

FRANCHISE TEAM RIGHTS IN THE INDIAN PREMIER LEAGUE

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ABSTRACT

The Indian Premier League is a franchise-based T20 cricket competition that is based in India. It is a cash-rich league that has brought up a lot of intrigue and curiosity about the legal framework that governs the relationships between the franchises and the Board of Cricket Control in India. IPL being, after all, a profit-seeking venture by both the cricket board and the entities involved in the creation of different franchisees means that there needs to be a focus on the financial relationship between the two. For the same reason, this research looks at the same and gives a vivid description of the same and how it functions as well. Further, it looks at the anti-corruption policy of IPL and how it is used in the governance of the IPL. It also looks at how incidents such as the 2014 scandal of spot-fixing affected the governance and the changes brought on by the involvement of the apex court of India. It also looks at the various court cases that the BCCI has been involved in due to disputes between them and the franchise.

Keywords: Sports law, Franchise agreements, Arbitration, IPL, Cricket.

INTRODUCTION

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The Indian Premier League is a franchise-based T20 cricket competition based in India. It began in April 2008 with 8 teams and is currently in its 13th edition with 10 teams. It is the world's most-attended cricket league in the world.¹ It has been one of the greatest spectacles for cricket fans all over the world and equally enriching for the parties involved. There has been much intrigue that has arisen out of the same in terms of IPL revenue rights and legal recourses in case of a dispute between the Board and Franchises or amongst the franchisees themselves.

One of the biggest controversies that shed a light on the same was when the contract of Kochi Tuskers Kerala was terminated due to non-payment of the ₹156 annual payment of bank

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¹Chris Barrett, Big Bash League Jumps Into Top 10 Of Most Attended Sports Leagues In The World, SYDNEY MORNING HERALD(last visted 7/4/2022), <https://www.smh.com.au/sport/cricket/big-bash-league-jumps-into-top-10-of-most-attended-sports-leagues-in-the-world-20160110-gm2w8z.html>

guarantee.² It was finally resolved by the Supreme Court dismissing the appeal of the Board against the arbitrator's award and requiring them to pay ₹550 Crore with 18% interest.³ Another controversy that highlighted the same was in 2013 when it came to light that IPL had instances of spot-fixing and betting happening wherein players and franchisees' members were involved. Therefore, this article is going to attempt to understand the legal relationship between the Board of Control for Cricket in India and the franchise teams in the competition. It is going to comprehend how this relationship plays out in terms of revenue sharing and how it helps in dispute resolution between the franchisees themselves and the board and franchise.

FINANCIAL RELATIONSHIP

IPL is a cash-rich league for a reason every aspect of the league has a high financial investment within itself. Lucknow Super Giants was brought by the RPSG group by indulging in a ₹7,090 Crore while Gujarat Titans were brought by CVC Capital Partners by spending ₹5625 Crore. These are huge investments within themselves and might seem extravagant in terms of spending but they provide huge returns in turn. Yet the IPL teams are earning a lot more in return especially the original 7 franchises (one of which was dissolved and replaced) who probably have spent the least and gained the most due to increased evaluation of the league in total.

As disclosed in a proceeding in the income tax appellate tribunal⁴ "A" bench, Mumbai an IPL franchisee (in the instant matter of Kolkata Knight Riders) according to the franchise agreement between them and the BCCI-IPL is bound to pay the following from the period of 2008 to 2017.

- I. The Franchise was responsible for paying the fee of \$225,700 or ₹90,108,000 as per their obligation to the "League Deposit on or before 2nd January of every year within the period of the franchise contract.
- II. The same is then to be transferred to the franchise consideration on the same date of the first match of the League in that particular season. In the event of the league not

² PTI, Kochi Tuskers Kerala Scrapped From IPL Threatens Legal Action Against BCCI, ECONOMIC TIMES (last visited 7/4/2022), <https://economictimes.indiatimes.com/kochi-tuskers-kerala-scrapped-from-ipl-threatens-legal-action-against-bcci/articleshow/10043359.cms?from=mdr>

³ BCCI v. Kochi Cricket Pvt. Ltd. Co., AIR 2018 (1) SC 1549

⁴ M/s Knight Riders Sports Private Limited Vs. ACIT (ITAT Mumbai), ITA 5587/MUM/2015

being conducted by the board then the same money will be refunded to the franchise teams without levying any interest.

- III. They are also required to pay the sum of \$5,256,300 or ₹210,252,000 every such year on the date on which the first match of the league is played.
- IV. Onwards of 2018 franchises were brought under the obligation to pay an amount equal to 20% of the income that they have earned each year. This was expected to be paid in four installments. These installments became due in after the passing of 2 months after these dates in each such year.
 - a. 31st March
 - b. 30th June
 - c. 30th September
 - d. 31st December
- V. A year as defined by clause (1) of the franchise agreement was meant to be from 1st January to 31st December except for the original year in which the agreement was signed. In which case the date when such payment was due to start from the date of signing of the agreement till 31st December.

Aside from that, each franchise owner is supposed to pay ₹50 Lakhs to each of the state boards whose respective cricket stadiums are utilized for the matches that are being held. Hence each state board receives ₹4 Crore from the franchises and the rest of ₹8 Crore from other the Board of Control of Cricket in India. The franchises are also supposed to pay to the revenue corpus 20% of their earnings every year that the state boards are given by the BCCI. In terms of the financial rights that the franchise owners have is discussed in Chapter 1 of the Franchise Agreement under Clause 4.3 are the following

The Shirt Sponsorship: This involves the display of the brand logo that sponsoring on the playing kits of the teams involved. It is a major way for these teams to earn sponsorship and in the Indian Premier League, the same is displayed on the sides and back of the helmet, on the front and back of T-shirts. Industry sources place the rates for jerseys of smaller teams at ₹2 Crore to ₹3 Crore and some of the IPL giants have scored sponsorships of ₹5 Crore to ₹15 Crore.⁵

⁵Sonam Saini, IPL 2022: Teams eye 15-20% jump in sponsorship revenue this year, EXCHANGE4 MEDIA (visited 12/4/2022), <https://www.exchange4media.com/ipl-news/ipl-2022-teams-eye-15-20-jump-in-sponsorship-revenue-this-year-119256.html>

Official Supplierships: These are deals that are made by the franchise to be able to afford many of the things they require for example the kit sponsorships might provide them with kits they require for their matches or training. There also could be traveler partners or other smaller or larger requirements. It goes both ways as these franchises build teams with cricket stars who are influential in a cricket-loving country like India. Therefore, these companies can build their brand values over time by being associated with these franchises and their players.

Gate Receipts in matches held in the home stadium: Receipts that come out of the ticket sales in the home stadium go to the franchise as the fans are going to come to watch their franchise teams. The teams also cash in on the food, beverages, and also merchandise sold at the gate. It is measured at close to 20% of their overall revenue comes from this source.

Selling merchandise: Merchandise selling has been a bone of contention amongst IPL franchises as they haven't had much success in the past. These include different goodies with branding and jerseys of the franchises. There is a suggestion to get a central agency to sell all the jerseys and various merchandise of the franchises.

In the above-mentioned case, the court perused the nature of the rights that these payments to the board gave the franchises making these payments. They concluded that these rights above all provide the franchises with the right to participate in the tournament in the particular year of these payments. The same rights cannot be enforced in subsequent years of the tournament being held. It allowed for the operations of the team for all the years that these reoccurring annual payments were made to the BCCI-IPL. Therefore, when a league wasn't held in the year then the right is not enforceable as that would not be considered to be a breach of the franchise agreement and there cannot get damaged or legally force IPL matches to be held. The court took the decision that the payments including the franchise fees gave these teams the right to participate and operate the team each year they were paid. It was concluded therefore that such payments made by the franchisee didn't create any assets for them or generated a benefit that lasted therefore it is revenue expenditure.

ANTI-CORRUPTION POLICY AND GOVERNANCE OF IPL

The BCCI's Anti-Corruption Policy is created to regulate the corrupt practices that may creep inside the sport and make it to lose its credibility and public confidence.⁶ The goal is to make sure that there is a level playing field and that matches are decided by the merit of the performance and skills of the players and efforts of the coaching staff, not any other vitiating factors. It is created to prevent the inclusion of the participation of the participants in the tournament to make it easier for the ones who are betting on the matches to change the odds of their bet being brought to fruition. It is created to make sure that the BCCI can fulfill its obligations to the third-party stakeholders and authorities when they need to use the information to investigate whether there has been a case of corrupt practices being crept into the sport. These are the goals of the Anti-Corruption Code and it must be interpreted and applied in the same way by exercising and considering these goals.⁷ According to the Anti-Corruption Code any individual who is under the employment, or is a representative of, or has an affiliation with the IPL team in any match at present or 2 years ago from the date in question in the capacity of coach, doctor, manager, physiotherapist, selector, team official or any such capacity then they can be called a participant and thus regulated by the Code.⁸

Hence franchisee and their officials who are serving in the capacity mentioned above are responsible under the code for the following things.⁹ They are to refrain from committing acts that are considered corrupt practices and for the same reasons they are to be familiar with the Anti-Corruption Code and ignorance of the same is not an excuse. They are liable to be fully cooperative and submit to the authority of BCCI or any other authority which has been delegated the task of investigating alleged corrupt practices as the situation may demand. He/She is under the obligation to submit to the exclusive jurisdiction of the ombudsman. Ombudsman is appointed by the Supreme Court of India for dispute resolution as a partial third party.¹⁰

⁶Anti-Corruption Code for Participants, Art. 1.1

⁷Anti-Corruption Code for Participants, Art. 1.2

⁸Anti-Corruption Code for Participants, Art. 1.4.2 r/w Art. 1.4.2.2 r/w 1.5

⁹Anti-Corruption Code for Participants, Art. 1.5

¹⁰Shruti Mahajan, Justice (retd.) DK Jain appointed Ombudsman for BCCI under new Constitution, BAR AND BENCH (visted 15/4/2022) <https://www.barandbench.com/news/bcci-justice-dk-jain-ombudsman-supreme-court>

The following are the offenses under the Anti-Corruption Code of BCCI:

1. **Corruption¹¹**: If there is any agreement or attempt to influence the match and its results progress or conduct of players making them underperform intentionally by improper methods. When there is an attempt to ensure that there is an occurrence of a particular event to gain via betting or any other corrupt practice also comes under this head. Seeking or offering bribes, inducing, soliciting, enticing, instructing persuading, encouraging, or intentionally facilitating any participant in the abovementioned activities then it is also an offense.
2. **Betting¹²**: In regards to acceptance, placing and laying of bets on any of the matches that are conducted in IPL is betting u/art. 2.2. If someone is found to be directly or indirectly who is found to be inducing, soliciting, instructing, enticing, persuading, encouraging, or authorizing any other party to place a similar bet is also guilty of betting.
3. **Misuse of inside information¹³**: Anyone using the inside information that they have acquired because of their involvement with a franchise and IPL for betting can
4. **General¹⁴**: In the general section of offenses under the code, the BCCI-IPL has attempted to include offenses that may include gestures or activities that may not be directly wrong but the intention colors as an offense. If any of the participants fail to cooperate with any proceedings brought against any participants is an offense under Anti-Corruption Unit. Any gift or gesture given to any participant to make him breach the anti-corruption code is an offense in itself. Any failure to let the anti-corruption unit of BCCI without unnecessary delay by the participant is also an offense especially if it can bring the integrity of the tournament or the participant in question into disrepute can also be an offense. If any hospitality or gifts given that have a value of above ₹50,000 and more must be reported to the Anti-Corruption Unit unless it is
 - i) Personal gift or hospitality received by a participant from close relative or friends that are non-contractual
 - ii) Food or beverages
 - iii) Cricket hospitality is connected to the matches played in the tournament

¹¹ Anti-Corruption Code for Participants, Art. 2.1

¹² Anti-Corruption Code for Participants, Art. 2.2

¹³ Anti-Corruption Code for Participants, Art. 2.3

¹⁴ Anti-Corruption Code for Participants, Art. 2.4

In the case of match-fixing where the Supreme Court of India removed the life ban on S Sreesanth a player who participated in the Indian Premier League till 2013.¹⁵ He was arrested during the 2013 edition of the tournament by Delhi Police along with fellow teammates Ajit Chandila and Ankeet Chavan on charges of spot-fixing.¹⁶ There was also a member of honorary management of the franchise Chennai Super Kings who has held responsible for the happenings by the Delhi Police and he was disowned by the franchise. According to the clause 11.3(c) of the Franchise Agreement between BCCI-IPL and the franchise ““a franchise may be terminated immediately if the Franchisee, any Franchisee Group Company and /or any Owner acts in any way which has a material adverse effect upon the reputation or standing of the League, BCCI-IPL, BCCI, the Franchisee, the Team (or any other team in the League) and/or the game of cricket.”¹⁷

After the following incident, a committee was constituted by the Supreme Court of India headed by former chief justice RM Lodha. He suggested changes in the way IPL was conducted and governed by the board. The committee also handed out 2 years ban to IPL franchisees Chennai Super Kings of India Cements Ltd. & Jaipur Pvt. Ltd. A further suspension was given out to MrGurunath Meiyappan who was a member of the honorary management of Chennai Super Kings and MrRaj Kundra from involving in any matches conducted by BCCI.

1. The committee suggested that there needs to be more of a role in the governance of the IPL be given to the franchisees. Hence representatives of the franchisees in the IPL were given a seat at the newly re-constituted IPL governing council. The Committee proposes a Governing Council with only nine members, comprising of three ex-officio members (the Secretary, Treasurer, and the CEO of BCCI), two representatives of the members of BCCI to be elected by the General Body, two nominees of the Franchisees, one nominee being the C&AG’s Councilor on the Apex Council and one being a nominee of the Players’ Association.¹⁸

¹⁵S. Sreesanth v. The Board of Control for Cricket in India & Ors.

¹⁶Cricket Next Staff, IPL spot-fixing scandal: How it unfolded, NEWS 18 (visited 18/4/2022) <https://www.news18.com/cricketnext/news/ipl-spot-fixing-scandal-how-it-unfolded-667489.html>

¹⁷ ibid

¹⁸ R.M Lodha, REPORT OF THE SUPREME COURT COMMITTEE ON REFORMS IN CRICKET, pp 46-47, 2015

2. Any member connected to the franchise is not supposed to act or omit any of his obligations in a particular way that can be perceived or is likely to be perceived to conflict with the interest of the development and propagation of the game. This shall be administered by an ethics officer.
3. Whenever there is a dispute between the franchisee and the BCCI an ombudsman who is a retired justice of the Supreme Court or former chief justice of the High Court can be referred to by a complaint by the franchise.
4. BCCI needs to investigate the criminal antecedents of any members of the franchisees before the franchise auctions for new members of the tournament.

ARBITRATION CLAUSE IN THE FRANCHISE AGREEMENT

An arbitration clause is included in the franchise agreement that can help the parties involved to be able to go for an arbitration process to solve the dispute. The model arbitration clause as suggested by the London Court of International Arbitration¹⁹ says that the clause must include provisions to challenge the existence, validity, and termination can be referred to arbitration. There must reference made to how many arbitrators can be appointed. The seat of the arbitrator must be determined which is which city and country he is gonna be sitting within. Finally, it must determine which substantive law will be applied for example in the case of India it will be considered to be the Indian Contract Act 1972 and The Arbitration and Conciliation Act, 1996. The clause in the agreement has been invoked twice by different franchisees in the past the research will focus on two particular instances. These are the franchisees of Kochi Tuskers Kerala and Deccan Chargers Hyderabad.

KOCHI TUSKERS KERALA

In the case of BCCI v. Kochi Cricket Pvt. Ltd.²⁰ BCCI had approached the Supreme Court after an arbitrator had given an order for the board to recompensate the franchisee for not being allowed to play in the IPL. It directed the payment of ₹550 Crore with an interest of 18% which in totality brought the sum of money directed to pay as ₹1770 Crore. The dispute arose after the board had terminated the franchise agreement citing the breach of it by the franchise and encashing the bank guarantee which was ₹350 Crores as well.

¹⁹ LCIA INDIA, (last visited 20/4/2022) <http://www.lcia-india.org/arbitration-clauses>

²⁰BCCI v. Kochi Cricket Pvt. Ltd., (2018) 6 SCC 287.

In deciding the case the court also made a landmark decision in the realm of arbitration. It held that there are two applications of S.26 of The Arbitration and Conciliation Act, 1996. The first part of the section applies to the arbitration process started u/s 21 of the Act. Hence it applies only to the provisions of Chapter V of the Act that is titled 'Conduct of Arbitral Proceedings' i.e., S.18 to 27.²¹ The second part going by the language can be considered to regulate the arbitral proceedings that are not initiated with the S.21. Therefore, concerning one situation, the court held that when a challenge under Section 34 is filed after the commencement of the 2015 Amendment, then the amended Section 36 will apply to such a proceeding, as it is a court proceeding, which is about an arbitral proceeding.²²

DECCAN CHARGERS HYDERABAD

There was an issue with the payment of the salaries of the players that the franchise faced. They requested the board for a deadline which was granted but then not met with either. Further, they had to pay the bank guarantee which was ₹100 Crores for which the board gave them a deadline of 15th September. Then in an emergency meeting of the IPL governing council, the Board terminated the franchise agreement between them and Deccan Chronicle Ltd. Then the franchise owners approached the Bombay High Court which asked them to pay the bank guarantee within 3 days. After failing to meet the deadline of the Bombay High Court the termination was upheld. After which at the request of the franchise owners Justice C.K.Thakker was appointed by the Bombay High Court as sole arbitrator. Justice C.K. Thakker held that the termination was illegal and discriminatory. It ordered the board to pay them the sum of 4814 Crores to Deccan Holding Ltd. The same led to the legal battle in the case of Board of Control for Cricket India v. Deccan Chronicle Holding Limited.²³

It was held by the court that the breaches created by the defaults of Deccan Holding Ltd. were not addressed by them. It held that evidence was not considered by the arbitrator at all and he proceeded to make the decision. It was held by the Court that BCCI was within its right to terminate the contract before the deadline. There was no need for a show-cause notice and further, there were three breaches of insolvency which according to the contract was enough

²¹Anuradha Mukherjee, Jyoti Dastidar&VanshikaMohta, BCCI v. Kochi Cricket: Supreme Court's Much Needed Third Umpire Decision, CYRIL AMARCHAND MANGALDAS (last visited 20/4/2022) <https://corporate.cyrilamarchandblogs.com/2018/05/bcci-v-kochi-cricket-supreme-courts-much-needed-third-umpire-decision/>

²² ibid

²³Board Of Control for Cricket India v. Deccan Chronicle Holding Limited, SCC Online Bom 834

to terminate the contract. However, it was held that the BCCI must pay 34.07 crores as per the arbitral award.

CONCLUSION

The franchise agreement between the Board of Cricket Control in India and the franchises that have teams in the Indian Premier League. Many laws cover the dynamics between the franchises and the BCCI in different aspects of their relationships and there was only as much that this research could cover therefore it attempted to cover two sides of the relationship the revenue distribution between the franchisees. The relationship of the nature where the franchisees are supposed to give a part of their revenue to the BCCI. It is more skewed towards the BCCI and not as much to the franchisees. This relationship is in place as it helps the board get the required funds to promote the tournament and the sport of cricket in the country. The same has helped the sport grow multifold and rendered BCCI one of the richest cricket boards in the world. It is set to earn close to ₹8 Billion from just this year's IPL itself and the same also goes to the revenue that is distributed to the state cricket boards as well.

There was although a need for a change in the relationships with the governing of the IPL. In the aftermath of the Spot Fixing scandal, there has been a complete revamp. The Justice R.M. Lodha committee gave directions to change the governing council that made it more inclusive to the franchisees involved. This is for the better as they are also important stakeholders in the tournament and therefore deserve to have a say in the matters related to the tournament. There has also been the inclusion of an ombudsman that can help the franchisees seek remedies for disputes and avoid the scenario where the BCCI was the judge and executioner in its matters. Further, there is an ethics officer who can supervise the relations between the board and the franchisees. These moves have increased the transparency in these relations and have made the BCCI more responsible.