeing to be bound by the rules and regulations of the ISL. FC Goa has also agreed to the jurisdiction of the AIFF, in all matters relating to football. If FC Goa had not agreed to the above, it would not have been granted the right to set up a football club under the auspices of the ISL. I do not think it necessary to refer to the various provisions of the Participation Agreement and the ISL rules, or the AIFF rules in this regard, but suffice it to say that those provisions have clearly stipulated that the AIFF and the ISL have their own set of rules, and disciplinary, sanction and enforcement mechanisms which operate independent of one another. I do not find ambiguity in this, and I also am of the view that such a regulatory framework is in fact necessary given the way the game of football is structured.

The learned counsel for FC Goa invited my attention to the decision rendered by the Hon'ble the Supreme Court in the case of *Lieutenant Governor of Delhi and others Vs FC Narendra Singh (2004) 13 SCC 342*.

That was a case where a second show cause notice on the same cause of action was issued and it was held that the same would amount to double punishment and would attract the principles of double jeopardy. While agreeing with the principle laid down by the Hon'ble the Supreme Court, in my opinion that matter is distinguishable from the facts of the present case. That was a case where a second penalty based on the same cause of action by the same authority, amounted to double jeopardy. While, in the instant case, the authorities are different and are considering the case independently on the basis of separate and independent rules and regulations.



For all the above reasons, I agree with the findings of the Regulatory Commission and hold that the bar of “double jeopardy” is not applicable in the instant case, and cannot be invoked as a defence.

10. Learned counsel appearing for FC Goa finally contended that the proceedings initiated by the Regulatory Commission are in violation of the rules of natural justice because:-

- (i) documents and the complete unedited video footage of the incident is not being provided despite numerous requests,
- (ii) the AIFF AC had directed that status quo be maintained with regard to the hearings before the ISL RC. Accordingly, in compliance with the said order, FC Goa did not file their defence on merits. The ISL RC is however proceeding on the basis that FC Goa is not interested in filing their reply, and therefore for no fault of FC Goa it is being deprived of its chance to defend the matter on merits,
- (iii) no order is passed on any of the preliminary applications / letters submitted by FC Goa, and
- (iv) no opportunity to cross examine any of the witnesses was given.

Having considered the procedure adopted by the ISL Regulatory Authority, and the facts of the case, it appears that FC Goa by their own voluntary conduct refused to file their reply on merits, refused to attend the hearings, and thereafter limited their arguments to the contents of their application dated 30 April 2016.

After they voluntarily abstained from participating in proceedings held on 11 April 2016, and 12 April 2016 before the ISL Regulatory Commission, when FC Goa finally appeared at the hearing on 3 May 2016, it did not deal with the complaints against it on merits, despite the Regulatory Commission specifically instructing FC Goa to do so.

Thus, FC Goa’s voluntary refusal to furnish a response to the written submissions dated 11 March 2016, followed by their subsequent refusal on various occasions in the proceedings before the Regulatory Commission, belies their contention that

the Regulatory Commission did not afford reasonable opportunity to argue the case on merits.

Even in the present appeal, there is no response given by FC Goa as to the merits of the case against it.

With regard to allegations of denial of evidence, namely to provide unedited video of the incident in question, I find no substance in the allegation.

Football Sports Development Limited has already produced the unedited video footage of the incident concerning Elano Blumer, which was provided to FC Goa, well prior to the hearings.

It is for the first time in the present appeal that FC Goa has clarified that it is seeking footage from "12 cameras".

To this, it is stated by the learned counsel appearing for Football Sports Development Limited that the Elano Blumer incident occurred post the final whistle being blown and, at such time, only one of the cameras on the ground was covering that particular section of the field.

It is further stated that no video footage would have any bearing on the grounds of complaint against FC Goa, which are matters of admitted conduct for the most part.

In my opinion, the explanation offered in the case by the counsel for Football Sports Development Limited appears to be just and proper.

In any case, a party which chose to abstain from completing its pleadings and refused to appear at the hearings cannot be heard to complain that it was denied discovery of documents.

In the instant case, FC Goa proceeded on an assumption that their filing of letters or applications was adequate and that it was incumbent on the Regulatory Commission to consider their submissions. They proceeded on the basis that they need not appear, to support their applications.

Perusing the proceedings of the Regulatory Commission, it held a hearing on 11 April 2016, wherein ISL appeared; however FC Goa abstained from attending the hearing, and therefore, rightly, the Regulatory Commission proceeded with the matter on the said date.

However, the Regulatory Commission by reason of fairness and good conscience, on its own decided to give a final chance to FC Goa to appear in the matter.

Accordingly, the matter was adjourned to 12 April 2016, and minutes were recorded to the effect that FC Goa was being a final opportunity to appear and present its case on 12 April 2016. These minutes were communicated to FC Goa along with the following specific intimation –

“In accordance with the ISL League Rules, if a party fails to file their written complaint / response / rejoinder / counterclaim or fails to present itself for the hearing, the ISL Regulatory Commission shall proceed to decide the case based on the documents on record and the evidence before it.”

Despite the same, FC Goa sent a written response on 11 April 2016 reiterating their stand on lack of jurisdiction with the Regulatory Commission. Even though extensive oral submissions in the case on 12 April 2016 were advanced before the Regulatory Commission, certain aspects of the matter remained to be completed and the matter was scheduled to be heard on 3 May 2016.

In the meantime, on 30 April 2016, FC Goa filed an additional application with the Regulatory Commission seeking essentially the same reliefs prayed for under the previous application dated 10 April 2016, and additionally on the principles of natural justice by asking for the complete unedited footage of the events of 20 December 2015.

On 3 May 2016, the hearing was attended by the representatives of ISL and FC Goa wherein FC Goa argued their application dated 30 April 2016, which was responded to by ISL. However, FC Goa chose not to address the matter on merits and closed their case after arguing jurisdiction and double jeopardy. In the circumstances, nothing remained for ISL to address except the issues raised by FC Goa at the hearing. That concluded the arguments of ISL as well. After hearing

both the parties, the Regulatory Commission passed the order dated 5 May 2016 imposing sanctions on FC Goa as well as its owners.

The above facts would clearly reveal that it was FC Goa who on their volition did not submit anything on merits, and nor did they file any reply on merits, and therefore it cannot be contended that the Regulatory Commission violated the principles of natural justice.

11. Having thus addressed these issues, what remains to be done is to consider and decide upon the sanctions imposed under the impugned order. I have considered the entire record and material including the appeals, responses of the respective parties, the impugned order and have heard the counsels appearing for parties on the quantum of punishment.

Having considered these, I am of the view that in the facts and circumstances of this present case, the sanctions imposed are harsh and improper on the alleged misconduct, and therefore the order dated 5 May 2016 needs to be reconsidered. After having done so, I pass the following order.

12. I hereby set aside the order dated 5 May 2016 and the sanctions / punishments imposed by the said impugned order and substitute it by the following Order:

- i) *As regards docking of 15 (fifteen) points for FC Goa in the next ISL season.*

As regards docking of 15 points for FC Goa in the next ISL season, this sanction imposed against FC Goa *prima facie* appears to be very harsh and quite disproportionate to the alleged misconduct.

I am inclined to agree with the submission of Football Sports Development Limited that such sanction will have the effect of penalising the players, fans, and the game of football as a whole.

Considering this, and in the facts and circumstances, the sanction of docking of 15 (fifteen) points of FC Goa team for the next ISL season in which they participate is set aside. Appeal No. 4 of 2016 filed by Football Sports Development Limited (ISL) is fully allowed and Appeal No. 1 of 2016 filed

by Goan Football Club Private Limited (FC Goa) is allowed to this extent only.

ii) As regards sanctions on Mr. Shrinivas Dempo and Mr. Dattaraj Salgaocar.

At the outset, the learned counsels appearing for FC Goa and for the Chennaiyin Football Club orally submitted that Mr Dattaraj Salgaocar and Mr Elano Blumer have mutually agreed to put to rest the discord between themselves and bury the incident in the best interests of the game of football. This, by itself, does not require me to take a lenient view in the matter; however, the matter requires to be considered from another perspective also.

Football is a game which arouses lot of passion in some people and this is the first time that football matches of such intensity and prestige are being played in India. Incidents such as these are not uncommon if one looks at the history of tournaments conducted world over.

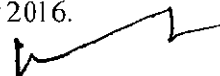
A ban of such nature may be justified for indiscipline by players during a match, on the field of play. One cannot lose sight of the fact that the incident in question occurred after the match, and did not happen on the field of play.

The evidence placed before the ISL Regulatory Commission and this Appeal Commission in this regard is not unimpeachable, and therefore I am of the view that all the evidence ought to have been appreciated in a manner such as a trial court would appreciate.

I have reviewed the various statements recorded in the proceedings.

For the imposition of sanctions such as a ban, a higher standard of proof is required and must be established.

Accordingly, and considering the material on record, which is not adequate to justify the sanction of ban imposed upon the appellants, I therefore set aside the sanction of ban imposed on Mr Shrinivas Dempo and Mr Dattaraj Salgaocar by the impugned order dated 5 May 2016.



Appeal No.2 of 2016 filed by Mr Shrinivas Dempo and Appeal No. 3 of 2016 filed by Mr Dattaraj V Salgaocar respectively are accordingly allowed.

- iii) As regards sanction of penalty / fine on FC Goa of Rs 10,00,00,000/- (Rupees ten crores only).

As far as imposition of penalty / fine on FC Goa of Rs 10,00,00,000/- (Rupees ten crores only) to be paid by FC Goa to Football Sports Development Limited is concerned, I find that the impugned order imposing this penalty is too harsh and quite disproportionate considering the gravity of the incident which took place on 20 December 2015 in the overall situation of things. I therefore to that extent agree with the submissions advanced by the learned counsel for FC Goa. Even the counsel for Football Sports Development Limited (ISL) left the quantum of penalty to my discretion.

Considering the facts of the case, I set aside the levy of penalty / fine imposed on FC Goa of Rs 10,00,00,000/- (Rupees ten crores only) by the Regulatory Commission, and impose the penalty of Rs 6,00,00,000/- (Rupees six crores only) to be paid by FC Goa to Football Sports Development Limited (ISL) to be used by it for the grass root development of the game of football.

The order dated 5 May 2016 passed by the Regulatory Commission is substituted accordingly. Appeal No. 1 of 2016 filed by Goan Football Club Private Limited (FC Goa), and Appeal No. 4 of 2016 filed by Football Sports Development Limited (ISL), in this regard are allowed.

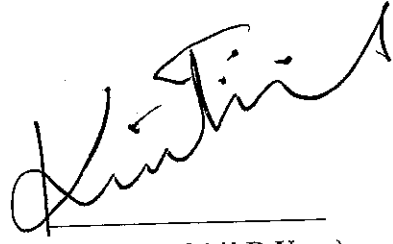
- iv) Sanction of costs on FC Goa of Rs 1,00,00,000/- (Rupees one crore only).

As far as the sanction of penalty / fine against FC Goa as costs of Rs 1,00,00,000/- (Rupees one crore only) to be paid by FC Goa to Chennaiyin FC is concerned, I am of the view that there is no justification for imposing this cost, in the facts and circumstances of the case.

I therefore allow Appeal No. 1 of 2016 filed by FC Goa for this limited purpose, and set aside the order of the Regulatory Commission which

imposes costs of Rs. 1,00,00,000/- (Rupees One Crore only) to be paid by way of costs to Chennaiyin FC by FC Goa.

All the appeals hereby stand accordingly disposed of.



(Justice Kshitij R Vyas)

Indian Super League
Appeal Commission

Dated: 22.7.2016
Mumbai