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Beyond the Game Arbitration and Legal Aid in Sports Law

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ABSTRACT

Modern day sporting is no longer confined to the realm of play, but operate within a complex framework of legal, economic, and institutional governance. They hold a significant spot in a nation's economy being one of the major hubs for business. Several international bodies have been set up to regulate sports and their legal frameworks. For instance, Court of Arbitration for sports (CAS) is one such body. These courts have judges who have specialized knowledge in sports law more than the general judges present in the courts. Arbitration is one of the forms of an Alternative Dispute Resolution (ADR) mechanism. ADR mechanisms are said to be the most efficient way of resolving disputes out of courts. However, ADRs are a voluntary form of dispute resolution unlike Courts. Hence, they are not affordable to everyone, especially, to the ones who are economically despaired. Legal aid services are available to the ADRs as well, the scope and applicability of which in the practical realm shall be discussed upon in this paper. This paper aims in keenly studying the functioning of ADR in sports laws and the extent of support provided by the legal aid.

The paper further aims to delve into the international governing standards. The major questions to be answered in this paper are "Is legal aid truly aiding people in ADRs related to sports," "Is justice being provided to the aggrieved through these mechanisms" and "Does procedural integrity play an important role while providing justice and upholding the governing standards." Furthermore, the research places an emphasis on the reforms to be made to enhance inclusivity and fairness by strengthening of legal aid mechanisms, greater transparency in arbitral processes and improved regulatory oversight to safeguard the rights of all participants.

Keywords: *Sports Law, Sports Arbitration, Court of Arbitration for Sport (CAS), Legal Aid in Arbitration, Access to Justice in Sports, Comparative Sports Arbitration, Sports Governance, Sports Law in India.*

I. INTRODUCTION

Sport today is no longer confined to the idea of recreation or physical competition. It has

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evolved into a global industry supported by complex systems of governance, regulation, and commercial relationships. With the professionalisation and commercial expansion of sports, legal disputes have become an increasingly common feature of the sporting landscape. Issues such as doping violations, disciplinary sanctions, contractual disputes, athlete eligibility, and governance failures frequently arise within both domestic and international sporting bodies. Resolving such disputes requires mechanisms that are not only efficient but also capable of ensuring fairness and procedural integrity.

As a result, sports law has gradually emerged as a distinct area of legal scholarship that intersects with several branches of law, including constitutional law, administrative law, contract law, and international arbitration. At the international level, the resolution of sports disputes is largely entrusted to specialised arbitral institutions, most notably the Court of Arbitration for Sport, which serves as the principal forum for adjudicating international sports disputes. Through its decisions, CAS has contributed significantly to the development of consistent legal principles governing sports across different jurisdictions.

However, while arbitration offers advantages such as expertise, speed, and uniformity, it also raises important concerns regarding access to justice. Arbitration proceedings often involve considerable financial costs, which may pose difficulties for athletes and smaller sporting organisations seeking to pursue or defend legal claims. In recognition of these challenges, the International Council of Arbitration for Sport has developed legal aid mechanisms aimed at assisting financially disadvantaged individuals in accessing arbitration proceedings.

In this context, the present study examines the role of arbitration in the governance of sports disputes and evaluates the effectiveness of legal aid mechanisms in ensuring fair access to justice. It also explores comparative models of sports arbitration and considers the need for stronger institutional frameworks, particularly within the Indian context, to ensure that dispute resolution mechanisms remain both efficient and accessible to all participants in the sporting ecosystem.

II. LEGAL POSITION OF SPORTS IN INDIA

The sports law is a blend of constitutional law, administrative law, contract law, and international arbitral frameworks. The legal position of sports in India has remained structurally fragmented from the very beginning. The major reason for this is the inclusion of sports as 33rd entry under the state list of the 7th schedule of the Constitution of India. This means that states have the authority to decide upon the regulations on sports. However, sports operate across national and international dimensions. This creates a mismatch between the constitutional

design and operational dynamics. Sporting in India lacks a unified governing body and is governed through networks of autonomous bodies such as Board of Control for Cricket in India (BCCI) and the Indian Olympic association (IOA). These bodies have taken upon the responsibility of selecting teams and representing the country in international arenas. These organisations are registered under the Societies Registration act as private, non-profit entities.

Although there has been a lack of single governing body for sports, the courts have taken upon the responsibility to forge a jurisprudential framework that balances autonomy and accountability through various precedents. For instance, in the case of **Ajay Jadeja v. Union of India**², the Hon'ble Supreme Court established that sports bodies are subject to judicial scrutiny as they perform public functions even though they are private entities. Furthermore, in the case of **Zee Telefilms Ltd v. Union of India**³, the Hon'ble Supreme Court held that although BCCI does not fall within the pursuit of the definition of 'State' defined under **Article 12**⁴ of the Constitution of India, the Hon'ble Court established that it remains amenable to writ jurisdiction under **Article 226**⁵ due to the nature of its functions.

Despite these developments, India continues to lack a unified statutory framework governing sports administration and dispute resolution. Existing instruments such as the National Sports Policy and the National Sports Development Code address governance standards but does not establish specialized mechanisms for resolving sports-related disputes.

III. FUNCTIONING OF ARBITRATION AND LEGAL AID IN INTERNATIONAL CONTEXT

Indian frameworks include a limited set of statutes and policy instruments rather than a comprehensive code. For instance, **National Sports Policy, 2001; Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007; National Sports development code, 2011** are some of the policies and statutes focusing on certain aspects of sports⁶. While Indian frameworks are restricted to such policies and statutes, the international sports legal order is dominated by arbitration mechanisms. Court of Arbitration for Sport (CAS) was established in 1983 in Lausanne, Switzerland. CAS is one of the most predominant places where arbitration takes place. The major reason for the significance of CAS in the arbitration arena is the prevailing mandatory arbitration clauses imposed by sports federations such as FIFA which

² Ajay Jadeja v. Union of India, (2000) 2 S.C.C. 673 (India).

³ Zee Telefilms Ltd. v. Union of India, (2005) 4 S.C.C. 649 (India)

⁴ INDIA CONST. art. 12.

⁵ INDIA CONST. art. 226.

⁶ MINISTRY OF YOUTH AFFAIRS & SPORTS, National Sports Policy 2001 (Gov't of India); Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, No. 11 of 2007, India Code; MINISTRY OF YOUTH AFFAIRS & SPORTS, National Sports Development Code of India (2011).

requires athletes, clubs, and officials to resolve dispute exclusively through arbitration rather than national courts. This ensures uniformity, expertise and efficiency as seen in the judicial decisions such as in the case of **Lazutina & Danilova v. IOC**⁷ and in the case of **Claudia Pechstein v. International Skating Union**⁸. These verdicts recognised the legitimacy of sports arbitration while acknowledging concerns regarding fairness and consent.

The legitimacy of sports arbitration has been recognised in various judgements by the Courts. For instance, in the case of **Mutu and Pechstein v. Switzerland**⁹, the Hon'ble European Court of Human Rights acknowledged that CAS constitutes to be a legitimate arbitrary tribunal capable of satisfying the requirements of fair trial listed under **Article 6 of the European Convention on Human rights**¹⁰.

CAS operates through two primary divisions. The Ordinary Arbitration Division hears disputes of a contractual or commercial nature arising from sporting relationships, while the Appeals Arbitration Division reviews decisions issued by international sports federations, disciplinary bodies, and national sporting organisations. In addition, ad hoc divisions of CAS are established during major sporting events such as the Olympic Games to provide expedited dispute resolution. The case of **Vinesh Phogat v. United World Wrestling & I.O.C**¹¹ is an example of a case handled by the ad hoc division of CAS during the 2024 Paris Olympics.

The procedural framework governing CAS arbitration is set out in the CAS Code of Sports-related Arbitration, which prescribes detailed rules relating to the filing of claims, constitution of arbitral panels, conduct of hearings, and issuance of arbitral awards. The specialized nature of CAS ensures that disputes are adjudicated by arbitrators possessing expertise in sports law and the regulatory structures governing international sporting organisations.

The mandatory nature of sports arbitration raises significant concerns regarding access to justice, especially for the financially disadvantaged athletes. Arbitration has been traditionally conceived as a voluntary dispute resolution mechanism. Hence, it turns into a problem when imposed as a compulsory condition without adequate safeguards. For instance, the cost of an arbitration in the CAS ranges from 20,000 CHF to 45000 CHF, while an ordinary court proceeding might not exceed 40,000 CHF even in the most complicated cases. The costs include

⁷ Lazutina & Danilova v. International Olympic Committee, CAS 2002/A/370 & 371 (Ct. Arb. Sport 2003).

⁸ Claudia Pechstein v. International Skating Union, CAS 2009/A/1912 (Ct. Arb. Sport 2009).

⁹ Mutu & Pechstein v. Switzerland, App. Nos. 40575/10 & 67474/10, Eur. Ct. H.R. (2018)

¹⁰ European Convention for the Protection of Human Rights and Fundamental Freedoms art. 6, Nov. 4, 1950, 213 U.N.T.S. 221.

¹¹ Vinesh Phogat v. United World Wrestling & Int'l Olympic Comm., CAS Ad Hoc Div., Paris Olympic Games (2024).

court office fees, administrative expenses, arbitrator fees, and costs related to hearings, witnesses and experts as outlined under **Article R64 of the CAS code**¹². This signifies that in the absence of financial support mechanisms; justice might be denied to certain sections of athletes and hampers procedural integrity.

In response to these concerns, the International Council of arbitration for sport (ICAS) has developed a legal aid framework to facilitate access to arbitration for financially weak individuals. The legal aid system, formalised through the 2013 guidelines and subsequently amended in 2019 and 2020, provides various forms of assistance such as exemption from arbitration costs, provision of pro bono legal representation and financial support for travel, accommodation, and related expenses. These legal aid services are administered by the ICAS legal aid committee. The committee examines the applications through criteria such as financial incapacities. The procedural framework requires applicants to submit a detailed application supported by evidence such as their income statements, tax returns, tax claims, assets disclosure along with a summary of their claims. Decisions of the committee are discretionary, non-appealable and may grant full or partial assistance depending on the circumstances.

The practical applications of these frameworks are evident in certain cases. For instance, in the case of **Steve Mullings v. Jamaican Anti-Doping Commission**¹³, an athlete who demonstrated financial hardship was granted legal aid enabling him to pursue arbitration without bearing prohibitive costs. In the case of **A v. Union Cycliste Internationale**¹⁴, the Hon'ble Swiss federal Supreme Court upheld the validity of CAS proceedings and affirmed that the availability of legal aid mechanisms sufficiently safeguards due process rights even in the absence of state-sponsored legal aid in international arbitration.

Despite these developments there is room for criticism in the framework of sports arbitration. The discretionary nature of assistance, limited financial coverage and lack of appeal mechanisms raise questions regarding consistency and adequacy. Furthermore, the reliance on voluntary legal representation and capped financial support may not fully address the complexities of high stakes sports disputes. At the national level jurisdictions such as Qatar have attempted to replicate and adapt the CAS model through institutions like the Qatar Sports Arbitration foundation, which provides similar legal aid mechanisms and procedural frameworks, thereby demonstrating the potential for domestic adaptation of international best practices.

¹² Court of Arbitration for Sport, Code of Sports-Related Arbitration art. R64 (2023).

¹³ Steve Mullings v. Jamaican Anti-Doping Commission, CAS 2011/A/2384 (Ct. Arb. Sport 2011).

¹⁴ A v. Union Cycliste Internationale, Swiss Federal Tribunal, Decision 4A_612/2009 (2010).

IV. COMPARATIVE ANALYSIS ON TWO DIFFERENT MODELS OF SPORTS ARBITRATION: UNITED KINGDOM AND QATAR CASE STUDY

The increasing commercialisation and professionalisation of modern sport have significantly transformed the legal landscape within which sporting disputes are resolved. Issues such as doping violations, disciplinary sanctions, contractual disagreements, and governance disputes frequently arise within national and international sporting structures. Because such disputes often require specialised expertise and swift resolution, arbitration has become the preferred mechanism for dispute resolution within the sporting ecosystem. Different jurisdictions, however, have adopted varying institutional models for administering sports arbitration. A comparison between the United Kingdom and Qatar illustrates two contrasting approaches in terms of legal structure, institutional design, and functional operation.

There are several bodies that provide arbitration service in United Kingdom. Some sports have a single body while some sports have different bodies governing arbitration or mediation. For example, **Section X of Premier league Handbook 2023/24¹⁵**, **Section 9 of English football league handbook 2023/24¹⁶** and **rule K of Football association handbook 2023/24¹⁷** provide terms for ad hoc arbitrations. These provisions themselves provide detailed procedural rules. However, the arbitrations work in the broader framework of **Arbitrations Act, 1996¹⁸**.

Sports resolution is a major and independent body that deals exclusively with sports disputes, providing both arbitration and mediation service. The Sports resolution was established in the year 1997. The body works with a closed set of arbitrators who are selected and appointed to the panel for a tenure of 3 years upon submission of their applications. Since, it is an independent body, it operates with its own set of rules. Sports resolution provides two kinds of arbitration: full arbitration and arbitration appeal, where in the later parties who are not satisfied with the award provided can appeal.

This model of arbitration emphasises on athletes accessibility as it provides mediation and investigative services along with full arbitration. Sport Resolutions operates a pro bono legal advice and arbitration scheme, through which athletes can receive initial legal guidance and, in certain cases, representation without cost. This initiative has been particularly important in ensuring that athletes who lack financial resources are not excluded from dispute resolution mechanisms.

¹⁵ Premier League Handbook 2023–24, § X (Eng.).

¹⁶ English Football League Regulations 2023–24, § 9 (Eng.).

¹⁷ The Football Association Handbook 2023–24, Rule K (Eng.).

¹⁸ Arbitration Act 1996, c. 23 (U.K.)

The major difference between a mediation and an arbitration is that, the conflicted parties appoint a third person who is generally an attorney or a retired judge to resolve a conflict by discussing and deliberating among themselves. The order given by a mediator is not binding on the parties until officially submitted in court and made legal. However, in arbitration, the parties present a formal legal argument in front of the arbitrator, the award given by the arbitrator/arbitrators are legally binding and the party cannot approach the court during the tenure of arbitration proceedings, if subjected to arbitration by a clause in the agreement.

Qatar follows a centralised institutional model, where the state has set up a body to work on arbitration, unlike the UK model where the body is independent. The Qatar sports arbitration foundation was set up in 2019 as cooperation between four sports organisations: Qatar football association, Qatar Olympic committee, Qatar stars league and Qatar players association. Like the UK model, the foundation provides arbitration and mediation services in disputes related to sports.

The Qatari framework aligns itself majorly with the international frameworks, closely aligning with the framework of CAS. The CAS itself handles about 300 to 400 cases annually and by aligning the framework close to that of the CAS, the Qatari frameworks stay in pact with the broader international framework. Unlike the UK model, Qatari framework is not decentralized and works in an integrated environment that coordinates closely with the national sports authorities, thus enhancing efficient and smooth functioning of the arbitration process especially in cases of athlete eligibility.

The Qatar model focuses on creating procedural structures that reduce the complexity of the procedure, thus bringing down the cost of carrying out the arbitration. Another important aspect of the framework is that it collaborates the domestic arbitration bodies and international sports dispute resolution mechanisms, this provides access to global standards without necessarily bearing the full cost of pursuing the proceedings abroad. Another key feature is that the framework emphasises on an internal dispute resolving committee which shall be approached first, before approaching the arbitration tribunal.

The UK model makes sure that there is no much intervention of state which makes it truly independent from political pressure, this increases perceived neutrality of arbitration proceedings. Yet, the Qatari model is envisioned upon the idea that statutory oversight under the arbitration act remains subjected to limited judicial scrutiny while being questioned on the procedural integrity.

In comparison, UK follows a model that envisions independence and accessibility to athletes.

While, the Qatari model emphasises on regulatory integration and procedural efficiency through centralised institutional structures aligned with international standards. Qatar model is seen to have an upper hand as the integration of these bodies into the state shall ensure much efficient and smooth functioning. Moreover, the procedures being simplified to provide a legal aid to the athletes is much more effective than providing government funded legal aid. This, reduces the burden on the mechanism. Thus, the Qatari model clearly has an upper hand over the UK model. From the above analysis it is evident that arbitration and other alternative dispute resolution mechanisms have a wide-ranging applicability in sports. Yet, their developments have been significant enough in many countries such as Qatar and UK. But, the developments in India are not in line with that of other major countries. For instance, many countries have either a single governing body for sports or have legislations and statutes in place that has a wide scope of applicability in sports. Moreover, these countries consider Sports as a matter of national and international interest both officially and legally, which India has lacked.

The doctrinal study reveals and lays some significant changes to be brought into existence for the development of sports dispute resolving mechanisms in India. A single governing body is necessary to govern sports in India as established in Qatar or the existing frameworks must be amended to address the issues at hand as evident in UK. A wide scope for arbitration must be developed similar to that of the Qatar model. These frameworks shall be in pact with the international governing standards. While focusing on legal aid mechanisms, it also keen to focus on simplifying procedural complexities as done in the Qatar model and this simplification shall lead to reduction in dispute resolution cost. While arbitration may be forced to be taken as an alternative dispute resolution mechanism, it also important to note that this does not devastate the aggrieved party, hence there must be a statutory oversight present on the tribunals to ensure procedural fairness and accessibility to justice and not completely let free like that in UK, taking into consideration of the political involvement.

In the Indian context, the absence of a structured sports arbitration system and dedicated legal aid framework represents a significant gap. Disputes are often resolved through conventional litigation or ad hoc arbitration, leading to delays and increased costs. This underscores the need for institutional reforms, including the establishment of a national sports arbitration body, the development of a comprehensive legal aid system for athletes as that developed by the ICAS and enactment of a uniform sports legislation that integrates governance, dispute resolution, and athlete protection. Such reforms would not only enhance transparency and accountability but also align India with International standards of sports law and arbitration. True strength of a nation is not reflected with the absence of disputes, but with the efficiency of resolving those

disputes.
