JETIR.ORG ISSN: 2349-5162 | ESTD Year : 2014 | Monthly Issue
JOURNAL OF EMERGING TECHNOLOGIES AND INNOVATIVE RESEARCH (JETIR)
An International Scholarly Open Access, Peer-reviewed, Refereed Journal

Interface between Competition Law and Sports: With special focus on the Working of Sports Governing Bodies

Maitrayi Chawla

B.A.LL.B(Hons.), LL.M(Corporate and Commerical Laws)

Gujarat National Law University, NALSAR University of Law

CHAPTER I: INTRODUCTION TO SPORTS AND COMPETETION LAW

The arena of sports is growing at a stable pace and becoming a noteworthy global industry. This industry constitutes greater than 3 per cent of the world GDP. This momentous growth of the industry could be largely attributed to the commercialization of sports through broadcasting, sponsorship rights, advertisements, ticketing arrangements, etc. The convergence of business and sports has given rise to issues like anti-competitive practices.

In India, the sporting industry has received a momentous boost in line with global developments. Sports is a rewarding business in India in the present scenario. Sports have both professional and economic dimensions. Sports in India is a state subject under Schedule VII, List II. The sports governing bodies are registered as societies under the Societies Registration Act of 1860. Their primary objectives are to control, regulate and select teams for particular sports. The central issue concerns the economic activities these bodies perform as they create an anti-competitive environment in sports. Some of these bodies have been involved in various anti-competitive practices like abuse of dominant position, bid rigging, posing entry barriers, etc.

The competition issues in India are governed by the Competition Act of 2002. The goal of the Act is to deter activities from adversely impacting competition, to encourage and maintain competition on the markets, to safeguard customers' interests, and to ensure freedom of trade for all market actors in and around India.

The Competition Commission of India (CCI) has been keeping an eye on anti-competitive behaviours and has clamped down on such practices in sports. Competition law could be used as a major tool for effective and efficient sports administration in India.

RESEARCH PROBLEM

Sports in India have a major economic dimension. The development and commercialization of sports are leading to the monopoly of certain sports governing bodies. This is due to the conflicting interests of the sports regulatory bodies, as these bodies also have their economic gains in mind. In furtherance of the economic interest, the sports governing bodies are also resorting to anti-competitive practices, which is affecting the competitive environment of the industry and thus is in stark violation of the spirit of the competition law in India. Such practices also affect the administration of sports in the country. This paper aims to analyze the interface of sports and competition law with regard to the working of the sports governing bodies and also aims to make certain recommendations to improve the working of the sports governing bodies by using

competition law as an effective tool. This would be done through a comparative analysis with prominent jurisdictions like the US and the EU.

SIGNIFICANCE OF THE STUDY

The development of sports in India has increased manifolds with the growing commercialization. Sports, being a state subject, are regulated by various regulatory bodies that are registered as societies. These bodies are faced with conflict of interest in their work. On the one hand, these bodies are given the task of promoting and regulating sports, while on the other hand, these bodies have their own economic interests in mind. These bodies have increasingly come under the radar of the Competition Commission as they have been involved in various anti-competitive practices, which are stifling competition and investment in India. Sports is a unique industry, and the goal is to have sustained competition and not eliminate it. Another distinguishing feature of this industry is that the aim is to have interdependence, which would lead to sustainable demand in this sector. The bodies in sports are pyramidal in structure, which is attributed to the monopoly and is another distinguishing feature.

Thus, there is a need for a strong legal framework that will stifle anti-competitive behaviour and lead to effective investment and overall efficiency in this sector. The competition law can be used as an effective tool to ensure transparency, accountability and good market practices in sports administration in India. In this context and background, there is a need to study the interface of competition and sports through laws and judicial decisions. The researcher also comparatively analyses the framework of the US and EU to examine their best practices to tackle anti-competitive behaviour in sports in India and to recommend the ways in which competition law can be used to improve the administration of sports in India.

RESEARCH QUESTIONS

The paper seeks to answer the following questions:

1. What are the various anti-competitive practices resorted to by the sports governing bodies?
2. How does the Indian legal regime deal with the anti-competitive behaviour pertaining to the sports industry?
3. How do other legal jurisdictions deal with the anti-competitive behaviour of the sports governing bodies?
4. What changes could be made to the Indian legal system to better equip it for regulating the growing anti-competitive behaviour of the sports governing bodies?
5. What could be the role of the competition law for better administration of sports in India?

RESEARCH METHODOLOGY

The research methodology employed for this paper is doctrinal, with a descriptive and analytical research design. Initially, the paper will provide a descriptive overview of the intersection between competition law and sports. Following this, the regulatory framework in India will be elucidated as established by legislation and judicial decisions. Subsequently, the paper will undertake an analytical approach, comparing the Indian framework with those of other jurisdictions and international bodies. Policy gaps will be identified and examined, leading to the proposal of reforms and suggestions for enhancing the legal framework.

No empirical data collection is required to achieve the paper's objectives. However, primary sources such as judicial reports, cases, legislation, and statistical data will be utilized extensively to support arguments. Additionally, secondary sources, including sports law commentaries, journals, reports, and reputable national and international newspapers, will be consulted.

CHAPTER II: LAW IN INDIA ON ANTI- COMPETITIVE PRACTICES AND GOVERNANCE OF SPORTS

The rising trends of globalization and commercialization have led to noteworthy changes in the sports industry. Sports and sports merchandising has now been transformed into a profitable business worldwide. This industry constitutes greater than 3 per cent of the world GDP.

The growing convergence between business and sports leads to the interplay between sports and competition law. Thus, balancing the two entities is the need of the hour.

COMPETITION ISSUES WITH SPORTS IN INDIA

1. Recently, notable instances have highlighted the monopolistic tendencies of certain sports regulatory bodies in India. Alongside their monopolistic status, these bodies have been found to exploit their dominance for undue advantage within their respective industries. The absence of a dedicated regulator to oversee and regulate their actions allows these bodies to operate without proper scrutiny, leading to indiscriminate behaviour.

2. Regarding the specificity of sports, this concept acknowledges specific unique characteristics inherent to sports. These characteristics have been acknowledged within the European Union, where exceptions have been established for cases involving the application of competition law. Competition law only applies to the extent that economic activities are associated with sports. Therefore, competition law applies only when the agreements, practices, or conduct involve economic activities. Events purely driven by sporting interests are exempt from competition law.".

In the Indian context, this issue was discussed in the Hockey India Case:

The independence of sporting bodies and delegate structures (for example, leagues) was duly acknowledged by the CCI. The primary obligation of governance lies with these bodies and nations. The CCI acknowledged the significance and prerequisite of pyramid structure. CCI reiterated the right of self-regulation of these regulatory authorities in purely sporting issues, like the framing of rules, selection of teams, etc.; even some of the economic aspects are immune. However, a caveat was carved out: CCI has the responsibility to oversee that their work and exercises do not contravene the objectives and goals of the competition law. But, due to the innate overlap of regulation and economic gains, an outright grant of immunity is not possible.

3. Pyramid Structure: Pyramid structure means a hierarchy in the organization of the authorities. The national sports authorities are primarily under the aegis of an international federation, and one of the games is affiliated with it.

For instance, in the Olympics, the national body is partnered with the International Olympic Committee (IOC), which frames the pyramid's highest point. The pyramid structure is basic for associating public titles and determining public competitors and public groups for global competitions.

According to a white paper published by EC, this structure is at the heart of sports as it ensures the effective organization of events by selecting players, teams, etc. It also ensures uniformity of rules. It also aids in implementing rules which help in the efficient organization of international games and sports, thereby triggering public confidence and preserving the integrity of sports. In this framework, three categories of sports regulations are identifiable: the "rules of the game," "club rules," and "competition rules." The "rules of the game" refer to the technical regulations governing how a sport is played. "Club rules" or regulations are those established by each sports organization to govern its internal operations. Meanwhile, "competition rules" typically dictate the regulations governing competitive events organized for a specific sport within a defined timeframe.

The commercialization of sports is also coupled with the convergence of competition law. There have been a major rise in the economic aspects of sports which also necessitates that this industry is regulated well and there is no violation of the existing commercial laws. However, there is difference among the sports industry and other kinds of businesses. Sports industry retains its inherent features which delineate it from other kinds of business. One of such features that makes the sports industry unique and inherently monopolistic is that it follows a pyramidal structure. The consequence of such features is that sports industry deserves a differential treatment so that the uniqueness and efficacy of sports industry is not compromised with. Thus, sometimes it becomes difficult to get the desired results by applying the existing commercial laws such as competition law.

ANALYSIS OF ANTI- COMPETETIVE BEHAVIOUR OF SPORTS REGULATORY BODIES

1. Restriction of Competition or Abuse of Dominance

Competition Act 2002 determines the role of dominant power (dominance) of an entity in a relevant market in India, allowing it to:

•Operate irrespective of the market's competitive powers;

•Affect in its favour its rivals, customers or industry concerned;

The primary case in the context of abusing the dominant position amongst the sports regulatory authorities is the BCCI Case:

In this case, the commission received information suggesting an anti-competitive agreement among BCCI, IPL, and IPL teams, which was believed to impact competition within India significantly. Additionally, allegations of abusing dominant market positions were levelled against BCCI and IPL in their management of T-20 matches. These allegations stemmed from three main concerns:

1. How franchise rights were awarded, potentially influencing team ownership.

2. Disparities in the rights of newspapers to comprehensively cover the League.

3. Sponsorship rights, alongside existing arrangements with local IPL associations, were also questioned."

Held: A prima facie case was found by the CCI in the context of the report of the DG decided the allegations in the following manner.

Firstly, CCI resolved that BCCI is an undertaking performing economic activities and making financial gains, thereby being subjected to competition law. The argument of BCCI is that it aims to attract investment in cricket and is not an institution intended to make profitable gains

The issue around the relevant market is that CCI recognised the commercial nature of sports as having an alternate flavour. Classification was made as to 'Team India' plays, and the subsequent classification was a private T20 alliance like IPL coordinated by BCCI. The relevant market was dissected as "underlying economic activities which are ancillary for organising the IPL T-20 cricket under the aegis of BCCI". The private cricket leagues' IPs were delineated from the relevant product market.

Position of Dominance: CCI noted that Section 4 of the Act stresses the significance of the prevailing situation in the words, "dominant position implies a position of strength, enjoyed by an enterprise in the relevant market". The position of BCCI was held to be dominant as it handled all the significant parts of the game, from giving hierarchical offices to practising complete oversight over the members of the game. The pyramidal structure of the BCCI was also given due regard, but the commission also emphasised compliance with the national legal framework.

CCI recognised how BCCI functions monopolistically and noted that BCCI is the only body that governs cricket games in India. BCCI is now monopolised by cricket players and institutions who would like to be interested in the rapidly developing cricket sports market. Other ancillary practices related to cricket sports, such as franchisee awards, media rules, broadcasting rights, and other rights relating to cricket in India, are also controlled by BCCI..... In addition, B CCI's dominance can be traced to its membership in the International Cricket Board (ICC)

Another case that is relevant on this point is the Hockey India case:

Facts: This case came to light on a complaint made by famed hockey players like Dhanraj Pillay alleging anti-competitive behaviour of Hockey India (HI). HI is a national body recognised by the International Hockey Federation (FIH) in India and the core body responsible for directing and overseeing hockey functions in India. The informants agreed with the Indian hockey group with World Series Hockey (WSH) and Nimbus Communications (like IPL for cricket). WSH was to start on November 200, but in the meantime, FIH issued a notification about "Regulations on sanctioned and unsanctioned events". In light of the same notification, HI had given articulations disallowing the players from taking an interest in WSH because WSH is an "unauthorised function". It was asserted that HI's lead was in the compatibility of the presentation of its own alliance in 2013 in a coordinated effort with FIH.

Held: CCI, while dissecting the DG report, which discovered infringement of the Competition Act against HI, didn't discover any infringement by HI. It held that there is no violation of law by HI, and certain restrictions imposed by HI are justifiable in the context of the efficiency brought by them. However, the premise of the new structure, with the imaginable unfathomable circumstances between the "administrative" and "function coordination" sections of Hockey India, posed some possible rivalry issues. In this relation, enforcing rules defining allowed and unapproved occurrences and prohibitive conditions reported for the CoC agreement is essential. The CCI has pointed out that specific meanings will be suitable without limitations that differentiate and isolate the extension handled by the 'association of functions.' The Commission said the regulator had to follow the dictum that The wife of Caesar must have been beyond suspicion. The DG report emphasised that while no circumstantial evidence has been used to determine competition law violations, the committee was impaired by the intrinsic capacity to violate and the obligation to withdraw and separate the two positions.

After recognising the enormous monetary force of Hockey India and finding the absence of any competitor of HI, the dependence of HI contestants as well as players for their duties was full in the light of the FIH Bye-law and the CoC Arrangement. The HI contestants were reliable. However, these rules are implicit in and commensurate with the goals of the Sports Partnership; the usage of these rules is still worrying because workers are dual and possibly in violation of the Competition Act.

Consequently, no infringement of s. 18 of the Competition Act was found by the CCI. However, a caveat was set out in the form that an efficacious internal control system ought to be there with good faith and due diligence.

Hemant Sharma v. All India Chess Federation (AICF):

Facts: The informants alleged that AICF was exploiting its dominant role as the de facto overseer of chess. They claimed that AICF, in this capacity, barred chess players registered with it from participating in tournaments or competitions organised by any association or federation not approved by AICF.

Held: It was determined that AICF had indeed abused its dominant position. The CCI reasoned that the lack of clarity or definition regarding "unsanctioned events" resulted in a blanket prohibition on player participation, with AICF retaining unfettered discretion in decision-making and providing no avenue for appeal for affected players. A distinction was drawn between AICF's regulatory and economic roles. The inherent conflict of interest stemming from the federation's position was also highlighted, leading to the imposition of penalties in accordance with legal provisions.

2. Player Restraint and Grant of Franchisee Rights

Curt Flood- "After twelve years in the major leagues, I do not feel I am a piece of property to be bought and sold, irrespective of my wishes.

The numerous sports clubs around the world are vying to sign players according to the rules set by or decided upon by the competition. This kind of rivalry guarantees a high level of quality for the players. For instance, There are wage limits that prohibit a club with players from participating if the overall payroll for the players approaches a defined sum or a modest variation of the maximum, a luxury payroll fee, which is greater than a certain amount, which makes the market for the services of players more costly for high payroll teams. Game limitations limit players' remuneration. In certain situations, the cost of training the player can control, and the consistency of the game can be impacted. Players' constraints placed on cartel groups will seriously take advantage of players by reducing serious deals to amounts that are considerably smaller than the market can afford.

In addition, such restraints could result in a wasteful allotment of players among clubs, hurting customers by creating an outcome not suited to consumer interest.

In the Indian scenario, we need to look at cases where such player restraint was imposed by BCCI.

Zee Telefilms v. UOI

The issue arose with the new entrant ICL in the cricket arena. The BCCI, in order to maintain its dominant position, employed restrictive practices against the ICL and against those players who decided to participate in the ICL. This practice included the discontinuance of those players from playing on the Indian team that participated in the ICL. Also, the denial of access to stadiums and other essential facilities which are in complete control of BCCI. Such restrictions hampered the interests of ICL and made the conduct of ICL practically impossible.

Thus, after considering the aforesaid facts, CCI held that BCCI held a dominant position.

Abuse of dominant position:

An enterprise getting advantage of prevailing dominant position in the market isn't ipso facto a severe concern. The worry emerges when such an element constantly abuses the position of dominance held by it. This abuse of dominant position is also embodied in s. 4(2)(c) that says that "if the enterprise indulges in practice or practices resulting in a denial of market access in any manner."

On the issue of franchise rights, the Commission commented that the arrangements carved out in the franchise agreement were intended to profit BCCI, and no opinion of the franchise teams was taken in this regard. Further on the issue of the media rights arrangement, the authority cited Clause 9.1(c)(i) of the particular understanding which set out the accompanying words-

" BCCI represents and warrants that it shall not organise, sanction, recognise, or support during the Rights period another professional domestic Indian T20 competition that is competitive to the league". A scrutiny of the same suggests a plain and clear denial on the part of BCCI to make an entry into the market of any potential rival.

CCI subsequently passed a general comment that BCCI abused its predominant situation by acting in an opposite way as imagined under s. 4(2)(c) of the Act, and it was hit with a fine of Rs 52.24 crores in 2017.

3. Grant of Exclusive Broadcasting Rights

The granting of broadcasting rights holds a significant stake as they are a great business venture and attract investment. There are several considerations involved in broadcasting rights, such as the use of technology, which is ever-evolving. There have been an array of anti-competitive practices around the world which are related to the grant of these rights.

In the Indian scenario, BCCI has a monopoly on providing cricket-viewing services to the audience. The BCCI has been 'selling' broadcasting rights to its 'exclusive partners' for a long time. The selection process for these partners is very opaque. Competition Act provides that such selections have to be made by competitive bidding

in a fair and transparent manner. These grants of rights are a common practice in the arena of sports, but it is necessary to delve into the long-term effects of such practices on competition.

LAWS THAT GOVERN SPORTS AND COMPETITION IN INDIA

Sports is a state subject in India, which implies that the state government is responsible for governing sports.

In India, the contemporary legal framework responsible for the administration of sports is the "National Sports Development Code of India 2011". This code was notified by the "Ministry of Youth Affairs and Sports, Government of India (Government) in 2011". This code aims to assimilate all notifications and instructions pertaining to good governance of National Sports Federations." The code treats NSFs as autonomous bodies but as a requirement of the government. Recognition has been provided for NSFs so they can represent the country and avail themselves of various government benefits. This code displaces the preceding instructions on this subject. The SC and various HCs have upheld the binding nature of this code. However, this legal framework does not deal with issues of competition law in sports.

COMPETITION ACT, 2002

Competition matters in India are regulated by the Competition Act of 2002, which replaced the Monopolies and Restrictive Trade Practices Act of 1969 (MRTP). The Act aims to prevent practices detrimental to competition, promote and strengthen competition in markets, safeguard consumer interests, and ensure the freedom of trade conducted by all market participants in India and related matters.

Anti-Competitive Agreements–Section 3 of the Act prescribes the prohibition of anticompetitive agreements, both horizontal and vertical agreements.

The Abuse of Dominant Position – Section 4 of the Act prohibits the abuse of a dominant position. A dominant position is deemed to be established when an enterprise can operate without being significantly constrained by competitive forces within the relevant market or when it can influence its competitors, consumers, or the market in its favour. Abuse may manifest in various forms, such as manipulating prices through tactics like predatory pricing, imposing limitations on production and supply, hindering technical advancements of goods or services, imposing additional obligations on contract terms (such as quantity requirements), engaging in practices that block market access, and leveraging its dominant position in one market to gain advantage in another market.

Combination Regulation – While the preceding two interventions in competition law involve retrospective analysis, the regulation of combinations involves a prospective examination of proposed mergers to determine if they are likely to harm competition significantly—sections 5 and 6 address similar scenarios.

Advocacy and Advisory Functions – Section 49 of the Act stipulates that the Commission is tasked with promoting a 'culture of competition' and also advising the government on matters concerning competition law and policy.

Sections 19 and 26 of the Act contain the procedure for filing information and inquiry/investigation. There are three ways in which the commission can receive information- Either suo moto, from any person or through a reference from a statutory authority.

The process begins with CCI finding a prima facie view based on the information, and in the event that it finds that the information calls for a nitty gritty examination, the issue is alluded to by the Director General (DG) for additional point-by-point examination. DG explores the case autonomous of the Commission. When the examination is finished, the DG presents its report to the Commission when the request proceeds, and the gatherings are called upon to remark/object to the DG report. In the wake of hearing the gatherings on the DG report, the Commission reaches a resolution for the situation with respect to infringement. Commission/DG has the forces of a Civil Court while directing the request/investigation. The commission may pass a request to the degree of 10% of the expected turnover for the last going before three money-related years or if there should arise an occurrence of cartels multiple times of its benefit for every time of the continuation of such

agreement. In instances of maltreatment of the prevailing position, the Commission may even arrange divisions of endeavours.

CHAPTER III: COMPARATIVE ANALYSIS WITH FOREIGN JURISDICTION

To thoroughly examine the intersection of competition law and sports, it is essential to explore how foreign jurisdictions approach this matter. This exploration will uncover differences in how competition law principles operate in these regions and their impact on various sectors, including organized sports. Additionally, it will help identify various drawbacks and challenges that need to be addressed for more effective regulation of the sports industry through competition law.

POSITION IN EUROPEAN UNION ON INTERFACE BETWEEN COMPETITION LAW AND SPORTS.

The European Community, later known as the EEC, was founded to promote deregulation within the region. To achieve the objectives of the EEC, robust antitrust legislation was necessary. Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) govern anti-competitive practices within the European Union.

Article 101 identifies various agreements, decisions, and actions as unlawful, including tying arrangements, price-fixing agreements, imposing different conditions on similar transactions, and controlling production if they affect trade between member states or within the nations themselves. Article 101 applies to anti-competitive agreements and is subject to exceptions under Article 101(3).

Article 102 talks about the abuse of the dominant position. It prohibits the practice in the form of "unfair purchasing prices or trading conditions, imposing limits on production, not imposing similar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; Concluding contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts."

The monetary effect of sports can also be witnessed in the European market. The sports regulatory bodies in the EU have argued that their activities are not economic but are regulatory, and thus, they are kept out of the purview of EU anti-trust law. The games have now been transformed into a profitable business. Article 101 and Article 102 are the primary tools in the hands of the commission during antitrust examination. While Article 101 primarily talks about cartels and anti-competitive agreements, Article 102 contains provisions on the abuse of dominant position.

The central inquiry in the current examination pertains to how EU Law addresses the anti-competitive actions of sports authorities.

A notable characteristic of applying EU competition law to sports is the provision of an exception. There has been an evolution in the application of EU Law to sports, exemplified by the following cases:

In Walrave and Koch v. UCI, the ECJ ruled that certain activities could not be subjected to EU competition law as they were purely sporting and lacked economic elements.

Case of Meca-Medina and Macjenv. Commission:

This case is among the landmark decisions concerning the intersection between competition law and sports.

Facts: Two professional swimmers were found to have tested positive for a prohibited performance-enhancing substance by both the International Swimming Association and the International Olympic Committee, resulting in their subsequent bans. The issue at hand revolved around the applicability of doping regulations within swimming competitions. The two swimmers alleged that these regulations constituted anti-competitive practices by the IOC and FINA, thus violating Articles 101 and 102 of the Treaty on the Functioning of the European Union (TEFU).

Held: The European Court of Justice (ECJ) disagreed with the conclusions reached by the commission and the CFI. In contrast to the previous ruling in the Walrave case, where activities solely of a sporting nature were exempt from EU law scrutiny, the ECJ held that "The mere fact that a rule is purely sporting in nature does not exempt the individuals or organizations involved from the scope of the Treaty." Essentially, the TEFU encompasses sports activities, subjecting them to Articles 101 and 102 provisions.

However, the European Court of Justice (ECJ) carved out an exception to Article 101, questioning whether "the adoption of anti-doping rules legitimate and inherently necessary to the proper development of the sport?" The rule is exempt if it is essential to the pursuit of its objectives if there is a clear connection between the rule and its goals, and if there is a proportionality between the aim of the rule and the restriction it imposes.

Moreover, rather than granting a blanket exemption to all sporting activities, the actions of governing bodies should be evaluated on a case-by-case basis.

The well-known Wouters test was applied in this case, resembling the 'rule of reason' in US law. This decision is rational as it ensures that not all sporting associations are automatically granted immunity solely because they possess unique organizational and regulatory features; each rule is to be assessed individually.

Concerning the case at hand, the doping rules were held valid. "since they are justified by a legitimate objective . . . inherent in the organisation and proper conduct of competitive sport," and its aim is ensuring healthy competition amongst athletes.

MOTO E Case:

The question in this case was whether sports governing bodies are "undertakings" within the meaning of various articles of the EU.

The Court decided that ELPA, the body answerable for the association of motorcycling occasions, fell inside the definition since it went into" "sponsorship, advertising and insurance contracts designed to exploit those events commercially". The decision was based on the consideration of the involvement of the body in 'economic activity'.

The courts in the EU have not permitted blanket exclusions to sports bodies and their activities, pointing towards the fact that the unique qualities of professional sports get weakened as their economic aspects come to the forefront.

The role of competition authorities in the functioning of sports as an industry has been clarified in the subsequent decisions of ECJ. The commission's inception of a white paper in 2007 illuminated the position efficaciously. According to the white paper, This paper highlighted that a general kind of exemption concerning rules of sports or sporting rules or the acts of sports bodies is neither possible nor justified. If this document is analysed, it could be inferred that foremost is to consider the nature of the sports organisation as to whether it is an undertaking or an association of undertaking; the performance of an economic activity will determine whether it is an undertaking. The document further highlighted the position taken in the Meca-Madina case to examine rule vis-a-vis Article 101 and 102 of TEFU.

Thus, the commission took a very balanced stand, and scrutiny will take place only in cases where the activities of the sports regulatory body are economic. Also, the significance of these rules by the sports bodies was recognised as "the rules of sports organisations that are necessary to ensure equality between clubs, uncertainty as to results, and the integrity and proper functioning of competitions are not, in principle, caught by the Treaty's competition rules."

POSITION IN USA ON INTERFACE BETWEEN COMPETITION LAW AND SPORTS.

The primary legislation to regulate competition in the US jurisdiction is the Sherman Act, the Clayton Act, the Federal Trade of Commerce, and the Department of Justice.

The Sherman Act of 1890 outlaws unreasonable restraints on trade and monopolistic practices that impact trade between the states. In the US, some agreements are considered to be violating the competition law enshrined in the Sherman Act. However, the Rule of Reason is also applied while deciding other matters. The rule of reason states that a balance of anti-competitive agreement must be established by the court through the pro-competitive aids of an agreement. The activities of the sports administering bodies could be brought under challenge as an illegal restraint of trade under the Sherman Act. The distinguishing feature in the USA is that instead of sports regulatory authorities, the challenges to competition law arise from leagues.

In the USA, not all sports are subjected to the Sherman Act; an exception has been carved out for Baseball. The question of whether leagues are subjected to competition law is decided on a case-to-case basis.

Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Club,

In this case, Baseball was exempted from the application of US anti-trust laws as the purpose for which the teams travelled was incidental to the economic activities. The economic activities per se were not considered interstate.

Later, the US Supreme Court made specific observations on the trust exception of Baseball, saying that it was "an exception and an anomaly." However, the court did not abolish the exception due to the application of stare decisis.

Player Restraint clauses

This exception was rightly termed as an anomaly in the above case. Congress intervened in 1998 by enacting the Curt Flood Act 1998, which partially abolished the baseball exception. The act primarily governed the relations of leagues with the players by removing the reserve clauses in the agreement with players. The impact of this act was that a timeline of 6 years was provided, after which the players would become 'free agents'.

Competition law and sports: 'Rule of Reason' and 'Per se' violation

The sports bodies in the USA mostly cite the rule of reason for getting exempted from the application of competition law. The per se rule has been rarely applied to sports bodies and is a sterner rule. This is because horizontal agreements are considered imperative to the leagues' operations and cater to the overall structure of sports.

In Chicago Board of Trade v. United States, the court noted various factors that must be considered while examining the agreement and the restraint imposed. The facts are unique to the trade, the essence of restraint, and its influence, real or possible. The actual test of legality is whether the restraint is as merely regulation and, perhaps, as it does promote or is competition, or whether it can suppress or even destroy competition." All the facts necessary to understand the intention of the restriction "are the history of the restraint, the evil believed to be there the reason for the adoption of that particular remedy, purpose or end sought.

If 'competition constraints are crucial to ensuring that the commodity is affordable,' the laws of lawlessness are per se inapplicable, and restraint needs to be measured in compliance with the flexible rules of justification. This case highlighted that the particular features and related factors must be holistically considered while examining impugned restriction. With subsequent developments, this test was melted to a weaker test which ignores the specificities of industry and only focuses on financial aspects, as- "whether the challenged agreement promotes competition or one that suppresses competition"

In American Needle, Inc. v. National Football League, This case related to the NFL's joint exclusive licensing of trademarks to clubs. The court determined these clubs lacked total unity, were competitors, and would come under section 1 of the Sherman Act. In this case, the court applied the rule of reason instead of per se violation.

Thus, the sport in the USA is examined under the rule of reason, which distinguishes sports from other undertakings.

CHAPTER- IV: RECOMMENDATIONS AND CONCLUSION

RECOMMENDATIONS

The application of competition law within the sports industry has sparked debate due to the unique nature of sports and the question of consistency in applying antitrust laws. Indeed, sports possess distinct characteristics in terms of structure and operation. Therefore, it is necessary to reassess the governance model employed in India regarding sports regulation.

Sports governance in India, primarily through sports federations, has encountered numerous challenges, including corruption, conflicts of interest, lack of transparency, and anti-competitive practices. These challenges stem from the need for a robust regulatory framework governing these organisations, ultimately impacting the efficiency of sports in the country. In light of these issues, competition law could be a viable solution. By addressing monopolistic practices, competition law prevents resource misallocation, promotes accountability within sports organisations, enhances consumer welfare, and contributes to the overall improvement of the economy. This objective of competition law also harmonises with Article 38 and Article 39 of the Indian Constitution. Competition fosters competitive pricing and expands consumer choice. Additionally, competition law facilitates efficiency by removing barriers to entry for new market participants. For example, had the Indian Cricket League (ICL) been permitted, it would have opened avenues for new players and fostered market competition by breaking the Board of Control for Cricket in India (BCCI) monopoly, thus ensuring a more efficient allocation of resources.

Moreover, competition law benefits athletes by eliminating constraints on mobility, as evidenced by cases in the United States. Its application also cultivates an environment conducive to increased stakeholder representation in the market. Fair competition encourages the emergence of new leagues, clubs, and teams, enhancing ticketing processes, sponsorship bidding, and overall market transparency. This transparency and more transparent laws attract more significant international investments, meeting investor expectations.

Moreover, it is crucial to acknowledge that anti-competitive behaviours within sports can create a domino effect across various industries. Therefore, leveraging competition laws as a means of effective sports governance in India will also foster efficiency within the broader market.

Additionally, it is necessary to comprehend how antitrust regulations are applied to sports organisations in India to preserve the distinctive characteristics of sports. Indian authorities can draw some guidance from the approach to sports administration in the European Union, where the unique nature of sports is recognised while also balancing the imperative of preserving competition by considering the economic activities carried out by sports federations. This approach is exemplified in cases such as Meca-Medina and through the white paper issued by the commission. Not all rules are within the anti-trust regime; only those roles relate to financial activities.

Coordinating efforts internationally and nationally is essential since the regulations at these levels are not aligned. For instance, while the International Olympic Committee advocates for a non-interventionist stance by national governments, this approach may need to align with the methodologies of certain countries. Therefore, there is a necessity for concerted action to address these disparities and promote greater harmony in regulations across international and national levels.

CONCLUSION

Sports is a rewarding business in India in the present scenario. Sports have both professional and economic dimensions. This momentous growth of the industry could be attributed mainly to the commercialisation of sports. The convergence of business and sports has created issues like completive practices. The Competition Commission has been watching anti-competitive behaviours and has clamped down on such practices in sports. Various Competition laws could be a significant tool for effective and efficient sports administration in India. The primary focus of the researcher in this research was to analyse the various anti-competitive activities conducted by the sports federations in India and how these activities have been clamped down in India and across the world by solid legal regimes. The researcher has also demonstrated how anti-trust law could be used as an effective tool to enhance the quality of sports administration in India.

It has been proved that the present legal system framework of India for competition law needs to be revised to deal with the growing challenges posed by the anti-competitive behaviour of the sports governing bodies, which are attributed to the unique nature of the sports industry. This is because the interferences made by the commission are still nascent, and many questions remain to be answered. Also, no stand-alone legal regime in India deals with the functioning of the sports federations. The second hypothesis also proved that a more coherent legal framework can be formulated with a comparative analysis of the judicial pronouncements and law in India compared with that of other jurisdictions. The comparatively developed areas like the European Union and the USA have evolved and developed an adequate legal framework to deal with the growing anti-trust challenges the sports federations pose. Indian policymakers can rely on these jurisdictions to develop a more coherent legal regime for India while considering the peculiar features of the Indian sports environment. The third hypothesis also proved that competition law could be used as an effective tool for efficiently administrating the Sports Industry in India. This has been demonstrated by the researcher, who states that competition in the market leads to greater overall efficiency as it efficiently allocates resources.

There has been a growing tendency toward monopoly and other anti-competitive activities amongst the sports federations, as seen in the various cases before the Competition Commission. Concerning regulation of these bodies, lack of regulation is not disastrous, and over-regulation is not a solution as it may hamper the uniqueness of sports industries as what is needed is interdependence and cooperation amongst the stakeholders. The respite could be found in setting out the balance between the self-regulation of these authorities and the application of competition law.

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