

प्रशांत शर्मा
PRASHANT SHARMA
वरिष्ठ न्यायाधीश एवं किराया नियंत्रक
Senior Civil Judge cum Rent Controller (Central)
रजिस्ट्रार -
रजिस्ट्रार नं.
तीस हाजारी कोर्ट, दिल्ली
Tia Hazari Courts, Delhi

CS No.- 3023/17
Alumini Asso. Delhi College of Engineering
Vs.
Pramod Kumar

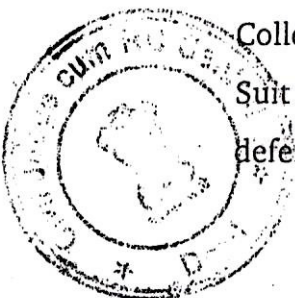
17.04.2018 [ORAL]

Present: Sh. Suresh Tripathi & Sh. Ram Anugrah Singh, Counsels for Plaintiff
Ms. Shruti Iyer & Ms. Zehra Khan with Sh. Zahid M.,
Counsels for defendants

Today, matter is fixed for arguments on application U/o 39 Rule 1 & 2 CPC, filed by plaintiff on 12.03.2018. That application stands dismissed as withdrawn, at request of counsel for plaintiff. There is another application for placing on record certain documents, filed by plaintiff alongwith replication, which will be heard and decided subject to compliance of this order.

Ld. Counsels for the litigating parties in question, have submitted that in order to bring quietus to the litigation, they have agreed that election in Alumini Association Delhi College of Engineering, may be ordered, by this Court. They have further requested that this Court may appoint an Observer, so that, elections can take place smoothly and in a transparent manner. After hearing the said submissions, I find it relevant, to mention here, in brief, the chain of event, leading to filing of the present Suit. This becomes all the more relevant for the reason that this order will have to be read and complied with by persons, who are not before this Court, at this stage of the matter.

To put it pithily, plaintiff namely Alumini Association Delhi College of Engineering through its President Praveen Bhargava had filed a Suit for declaration and mandatory & permanent injunction against defendants namely Sh. Pramod Adlakha, Sh. Sanjay Diwan and Registrar



-: 2 :-

of Societies. The Suit was filed on 22.09.2017. This Court received the Suit by way of transfer on 22.09.2017 only. Subsequently, summons were issued to defendants. In the Suit, plaintiff claimed that it is the proper and legal registered association. During course of time, plaintiff came to know that defendant no. 1 & 2 had advertised elections on 22.09.2017, malafidely. As per plaintiff, defendants no. 1 & 2 have no locus-standi to declare said elections of plaintiff's association. Feeling aggrieved, present Suit was filed in which, it was prayed that defendant no. 1 & 2 be declared as unauthorised and illegal officials of the plaintiff's association. It was further prayed that defendant no. 1 & 2 be restrained from hosting illegal elections of plaintiff's association. After receiving summons, defendant no. 1 & 2 filed their Written Statement in common, in which, they challenged the case of plaintiff association. In nutshell, defendant no. 1 & 2 claimed that they are the authorized and legal persons, competent to hold elections of plaintiff's association. This Court, after hearing the parties and going through the record, vide order dated 27.09.2017, restrained defendants from holding elections. Subsequently, another interim application which is the application in hand, as dismissed as withdrawn above, was filed by plaintiff's association. In the background of aforesaid chain of events, this matter is now placed before me.

After hearing joint requests of the counsels for the litigating parties in question, following order is passed. The order is with the consent of the parties, appearing before me. While passing the order, this Court has borne in mind the sole object of holding transparent elections, involving maximum participation of the members of the plaintiff's association. The order as such does not give any right to the litigating parties in question, above the rights of opposite parties. In other words, by

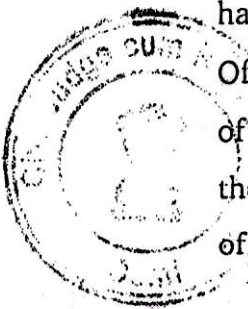
- 3 -

way of this order, none of the litigating parties in question can claim that the averments made in the pleadings are upheld by the Court. Both the parties, as such, have compromised the matter and therefore, averments made in the pleadings, have come to an end. Purpose of giving this observation, is to remove doubt, if any, in the minds of any of the member of plaintiff's association, with regard to pendency of present Suit. The members of Alumini Asso. Delhi College of Engineering, are hereby notified that present litigation has concluded, in the form of following order.

ORDER

For the effective, unprejudiced and transparent working of Alumini Association Delhi College of Engineering, it is hereby ordered that fresh elections for election of the governing body members, as per Memorandum of Association, governing said association, shall take place, in compliance of following conditions.

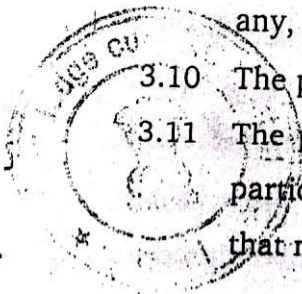
1. The elections will take place on 11.08.2018.
2. There shall be three Returning Officers namely Sh. N.K. Sethi, Sh. Pramod Adhlaka and Sh. Praveen Bhargava. Further, there shall be an Observer, namely Sh. J.R. Aryan (Retired District & Sessions Judge, Delhi) having mobile no. 9958697034. It will be duty of the said Returning Officers to proceed with the elections, in terms of this order, from the date of its publication till the outcome of result. In case, any problem arises, then, the Returning Officers, shall fall back on the rules of Memorandum of Association, in case, they find this order not sufficient or convincing.



From said three Returning Officers, it is expected that they shall take decisions unanimously, in case of any issue. In case, they have divergent opinions, then, matter shall be referred to the Observer and decision of the Observer, shall be final and binding.

3. The publication of the elections, shall be done in newspaper namely Times of India, Hindustan Times and Economic Times on 25.04.2018. In the said publication, no particular party/ person, except the Returning Officers in question shall declare the date of elections. In the publication, following details shall be mentioned.

- 3.1 Date of election.
- 3.2 Outer date for filing nominations.
- 3.3 Date for withdrawing of nominations.
- 3.4 Date of publication of list of eligible candidates after scrutiny of the records as per Memorandum of Association.
- 3.5 A particular date for notification of the eligible voters to be seen, as on 31.03.2017.
- 3.6 Place/ Venue of election.
- 3.7 Exact date when results of elections will be declared and the platforms on which it will be so declared.
- 3.8 The time on the fixed day, between which elections shall be held.
- 3.9 Address of the Returning Officers, for meeting out the objections, if any, of the concerned party.
- 3.10 The place where nominations have to be sent by aspirant members.
- 3.11 The publication shall also mention that elections are held for the particular tenure i.e. for the period 2018-2020. It shall also mention that next elections, shall be due in 2020 only.

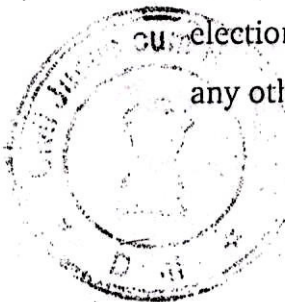


-: 5 :-

4. In addition to publication in newspapers as mentioned above, considering the fact that some of the members of the association are outside India, it is ordered that publication shall be done in all the electronic forms also. The Returning Officers, are directed to comply with this direction, in black and white, so that, members outside India, can have the fair chance to participate in the elections. The said publication through electronic media includes e-mail, whatsapp, facebook, linked-in, snapchat, twitter, association's sites and likewise. The Returning Officers will have to use atleast two of the said electronic modes, for informing members of the association outside India.

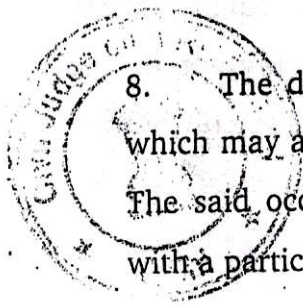
5. The elections will be held for 15 members of Governing Body. The elected members of Governing Body will then hold a meeting to elect five office bearers of the association amongst themselves as per Memorandum of Association. These are, 1. President, 2. Vice President, 3. Secretary, 4. Joint Secretary and 5. Treasurer, 6. Remaining Members.

6. Mode of elections :- In case, the number of nominations received are more than 15 elections will be held, otherwise the members will be declared elected unopposed. The elections will be held by the members present at the election venue, through secret paper ballot as per Memorandum of Association. No member who is not present at the election venue, shall be allowed to cast vote through somebody or through any other mode, that member deems fit.



7. For the purpose of conducting elections, in aforesaid manner, all the expenses shall be spent from the account of the association bearing no. 00191000026005, lying in Punjab & Sind Bank, D.B. Gupta Road, Paharganj, Delhi. All the Returning Officers, are directed to visit the said bank on 20.04.2018 at 11 am and get the said account, de-freezed (as it is apprised to the Court that the said account is lying freezed, as on date). The Branch Manager, Punjab & Sind Bank, Paharganj, Delhi, is specifically directed to comply with this order in black and white and should not come in between, compliance of this order, otherwise, contempt notice will be received by him. Accordingly, instead of the signatory, Sh. N.K. Sharma and Sh. Shiv Kumar Bhardwaj, for the purpose of compliance of this order, as the elections have been declared by way of present order, it is hereby ordered that the account as mentioned above, shall be de-freezed with the signatures and cooperation of the three Returning Officers, as noted above, only. Nothing in this order shall be deemed or be construed as any observation, directly or indirectly against the bonafide of Sh. N.K. Sharma and Sh. Shiv Kumar Bhardwaj. After the de-freezing the said account, the Returning Officers only shall be entitled to withdraw the amount as per the needs, for compliance of this order. The Returning Officers shall maintain record of said withdrawal, so that, they can answer the query(s), if any, which may arise, in future pertaining to said utilization of the amount in the said account.

8. The duty of the Observer, shall be to decide the issue(s), if any, which may arise, on and after the publication of elections on 25.04.2018. The said occasion will arise, only when Returning Officers, fail to deal with a particular situation and in no other situation. He is further directed



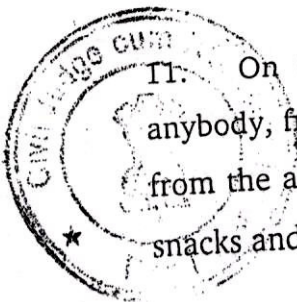
-: 7 :-

to be present on the date of elections at the venue and to observe the conduct of elections, throughout the time in which, elections are held. He is further directed to make sure that election results are out, possibly on the same day and in exceptional circumstances latest by 12.08.2018 (5pm) in his presence only.

9. Fee of each Returning Officer shall be Rs. 50,000/- (Rupees Fifty Thousand Only). The said fee shall be excluding of the expenses being borne by them for conducting elections in question. Further, none of the Returning Officer, shall spent, even a single penny from his own pocket, for the compliance of this order. Every Returning Officer, shall place necessary bill, for the amount spent by him, for the purpose of conducting elections in question, if any, to the elected Governing Body, after the elections are held and that Governing Body shall decide as to whether reimbursement in terms of said bills, should or should not be given to the concerned Returning Officer. The bills shall include transportation charges also.

10. Fee of the Observer shall be Rs. 1,00,000/- (Rupees One Lac Only). The aforesaid fee shall be exclusive of commutation and other ancillary expenses, if any, borne by Observer for the purpose of compliance of this order.

11. On the day of elections, no liquor/ alcohol, shall be served to anybody, from the account of association. Further, expenses shall be made from the account of association, for the purpose of beverages/tea/coffee/snacks and three course meals of Returning Officers and Observer.

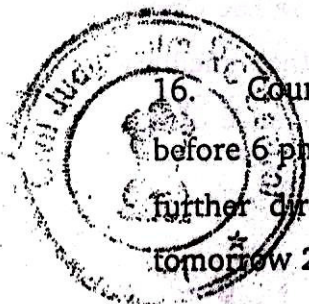


12. Fee of Returning Officers and Observer should be deemed as fee in hand and not inclusive of the taxes. The said fee shall be paid to Returning Officers and Observer, on or before 31.07.2018, directly in their accounts or through account payee cheque.

13. Fee of Returning Officers and Observer, as noted above, shall be treated as honorarium, in lieu of services, they will render in compliance of this order.

14. The Observer shall make sure that entire process of aforementioned elections, take place in the most transparent and fair manner. The Observer shall prepare in writing, regarding compliance of this order and shall submit in the Court on 23.08.2018. The Returning Officers are duty bound to apprise the Observer about each step, they take for complying this order, in writing, so that, the Observer can file compliance report in the most transparent and conducive manner.

15. The entire elections on the date and time, fixed by the Returning Officers in the publication, shall be videographed. The expenses, shall be borne from the account of association, as noted above.



16. Counsels for both the parties are directed to call the Observer, before 6 pm today only and apprise him about the present order. They are further directed to handover copy of this order, to the Observer, by tomorrow 2 pm and take receiving from him.

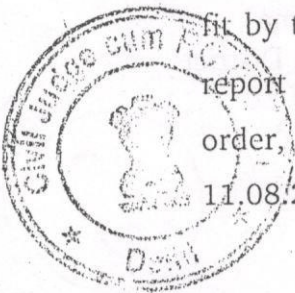
17. The Observer and the Returning Officers, shall meet on 21.04.2018 at the venue, decided by them. The Returning Officers shall make sure that Observer reaches at the place of meeting conveniently through proper transport/ car.

18. The eligibility for filing nominations to contest as Governing Body Member shall be 10 years of membership, as on 31.03.2018.

19. Since there are two parties in this case, who are in logger heads with each other regarding the number of eligible members of association in question, so, it is hereby ordered that till the year 2002 (i.e. 3rd Alumni Directory) shall be considered for concluding as to who all are the eligible members. For checking the validity of eligible members, after 2002, the Returning Officers shall sit together and will go through the relevant records and will finalize the list, latest by 30.05.2018.

20. In case of any dispute, raised by anybody, including Returning Officers and Observer, the said dispute shall be noted in writing by the concerned aggrieved party and shall be filed in the Court on the next date of hearing.

21. Copy of this order be handed over to SHO concerned, where election have to be held and that SHO is directed to report to the Observer as noted above and take instructions from Observer regarding deputation of police officials at the election venue and likewise other aspects, deemed fit by the Observer. SHO concerned will have to file written compliance report in the Court on the next date of hearing in this case. Copy of this order, be handed over by the Returning Officers, 15 days prior to 11.08.2018 against receipt.



-: 10 :-

22. The Returning Officers shall fix a date amongst themselves for the purpose of scrutiny of documents. They will be liable for all the executive actions regarding smooth conduct of elections in question. Liability/ duty of Observer, is to the extent mentioned in this order and no further. Any issue regarding the manner in which, this order is to be complied with for the purpose of smooth elections, primarily will lie upon the Returning Officers only, as they know the rules of Memorandum of Association and are well versed with the facts of this case. Duty of Observer will be to observe elections and to deal with the issues, which may arise, within the ambit of this order.

23. In case, Returning Officers have any issue regarding interpretation of this order, then, they are at liberty to move this Court jointly by filing application.

24. Litigating parties in question reserve their right to file appropriate application, if any, for redressal of their grievances, arising out of elections in hand.

25. The Returning Officers shall also file a joint report on 21.08.2018. in writing in this Court. In case, any of the Returning Officer wants to file contrary report, he is at liberty to do so.

26. In case, there is any area, which is not covered by this order and dispute arises on that area/ aspect, then, decision will have to be taken by Observer, which shall be binding on both the parties.

Put up for further proceedings on 21.08.2018.

Order dasti to both the parties.



*Attested
True copy
(Reader)
17/04/2018*

sd-

[Prashant Sharma]
SCJ-cum-RC: Central District:
Delhi: 17.04.2018