

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER STAMP NO. 3125 OF 2020
WITH
INTERIM APPLICATION NO. 1 OF 2020

The Computer Society of India	.. Appellant
Vs.	
Gautam Mahapatra and ors.	.. Respondents

Mr.Shriram S.Kulkarni i/b Ms.Minal V.Chavan, for Appellant.
Mr.Rafique Ahmed Shaikh a/w Mr.Sharif S.Khan, for Respondents.

CORAM : M. S. KARNIK, J.

DATE : 11th MARCH, 2020

P. C. :

. Heard learned Counsel for the appellant and learned Counsel for the respondents. By consent taken up for final disposal.

2. Leave to amend so as to enable the learned Counsel for appellant to delete respondents No. 2 to 6 is granted. Amendment to be carried out forthwith.

3. The challenge in this Appeal from Order is to an order dated 23/01/2020 passed by the trial Court restraining the appellant

from declaring the result of the election till the decision of the Notice of Motion No. 755 of 2019 and not to take any policy decision as observed by this Court in Appeal from Order No. 702 of 2019 in Civil Application No. 836 of 2019. At the outset, it is pertinent to note that so far as Appeal from Order No. 702 of 2019 is concerned, the same was disposed of by this Court vide order dated 20/09/2019. I do not find any reference to the direction of this Court not to take policy decision in the order dated 20/09/2018.

4. Secondly, insofar as the restraint order passed by the trial Court restraining the appellant from declaring result of the election till the decision of the Notice of Motion is concerned, it would be pertinent to refer to the prayer clause of the Suit filed by the present respondent No.1 – original plaintiff. The plaintiff has prayed for declaration that proposed Executive Committee meeting, National Council Meeting and AGM scheduled to be held on 17/03/2019 as illegal and against the provisions of the constitution of appellant. The interim reliefs are sought in aid of this prayer clause. There is no dispute that during the pendency of the Suit, election programme for

the year 2020-21 came to be declared in October 2019 and the elections were scheduled to be conducted on 31/01/2020. Accordingly, the elections were held. It appears that the plaint was not amended nor any proceedings filed challenging the elections held on 31/01/2020 which then would enable the plaintiff to claim interim relief as prayed in the Notice of Motion. In this view of the matter, in my opinion, the trial Court appears to be not justified in granting the interim relief restraining the appellant from declaring the result till the decision of the Notice of Motion as the main relief in the plaint is only for declaration that proposed Executive Committee meeting, National Council Meeting and AGM scheduled to be held on 17/03/2019 as illegal and against the provisions of the constitution of appellant. In this view of the matter, the impugned order passed by the trial Court calls for interference and is set aside.

5. It is clarified that in the event the plaintiff applies for amendment in the plaint or any other appropriate proceedings are filed seeking appropriate reliefs in so far as elections of 2020-21 are concerned, the same to be decided by the trial Court on its own

merits and without being influenced by any observations made by me in this order.

6. Considering the facts of the matter, it would be appropriate if the trial Court decides Notice of Motions No. 3899 of 2019 & 2783 of 2019 on its own merits within a period of four weeks without being influenced by the observations made by me in this order. It is submitted by the parties that Notice of Motion No. 2783 of 2019 is for restraining the defendants from dealing with Bank account etc.

7. In the light of above, Appeal from Order is disposed of.

8. In view of disposal of the Appeal from Order, Interim Application pending if any shall stand disposed of accordingly.

[M. S. KARNIK, J.]

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Ingle

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Signed by
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