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

Date of Decision: 8th January, 2020

+ **CM (M) 837/2018 & CM APPL. 29384/2018 (stay)**

YOUTH HOSTEL ASSOCIATION OF
INDIA & ORS.

..... Petitioners

Through: Mr. Thakur Sumit and Mr. Divy
Pratap, Advocates. (M:9899296901)

versus

YOUTH HOSTEL ASSOCIATION OF INDIA, HARYANA
STATE BRANCH & ANR.

..... Respondents

Through: Mr. Raghav Mittal, Advocate.
(M:8384871039)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The present petition challenges the impugned order dated 1st December, 2017 by which the order of the Civil Judge ('*Trial Court*') dated 1st November, 2017 granting interim relief, was upheld by the Id. Senior Civil Judge ('*Appellate Court*'). The application for interim injunction under Order XXXIX Rules 1 & 2 CPC arises out of a suit filed by the Haryana State Branch of Youth Hostels Association of India through its member Shri Maninder Singh Narang ('*Plaintiff no.2*') against the Youth Hostels Association of India, Central Body and its office bearers. The reliefs prayed for are for declaration, permanent injunction and mandatory injunction.

2. The gravamen of the dispute is that the Youth Hostels Association of India, Central Body (*hereinafter* 'YHAI') has de-recognized the YHAI Haryana State Branch (*hereinafter* 'YHAI Haryana') and the said de-recognition has been challenged by the said Branch. In the said suit, an

application under Order XXXIX Rules 1 & 2 CPC was filed seeking the following reliefs:

*“a) Pass an ad-interim ex-parte injunction thereby restraining the defendants and its agents not to interfere in the working of plaintiff till the disposal of the present case; and
(b) issue directions to the defendants to allow the plaintiff no.2 to participate in forthcoming election of National Council of YHAI due in December, 2017”*

3. In the application for interim relief, the Plaintiff no.2 prayed that he be permitted to participate in the YHAI elections, despite YHAI Haryana being de-recognised. While deciding the said application, the Trial Court has taken a *prima facie* view of the various rules and regulations of YHAI and has interpreted the same. The interpretation by the Trial Court is that the term of every elected body i.e. the YHAI and the YHAI State Bodies would be three years and the elected body would be entitled to continue till the new elected body assumes office. The observations of the Trial Court are as under:

“14. Rule VII Clause (D) clearly shows that since the term of national council and the member of executive committee is provided separately in the memorandum of association of YHAI, the members of the executive committee have their independent right as a member of the council or the executive committee and they are deemed to be continued in the office till their successor committee is formed. The elections of the state level and national level bodies of YHAI are held every three years and the plaintiff no.2 was representing as a secretary of Haryana State branch and therefore, he is prima facie a member or office bearer of YHAI who is eligible for participating in the forthcoming elections.

15. The main contention of the defendant is that Haryana state branch has been derecognized for not

having conducted the elections in accordance with the rules of YHAI and therefore, since the State branch is derecognized, plaintiff no.2 as a secretary of the said state has no right to participate in elections. However, there is no such rule provided in entire memorandum of association and rules and regulations of YHAI to suggest that in case of derecognition of a State, a office bearer of YHAI will cease to be a member and is barred from contesting the election. The fact that whether plaintiff no.1 is rightly derecognized or not is a matter which needs to be decided during trial, however, the mere fact that derecognition of State branch, cannot preclude a member in participating in election in his individual capacity.”

4. The Trial Court, after giving the above findings, has recorded that the Plaintiffs had shown a *prima facie* case and has permitted the Plaintiff No.2 to participate in the elections of YHAI. The elections were scheduled to be held in December, 2017. This order was carried in appeal by the YHAI and in the appeal, the Id. Senior Civil Judge (Appellate Court) has also observed that the elected body is entitled to continue for the entire three-year period or until the successor of the body is nominated or elected. The observations of the Appellate Court are as under:

“6. It is clear from the reading of these rules that the member of executive committee shall hold office for the three years and shall continue to be in office till the successor committee is formed. A parallel rules has also been framed with respect to the state council. Rule VII clause (B) provides that the members of the state executive committee shall hold office for three years reckoned from the date of their election/nomination or till their successor are elected or nominated as the case may be. Thus the member of the state executive council would hold office until his successor is elected or nominated.”

5. Thus, the Appellate Court held that though the term of the elected council is three years, the members would hold office until the successor is elected. The appeal was then dismissed by the Appellate Court. The said order is under challenge in the present petition.

6. The submission of Id. counsel for the Petitioners, who represents YHAI, is that the interpretation of the rules given both by the Trial Court and the Appellate Court would affect the final adjudication of the suit and in any case, there should be some reasonable period within which the elections ought to be held to the YHAI and YHAI State Bodies and any elected body ought not to be permitted to continue indefinitely. It is further submitted on behalf of the Petitioners that the election of YHAI has been held on 3rd December, 2017 and the Plaintiff No.2 was permitted to participate and represent the YHAI Haryana in the said elections. The order, therefore, has worked itself out according to the Id. counsel for the Petitioners.

7. Id. counsel appearing for the Respondents, however, submits that though the Plaintiff No.2 was permitted to participate in the election, the question of de-recognition of the YHAI Haryana is pending before the Trial Court. He also relies upon a subsequent order dated 1st September, 2018 wherein a second application under Order XXXIX Rules 1 & 2 CPC was considered by the Trial Court, in which interim relief was granted in favour of the Plaintiffs. It is his further submission that the de-recognition and the question as to the legality and validity of the same, is to be adjudicated in the suit itself.

8. After hearing Id. counsel for the parties and perusing the two orders, which are impugned before this Court, it is clear that the Trial Court and the Appellate Court had to take a *prima facie* view on the interpretation of the

rules. The question, which was being considered, was as to whether the Plaintiff No.2 could represent the YHAI Haryana and participate in the elections of YHAI.

9. Youth Hostel Association of India – YHAI is a body, which is governed by its rules and regulations and has a YHAI and various YHAI State Branches/Bodies/Chapters. The term of the elected bodies is three years and whenever such bodies are constituted, the election to these bodies ought to be held within the term, which is prescribed so that the newly elected body can assume office immediately upon the earlier body's term coming to an end. If the elections are not held, it has the result of perpetuating one particular body to continue. That cannot be the interpretation of any rule of such elected bodies. The endeavour of both the YHAI and the YHAI State Bodies should always be to hold the elections within the three years' period or at best, within six months from the expiry of the three-year period. Thus, an elected body ought not to be permitted to continue beyond a reasonable period, after a period of three years. However, the Bodies have to hold the elections in time so that some office bearers do not perpetuate their office.

10. This observation of the Court is in general applicable to all the Youth Hostels Association of India, National/Central Body and State Bodies and not in respect of any issue that arises in this suit. The Plaintiffs represent the YHAI Haryana and were de-recognized by the YHAI for various reasons. The question as to whether the de-recognition is legal and valid, or not, is to be considered by the Trial Court after leading of evidence and at the time of final adjudication. The endeavour of the Trial Court ought to be to ensure that the elections are held by the YHAI State Bodies and YHAI in a manner

that there is no perpetuation of any particular elected body.

11. Insofar as the observations given by both the Trial Court and Appellate Court in the impugned orders dated 1st November, 2017 and 1st December, 2017 respectively, the same are *prima facie* in nature and would not have any bearing on the final adjudication of the suit.

12. The issues arising in the suit would be heard and adjudicated independent of the observations made in the orders passed in the applications for interim relief including the present order. This Court has not gone into the legality and validity of the Ad-Hoc Committee which has been allegedly appointed for running the YHAI Haryana.

13. In the facts of the present case, the Trial Court is directed to get the elections of YHAI Haryana conducted through independent supervision by an independent election officer in order to ensure that the current impasse does not continue. The parties shall appear before the Trial Court which shall fix a schedule for elections of the YHAI Haryana. The Plaintiffs and any other persons who are members of the said YHAI Haryana Branch, shall be permitted to contest in the elections, after the electoral roll is duly drawn up by the Election Officer to be appointed. Endeavour shall be made by the Trial Court to fix the schedule for the election, so that the elections shall be concluded within a period of 6 months from today.

14. With these observations, the petition and all pending applications are disposed of.

PRATHIBA M. SINGH
JUDGE

JANUARY 08, 2020/dk