

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 27th DAY OF MARCH 2019

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

O.A. No.87 of 2019

In the matter of Arbitration
and Conciliation Act, 1996

and

In the matter of * the Food
Corporation of India (South
Zone) Employees' Co-operative
Society Ltd."

The Food Corporation of India (South Zone)
Employees' Co-operative Society Ltd.,
No.MSCS/CR-23/92

Rep. by its President-V.S.Arputham,
New No.40, Old No.133, 2nd Floor,
Vepery High Road, Periamet,
Chennai-600 003.

... Applicant

-Versus-

1. K.Rajesh,
Secretary-in-Charge,
The Food Corporation of India (South Zone)
Employees' Co-operative Society Ltd.,
No.MSCS/CR-23/92
New No.40, Old No.133, 2nd Floor,
Vepery High Road, Periamet,
Chennai-600 003.

2. S.Pandian,
Plot No.109, Periyar Nagar II,
Guduvanchery, Chennai-603 207.

... Respondents

*** Amended as per order dated 27/03/19 in
application No.1551 of 2019.**

Original application praying that this Hon'ble Court
be pleased to pass an interim injunction restraining the
respondents or their men or servant or anybody claiming
through them or under them from in anyway interfering with
the affairs of the society namely The Food Corporation of
India (South Zone) Employees' Co-operative Society Ltd.,
No.MSCS/CR-23/92.

This Original Application coming on this day before this Court for hearing, the Court made the following order:-

The prayer sought for herein is to grant an interim injunction restraining the respondents or their men or servant or anybody claiming through them or under them from in anyway interfering with the affairs of the society namely The Food Corporation of India (South Zone) Employees' Co-operative Society Ltd., No.MSCS/CR-23/92.

2. Heard the learned counsel for the applicant as well as for the respondents.

3. The learned counsel appearing for the applicant submits that on 30.11.2018, a Board Meeting was held, where five out of nine Directors participated and a resolution was unanimously passed, whereby the applicant had been selected as a President.

4. However the said claim made by the applicant is refuted strongly by the second respondent, who claimed to be the President and whose counsel submits that, the removal of the President ship of the second respondent on the alleged meeting taken place on 30.11.2018 is without Quorum, as according to the learned counsel for the second respondent, only three out of nine Directors participated in the meeting, however the Quorum should be five.

5. In this context it is the case of the applicant that, on 30.11.2018, no doubt five out of nine Directors participated in the meeting, where three have signed in the minutes and the two who have participated in the meeting have not signed in the minutes have filed supporting documents and affidavit stating that, they have attended the meeting where the resolution passed on 30.11.2018.

6. Subsequently, it is the claim of the second respondent that, on 12.02.2019, the board meeting was conducted, where five out of nine members have participated, chaired by the Vice-President of the Board. They claimed to have passed unanimous resolution rescinding the earlier resolution passed on 30.11.2018, whereby the applicant, one Arputham, who was claimed to be elected as President by virtue of the meeting, dated 30.11.2018 has been rescinded and in whose place the second respondent has been re-elected as the President of the Society.

7. In view of these rival claims made by both parties, where both of them claimed under separate alleged board meeting held on 30.11.2018 and on 12.02.2019 that, they have been respectively elected as a President to run the society, the said issue has to be resolved only by Arbitrator and in this regard, both the parties are ready

and willing to refer the matter to the Arbitrator to resolve the same.

8. In the meanwhile, since at least two members of the board who participated and signed in the minutes, dated 30.11.2018, in support of the applicant, have also participated in the meeting held on 12.02.2019 and signed in favour of the second respondent.

9. Therefore, based on these grounds on credibilities of some of the member Directors of the society, the veracity of the resolution said to have been passed in both meetings have to be testified.

10. However, before the decision to be taken by the Arbitrator, during the interregnum, this Court feels that, in the interest of justice, both the applicant as well as the second respondent may not be permitted to take the helm of affairs of the society and as an interim measure, Advocate Receiver / Interim Administrator can be appointed, who will take charge of the administration of the society in question and he can be the Interim Administrator of the society till the final award is passed by the Arbitrator on the issue raised by both the parties.

11. In view of the above, Mr.P.Dharmaraj, learned Advocate, having office at No.74, Law Chambers, High Court,

Chennai - 104 (Mobile No. 98411 61623) is appointed as Advocate Receiver / Interim Administrator of the Food Corporation of India (South Zone) Employees Co-operative Society Ltd., No.MSCS/CR-23/92, Chennai, who shall take in charge of the same immediately by production of this order and on production of the same, the concerned persons of the society and of the Department shall punctually execute the said order by handing over the charge to the Interim Administrator.

12. The Interim Administrator shall be paid a monthly remuneration of a sum of Rs.50,000/- (Rupees Fifty Thousand Only). The Advocate Receiver / Interim Administrator shall take incharge of all day-to-day affairs of the society till the final award is passed by the Arbitrator and the Administrator shall file a report including the rendition of account to this Court, at the end of every two months.

13. Since under the proceedings, dated 05.03.2019, The Registrar of Co-operative Societies has already appointed one Mr.M.Thangaraju as sole Arbitrator and in respect of his nomination, there is no objection from both sides, let the sole Arbitrator already appointed can immediately enter in to the reference and decide the issue raised by the parties, within a period of six months from the date of enter into the reference.

14. Let both the parties file their respective claim before the Arbitrator, if not already filed, within a period of thirty days from the receipt of a copy of this order.

With these directions this Original Application is disposed of.

Sd/-R.S.K.J
27.03.2019

//Certified to be a true copy//

Dated this the day of 2019

jj 29.03.2019

COURT OFFICER(O.S)

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment/ Decree in this format.

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