

A.Nos.2091 and 2405 of 2021

in

C.S.No. 381 of 2020

C.SARAVANAN,J.

The applicants have filed this application for appointment of a Retired High Court Judge to finalise and conduct the election of the 1st respondent/plaintiff union within a specified period. Earlier, by an order dated 23.3.2021, the respondents herein, were directed to conduct the election of the 1st Respondent Union by 22.06.2021.

2. On account of various factors, including reluctance on the part of the office bearers of the 1st Respondent Union and on account of the 2nd lockdown, imposed during 2nd week of May 2021, the elections was not held by 22.06.2021. Thereafter, pursuant to applications filed by either of the parties to the dispute, yet another order came to be passed on 06.09.2021 in A.No.2091 and A.No.2405 of 2021.

3. As per the aforesaid order, the time for completing the election process was fixed as **15.10.2021** and if the election was not conducted by the

aforesaid date, liberty was given to the applicants herein to approach this court for appointment of Election Officer.

4. The applicants have now rushed to the court by stating that the entire election process is vitiated and is liable to be interfered and pray for appointment of a Retired High Court judge to conduct a free and fair election of the 1st Respondent Union.

5. Appearing on behalf of the applicants, the learned counsel, Mr. Prasad submits that the election process has been deliberately delayed by the respondents with a view to shut out the aspirations of the applicants and other members of the 1st Respondent Union. It is submitted that no steps were taken by preparing a electoral list and publishing the same and by fixing an earlier date of filing nomination and for entertaining objections to the nomination.

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6. It is further submitted that the respondents have issued a circular dated 27.09.2021, without the finalising the electoral list. It is further submitted that in the said circular, the 3rd respondent has merely called upon

the members who have not paid the subscription fee to pay this same by 30.09.2021 and fixed in the date of election as 12.10.2021. It is submitted that as of 31.12.2019 there were about 179 members in the 1st Respondent Union. It is not clear as to how many members are still there in the 1st Respondent Union.

7. It is further submitted that the manner in which the election process is being carried out in a manner at the end of the deadline set by this Court is intended to ensure that applicant, and other members do not participate in the electoral process.

8. It was further submitted that the election notice dated 04.10.2021 fixing the venue is contrary to the bye laws of 1st Respondent Union in as much as clear 15 days notice has not been given for the proposed election on 12.10.2021. The Learned counsel for the applicant further submits that a very short notice for filing the nomination on 07.10.2021 has been given after issuing the application just one day prior on 06.10.2021.

9. He submits that the nomination was to be accepted by 07.10.2021

for a period of 2 hours between 5.00 p.m. and 7.00 p.m. on the said date, making the entire election process a mockery. The learned counsel for the applicants further submits that election involve objections to the nomination of desirable persons whereas the proposed election process that is being carried out by the respondents and no opportunity is being given to eliminate undesirable person. The election is being conducted in a wholly undemocratic manner.

10. Appearing on behalf of the 1st Respondent Union and the other respondent who have been asked to officiate the election process, Learned Senior Counsel, Mr. V. Prakash submits that the entire process is in accordance with the bye laws of the 1st Respondent Union and in compliance of the order of this Court dated 06.09.2021.

11. It is submitted that the election notice was issued on 27.09.2021. Not only the date of the election was announced in the said circular, the members who have not paid the subscription have been called upon to pay the same by 30.09.2021 as they are otherwise not entitled to participate in the election. The Learned Senior Counsel further submits that as per the bye

laws, a member who fails to pay subscription for 3 consecutive months cease to be a member and forfeits their claim to any benefit from the Union from the date of his ceasing to be a member.

12. It is submitted that due to the prevailing situation and out of the confusion caused by the respondents, some of the members who had not paid subscription fee have thus being given an opportunity to pay subscription fee by 30.09.2021.

13. I have considered the arguments advanced by the learned counsel for the applicants and the learned senior counsel for the Respondent. The election process has already commenced, and therefore the election process cannot be stalled at this point of time.

14. At the same time it is noticed that the circular dated 27.09.2021 allows the members to pay the subscription fee on or before 30.09.2021. It cannot be put against the applicants and other members who may not have paid the same before 30.09.2021. The last date for filing the nomination has also expired on 07.10.2021. Considering the fact that their arrival factions

which are trying to control the affairs of the 1st Respondent Union and considering the fact that the time given for paying the subscription fee has already expired, liberty is given to the applicants to pay subscription fee by 11.10.2021.

15. Considering the fact that the election is to be held on 12.10.2021, the members who have not paid their subscription fee are permitted to file their nomination latest by 10.10.2021. The respondent/election officer is directed to accept their nomination. These members shall pay their subscription fee latest by 11.10.2021. In case, they fail to pay their subscription fee by 11.10.2021, the Election Officer shall reject their nomination in the proposed election.

16. Therefore, this application filed to stall the election process, which is slated to be held on 12.10.2021 cannot be stalled.

17. It is also made clear that if an account of the directions contained herein, if the election officer is not able to conduct the election on 12.10.2021 the election shall stand postponed by another 30 days and the

entire election process shall be restarted. It is however open to the applicants to countermand the election in the manner known to law after the election is over. The application is disposed with the above direction.

Note: This order shall come into force immediately and it is being posted in the High Court website.

08.10.2021

Index : Yes/No
Internet : Yes/No
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