

# LEGALFOXES LAW TIMES

## EMERGENCE OF SPORTS LAWS IN INDIA AMIDST COVID-19:

### A CRITICAL STUDY

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#### ABSTRACT

In the 21<sup>st</sup> century, sports has become the major activity that is widely followed and exercised across the globe. The paper sheds light on the adverse implication of the unprecedented COVID outbreak that affects the overall sports industry across the globe. The countermeasures that are practiced widely to combat the ill-effects and consequences of this COVID spread would involve the sports industry to develop the codified legislator regulation that can ensure to align with the government-imposed restrictions and mandates to contain the spread while encouraging the budding sportsperson to resume their activity without hampering the eco-system.

The emergence of various sports law handles various interlinked activity involving defamation, trademark, contracts, tort and imposed taxation. All the sports events in India got postponed or cancelled due to the continuous spread of the virus impacting the viewership, sponsorship and revenues. Indian Premier League is the biggest sports events in India, had postponed, which was later conducted in UAE without spectators garnering the audiences through DTH and OTT platforms. Owing to the extraordinary love for Cricket among Indians has witnessed a major

disciplinary alteration in the industry. The mere reliance on the existing regulations and legislation in the business needs to be modified with proper legal acts and regulations. This would enable India to witness sustainable growth in Sporting events to compensate and make up for the incurred loss during the spread of the COVID-19 outbreak. The cases relating to the scandals of betting, match-fixing and other offensive activities need to be controlled with the codified approach of legislation.

## I. INTRODUCTION

Among India's emergence, sports is one of the fastest expanding and growing industry. India has witnessed the sudden advent of diverse leagues with the increased viewership over platforms like DTH and OTT. This industry is regarded as the fastest growing industry in terms of revenue and employment globally. This multi-billion dollar business industry caters for the huge business demand witnessing enormous expansion and growth in Indian markets (Jadhav, 2020). The predominant sports that are extensively followed in India are football, cricket, tennis, wrestling, kabaddi, and many other indoor activities and games. The followers and viewership of Cricket are incomparable to other practiced sports in India. The advent of leagues in Cricket is the key approach that promoted and introduced a huge market. The advent of IPL in India has dramatically changed the sports industry while ensuring various other sports in India. The emergence of the COVID outbreak across the globe imposed various mandates and restrictions worldwide, causing serious concern in the sports industry worldwide. The adverse impact that the Indian sports have been witnessing suggests the pressing need for sports law that can address the key implications that affect the financial stability and the business functionality while ensuring to protect the resources in the sports (Padmavathi & Murthy, 2020). The unprecedented pandemic

caused the sports events to get cancelled and postponed for an uncertain period casting huge anxiety and confusion in India.

## **II. ORIGIN OF SPORTS IN INDIA**

Sports were an integral part of Ancient India when various kinds of sports were played as a source of amusement for the Kings and Queens, while it was also a form of recreation for the people. For the players, sports were a source of income back in those days and not evolved as a career or hobby. Games like Chess, Archery, Hockey, Polo and Wrestling were the star games of the royals and nobility. Some of them were adopted as traditions among the families. With the change in beliefs and thinking of people, the outlook on sports also changed and from a historical lineage, it turned into an activity filled with enthusiasm, encouragement and a desire to prove oneself in front of the whole world. Gradually, India started participating in sports events all over the world, and the government provided aid for setting up training centres for the players.



## **III. NATIONAL SPORTS POLICY**

The lawmakers felt the need to introduce a certain policy to raise the standard of sports in the country. With this thought, a resolution was passed on National Sports Policy in both the Houses of Parliament in August, 1984. The implementation of the policy could not be done. To reformulate this policy and correct whatever was wrong with the previous bill, National Sports Policy, 2001 was drafted.

Following are the objectives of the National Sports Policy, 2001:

- (i) The first objective was to clearly define the areas of responsibility of all those agencies that looked after the promotion and development of sports.
- (ii) Secondly, to lay down the procedures that have to be followed by these federations to get governmental aid and assistance and even avail sponsorships.
- (iii) The third step was to decide the eligibility criteria when the government will follow to release grants to the Sports federations.

#### **IV. VARIOUS ASSOCIATIONS GOVERNING SPORTS LAWS IN INDIA**

Following are the associations / institutions governing the aspects of Sports Laws In India:

##### **(a) Sports Law and Welfare Association of India-**

It is a professional non-profit organization working at the national level for promotion of the ethical practice of Sports Laws in India. Its goal is to understand and improve existing laws relating to Sports and to ensure that these laws run smoothly to maintain the sports industry.

##### **(b) Sports Authority of India-**

It is an apex body set up in 1984 by the Ministry of Youth Affairs and Sports, working at a national level to conduct and coordinate various sports activities in the country. SAI has extended its boundaries to promote broad-based sports and to lay down provisions for the youth to direct their energy in achieving excellence in sports.

**(c) Sports Broadcasting Law In India-**

The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007, was passed to provide access to those sporting events that had national importance to a large number of listeners and viewers on a free to air basis. This can be done through the sharing of sports broadcasting signals with Prasar Bharati for matters related to it.

**(d) Sports and Competition Law-**

Sport is generally organized in a 'pyramid' structure where on one end, a single governing body controls most of the commercial aspects of each sport. This governing body is the dominant one that looks after the games and their competition. The competition law looks over these bodies and makes sure that there is an anti-competitive organization rising as a rival.

**(e) Sports Law and Arbitration As A Dispute Resolving Mechanism-**

Arbitration, a form of Alternative Dispute Resolution is a legal way of resolving disputes outside the courts, wherein the parties to a dispute refer it to one or more persons who can be called the arbitrators and then they make a decision which the parties agree to follow. Arbitration is governed by the Arbitration and Conciliation Act, 1996 in India. In the field of Sports, any dispute that comes up is first referred to those federations that govern the particular sport that is related to the dispute, and then if necessary the International federation is also involved in resolving the dispute.

## V. IMPLICATIONS OF COVID OUTBREAK ON INDIAN SPORTS

The global outbreak of the COVID pandemic has affected and disrupted the sports industry while affecting financial integration to a huge extent. The revenue in the sports industry is hugely collected from the collection of match tickets and sports broadcasting in DTH and OTT platforms<sup>1</sup>. The immense impact of the unprecedented COVID outbreak led the sports industry and many sports to come to a standstill setting back the business relating to viewership and financing. Entertainment main, especially the sports industry. These are the key implications that are affecting the business in the sports industry.

In April 2020, *AIFF* had announced the suspension of the series of all the matches associated with the football league's season. The flagship events *IPL* has been postponed indefinitely due to the nationwide lockdown amidst this pandemic. The huge contribution of IPL in the Indian economy has been degraded as IPL had suffered a huge loss of over *3000 crores* (Saini, 2020). The final series of the *ISL* has been conducted behind closed doors amidst the pandemic outbreak. The BCCI decided to conduct the IPL in 2020 in UAE, imposing governmental restrictions within a bio-secure architecture of bubble.

The emergence of e-sports in India has been the major impact of the COVID outbreak that is aligning with the restriction mandates imposed due to stop the spread of the virus while reducing the social distancing probes<sup>2</sup>. During this emergence, telecom service, its providers and the connective played a pivotal role to support this emergence in the sports industry. The huge surge in e-sports provides the big sponsors and brands with the lucrative opportunity to reach out

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<sup>1</sup>WESTON, 2020

<sup>2</sup>Naik et al., 2021

to potential customers while giving them the chance to play the game just by accessing the internet.

## **VI. NEED FOR SPORTS LAWS AMIDST COVID-19**

The need for certain and articulated legislation in the sports industry has become the need of the hour due to the sudden change in the industry with the outbreak of the COVID-19 virus across the globe. Sports has become a large part that contributes to the national revenue and integrity widely supported by the government and other sporting bodies in India.

The introduction of various leagues and the abundance of opportunities associated with this is incredible for a budding sports person to exhibit their talents and skills in the national platform while helping the business sustain even in trying situations<sup>3</sup>. The decent financial and economic assistance that is provided by the sports industry has become the platform of investment for various leading conglomerates and brands. The huge contribution of this industry towards the nation needs to be codified with proper legislation and integration of various laws while protecting its integrity to the maximum level.

## **VII. EMERGENCE OF SPORTS LAWS AMIDST COVID OUTBREAK**

The need to integrate adequate measures and precautions in curbing the pandemic with the advent of the protocol of 'bio bubble' reduces the crowds while aligning with the restricted access, safety protocols, quarantine measures, and mechanism to ensure the safety of everyone involved. The MHA imposed the first lockdown on 23<sup>rd</sup> May; thereafter, this extension was in practice for few months that allowed relaxation for resuming training. The SAI has proposed a

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<sup>3</sup>Barua & Bardhan, 2021

standard operating architectural system in India for integrating training centres<sup>4</sup>. Based on the proposed protocol, the training session has to be started. The emerging laws and practices are illustrated that encompass the field of regulatory, integrity, commercial rights, intellectual property, movement of athletes, image rights, and dispute resolution during the COVID outbreak.

### **(i) Regulatory Practices**

The regulatory practices that are involved in India encompass anti-doping, match-fixing, disciplinary proceedings, and betting.

#### **Betting**

The legal status in the judicial court needs to be legalized during this COVID outbreak while curbing the approach of match-fixing and unregulated betting. Several attempts ensure to regulate the judicial intervention in the court cases while determining the skills and chance of the game. The prevailing principles that are encompassing the need for structured intervention into the business have successfully drafted the Bill of preventing sporting fraud in the business during this COVID outbreak.

#### **Anti-doping**

The predominantly governing approach in India relating to doping has been controlled with the alignment by the agency of NADA. This has been protected by the imprisonment mandates streamlined based on the anti-doping Bill in the governing body. The clearance of the ministry of IOA suggests the amendments of certain prohibitory legislation imposed during this pandemic on the athletes.

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<sup>4</sup>Mehrotra and Pandey, 2020



### Disciplinary proceedings

This suggests the disciplinary and appeal panel that ensures to protect the anti-doping legislation. NADA has been integrated a periodic review process to ensure the adherence of this approach while maintaining the business architecture in an effective and streamlined manner that implies the suspension of the sportsperson.

### Match-fixing

The LCI committee has intervened the criminalizing match-fixing based on the orders of the Supreme Court to curb the sporting frauds. These cases are usually handled and treaded on certain sections defined in the penal code on breaching trust, fraudulent activities and cheating. Stringent punishment needs to be codified in the legislation.

### (ii) Commercial rights

This involves the integration of sports rights that discusses the sponsorships, broadcasting and ticket selling in the industry.

### Secondary ticket sales

The official websites relating to tickets govern the secondary ticket sales. The lack of legal restrictions on reselling the tickets which need to be legalized and protected with stringent punishments. The act of cheating, fraud, black marketing and misinterpretation has been accused due to this approach.

### Broadcasting

The legislator's acts relating to sports broadcasting have been streamlining and maintaining the contractual bonds relating to the fixed rights<sup>5</sup>. This has been controlled to a huge extent by the right-holder of the sporting events in the business. Licensing has been maintained

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<sup>5</sup>Raman, 2020

that need to be implemented in the business to telecast the sporting events in the DTH or OTT platform with negotiable pricing.

### **Sponsorships**

The prominence of the sponsorship in India during the events requires the businesses to involve in approaching the event's governing body. The key terms that need to be clarified by the business suggest event details, duration, commercials, restrictions, territory, indemnity, liability limitation, jurisdiction and the laws involved<sup>6</sup>. Representation of warranties in the business to determine the sponsorship extension and responsibilities.

### **(iii) Sports Events**

This entails the relationship and the key liabilities<sup>7</sup>. The systematic presentation of the sporting events in India suggests with fixed dates, interconnection with the sponsorships, security and ticking arrangements, blocking the venue that needs to encompass the liability of the business organizers, the responsibility of the BCCI and the arrangements for the audiences. The legislation has enforced complete insight into how the functionality has been managing, keeping all the security and healthcare mandates imposed during the pandemic in India.

### **Liability of the organizers towards the audience and the participants**

The organizers are responsible for taking the responsibility and liability of the sportsperson under the law of tort<sup>8</sup>. The scenario of an injured person can be administered and addressed based on the sustained injury that breaches the duty while laying down the responsibility of providing the audience with a safe working environment with essential precautions based on the provisions of the High court during this trying situation in a pandemic.

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<sup>6</sup>Perrone *et al.*, 2020

<sup>7</sup>Balsam, 2020

<sup>8</sup>Colucciet *al.*, 2020

### Responsibility of BCCI

BCCI in India has been responsible for promoting the safety measures while improving the infrastructure under the legislator acts in India that encompasses the individual intervention of the statutory acts imposed. Therefore, this is entitled to help analyze the created rules if they are adhering to or not while ensuring to protect the environment of the sporting associations from any disorders or violence.

### (iv) Corporate legislations

#### Legal structures and corporate governance

The Indian trust Act of 1882 forms regulatory legislation in the business while involving the corporate governance that follows the code of NSDC. The national code has been drafted in 2017 that needs to be followed during this time while ensuring to protect the sports that are suffering from the suspension, cancellation or got postponed based on the requirement. NSDC governs the national-level activities.

#### Sports funding and recent trends

The NSDF has managed the sports funding in India that regulates a variety of means involving donations, sponsorships, grants, charity during this critical time that leads the business to face difficulties during the pandemic<sup>9</sup>. They are responsible for assisting the sportsperson in excelling while providing them with financial support, platform and funding and proper exposure. The conglomerates in business need to ensure to protect the business during this pandemic.

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<sup>9</sup>Singh & Dhibar, 2020

## (v) Intellectual property and data protection

The requirement of registering the trademark in the business suggests an invested intervention while ensuring to protect the regulatory acts based on the system.

### Legislation on trademarks

The trading that cannot be registered in the business would involve generic or distinctive articulation with immoral and obscene situations based on the Act of Prevention of improper use. This ensures to gain statutory protection against these articulations while ensuring to protect the business during this time.

### Database rights

The Act of Copyright in 1957 covers the copyright provision that governs the business while ensuring to protect the business from the violation of this act. The activities that aim at seeking assistance from the protected journals might face objections. The infringement would lead the external party to get sued by the authors, even in the sporting industry.

### Data protection on sports data

The usage purpose needs to be identified while accessing the protected sports data by the Bill PDPB in 2019<sup>10</sup>. The sports data originates commercial opportunity across the nation that is used by the broadcasters to promote the sports events. Alongside this, the infringement of the IP addresses and rights provided to the sportspersons can be affected and impacted. The other image rights, passing offs, and licensing has been encompassed based on the security architecture in the business operation.

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<sup>10</sup>Mazumdar, 2021

## (vi) Dispute resolution

### National Court System

Settling the dwelling issues and disputes are regulated by the hierarchical mechanism presented. The breach of contract, misinterpretation, fraud and disputes related to match-fixing and betting is the key approach the are controlled by the governing association in the sporting events.

### ADR, Including Arbitration

Mediation has been proved as the key approach in dispute resolution. The key challenges are mitigated during this difficult time, requiring the sports industry to provide relaxation and allow the athletes to join and practice for better performances<sup>11</sup>. The core challenges that are aggravating the dwelling issues of the adverse implication of the pandemic in sports are the sanction of the governing body. The body is entitled to cover the framed rules, ambit, power and other approaches that should be based on the business need amidst COVID.

### Employment

The contractual employment that is practiced in the industry has been the key measure that needs to be encompassed while ensuring to protect the integrity controlling the dual employment or endorsement contracts within the other businesses<sup>12</sup>(Aulakh, 2021). This enhances the visibility across the tights that are entitled with the functional processes in the business while ensuring to encompass the key measure to understand how the ill-effects can be mitigated and controlled to a great extent. The athletes should be provided with the right of free movement while ensuring to adhere to the regulatory acts imposed on a certain committee. The involvement of the foreign plays in the leagues like Pro kabaddi, IPL would be eligible for

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<sup>11</sup>Mittal&Sharma, 2021

<sup>12</sup>Aulakh, 2021

foreign visas controlling and allowing multiple entries in India during this critical period with restrictions and imposed mandates. However, the visa granting is based on the fulfilment of the regulatory acts and necessary requirements, documents, information and procedures.

### **VIII. CONCLUSION**

The COVID outbreak across the globe and its huge implication on the sporting industry has been detrimental to the industry's sustenance. Like other parts of the world, India has also been suffering from postponed and cancelled flagship events in the sports industry. The pressing needs of a specific and cohesive codified legislation during this time has been administered and identified, considering sports events getting cancelled and postponed. This needs to aim at covering the sports events for bettering the overall legislator implication on the industry as a whole while catering for the need of the business with proper financial assistance and governmental support to reduce and curb the betting, ambush marketing, match-fixing, doping, arbitration and resolving disputes in the business.

The paper enlightens on the emerging laws in the sports industry that enables the industry to sustain while incorporating the regulatory, disciplinary proceedings, commercial rights, responsibilities and liabilities of the BCCI and other authors while ensuring to comply with the corporate governance, sporting structures, and sports funding during the pandemic. The significant adherence of the sports law during the crisis period has been the fundamental measure that can control the adverse implication of the pandemic on the Indian Sports industry as a whole.

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