

MOOT PROBLEM

The Hind Kabaddi Association (“HIKA”) is the governing body for Kabaddi, a popular sport in Hind. HIKA conducts Kabaddi competitions at the national level to select athletes that represent Hind in international competitions every year.

On 1st June 2021, HIKA announced its Annual Women’s Kabaddi Competition (“the competition”) to select the athletes for its women’s national team. The selected athletes are to represent Hind in an All-Women’s International Kabaddi Tournament at Norland on 1st December 2021. All Women’s International Kabaddi Competition allows trans women athletes to participate in the competition. To make Kabaddi more gender-inclusive, HIKA implemented a new policy that permitted transgender people to participate in the competition. The earlier policy of HIKA permitted participation based on sex identified on one’s birth certificate only.

According to the new policy, for trans women athletes to participate in the competition, they were required to submit a form disclosing their gender identity before the Hind Kabaddi Association Board (“HIKA Board”) and not change that assertion for the next three 3 years. The transgender athletes that failed to submit the relevant documents were ineligible to take part in the competition. Female cisgender and trans women athletes were also required to maintain a testosterone level of less than 10 nanomoles per liter throughout the competition. Whereas trans men athletes were allowed to compete without any such restrictions.

Ms. Summer being a trans women athlete, had a difficult childhood growing up in Jalpur, an orthodox town of Hind. She was one of the participants for the competition.

In the competition organized by HIKA, each individual athlete was judged and scored after every match. Each athlete was ranked based on their cumulative scores. HIKA selected the top 12 rank holders in the competition for the women’s national team. Ms. Summer, who ranked 13th on the leadership board, was selected as a “substitute athlete” for the women’s national team. She was to accompany other teammates in the upcoming All Women’s International Kabaddi Tournament 2021 in Norland. Her role as a substitute athlete was to help her team members practice and replace any team member in case of medical emergency. Ms. Ananya, a cis gender athlete, who ranked 1st in the competition, was selected as the team’s captain.

The women’s national team started their practice for the upcoming international tournament in September 2021. On the 1st of November, during a regular practice session of Kabaddi, Ms. Ananya who was trying to successfully return from the opponent’s court, was caught by her legs by her opponent Ms. Summer. Ms. Ananya fell to the ground and suffered, what seemed a serious injury. Ms. Ananya was immediately taken to the hospital, where the doctors informed her that she had suffered an Anterior Cruciate Ligament Tear and advised her to rest for a year for complete recovery. Subsequently, Ms. Summer was selected for the women’s national team. Many protests were held in Hind demanding the removal of Ms. Summer from the women’s national team. The protests were held because some conservative people of Hind believed that there was no place for trans women like Ms. Summer in the women’s national team. Few media channels of Hind had strong opinions that Ms. Summer had intentionally injured Ms. Ananya.

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After a week of protests, HIKA decided to remove Ms. Summer from the women's national team. HIKA also placed a ban on all trans women from participating in any future Annual Women's Kabaddi Competition. Explaining the decision, HIKA said that due to safety concerns given that Kabaddi is a contact sport, trans women athletes cannot be permitted to play with other female athletes. HIKA also stated that trans women have a biological advantage over other female athletes. Hence, it is unfair to have trans women compete along with female cisgender athletes in the same competition. HIKA also suggested that they may organize a different Kabaddi competition only for trans women where they could compete.

Aggrieved by her removal from the women's national team, Ms. Summer has filed a complaint challenging the grounds of her removal and the ban of trans women from the women's national team.

The laws and regulations in the country of Hind are similar to the country of India.
The issues before the board are:

- Was the removal of Ms. Summer from the women's national team fair?
- Does the ban of trans women from the women's national team violates their right to equality?

The definition of transgender persons in the moot problem is same as defined in the Transgender person (Protection of Rights) Bill, 2019 - "transgender person" means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.