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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2026/2016**

M/S A.S. FASHIONS PVT LTD

..... Petitioner

Through: Ms. Meenakshi Jain & Mr. Gautam
Kapur, Advs.

Versus

APPAREL EXPORT PROMOTION COUNCIL..... Respondent

Through: Mr. Siddharth & Mr. Saurabh
Malhotra, Advs. for AEPC.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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09.03.2016

CM No.8745/2016 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

W.P.(C) 2026/2016 & CM No.8744/2016 (for stay)

3. The petition impugns the notice dated 3rd March, 2016 for the Emergent Executive Committee Meeting of the respondent Apparel Export Promotion Council (AEPC) for 8th March, 2016, alleging the same to be in contravention of Para 2.92(b) of the Handbook of Procedures as contained in the Foreign Trade Policy (FTP) 2015-2020 as notified by the Government of India, Ministry of Commerce & Industry, Department of Commerce. The petition also seeks a mandamus to the respondent AEPC to hold the election to the post of Vice Chairman of the respondent AEPC as per Para 2.92(b) and also as per the Guidelines issued by the Ministry of Commerce vide letters dated 7th December, 2015 and as per 4th March, 2016 of the Secretary General of the respondent AEPC.

4. The petition was filed yesterday i.e. on 8th March, 2016 itself and listed on urgent mentioning and came up before this Bench at 1645 hours when the counsel for the petitioner stated that since the meeting impugning which this petition has been filed has already been held, the stay thereof sought by way of interim relief has become infructuous. However on the contention of the counsel for the petitioner that the petition would still survive and an interim relief of maintaining *status quo* qua elections is required to be granted, the petition was listed for today with a request to the counsel for the petitioner to also inform the counsel for the respondent AEPC.

5. The counsel for the respondent AEPC has appeared today.

6. Though the petition is very sketchy and without proper annexures but the grievance of the petitioner as understood is to the election sought by Mr. H.K.L. Magu and Mr. Lalit Gulati to the post of Vice Chairman of the respondent AEPC.

7. The counsel for the respondent AEPC has with the assistance of the documents handed over in the Court explained, i) that the election to the post of Vice Chairman of the respondent AEPC are held in every two years; ii) that the Vice Chairman on the expiry of two years automatically becomes the Chairman for a period of two years; iii) that at present one Mr. Rajani was the Vice Chairman and Mr. Virender Uppal was the Chairman; iv) that their term was to expire on 31st December, 2015; v) that on retirement of Mr. Virender Uppal, Mr. Rajani became the Chairman; vi) that thus the post of Vice Chairman fell vacant and an Emergent Meeting of the Executive Committee of the respondent AEPC was convened by issuing a notice dated

3rd March, 2016; vii) that Article 60 of the Articles of Association of the respondent AEPC permits a 72 hours notice for an Emergent Meeting of the Executive Committee; viii) that in the event of a contest for the post of Vice Chairman, all the members of the respondent AEPC are entitled to vote; ix) that the meeting scheduled on 8th March, 2016 was the Emergent Meeting of the Executive Committee; x) that in the Emergent Meeting of the Executive Committee held yesterday i.e. 8th March, 2016, the election schedule has been formulated and the election is scheduled to be held from 23rd March, 2016 to 25th March, 2016 by e-voting; xi) that the notice of election has been published in today's newspapers including in the 'Financial Express'; xii) that Mr. H.K.L. Magu who is seeking election as Vice Chairman was the Senior Vice Chairman of the Northern Region till December, 2013; xiii) that Mr. Lalit Gulati was also Senior Vice Chairman of Eastern Region till December, 2015; xiv) that earlier there used to be three Vice Chairmen but under the new FTP there is only one Vice Chairman; xv) that the objection of the petitioner is that as per Para 2.92(b) supra, person who has held the post of Vice Chairman can seek re-election after a gap of not less than four years and the said gap has not been completed by both the aforesaid candidates; xvi) that however the Government of India, Ministry of Commerce and Industry vide letter dated 15th December, 2015 has clarified that Para 2.92 introduced in the FTP 2015-2020 is for prospective elections after the current election by e-voting; xvii) that thus the grievance with which the petition has been filed is misconceived.

8. The counsel for the petitioner on enquiry whether she has challenged

the letter dated 15th December, 2015 states that the petitioner has come to know of it today only. She however states that FTP 2015-2020 formulated at ministerial level could not have been changed vide letter dated 15th December, 2015. She further states that the letter dated 15th December, 2015 is in response to the letter dated 11th December, 2015 of the respondent AEPC and the respondent AEPC has not filed the said letter. It is further stated that Para 2.92 is for all Export Promotion Councils and no exception can be carved out for the respondent AEPC only.

9. On enquiry, whether there is any provision in the Memorandum, Rules and Regulations of the respondent AEPC for resolution of election disputes, the counsel for the respondent AEPC has drawn attention to Article 41(b) of the Articles of Association of the respondent AEPC making the Chairman of any meeting to be the sole judge of the validity of every vote tendered at a meeting and making the Chairman present at the taking of a Poll to be the sole judge of the Validity of every vote tendered at such poll.

10. It is settled position in law that the election process once begun cannot be set at naught. It is quite evident that the process of election to the post of Vice Chairman of the respondent has already begun and the same cannot be interdicted with.

11. The petition is dismissed with liberty to the petitioner to, if remains dissatisfied, take all measures either under Article 41 or otherwise in accordance with law with respect to the said election.

No costs.

Dasti under signature of Court Master.

RAJIV SAHAI ENDLAW, J

MARCH 09, 2016/‘gsr’..

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