

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.5288 of 2016

ORDER:

Heard both sides at length and perused the material on record.

2. The main S.O.P. is with a prayer to declare the impugned show cause notice dated 29.07.2016 as illegal, arbitrary, contrary to law and statute, with consequential prohibitory injunction from interfering with his functions as President till completion of his tenure by 25.06.2017 and the temporary injunction is also in consonance with the consequential relief of the main petition.

3. The lower Court from the material, passed the impugned order saying the so called removal pursuant to the show cause notice is unjust, in granting the injunction, now impugned herein in the present revision.

4. The issue involved is, the ultimate authority, which is the Managing Committee to which the President, who is the petitioner in S.O.P.No.328 of 2016 shown by virtue of show cause notice dated 29.07.2016 allegedly removed is valid or not. The Bye-laws are the core to determine the rights and functions. The Bye-laws provides that the Managing Committee is the supreme. Though it is one of the

contentions of the Vice-President, who claims nominated by the other Executive Members to issue the show cause notice against the elected President (petitioner of S.O.P.No.328 of 2016) before his term is expired and stated terminated him on 03.09.2016 and the relief in main case becomes infructuous, there is nothing *prima facie* shown terminated by following the procedure as per the Bye-laws by any enquiry through the Disciplinary Committee. Once such is the case, the only thing to be considered whether there is any Disciplinary Committee, constituted by the Managing Committee and whether there is any enquiry report called for and whether any enquiry conducted and report submitted and any such report considered for the Managing Committee now assume role without the President by the Vice-President to act on behalf of the Managing Committee for action against the President. *Prima facie* it shows from the show cause notice, alleged non-giving of proper reply, is not a ground to remove without enquiry by Disciplinary Sub-committee.

5. The Bye-laws contemplate either from resignation of the Disciplinary Sub-committee or from removal or cessation of the Disciplinary Sub-committee, the Managing Committee shall constitute or nominate a fresh Disciplinary Sub-committee. No doubt, even after such constitution or

nomination, if they did not assume the office, in the mean time, the Managing Committee whether can act as Disciplinary Committee, even as supreme authority is also one of the important questions involved for decision in final adjudication of the lis. Even to say that nomination or constitution of another Disciplinary Committee to conduct enquiry and to give report, for the final authority to take disciplinary action is the Managing Committee, as a step-in-aid even there from to say non-constitution or nomination of a fresh Disciplinary Sub-committee no way fatal, for ultimate authority is a Managing Committee, there is no Bye-law permitting without conducting enquiry even by the Managing Committee if it wants to act assuming the role of the Disciplinary sub-Committee till its constitution. The Bye-laws no way authorizes either expressly or even impliedly.

6. Once such is the case, an enquiry is supposed to be conducted as part of the principles of natural justice to be followed from the show cause notice already issued, irrespective of its impugment in the S.O.P. and till such enquiry and report and removal duly following the procedure contemplated, once entitled to act, there is nothing to interfere with the impugned order of the lower Court, but for to direct the existing status quo as on the date of the order of the lower Court to be maintained by

both parties; with a direction to the lower Court to conduct enquiry in the main petition itself and complete the enquiry and dispose of the same within three months from the date of receipt of a copy of this order. There is no order as to costs.

7. With the above directions and observations, the Civil Revision Petition is disposed of. No order as to costs.

8. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Date:09.11.2016
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Dr. B. SIVA SANKARA RAO, J

