

प्रशांत शर्मा  
PRASHANT SHARMA  
वरिष्ठ न्यायाधीश (केंद्रीय न्यायालय)  
Senior Civil Judge cum Bench Controller (Central)  
कक्षा नं.-  
Room No  
तीस हजार कोर्ट, दिल्ली  
Tis Hazari Courts, Delhi

CS No.- 3023/17  
Alumini Association, Delhi College of Engineering  
Vs.  
Pramod Kumar & Ors.

31.05.2018

Present: Sh. Suresh Tripathi, Counsel for plaintiff  
Sh. A.K. Trivedi, Counsel for defendant no. 1 & 2.  
Defendant no. 1 & 2 in person.  
All the Three Returning Officers appointed by this Court on  
17.04.2018 at present in person.  
Four Founder Members of the plaintiff's association are present  
in person, namely Sh. Professor A.K. Saluja, R.K. Bhandari,  
Pramod Adhlaka and N.K. Sethi.  
Sh. Ravi Mathur one of the members of plaintiff's association.

Defendant no. 1 in this case, is Returning Officer as well as  
Founding Member of plaintiff's association. Sh. N.K. Sethi, is Returning  
Officer as well as Founding Member of plaintiff's association. Sh. Praveen  
Bhargava, Signatory and President of plaintiff's association as well as  
Returning Officer. Their presence is marked in their aforesaid capacities in  
his case today.

Today, file is taken up on an application of defendant no. 1 &  
2 U/Sec. 114 CPC R/w Order 39 Rule 4 CPC.

Arguments on the said application heard.

To start with, I must observe that admitted position is that till  
late, elections in plaintiff's association, through casting of vote and in the  
manner in which this Court had ordered, vide order dated 17.04.2018, have  
never occurred. There are disputes between two rival fractions, who are  
arrayed in this case, in the memo of parties. During course of proceedings a  
consent order was passed by this Court on 17.04.2018, with the consent of  
the parties, in hand vide which, it was directed that elections in plaintiff's  
association shall take place for 15 members. Subsequent to passing of the

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said order, an order was passed on 01.05.2018 in which, it was directed that elections in question shall take place for 10 members as per the memorandum of association. Later on, order dated 01.05.2018 was reviewed in order dated 24.05.2018 vide which this Court directed that elections, shall take place for 15 members as per order dated 17.04.2018 only. Today again, issue is raised by the rival parties, as to whether elections should take place for election of 10 members or 15 members. I have gone through 'Clause 4 of Rules & Regulations' governing plaintiff's association. Suffice it is to say that those rules do not categorically mandate that elections should take place for 10 or 15 members. Coupled with the same, position of Founding Members in the Governing Body, again remains a debatable topic. So, I find that following issues are there in the said rules and regulations, amongst others.

1. *What is the difference between the Managing Committee and Governing Body ?*
2. *For how many members, elections in the association in question should take place ?*
3. *Whether Founding Members are or are not part of the Governing Body ?*
4. *What is the exact role of Founding Members in the Governing Body ?*
5. *How to decide that strength of Governing Body should be between 9 and 15, as mentioned therein ?*
6. *What is the meaning of expression "remaining" as mentioned against the coloumn of members in 'clause 4 (ii)' ?*

-: 3 :-

Aforesaid issues are issues which are confronted by this Court. Legality and interpretations of the said rules, are not the fact in issue involved in this case. At the same time, it is evident that confusion lies, in the wake of aforesaid questions. The confusion is not surprising. Reason is that, by way of present litigation, it is the first occasion on which aforesaid rules and regulations have come under the scanner. In other words interpretation of said rules and regulations, was never done earlier, since 1998, when plaintiff's association was formed. Here, I must make it clear that when I use the expression 'plaintiff's association', I mean to say 'Alumin Association, Delhi College of Engineering' only. This order and orders preceding this order, should be construed as orders, pertaining to Alumin Association, Delhi College of Engineering only, wherever the expression of plaintiff's association is used. Since, no dispute had arisen till the filing of the present Suit, so, repeated applications, filed by the concerned persons as such does not surprise me. At the same time, endeavour of this Court remains to get the elections in question concluded in the most transparent manner, with the participation of whole or maximum number of its members. I am not repeating here the contents of the last orders for the sake of brevity and those orders must be read as part of this order.

Coming back to the issue of the number of members, for which, elections in question will take place, it is directed that elections will take place for 15 members of only. This direction is subject to the condition that 05 Founding Members shall remain as members of Managing Committee throughout life. Whether those Founding Members are part of Governing Body or not, is an area over which, mooted and decision required. The said mooted and decision shall take place by an AGM

(Annual General Body Meeting). The AGM shall be called in terms of the memorandum of association (MoA).

Here, I must clarify that memorandum of association (MoA) and rules and regulations, are the expressions which are used interchangeably and should not make any person confuse.

The Founding Members shall have right to cast vote in the elections, which are going to take place as scheduled and will have that right, just like any other member.

Here, it is made very clear that the parties appearing before me today, have jointly submitted that there are various discrepancies in the rules and regulations, governing association in question. The scope of Founding Members as regard the Governing Body and their exact status with specific powers, is another area, which is not defined clearly in the rules and regulations. The amendment of the rules and regulations, is an area, which will require, participation of maximum number of association in question for the removal of doubts and issues. Accordingly, it is jointly stated by the parties appearing today that amendment of rules & regulations, if any, shall take place in AGM. After conclusion of the elections in question, the AGM shall definitely be called by the Elected Body within two months. This order and orders passed in this case, are limited to the holding of elections in question and to the directions, passed in this case. By no stretch of imagination, it should be deemed that orders and directions passed in this case, should be seen as precedent over any issue. I reiterate that all the issues regarding interpretation of rules & regulations in question, are kept open and they have to be necessarily, decided in AGM, only. That, sums up one limb of the arguments.

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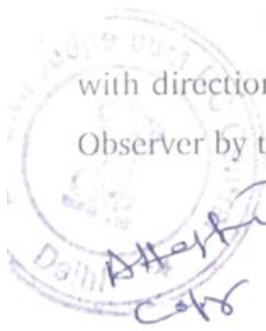
So far as removal of Returning Officers and their inter-se issues are concerned, it is made clear here that this Court reposes full confidence in all the Returning Officers and the Observer. There is no ground for removal of any of the Returning Officers which is made out, by the circumstances which are prevailing in this case, as on date. Further, for the removal of doubts, the Returning Officers are directed to start communicating with the Observer in writing and also inter-se between them. This direction is made, so that, nobody can blame other party for inaction, with regard to the duties, casted upon the other party, pursuant to the orders passed by this Court.

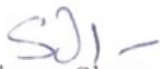
Except aforesaid observations and directions, no other observation and direction is / are sought by the applicants, who have filed application in hand. Further, applicants, withdraw their application, regarding the aspects, mentioned in the application, which are not mentioned in this order.

All the parties present today, orally has submitted, that they feel sorry for anything and everything, which may have caused any heartburning to any of the parties present in this court and / or the parties who are absent today.

Now to come on date fixed i.e. 21.08.2018 for further proceedings.

Copy of this order is given dasti to the parties appearing today with directions to returning officers, to hand over copy of this order, to the Observer by tomorrow.



  
[Prashant Sharma]  
SCJ-cum-RC: Central District:  
Delhi: 31.05.2018  
दरिष्ठ दीवानी न्यायाधीश एवं किराया नियंत्रक  
Senior Civil Judge/Rent Controller (Central)  
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