

# ICA INDIAN CRICKETERS' ASSOCIATION

## Ombudsman and Ethics Officer Rules, 2020

December 24, 2020

### Introduction

The Indian Cricketers' Association ("ICA") established pursuant to the recommendations made by the Hon'ble Supreme Court of India appointed Justice Lodha Committee, functions as the official players association for male and female ex-cricketers in India. The ICA's objectives are to conserve, promote and advance the welfare and interests of its members consisting of former cricketers and to negotiate with the Board of Control for Cricket in India ("BCCI") for securing the best commercial and other terms for cricketers including welfare measures and similar benefits for both current and former cricketers.

Article 16 of the ICA's Articles of Association provides for the appointment of an Ombudsman and an Ethics Officer and further provides that one appointee can function as both the Ombudsman and Ethics Officer.

These Indian Cricketers' Association Ombudsman and Ethics Officer Rules, 2020 ("**Rules**") set out the rules and regulations for the functioning of the ICA's Ombudsman and Ethics Officer as may be appointed from time to time.

### 1. Definitions

1.1. In these Rules, unless the context otherwise requires, the following terms shall have the meaning ascribed to them below:

- 1.1.1. "**BCCI**" shall mean the Board of Control for Cricket in India;
- 1.1.2. "**BCCI Members**" shall mean the cricket associations that are Full Members of the BCCI;
- 1.1.3. "**By-Laws**" shall mean the Articles of Association and the Memorandum of Association of the ICA, as amended by the Members from time to time;
- 1.1.4. "**Complainant**" shall mean any person desirous of registering a complaint with the Ombudsman and Ethics Officer in accordance with these Rules;
- 1.1.5. "**Director**" shall mean the director appointed to the Board of the ICA;
- 1.1.6. "**Ethics Code**" shall mean the code of ethics adopted by the Board and applicable to all Functionaries and Members;

- 1.1.7. **“Functionaries”** shall mean the functionaries of the ICA including the Directors, ICA Representatives to the BCCI and BCCI Members, officers, employees and other personnel of the ICA;
- 1.1.8. **“Board”** or **“Board of Directors”** shall mean the collective body of the Directors of the ICA;
- 1.1.9. **“ICA Website”** shall mean the official website of the ICA, located at [www.indiancricketersassociation.com](http://www.indiancricketersassociation.com);
- 1.1.10. **“Member”** shall mean a person who has been granted membership in and of the ICA;
- 1.1.11. **“Ombudsman and Ethics Officer”** shall mean the Ombudsman and Ethics Officer for the ICA appointed by the Board from time to time in pursuance of Article 16 of the ICA’s Articles of Association;
- 1.1.12. **“Respondent”** shall mean any entity or person named in a complaint filed by a Complainant in accordance with these Rules;
- 1.1.13. **“Terms of Reference”** shall mean the matters which can be referred to be considered, inquired or adjudicated by the Ombudsman and Ethics Officer as prescribed in Clause 4.1 below.

## 2. **Effect and Modifications**

- 2.1. These Rules shall come into force on the day the Board passes a resolution for adoption of these Rules and notifies the Rules to the Members.
- 2.2. The Board reserves the right to review, change, update, or withdraw these Rules and any changes shall be effective upon the Board notifying the Members of the changes by posting the revised rules on the ICA Website. Provided that prior to effecting any material changes to the Rules, the Board shall obtain the views of the person (if any) then occupying the office of the Ombudsman and Ethics Officer.
- 2.3. These Rules apply to the ICA, Members, and Functionaries.

## 3. **Scope**

- 3.1. The Ombudsman and Ethics Officer shall receive, consider, inquire and adjudicate any complaints, disputes or issues that are related to the matters covered under the Terms of Reference.
- 3.2. The Ombudsman and Ethics Officer has the power to exercise all powers and discretions conferred on him/her by these Rules and to carry out all responsibilities attributed to him/her under these Rules.

- 3.3. The Ombudsman and Ethics Officer shall be a person of eminent legal standing, such as a retired High Court judge or retired District Court judge and shall be appointed by the Board after obtaining his/her consent and on terms as determined by the Board in keeping with the dignity and stature of the office.
- 3.4. The Board shall provide from time to time at the request of the Ombudsman and Ethics Officer such premises, staff and equipment as he/she may reasonably require to carry out his/her duties and functions.
- 3.5. The Ombudsman and Ethics Officer shall be precluded from handling any matter if he/she is an interested party or has a conflict of interest in such matter.
- 3.6. If the Ombudsman and Ethics Officer recuses himself/herself or is indisposed or otherwise prevented from carrying out his/her duties at any time, the Board may by resolution appoint an individual eligible for appointment as Ombudsman and Ethics Officer to act as temporary replacement for the Ombudsman and Ethics Officer for such period of time and on such terms and conditions as the Board shall determine.
- 3.7. While such temporary replacement holds office, these Rules shall apply to him/her as if he/she were the Ombudsman and Ethics Officer.

#### 4. **Terms of Reference**

- 4.1. The Ombudsman and Ethics Officer shall adjudicate disputes which may arise between or among Members, the ICA and/or the Functionaries and shall also deal with matters relating to conflict of interest and other ethical issues ("**Terms of Reference**"). The matters which may come under the Terms of Reference, include but are not limited to:
  - 4.1.1. Non-adherence by any Functionary or any Member with the By-Laws or any rules or regulations of the ICA, including without limitation, the Ethics Code;
  - 4.1.2. Actions and omissions of any Functionary or any Member which are detrimental to the interests of the ICA or the objects of the ICA or affect the reputation of the ICA;
  - 4.1.3. Any disputes between/among two or more Members, between/among two or more Functionaries, between/among Functionary(ies) and the ICA, between/among Functionary(ies) and Member(s), and/or between/among Member(s) and the ICA.
- 4.2. It is clarified that the Ombudsman and Ethics Officer may in the Ombudsman and Ethics Officer's discretion, inquire *suo moto* into any matters that the Ombudsman and Ethics Officer reasonably determines are under the purview of the Terms of Reference,

without the receipt of a formal referral or complaint from any person/entity as specified below.

## **5. Conditions for Complaints**

- 5.1. A Complainant can register a complaint before the Ombudsman and Ethics Officer if the Complainant believes that the Complainant's issue is covered under the Terms of Reference.
- 5.2. In instances where the Respondent specified in a complaint is the ICA, or a Functionary, a written complaint regarding such Complainant's issue, must first be made to the Respondent, unless to do so would unreasonably compromise the Complainant's interests or position.
- 5.3. In the event that no reply is received from the Respondent within a period of fourteen (14) business days from the date on which such complaint was raised with the Respondent or the Respondent rejects the complaint without providing valid reasons and the complainant is aggrieved by such rejection or is not satisfied with the reply given by the Respondent, the Complainant can file a complaint in accordance with the procedure specified in Clause 6 below.
- 5.4. A complaint may not be considered or may be rejected by the Ombudsman and Ethics Officer for any of the following reasons:
  - 5.4.1. The subject matter of the complaint is not covered under the Terms of Reference;
  - 5.4.2. With respect to complaints against the ICA, or a Functionary, the Complainant has not approached the Respondent for redressal of his/her grievance first as provided herein these Rules;
  - 5.4.3. The Complainant has not made the complaint within three (3) months from the date of receipt of the response of the Respondent or if no reply is received, the complaint to the Ombudsman and Ethics Officer is made after more than three (3) months from the date on which the complaint was first made to the Respondent;
  - 5.4.4. The complaint is without any sufficient cause or is frivolous, vexatious or malicious in the opinion of the Ombudsman and Ethics Officer;
  - 5.4.5. The complaint relates to a matter that was already inquired or adjudicated by the Ombudsman and Ethics Officer previously;
  - 5.4.6. The complaint requires consideration of elaborate documentary and oral evidence and the proceedings before the Ombudsman and Ethics Officer are not appropriate for adjudication of such complaint;

- 5.4.7. If the Ombudsman and Ethics Officer considers that by reason of the subject matter of the complaint it is more appropriate that such complaint should be determined by a court of competent jurisdiction or by arbitration; and
- 5.4.8. The subject matter of the complaint is pending for disposal / has already been dealt with at any other formal dispute resolution or redressal forum such as a court of law, consumer commission, etc.

## **6. Complaint Requirements and Procedure**

- 6.1. Every complaint before the Ombudsman and Ethics Officer shall be filed in physical form, comprising of two (2) hard copies (first being the original and the second being the photocopy thereof).
- 6.2. Complaints must be sent, by post or by hand, to the Ombudsman and Ethics Officer to the address specified for the same on the ICA Website. A scanned copy of the complaint and the Affidavit shall be sent to the office of the Ombudsman and Ethics Officer via email to the address specified for the same on the ICA Website. In the event a complaint and/or Affidavit is sent to any other address than that specified on the ICA Website, the Ombudsman and Ethics Officer shall be at liberty to not entertain such a complaint and treat the same as never having been received.
- 6.3. The complaint must contain the following details:
  - 6.3.1. Full name, contact number, email address and complete postal address along with pin code of the Complainant;
  - 6.3.2. Where the Complainant is a Member, membership number in the ICA of such Member;
  - 6.3.3. The name and address of the Respondent (if available) against which the complaint is made;
  - 6.3.4. Facts giving rise to the complaint supported by documents, if any;
  - 6.3.5. Copies of communications exchanged between/among the Complainant and the Respondent(s), if any;
  - 6.3.6. The nature, and extent of the loss/injury caused to the Complainant;
  - 6.3.7. The relief sought from the Ombudsman and Ethics Officer; and
  - 6.3.8. A declaration by the Complainant stating that the Complainant is in compliance with these Rules.
- 6.4. Such complaint filed with the Ombudsman and Ethics Officer must be supported by an Affidavit, duly attested/notarized by Oath Commissioner/ Notary Public.

- 6.5. Upon the receipt of a complaint, the Ombudsman and Ethics Officer may direct the Complainant to serve a copy of the complaint on the Respondent(s) named in the Complaint. Upon the receipt of such a direction, the Complainant shall forthwith serve the complaint on the Respondents by post or by hand and e-mail as directed and instructed by the Ombudsman.
- 6.6. In the event complaints are filed only by way of e-mail without filing the hard copies thereof in terms of Clause 6.1, the Ombudsman and Ethics Officer shall be at liberty to not entertain such a complaint and to treat the same as having never been received.
- 6.7. Complaints filed by way electronics modes of communication other than e-mail such as WhatsApp/SMS, and complaints not addressed to the Ombudsman and Ethics Officer, shall not be entertained.
- 6.8. The proceedings before the Ombudsman and Ethics Officer shall be confidential and hence the Complainant and the Respondents shall maintain confidentiality in relation to the same. The complaint as well as any communication pursuant thereto shall be sent only to the Ombudsman and Ethics Officer and the concerned counter party and shall not be published, disseminated or disclosed to any other party.
- 6.9. Notwithstanding anything contained in the foregoing, the Ombudsman and Ethics Officer may in the interests of justice, waive compliance with/entertain complaints not in compliance with, one or more of the requirements specified herein in this Clause 6.

## **7. Complaint/Dispute Inquiry and Resolution**

- 7.1. Subject to the other provisions of these Rules, the Ombudsman and Ethics Officer shall in his/her discretion decide the procedure to be adopted in considering complaints and disputes, in conducting inquiries, and in making orders, recommendations or directions.
- 7.2. In dealing with or inquiring into any disputes or complaints, the Ombudsman and Ethics Officer shall:
  - 7.2.1. Do what in his/her opinion is appropriate with a view to resolving disputes in a cooperative, efficient, timely and fair manner;
  - 7.2.2. Proceed with minimum formality and technicality to the extent possible; and
  - 7.2.3. Be as transparent as possible, whilst also acting in accordance with his/her confidentiality and privacy obligations.

- 7.3. The Ombudsman and Ethics Officer shall not be bound by any legal rule of evidence in considering complaints or conducting inquiries and he/she shall not be bound by any previous decision made by him/her or any predecessor in office.
- 7.4. Upon receipt of a complaint or upon taking cognizance of a matter *suo moto*, the Ombudsman and Ethics Officer shall give notice of the complaint and/or his/her inquiry to the Board and to any person/entity to whom the complaint/dispute relates and shall afford to such person/entity an opportunity to comment on the complaint.
- 7.5. The Ombudsman and Ethics Officer may request affected parties to submit their arguments and the Ombudsman and Ethics Officer shall exercise all powers of inquiry and hearing as the Ombudsman and Ethics Officer deems fit before appropriate orders are passed or recommendations made.
- 7.6. The Ombudsman and Ethics Officer shall have the power to call for relevant documents, information and/or data upon such terms as to confidentiality as he/she shall think fit in order to undertake independent enquiries with respect to resolving any disputes or enquiring into any complaints as permitted under these Rules.
- 7.7. Hearings, if any, will be conducted at the discretion of the Ombudsman and Ethics Officer and will follow the principles of natural justice. Such hearings may be conducted in person or through electronic means such as video-conferencing and tele-conferencing.

## 8. **Orders**

- 8.1. The order of the Ombudsman and Ethics Officer shall be final and binding with respect to a particular complaint or a dispute.
- 8.2. The Ombudsman and Ethics Officer shall aim to pass an order within a period of three (3) months from the date on which a complaint was taken cognizance of by the Ombudsman and Ethics Officer, subject to receipt of all requirements from the Complainant.
- 8.3. Any order shall be based on the pleadings and evidence brought on record. The order shall be in writing and shall state the reasons upon which the order is based.
- 8.4. The Ombudsman and Ethics Officer may impose costs on the Complainant for filing a complaint which is frivolous.

8.5. The Ombudsman and Ethics Officer may, at his/her sole discretion, cause the publication of the orders or such part of the orders as he/she deems fit, on the ICA Website. The Complainant, Respondent and other interested parties shall be a liberty to seek from the Ombudsman and Ethics Officer, confidential treatment for any order, in whole or in part provided that the Ombudsman and Ethics Officer shall not be under any obligation to entertain or treat favorably, any request for confidential treatment.

## **9. Reports and Expenditure**

9.1. The Ombudsman and Ethics Officer shall send to the Board, a written annual report on the 1<sup>st</sup> of May every year, containing a general review of the activities during the preceding financial year and describing the principal findings of his/her enquiries or any conclusions which he/she may have drawn.

9.2. The Ombudsman and Ethics Officer shall be entitled to expend any reasonable amounts necessary to ensure the effective discharge of his/her duties. He/she shall keep a record of all costs and expenses incurred and state the total thereof in his/her annual report.