

**Case No. 14 (OMB) of 2025**

**Present:-**

For the Complainant

1. Ms. Subhangi Bhattacharya, Advocate.

For the Opposite Party

1. Mr. Sandip Kumar De, Advocate.

For CAB

1. Mr. Samrat Sen, Senior Advocate.

Representing Calcutta Police Club

1. Mr. Santanu Chattapadhyay
2. Mr. Debajit Chatterjee

**Order No. 1**

**Dated 11<sup>th</sup> August, 2025**

**Re: Complaint made by Dr. Shyamal Das against Mr. Mahadev Chakraborty, Apex Council Member of CAB before the Hon'ble Ombudsman.**

A complaint which was made by Dr. Shyamal Das on 18<sup>th</sup> July, 2025, challenging eligibility of Shri Mahadev Chakraborty, from being elected as a Member of the Apex Council as he was a Government Servant at the relevant time of his election in 2022, was placed for consideration before the Apex Council on 5<sup>th</sup> August, 2025 under Agenda No. 5. Real issue for discussion under the said agenda relates to disqualification of Shri Mahadev Chakraborty as he was inducted as a Member of the Apex Council by election, in violation of Rule 34 (3) (d) of the Memorandum and Rules of the Cricket Association of Bengal.

Rule 34 (3) (d) provides that a person shall be disqualified from being a Member of the Apex Council if he or she is a Minister or a Government Servant.

Admittedly Shri Mahadev Chakraborty was a Government Servant. He was an Assistant Commissioner of Police in Kolkata Police.

The above issue was not at all discussed in the said meeting. On the contrary, a foreign issue was discussed. It was resolved that since the tenure of the Apex Council will come to an end with the holding of ensuing AGM in September, 2025, no further action was proposed. Thus, the real issue was neither discussed nor resolved in the said meeting.

Under such circumstances, Dr. Shyamal Das again submitted a complaint with an identical challenge before the undersigned on 7<sup>th</sup> August, 2025. According to the complainant, Mr. Mahadev Chakraborty is disqualified from being elected as a Member of any Committee of the Association and/or of the Apex Council in view of the provision contained in Rule 22 (5) (d) read with Rule 34 (3) (d) of the Memorandum and Rules of the Cricket Association of Bengal.

Rule 22 (5) (d) provides that a person shall be disqualified from being an Office Bearer or a Member of any Committee of the Association if he or she is a Minister or a Government Servant. Similarly, Rule 34 (3) (d) of the said Rule provides that a person shall be disqualified from being a member of the Apex Council if he or she is a Minister or Government Servant.

The legal position is very clear in this regard. If it is found that Shri Chakraborty was a Government Servant at the relevant time of his election, he would be declared as disqualified not only from being an Office Bearer or a Member of any Committee of the Association but also would be disqualified for being a Member of the Apex Council. Mr. Chakraborty was elected as a Member of the Apex Council in 2022, when admittedly he was a Government Servant; he being the Assistant Commissioner of Police in Kolkata Police.

Fact remains, such disqualification of Shri Chakraborty escaped the notice of the Election Officer at the time which his nomination papers were scrutinised. As such, he was permitted to contest the election and ultimately was elected as a Member of the Apex Council of CAB.

Disqualification of Shri Chakraborty from being a Member of the Apex Council was brought to the notice of the Council for the first time by the complainant, Dr. Shyamal Das on 18th July, 2025, before the Apex Council which was disposed of, by the Apex Council on 5<sup>th</sup> August, 2025 in the manner as aforesaid.

Since, a question is raised as to who is the authority to deal with such dispute, the undersigned refers to Rule 70 of the said Rules, in response to such question raised by Mr. De, learned Counsel appearing for Shri Chakraborty.

Rule 70 deals with the types of disputes / differences that form the Ombudsman's ambit and procedure for redressal. Rule 70 (1) (b) provides that the Apex Council, on receipt of any complaint shall issue a show-cause notice calling for explanation from the person against whom such complaint is made, and on receipt of the same and/or in case of no cause or insufficient cause in shown, refer the same to the Ombudsman and the Ombudsman shall after providing opportunity of hearing to the parties concerned, pass an appropriate order.

If the above provision is analyzed properly it appears to the undersigned that after receipt of such a complaint, the Apex Council will issue a show-cause notice to the person against whom such complaint is made. After issuance such show-cause notice, the person upon whom such notice is served, may opt for not to show any cause or he may show-cause which may, in the opinion of the Apex Council, is insufficient. Thus, it is when after service of show-cause notice, no cause is shown, the relevant papers are required to be referred to the Ombudsman for his decision. Again if, after receipt of the notice, show-cause is shown which appears to be insufficient to the Apex Council, the Apex Council will refer the same to the Ombudsman for his decision. However, if in a situation, the Apex Council is satisfied with the explanation given by the person against whom such notice was issued, the Apex Council need not refer the same to the Ombudsman for his decision. Thus, in such a situation, the

complaint proceeding may be dropped by the Apex Council itself. Reference to Ombudsman is not necessary under such circumstances.

None of these formalities was observed by the Apex Council, while dealing with the agenda no. 5 in its meeting held on 5<sup>th</sup> August, 2025. Thus, it cannot be held that the issue which was raised under the said agenda No. 5, was disposed of by the Apex Council, in the manner, as it was required to have been done, as per the provision of law as mentioned above.

That apart, the said complainant submitted another complaint not only by challenging the disqualification of Mr. Mahadev Chakraborty but also by questioning the propriety of the resolution adopted by the Apex Council on 5<sup>th</sup> August, 2025 on agenda no. 5.

In this contest, Mr. De, learned Counsel appearing for Shri Chakraborty submitted for transmission of the present complaint to the Apex Council so that the formalities as required to be observed under Rule 70 (1) (b) are completed and thereafter the follow up action may be taken by the Apex Council, in accordance with law.

Mr. Sen, learned Senior Counsel appearing for CAB, and Ms. Bhattacharya learned Counsel appearing for the complainant made an identical submission before the undersigned. Mr. Sen, however, contended that since the allegation made against Shri Chakraborty, is proved prima facie on the basis of the affidavit submitted by him along with his representation and nomination form on 23rd October, 2022, Shri Mahadev Chakraborty should not be allowed to participate in any proceeding of the Apex Council henceforth until the complaint is dealt with and an Order is passed by the Apex Council in favour of Shri Chakraborty.

Mr. De, however, vehemently opposed such prayer of Mr. Sen.

If we consider the procedural laws, it is true that the line of submission which was made by the learned Counsel, as indicated above is required to be followed. But, consider the present problem from the view point of substantive law, keeping in mind the substantive law cannot be superseded by procedural

law. It is no doubt true that if a dispute is raised, such dispute is required to be decided after giving opportunity of being heard to the parties.

Let me now consider as to whether any dispute is present in the instant case. Allegation is that Shri Chakraborty was a Government Servant at the relevant time when he was elected as a Member of the Apex Council. In order to contest the election, the said Shri Chakraborty submitted representation-cum-nomination form along with an affidavit. In the nomination-cum-affidavit form, he stated that he was not disqualified to be an Office Bearer and/or Member of the Apex Council and he affirmed amongst various other disclosures that he was not a Government Servant. However, in the affidavit which he submitted along with the said Nomination Form, he categorically stated in paragraph 2 thereof, that he is a Government Servant. Paragraph 2 of the said affidavit runs as follows:-

*"2. That, I am an employee under the Government of West Bengal, attached to Kolkata Police. My date of appointment is 04.11.1986 as a Sub-Inspector of Kolkata Police."*

If the above admission of Shri Chakraborty is considered, there is no scope to hold that at the relevant time he was not a Government Employee attracting the disqualification clause, contained in Rule 34 (3) (d).

Dispute arises when somebody asserts and somebody denies such assertion. If that be so, then where is the dispute when Shri Chakraborty admits himself on oath that he was a Government Servant at the relevant time. As such, in my view, not only a *prima facie* case is present here but also the allegation is almost proved by admission. Though, it is true that remitting this complaint to the Apex Council for observing the formalities will be a futile exercise here but still then let that exercise be completed with this rider that while considering the said complaint, the Apex Council cannot be oblivious of its duties of considering the compliant within the parameters of the provision contained in 34 (3) (d). Thus, the present complaint is also sent to the Apex Council for its consideration along with the earlier complaint which still remains undecided and if it is found that a satisfactory explanation comes from

Shri Chakraborty who proves to the hilt that he was not a Government Servant at the relevant time, only then, his explanation will be accepted as satisfactory by the Apex Council.

Since, it is apparent that Shri Chakraborty does not want to withdraw himself even after his disqualification is brought to his notice and he still participates in the proceedings of the Apex Council, the undersigned being the ultimate decision making authority passes an interim order restraining Shri Chakraborty from participating in any proceeding of the Apex Council as its Member, until he satisfies the Apex Council that he was not a Government Servant as on the date when he was elected as a Member of the Apex Council.

The proceeding is disposed of.

CAB is directed to communicate this order to all concerned, at the earliest.

*Jyotirmay Bhattacharya*

**Justice Jyotirmay Bhattacharya**  
**Former Chief Justice, High Court at Calcutta,**  
**Presently Ombudsman, Cricket Association of Bengal.**