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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P.(I) (COMM.) 512/2017**
THE GOA YOUNG MEN'S CHRISTIAN
ASSOCIATION & ORS

..... Petitioners

Through : Mr.P.I.Jose and Mr.Shashank Mishra,
Advs.

versus

NATIONAL COUNCIL OF YMCAS OF INDIA

..... Respondent

Through : Mr.Ramesh Singh, Mr.Haris Beeran,
Mr.Mushtaq Salim and Mr.Usman
Khan, Advs.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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12.12.2017

1. This petition is under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred as 'the Act') for grant of interim relief against the respondent. The petitioners are the local YMCAs Societies and who along with other societies are the members of the respondent society.

2. It is alleged the respondent has its memorandum and rules and regulations and according to the existing rules of the respondent - such disputes as are stated hereinafter can be referred to the arbitration. The petitioners have already issued notice invoking the arbitration, hence this petition.

3. It is the case of the petitioner the respondent is trying to amend the objectives as also the constitution of the respondent society and is holding a special general meeting on 15th December, 2017 in violation of the rules and regulations of the respondent society.

4. It is submitted Section 12 of the Societies Registration Act has not been adhere to by the respondent since as per this section such a motion has to come from the governing body, which in the present case is the National Board. It is argued that it is only the National Board who can moot the proposition for amendment to the objectives as also the constitution of the respondent society but whereas in this case the National Executive has mooted the said proposal. It is alleged the power to amend cannot be delegated by the National Board upon the National Executive. It is further argued the governing body has to sent the proposal in the form of a printed report and may only thereafter convene a special meeting. It is submitted no such notice was ever sent to all the members of the YMCA as was always use to be sent earlier, as in the year 2014.

5. However, the learned counsel for the respondent submits Article III of Rules and Regulations says the National Board is the governing body of the society as is envisaged by the Societies Registration Act, 1860 and the management of the society which vest in the National Board has to be carried on by the National Executive and the Officers of the Society subject to the control and direction of the National Board and the provisions contained in these Rules and Regulations in that respect.

6. The learned counsel for the respondent submits the starting point of this exercise was on 09.04.2016 and the respondent has filed the Extract of Minutes of meeting of the National Executive Committee held on the said date at Trivandrum wherein a committee was formed to amend the constitution and seven members were nominated. It was observed the committee shall call for proposed amendments and changes to the constitution from the local YMCAs by giving them two months' time. After receiving any amendments, the above Committee was authorised to propose certain amendments and bye-laws that may be necessary for the Movement. The amendment received by the local YMCAs and proposed by the committee thus was to be discussed and finalised by the Constitution Amendment Committee as aforesaid. The same was to be sent once again to local YMCAs for final approval before adoption by the general body of the National Council for YMCAs of India. Learned counsel for the respondent submits that these formalities were done, though objected to by learned counsel for the petitioner.

7. It is submitted by learned counsel for the respondent that only 13 objections were received against the amendments and out of with eight YMCAs participated in the discussions. It is further submitted that out of the four petitioners, two of the petitioners viz., petitioner No.2 and 4 i.e., from Bombay and Pune respectively have already sent the registration forms duly signed by the participants for the meeting to be held on 15th December, 2017 and regarding petitioner No.3 they have paid their dues only on 14.11.2017 i.e. after two

months of the notice dated 13.09.2017. It is further submitted by learned counsel for the respondent that the entire exercise has been done strictly in compliance with Section 12 of Societies Registration Act.

8. Further learned counsel for the respondent argued the petitioners have no intention to arbitrate the dispute since have not followed the procedure as is stated in Article XIII of the Rules and Regulations, as per sub Article 3(a) of Article XIII, if any of the parties need to appoint an arbitrator it has to file a complaint before the General Secretary showing all relevant facts to the impugned proceedings, decision or action to be taken with a copy thereof to the President within 30 days from decision or the action.

9. It is submitted that the notice was issued on 13.9.2017 and the petitioners did not come forward within 30 days of issuance of notice to invoke the arbitration, though the learned counsel for the petitioners say the notice of invocation is infact dated 25.11.2017 and the list of the arbitrators sent by the respondent was not acceptable to them and rather they have offered for having arbitration by Delhi High Court Arbitration Centre or otherwise and hence it is wrong to say the petitioners have no intention to arbitrate.

10. Since the disputes so raised relate to the interpretation of rules and regulations as also the management of the society and since proposed meeting is be held on 15th December, 2017, if is cancelled or postponed it shall entail a huge expenditure upon the respondent so

considering the balance of convenience the meeting is allowed to be held at Trivendrum on both the parties agreeing the second meeting per Section 12 of the Societies Registration Act shall be held only after disputes so raised are settled by the arbitrator. Hence the outcome of the meeting dated 15.12.2017 shall be subject to the award given by the learned arbitrator.

11. Both the learned counsels on instructions agree that Ms. Justice Rekha Sharma (Retd.) [Mobile : 9871300025] may be appointed as an arbitrator in the present case. The fee of the arbitrator shall be settled in consultation with both the parties. The learned arbitrator is requested to conclude the proceedings at the earliest, preferably within two to three months and both the parties have agreed to cooperate.

12. The petitioner shall file the statement of claim before the learned Arbitrator within a week from today.

13. The petition stands disposed of in terms of the above.

14. *Dasti* under signature of the Court Master.

YOGESH KHANNA, J

DECEMBER 12, 2017

M/VLD