

Application No.4322 of 2016 in
C.S.No.204 of 2013

M.M.SUNDRESH, J.

This Court, after hearing the parties, passed an order in O.A.No.669 of 2016 on 16.08.2016 so as to enable the ensuing election to go on. In a challenge made to the said order, the Hon'ble First Bench, in its order in O.S.A.No.181 of 2016 dated 29.08.2016, was pleased to hold as follows:

“After some arguments, the learned senior counsel for the appellants does not press the appeal, but submits that in the background of the 2010 and 2013 elections, with 2013 elections forming subject matter of the suit, where the results were not declared for the posts of President and Treasurer in view of the dispute over the electoral college, it would be appropriate that the election is supervised by a neutral person. This is also in the context of the fact that the results for the 2013 elections for the post of President was not declared, who is the pivotal person for purposes of convening meeting.

2.We are of the view that the aforesaid may be an appropriate request to be made to the learned single Judge to obviate the possibility of another suit arising in the ensuing 2016 elections. We are sure, on such a request, the learned single Judge would consider it in the conspectus of the past history referred to aforesaid.

3.Original Side Appeal stands dismissed as withdrawn with the aforesaid observation. No costs. Consequently, C.M.P.No.13925 of 2016 is also dismissed.

4.We make it clear that we are not commenting on the issues of law raised in the present appeal as it is being withdrawn.”

2.Thereafter, the present application has been filed seeking to appoint a retired Judge of the High Court to supervise the election by taking such assistance for the purpose of conducting election for various posts.

3.The learned Senior Counsel appearing for the applicants submit that the elections are to be conducted keeping in view the earlier occurrences and for that purpose, appointment of a retired Judge of this Court is required.

4.The learned counsel for the respondents submit that the election schedule has already been drawn and therefore the same would be conducted as per law and by following the bye-laws.

5.On a suggestion made by this Court on the appointment of Hon'ble Mr.Justice D.Hariparanthaman, to be appointed as the Supervisor / Observer to ensure that the elections are being conducted as per the bye-laws, there is no serious objection for the adoption of the above said methodology. Therefore, the Hon'ble Mr.Justice D.Hariparanthaman, is requested to act as Supervisor / Observer to see to it that the elections are conducted smoothly. This order is also passed keeping in view of the

past occurrences and the fact that two groups are contesting for various posts. It is further to be noted that the election itself is mooted pursuant to the orders passed by this Court. In such view of the matter, this Court clarifies that the election schedule can go on and the Election Committee constituted would go on with the election process, subject to the rider that the same is constituted as per the bye-laws. This is a matter which has to be looked into by the learned Judge who is to act as Supervisor / Observer. The learned Judge is also permitted to have the assistance through a counsel of his choice as the election would span across different places throughout the State.

6.The initial remuneration of the learned Judge is fixed at Rs.1,00,000/- (Rupees One Lakh Only). An amount of Rs.50,000/- (Rupees Fifty Thousand Only) is also fixed for the counsel assisting the learned Judge. These remunerations are to be payable by the respondents within a period of two weeks from the date of receipt of a copy of this order.

7.It is needless to state that the parties will have to cooperate with the learned Judge for the smooth conduct of the election. In the event of any dispute, the decision of the learned Judge would be final. It is made clear that after the election is conducted smoothly, the results can be declared by the learned Judge without awaiting any further orders from this Court. It is further clarified that this order is passed by consent of

both the parties and therefore, the contentions raised on both sides including the contentions in the suit, are left open to be agitated at the time of deciding the suit.

8.This petition is ordered accordingly. Post the Civil Suit in C.S.No.204 of 2013 for further hearing on 26.09.2016.

KM

07.09.2016

Note to the Registry:

1.Registry is directed to mark a copy of this order to the learned Judge who is appointed as Supervisor / Observer for conducting the election.

2.Issue order copy today (07.09.2016).

M.M.SUNDRESH, J.

KM

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