

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Reserved on : 17.08.2020

Delivered on : 28.08.2020

**CORAM**

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**O.A.Nos.310 and 312 of 2020**

**in**

**C.S.No.185 of 2020**

1.P.R.Venketarama Raja

2.D.V.Sundar

3.Vijay Deshpande

4.Kishor Bandekar

5.Ravindra Dongre

... Applicants

Vs

1.Naresh Sharma

2.Dr.Vipnesh Bhardwaj

3.Neeraj Kumar Mishra

4.Bhavesh Patel

5.Bhagyashree Thipsay

1/34

6.Bharat Singh Chauhan

7.All India Chess Federation  
(Regd. Society, Regn.125/1958)

Rep. by the President,

Head of the Three-member Committee

All India Chess Foundation,

having its registered Office at

Room No.70, Jawaharlal Nehru Stadium,

Periyamet, Chennai – 600 003.

... Respondents

**Prayer in O.A.No.310 of 2020:** Judges Summons filed under Order XIV Rule 8 of the Original Side Rules read with Order XXXIX Rules 1 & 2 with Section 151 of the CPC to grant an order of Interim Injunction restraining respondents / defendant Nos.1 to 6 and / or their men, agents, servants from interfering with the administration and election process of respondent / defendant no.7 pending disposal of the present suit.

**Prayer in O.A.No.312 of 2020:** Judges Summons filed under Order XIV Rule 8 of the Original Side Rules read with Order XXXIX Rules 1 & 2 with Section 151 of the CPC to grant an order of Interim Injunction restraining respondents / defendant Nos.1 to 6 and / or their men, agents, servants or any person in any manner whatsoever from interfering with the administration of the AICF whatsoever including changing the Letterhead of the AICF, writing communications, making representations in any manner whatsoever on behalf of the AICF pending disposal of the present suit.

For Applicants : Mr.P.S.Raman  
Senior Counsel  
for Mr.P.J.Rishikesh

For Respondent 6 : Mr. Manishankar,  
learned Senior Counsel  
for Mr. Sanjay Chandha.

For Respondent 7 : Mr.J.Sivanandaraj  
for Mr.P.V.Sabaridas

**COMMON ORDER**

The litigation between the applicants on the one hand and the respondents on the other hand unfolds like a tactical game of Chess with two groups vying to checkmate the other. The events herein below detailed would stand ample testimony to this.

**Facts preceding the filing of the suit:**

2. The applicants are the officials of the 7<sup>th</sup> respondent Federation, hereinafter referred to as the Federation which is a Society registered

under the Tamil Nadu Societies Act, 1975, hereinafter referred to as the Act. The operation of the Federation had started in the year 1950 and was registered on 12.12.1958 at Madras. The Federation is governed by its Constitution and Byelaws and all the State Associations are the members of the Federation.

3. Various litigations had arisen on account of the serious dispute between the 1<sup>st</sup> applicant who is the President and the 6<sup>th</sup> respondent, who the applicants claim, was the erstwhile General Secretary of the Federation. Disputes arose when the 6<sup>th</sup> respondent had issued a separate notice calling for an elections after the President had called for the elections and had appointed a three member committee in which the 6<sup>th</sup> respondent was the Honorary Secretary. Suits were filed challenging the notice issued by the 6<sup>th</sup> respondent and ultimately this Court had upheld the notice issued by the 1<sup>st</sup> applicant and an Election Officer, who was none less than a retired Judge of the Honourable Supreme Court, was appointed as the Returning Officer to conduct the elections to the various posts and for declaring the results.

4. Since there was some procedural glitches in the filing of the nominations for the various posts, the results which was originally declared by the Returning Officer was set aside and the Returning Officer was directed to conduct the elections once again by accepting fresh nominations for the various posts and by reason of this order the election of persons to the various posts had been set aside by the Honourable Division Bench and parties had reverted to status quo ante. Thereafter, the Returning Officer had expressed his inability to continue and had recused himself. The plaintiff in C.S.No.25 of 2020 has filed an application for appointing another Returning Officer and the same is yet to be numbered.

5. In this scenario, the 10 Associations have called for a Special / Extraordinary General Body Meeting by notice dated 31.03.2020 which was to be held on 22.04.2020 between 11 a.m. to 1 p.m at Tivoli Grand Resort, Alipur, New Delhi. The notice was issued invoking Article 11 of the Constitution of the Federation and Section 28 of the Tamil Nadu Societies Registration Act, hereinafter called the Act. On 21.04.2020 just

hours before the meeting, the venue for the meeting was changed into the virtual world as it was informed that the meeting would be conducted through "ZOOM" application. It is contended that nineteen out of thirty three members have not participated and nine associations have confirmed that the minutes and list of participants were fraudulent as they have not attended the said meeting.

6. It appears that in the impugned meeting several resolutions were taken, in and by which a five member committee to administer the Federation was constituted. The applicants herein were removed as Office Bearers. Some Associations were disaffiliated and some disaffiliated Associations were brought back. It is challenging the said meeting and the resolutions therein that the present suit has been filed.

**Relief sought for in the suit:**

7. In the suit C.S.No.185 of 2020 the plaintiffs / applicants have sought for the following relief:

*“ a. Declaration that the Notice dated 31.03.2020*

*issued by Defendant No. 2 herein calling-for a "Special / Extra Ordinary General Body Meeting of the AICF to be held on 22.4.2020" between 11:00 AM - 01:00 PM at Tivoli Grand Resort, Alipore, New Delhi, as null and void;*

*b. Declaration that the E-mail dated 21.04.2020 from Defendant No.1 herein at 10:43:09 PM IST sent to all the Members of the AICF confirming the conduct of the "Special / Extra Ordinary General Body Meeting of the AICF to be held on 22. 4. 2020" between 11:00 AM - 01:00 PM via "ZOOM" Application. as null and void;*

*c. Declaration declaring that all the decisions taken and all resolutions passed in the Special / Extra Ordinary General Body Meeting of the AICF dated 22. 4. 2020 via "ZOOM" Application as Null, Void and non est.*

*d. Declaration that the Show Cause Notice dated*

*26.04.2020 issued against Plaintiff No. 4 and Show cause notice dated 02.05.2020 issued to Plaintiff Nos.1 to 3 and 5 herein by Defendant Nos. 1 - 5 as null, void and non-est in law*

*e. Declaration that the Letters of Suspension dated 12.05.2020 issued by Defendant nos. 1 to 6 to Plaintiff Nos. 1 to 5, as illegal, null, Void and non-est in law;*

*f. Permanent injunction restraining Defendant Nos. 1 to 6 and/or their men, agents, servants or any person in any manner whatsoever from interfering with the administration of the AICF whatsoever including changing the Letterhead of the AICF, writing communications," making representations in any manner whatsoever on behalf of the AICF.*

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*g. Permanent Injunction restraining Defendant Nos. 1 to 5 and/or their men, agents, servants or any person acting*

*for on behalf of the AICF from giving effect to the decisions taken at the "Special / Extra Ordinary General Body Meeting of the A ICF dated 22. 4.2020" via "ZOOM" Application;*

**Relief in the Interim Order:**

8. The following interim applications have also been filed along with the plaint seeking the following reliefs:

***"O.A.No.310 of 2020:** To grant an order of Interim Injunction restraining respondents / defendant Nos.1 to 6 and / or their men, agents, servants from interfering with the administration and election process of respondent / defendant no.7 pending disposal of the present suit.*

***O.A.No.312 of 2020:** To grant an order of Interim Injunction restraining respondents / defendant Nos.1 to 6 and / or their men, agents, servants or any person in any manner whatsoever from interfering with the administration of the AICF whatsoever including changing the Letterhead of the AICF, writing communications, making representations in*

*any manner whatsoever on behalf of the AICF pending disposal of the present suit.”*

9. The applicants would challenge the said meeting and the resolutions on the following grounds:

*“a) That there was no proper requisition from the members placed before the Office Bearers and the requisitionists have not given any time for the office bearers to call for the meeting;*

*b) The meeting that has been called for is contrary to the provisions of Section 28 of the Act and Article 11 of the Constitution and Byelaws of the Federation;*

*c) The notice dated 21.04.2020 converting the physical meeting into the virtual meeting is illegal and contrary to the law;*

*d) Majority of the members of the Federation, i.e., nineteen out of thirty three members did not participate and nine Associations have confirmed that the minutes drawn up for the meeting dated 22.04.2020 was fraudulent one as it shows that these members have attended the meeting, where in reality they had not;*

*e) The meeting through Video Conference is not permissible as per the Act and as per the Byelaws of the Federation as well;*

*f) Decision taken tends to upset the election process which already been set in motion;*

*g) The respondents have totally overthrown the electoral body by disaffiliating certain members and affiliating certain others”*

10. The learned counsels for the respondents particularly the learned Senior counsel and the instructing counsel appearing for the 6<sup>th</sup> respondent were present. Though no counter was filed elaborate arguments were made on behalf of the respondents and this Court heard the arguments of all concerned.

**Submissions:**

11. Mr.P.S.Raman, Senior Advocate appearing on behalf of the learned counsel for the applicants / plaintiffs would contend that on 31.03.2020 notice had been given out by certain Associations who are favourably disposed of towards the 6<sup>th</sup> respondent informing that they are

calling for a Special / Extraordinary General Body Meeting of the Federation since the Honorary Secretary of the Federation (6<sup>th</sup> respondent herein) had by his letter dated 29.03.2020 expressed his inability to call for the meeting and therefore the requisitionist have themselves decided to call for the meeting.

12. The notice would further state that the meeting was to be held on 22.04.2020, Wednesday between 11 a.m. to 1 p.m. at Tivoli Grand Resort, Alipur, New Delhi. The notice also provides that persons who could not attend the meeting physically could attend the same via **Audio / Video conference or by e-mail**. The notice also included the agendas for the meeting which were nine in number. One of the agendas, namely, agenda no.2 was to discuss the various Court cases and the agenda no.9 was to take a decision on monitoring and regulating the day to day functioning of the Federation till fresh elections of the office bearers are conducted. The notice would indicate that 11 members have requisitioned the meeting.

13. The learned senior counsel would further point out to this Court that on 21.04.2020 at about 10.43 p.m, the Haryana Chess Association of which the 1<sup>st</sup> respondent is a member had sent out an e-mail stating that the Special / Extraordinary General Body Meeting was to be held on 22.04.2020 through the "ZOOM" platform. The e-mail also provides the meeting ID and Password. The learned senior counsel would submit that this intimation of converting a physical meeting into Virtual meeting is totally against the Bye-Laws of the Federation as also the provisions of the Act.

14. He would further argue that the 6<sup>th</sup> respondent had been removed from the post of the Secretary and therefore his participation in the meeting and also his response to the Associations that he cannot conduct the meeting is contrary, not only to the Bye-laws but also the known provisions of the Act. The learned Senior counsel would further submit that neither in the notice dated 31.03.2020 nor in the e-mail dated 21.04.2020 had the respondents not been given any material required for considering and passing resolutions on the agendas. However, the

Minutes would read as if the annexures were earlier given to the members. However, the e-mail dated 21.04.2020 calling for the Zoom meeting states that only the letter of the Honorary Secretary expressing his inability to call for a meeting and the letter of requisitions dated 31.03.2020 are being enclosed, however even these documents are not found attached to the e-mail. The learned senior counsel would submit that the conduct of the fraudulent meeting was contrary to the directions issued by the Registrar of Societies. Infact a News Bulletin dated 29.07.2020 issued by the Government clarified that the Societies cannot hold on-line meeting citing COVID - 19 as such a meeting was contrary to the provisions of Section 2 (j), 15 (3) & 26 of the Act.

15. He would further submit that with a clear intent of disturbing the existing electoral body, the 6th defendant had used the 10 Associations owing allegiance to him, to requisition a meeting and has used the meeting to disaffiliate some of the associations and bring back some associations which had been disaffiliated. He would further contend that the persons who had attended the meeting were only Ad hoc members and not the

affiliated members.

16. The learned Senior Counsel would point out the haste with which the entire events preceding the meeting had taken place. The requisition is stated to have been given on 27.03.2020, 28.03.2020 and 29.03.2020, the Secretary pleads inability to hold the meeting owing to pandemic vide e-mail dated 29.03.2020 and on 31.03.2020, the notice for holding the Special General Body Meeting was sent. The procedure adopted was totally contrary to the Bye-Laws. He would further submit that the 6th respondent had been removed from the post of Secretary on 30.03.2020 and he was therefore not competent to hold the meeting. He would therefore pray that interim orders be granted restraining the respondents 1 to 6 from interfering with the administration and the elections of Federation, as prayed for.

17. Mr.J.Sivanandaraj, learned counsel appearing on behalf of the the 7th respondent would make the following submissions:

He would submit that the Special Meeting was called for by a

Secretary of one of the Chess Associations, which is a Member of the Federation. He would then draw the attention of this Court to Bye-Laws of the Federation and he would submit that as per Article 11 of the Bye-Laws a special Meeting of the General Body can be called:

- a) By the Resolution of a Central Council;
- b) On the requisition in writing of at least by 10 members of the Federation or;
- c) By the President to consider such matter mentioned in the agenda.

On receipt of the requisition, the Secretary is required to give 14 clear days notice of such meetings to all the Members with a copy of the proposed agenda. The meeting should be called within 30 days of the receipt of the requisition. Under Bye-Law 15 (c), the notice of the meeting is required to be issued by the Secretary. He would argue that in the instant case, notice of the meeting has not been given by the Secretary as proposed under the Bye-Law but by one of the requisitionists.

18. The learned counsel would point out that it is the provisions of the Act which governs the working of the Federation. Under Section 2 (a) the term 'committee' has been defined as the *"Governing body of a registered Society to whom the management of its affairs is entrusted."*

19. Section 28 of the Act governs the procedure regarding Extraordinary General Body Meeting. As per this provision, it is the Committee that can at any time call an Extraordinary General Body Meeting within such period as may be prescribed after receipt of a requisition in writing from such member as prescribed in the Bye-Laws of the Registered Society. Section 26 deals with the Annual General Body meeting. Section 26 (3) talks about the contents of a notice of meeting. Section 26(2) states that a notice of every general body meeting should be given by a registered society within such period as prescribed before the day appointed for the meeting. The notice shall specify the day, hour and place and the object of the meeting and, in case the agenda relates to the amendment of a Bye-Law or object of Association, the same should be

enclosed along with the notice. The learned counsel would therefore contend that the requisitionist herein has not placed the requisition to the committee which at that point of time consisted of the first applicant, second applicant and the sixth respondent. The sixth respondent appears to have suo-moto informed the requisitionist that the meeting cannot be held in view of the pandemic and the lock-down scenario. This refusal is stated to have been given on 29.03.2020 to the requisitionists and the requisitionists have within two days fixed the date of meeting on 22.04.2020. He would submit that under the notice dated 31.03.2020 the physical meeting was to be held at Tivoli Grand Resort Alipur, New Delhi. In the notice dated 31.03.2020, though the notice states that Members could attend the same by Audio/Video conferencing or by Email, no weblink details have been shared in the said notice. Therefore, the notice is flawed to the extent that there are no details about how the video conference is proposed to be held and could not be considered a notice of meeting. It is only in the e-mail dated 21.04.2020 that the details of the ZOOM Application has been shared and this does conform to the procedure as prescribed under the Bye-Laws and Section 26 & 28 of the

Act and therefore, the meeting is not valid. That apart, he would submit that the Secretary had been removed and therefore the requisitionists ought not to have submitted the requisition to the Secretary and the Secretary was not authorised to unilaterally reject the same without placing the same before the committee, particularly when he had not challenged his removal. He would submit that the entire exercise on the part of the 6th respondent was to change the electoral body as the present body, according to the 6th respondent was not favourably disposed towards him and therefore with the intent of bringing in members favourably disposed towards him the 6th respondent had stage managed the entire meeting. He would submit that in the process, the respondents have altered the electoral body and they have practically hijacked the entire electoral process. The procedure contemplated under the bye-laws for disaffiliation has not been followed. Once this Court is seized of the matter, the respondents ought to have moved the Court if they were in any manner aggrieved by the vacuum that had been created due to the recusing of the returning officer.

20. Mr. Manishankar, learned Senior Counsel appearing on behalf of Mr. Sanjay Chanda, learned counsel for the 6th respondent, would submit that the entire process preceding the meeting dated 22.04.2020 had taken place after following the Bye-Laws of the Federation. He would submit that since the 6th respondent who is the Secretary of the Federation and one of the Committee Members had declined to proceed with the meeting in the light of the Pandemic, the requisitioner had taking recourse to the provisions of Article 11 and had called for the meeting. Therefore, there is nothing illegal on the part of the respondents calling for the meeting. He would further submit that a perusal of the minutes would clearly indicate that the Members had participated and had taken decisions only after properly comprehending the agendas that were the subject matter of the meeting.

21. The learned Senior Counsel would submit that by no stretch of imagination can it be stated that the 6th respondent had over reached the orders of this Court, since the 6th respondent was in no way connected

with the calling for the meeting or its conduct. It is only the Members who had called for the meeting and who had taken the decision unanimously.

22. The learned Senior Counsel would submit that once the meeting has been held as per the procedure and the resolution passed by majority, the Court should not normally interfere in the internal affairs of the society. He would submit that the applicants have not made out any prima facie case and neither is balance of convenience in their favour. Therefore, he prays that the applications have to be dismissed.

**Discussion:**

23. Heard the counsels and perused the pleadings and documents both in C.S.No.25 of 2020 and C.S.No.185 of 2020 in which suit the instant applications are filed.

24. The entire gamut of dispute centers around the meeting that was held on 22.04.2020, the resolutions taken therein and the procedure adopted for convening the said meeting. This Court has examined the

notice of requisition, the notice of meeting dated 31.03.2020 and the notice dated 21.04.2020 in great detail, since the arguments are primarily based on the validity of the requisition for holding the meeting and the conduct of the meeting as also the subject matters that had been discussed therein. A close scrutiny of these were necessitated to find out if the applicants had made out a prima facie case for the grant of an order of injunction.

25. The applicant has enclosed the notice calling for the meeting dated 31.03.2020 as one of the documents. Prior to this notice, from a perusal of the typed set of papers filed in A.No.1438 of 2020 in C.S.No.25 of 2020, it is seen that on 27.03.2020, 28.03.2020 and 29.03.2020, 11 Associations had addressed emails to the Honorary Secretary of the Federation ( who then was the 6th respondent herein) calling upon the 6th respondent to call for a Special General Body Meeting of the Federation as per the rights and powers vested on them by Article 11 of the Constitution of the Federation and Section 28 of the Act. Each of these notices would state that the meeting was called to discuss important issues relating to:

*a) issue relating to AICF including staff payments;*

*b) Website and Email issue*

*c) Court matters*

*c) Fresh elections*

*e) Exorbitant remuneration projected by the Returning Officer, etc.*

26. Following are the associations who have made the requisition:

| S.No. | Date of E-mail | Name of the Association                 |
|-------|----------------|-----------------------------------------|
| 1     | 27.03.2020     | All Arunachal Pradesh Chess Association |
| 2     | 27.03.2020     | All Assam Chess Association             |
| 3     | 27.03.2020     | Gujarat State Chess Association         |
| 4     | 27.03.2020     | The Haryana Chess Association           |
| 5     | 27.03.2020     | Sikkim Chess Association                |
| 6     | 27.03.2020     | Uttarakhand Chess Association           |
| 7     | 27.03.2020     | Chess Association of Uttaranchal        |
| 8     | 28.03.2020     | Delhi Chess Association                 |
| 9     | 28.03.2020     | All Bihar Chess Association             |
| 10    | 28.03.2020     | Chandigarh Chess Association            |
| 11    | 29.03.2020     | All Jharkhand Chess Association         |

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27. The 6th respondent has sent an e-mail dated 29.03.2020 stating as follows:

*“ With reference to your above referred requisition on behalf of more than 10 members state association to call a Special/Extraordinary General Body Meeting of AICF, I would like to inform you that due to pandemic of Corona Virus and at the restrictions imposed by the Govt on the social gathering and travelling, it would not be possible for the AICF to call this meeting as requested by you”*

Therefore it is clearly evident that the 6th respondent who was fully conversant with the Act and Bye-Laws of the Federation was aware that a physical meeting cannot be held during this period of the pandemic.

28. On 31.03.2020, the Honorary Secretary of Chandigarh Chess Association informed All Member State/UT Associations that on the request of the 10 Member State/UT Associations of the Federation, the meeting is to be held on Wednesday, 22.04.2020 at 11 am to 1 pm at Tivoli Grand Resort, Alipur, New Delhi. The notice goes on to state that Members who are unable to attend the meeting physically can attend the same by **Audio/Video Conferencing or by Email**. It beats logic as to how a Special General Body Meeting can be attended by a member

through email. Further the notice does not throw any light as to whether the same has been addressed to all the Member Associations since the mail only contains a BCC to the following email Id namely "DelhiChess64 @gmail.com". The notice further lists out 9 agendas for the meeting.

29. In the letters of the requisitionists dated 27.03.2020, 28.03.2020 and 29.03.2020 requisitionists had clearly indicated that they wanted only the subjects relating to staff payments, website and mail issues, Court matters, fresh elections and exorbitant remuneration projected by the Returning Officer to be discussed. However, in the 31.03.2020 notice, agendas 4, 5, 6, 7, 8 and 9 appear to have been included which does not find a place in the requisitionist letter. In fact, the requisitionist had specifically requested that the agenda for election should be discussed. However, that agenda has not been included and in that place the 9th agenda has been included. After receipt of this letter, two of the requisitionists by their email dated 30.03.2020 and 31.03.2020 made the following statement *"looking forward to receive the invite of this meeting as soon as country returns to normalcy after winning the pandemic Covid-*

19". This email has been sent by the All Arunachal Pradesh Chess Association and the Meghalaya Chess Association. Therefore, these two associations had made it clear that they would be inclined to attend the meeting after the Covid situation had eased out (This is found in page 317 of typed set of papers filed along with CS.No.185 of 2020). On 21.04.2020 at 10:43:09 p.m, the first respondent has issued an email to various associations informing them that he was enclosing a request sent to the 6th respondent by members of State Association calling for a Special / Extraordinary General Body meeting of the Federation and also the letter of the 6th respondent expressing his inability to call for the meeting. This email does not make any reference to the notice of meeting dated 31.03.2020 but would go on to state as follows:

*" These documents are sent to you in reference with the Special / Extraordinary General Body Meeting to be held on 22.04.2020 and the link for conducting the online meeting through ZOOM platform is appended herein."*

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30. A reading of this E-mail would indicate that this is the first notice of the meeting issued to all the Members (This e-mail is addressed

to the e-mail addresses of all the member Associations unlike the notice dated 31.03.2020). The contents of this E-mail assume significance since not only does it not refer to the email dated 31.03.2020, but the notice of meeting dated 31.03.2020 is also not enclosed. This notice therefore can only be considered as fresh notice of meeting. Therefore, taking into account the above factors, it is evident that the meeting called for by the e-mail dated 21.04.2020 is not in conformity with the provisions of Sections 26 and 28 of the Act, which clearly stipulate that a meeting should be called for within such period as prescribed after the receipt of the requisition. Further the provisions of the Act does not provide for a virtual meeting of the General Body which has also been clarified in the News Bulletin of the Government referred supra in paragraph no.14.

31. Article 11 of the Bye-Laws would state that the Secretary should give 14 clear days notice of the meeting to all the Members with copies of the proposed agenda and further that the meeting should be called for within 30 days from the date of the requisition. A reading of the email dated 21.04.2020 would indicate that requisition of the meeting and its

rejection by the 6th respondent was being conveyed only through this email and the meeting was proposed to be held within a few hours of the issue of the notice of meeting. In these circumstances, the only conclusion that can be drawn is that the email dated 21.04.2020 was a fresh notice of meeting. Therefore, the meeting held on 22.04.2020 on the basis of this flawed notice of meeting is also an invalid meeting.

32. That apart, the agenda which was sought for by the requestionist and the agenda that was alleged to be discussed in the meeting dated 22,04.2020 are totally different.

33. The applicants have argued that the requisitionists have not followed the procedure in submitting the requisition. The notice which is required to be addressed to the Committee as contemplated under the Act and the Bye-Laws is addressed to the Secretary and the Secretary without consulting the committee has unilaterally rejected the request.

34. Further procedure has not been followed while calling for the meeting. The requisitionists have clearly stated that they are making the requisition as per Article 11 and Section 28 of the Act. Article 11 does not specify as to whom the requisition has to be made. However, a reading of section 28 of the Act, which is the basis on which the requisition is made, would stipulate that it is the committee to which the requisition has to be made. The committee on receipt of the requisition, should call for the meeting. The Bye-Laws prescribe that it is the Secretary who has to issue the notice of the meeting. However, the notice dated 31.03.2020 and e-mail dated 21.04.2020 have been issued by the requisitionist. Further, a reading of the email from the 6th respondent, turning down the request of the requisitionist is not an outright refusal but only a statement that in the current scenario of Covid-19 it was not possible to hold the meeting.

35. The next ground on which the meeting appears to be flawed is on the basis of the agenda that has been discussed and passed in the meeting. The Bye-Laws of the Federation confers the right to disaffiliate a

member with the Central Council. A reading of Article 16(b)(4) would indicate that the Central Council has the power to disaffiliate any member of the Federation for committing misconduct or otherwise and thereafter refer the same to the General Body in its next available meeting for its consideration. On the basis of the decision received from the Central council, the members of the General Body are given the powers under Article 9 of the Bye-Laws of the Association to disaffiliate members, the General Body cannot independently disaffiliate any member since it is the Central Council which is the executive body of the Federation and which is vested with all the powers of the Federation including disaffiliation of members as well. In other words the decision of the Central Council is only ratified by the General Body.

36. A reading of the minutes of the meeting dated 22.04.2020 would show that in the meeting dated 22.04.2020 by invoking the power under Article 9 , the members have restored the affiliation of associations which have been disaffiliated and disaffiliated the memberships of some of the Associations. In the meeting held on 22.04.2020 the electoral body which

had come into existence on the day when this Court appointed the returning Officer to hold the elections viz. on 28.01.2020 has been overturned. By their action, the respondents have tried to circumvent the electoral body that had crystallized on the date of the order of this court to hold elections. Even on this ground, the decisions taken in the meeting have to necessarily be injuncted. The requisitionists had only wanted to discuss holding fresh election but however the 6<sup>th</sup> respondent appears to have pushed his personal agenda of taking over the administration and control of the Federation by removing the 3 member committee and substituting it with a 5 member committee. A very reading of the minutes dated 22.04.2020 would clearly indicate the active role that has been played by the 6<sup>th</sup> respondent in achieving his end. To borrow a Chess terminology the meeting of 22.04.2020 appears to be a "double attack it not only disturbs the electoral body but also the constitution of the Committee which existed on the date when this Court had directed the holding of the election".

37. In a nutshell the meeting dated 22.04.2020 and the resolutions

adopted therein are bad for the following reasons:

*(i) Request for holding the Special General Body meeting is not as per the prescribed procedure.*

*(ii) Notice of meeting does not conform to the Bye-Laws and Act regarding the time limit and therefore the meeting held on the basis of this notice is invalid.*

*(iii) Notice not called for by the person authorised to do so by the Bye-Laws of the Federation.*

*(iv) The resolutions passed are contrary to the Bye-Laws and the constitution of the Federation.*

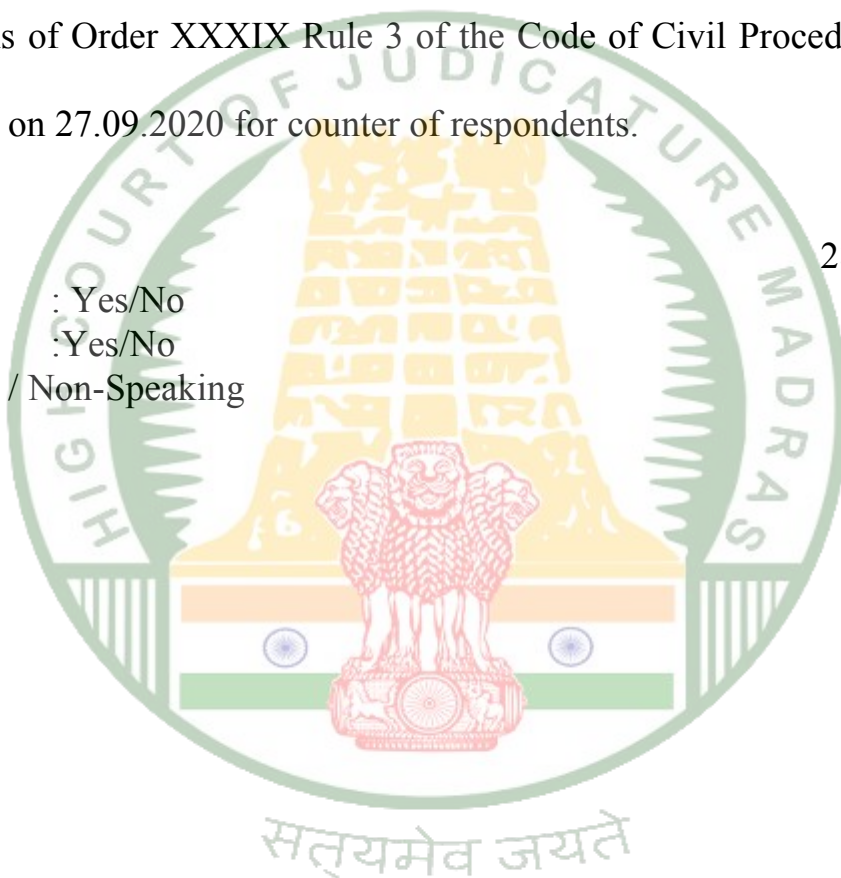
*(v) The resolutions adopted in the meeting dated 22.04.2020 over turns the electoral body that had crystallised as on the date when this Court had passed the orders for holding the election.*

38. From the discussion above, it is clear that the calling for the meeting, conduct of the meeting and the resolutions adopted therein are totally contrary to the Bye-Laws and the Act and therefore the applicant

has made a prima facie case for grant of injunction and balance of convenience is also in favour of the applicant for the grant of the ad interim injunction. Therefore, there shall be an ad-interim injunction as prayed for until further orders. The applicants shall comply with the provisions of Order XXXIX Rule 3 of the Code of Civil Procedure. Post the mater on 27.09.2020 for counter of respondents.

28.08.2020

Internet : Yes/No  
Index : Yes/No  
Speaking / Non-Speaking  
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**P.T. ASHA. J.**

mrn/kan



**Pre-delivery order in**  
**O.A.Nos.310 & 312 of 2020 in**  
**C.S.No.185 of 2020**

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