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IN THE HIGH COURT OF JUDICATURE AT MADRAS

|               |            |
|---------------|------------|
| Reserved On   | 08.11.2021 |
| Pronounced On | 23.11.2021 |

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

**Cont.P.Nos.1048 & 1461 of 2021**

(Through Video Conferencing)

1.Tamilnadu state Apex co-operative  
bank officers union,  
Reg. No.2506 / MDS,  
Rep. by its General Secretary,  
No.233, NSC Bose Road,  
Chennai – 600 001.

2.G.Variappan

3.J.Venkateswaran

... Petitioners  
in both Cont.Ps.

Vs.

1.T.Baskaran

2.R.G.Sakthi saravanan

3.V.P.Chandrika

... 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents  
in Cont.P.No.1048/21

4.R.Krishnarajan

... 2<sup>nd</sup> Respondent  
in Cont.P.No.1048/21 &  
Respondent  
in Cont.P.No.1461/21



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**Cont.P.No.1048 of 2021** : Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondents for willful disobedience of the orders dated 22.03.2021 passed by this Court in O.A.Nos.712 & 713 of 2020 in C.S.No.381/2020.

**Cont.P.No.1461 of 2021** : Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondent for willful disobedience of the orders dated 06.09.2021 passed by this Court in the A.Nos.2091 & 2405 of 2021 with further directions on 08/10/2021 in C.S.No.381 of 2021.

For Petitioners : Mr.V.Prakash, Senior Counsel  
for M/s.Gautam S.Raman  
in both Cont.Ps.

For Respondents : Mr.N.G.R.Prasad, Senior Counsel  
for Row & Reddy in both Contempt  
Petitions.

### **COMMON ORDER**

By this common order, both the Contempt Petitions are being disposed.

2. (i) Cont.P.No.1048 of 2021 has been filed to punish the respondents for willful disobedience of the orders dated 22.03.2021 passed by this Court in O.A.Nos.712 & 713 of 2020 and A.Nos.15 & 16 of 2021.

(ii) Cont.P.No.1461 of 2021 has been filed to punish the respondent

for willful disobedience of the orders dated 08.10.2021 passed by this Court



in A.No.3643 of 2021 (wrongly uploaded in the High Court Website in the A.Nos.2091 & 2405 of 2021).

3. Both these contempt petitions have been filed by the plaintiffs in O.S.No.381 of 2020 against the second defendant R.Krishnarajan.

4. Earlier, the O.A.Nos.712 & 713 of 2020 were filed by the plaintiffs for injunction to restrain the respondents/defendants from interfering with the affairs of the first contempt petitioner. By an ad-interim order dated 16.12.2020, the respondents were restrained from interfering with the functioning of the first contempt petitioner Union. Against the said ad-interim order dated 16.12.2020, the respondents have filed A.Nos.15 & 16 of 2021 to vacate the said ad-interim order.

5. Thereafter, these applications were heard at length. Considering the submissions of both side parties, a common order came to be passed on 22.03.2021 in A.Nos.15 & 16 of 2021 and O.A.Nos.712 & 713 of 2020 with a direction to hold the fresh election latest by 22.06.2021. The operative portion of the said order is reproduced belows:-

*29. The claim of the first and second defendant to the office of the first plaintiff is based on the notice dated 26.02.2020 issued by the third defendant who is the General Secretary of the All India Bank Officers Association for the Meeting of the first plaintiff appears to be contrary to the Bye-laws of the first plaintiff Union. Therefore, the so-called election held on*



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04.03.2020 in the meeting pursuant to notice dated 26.02.2020 is irregular and cannot be recognised.

30. At the same time, the alacrity with which the second and third plaintiffs along with other office bearers got themselves appointed / elected / selected by convening an emergent meeting on 03.03.2020 was also contrary to the Bye-laws of the first plaintiff. It shows that their election / selection / appointment was also not regular and that the outgoing office bearers of the first plaintiff wanted their nominees to occupy the position in the first plaintiff without a proper election.

31. There is however no challenge to the same by the first or the second defendant or by any other members of the first plaintiff by way of a counter suit. At the same time, the continuance of the second and third plaintiff as the President and the General Secretary along with others who got themselves appointed / elected / selected on 03.03.2020 cannot be allowed for a period of three years from 03.03.2020 in terms of so-called amendment to the Bye-laws on 03.03.2020 as no valid election or a meeting was held as per the Bye-laws in force of the first plaintiff. As such the amendment to the Bye-laws also cannot be allowed to continue.

32. Therefore, all the decisions taken on 03.03.2020 shall remain suspended until a newly members of the first plaintiff are elected / appointed as per the Bye-laws. All the decisions taken since 03.03.2020 shall be subject to ratification by the newly elected body of the first plaintiff pursuant to this order save as those which impact the third party rights.

33. The second and the third plaintiff shall hold the office on a temporary basis along with other office bearers appointed / elected / selected on 03.03.2020 for a period of three months from today till 22.06.2021 or till the date of election whichever is earlier.



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34. *They shall hold a fresh election in accordance with the provisions of the Bye-laws of the first plaintiff as in force prior to 03.03.2020. Such election shall be conducted in a free and fair manner within a period of three months from today, i.e. **22.06.2021**. The proposed election shall be strictly in accordance with the provisions of the Bye-laws of first plaintiff as in force prior to 03.03.2020. All the members of the first plaintiff shall be entitled to participate in the proposed election.*

35. *If any irregularity is noticed, it is open to any of members of the first plaintiff to approach the Court for suitable orders for appointment of an Election Commissioner for conduct of a free and fair election to the office of the first plaintiff.*

36. *Pending such elections, it is made clear that no major expenses shall be incurred from and out of the funds of the first plaintiff by any of the persons who are to continue to hold office till the election and the declaration of results.*

37. *It is open to the newly elected office bearers of the first plaintiff to initiate appropriate proceedings against such office bearers appointed / elected / selected on 03.03.2020, if any irregularity is noticed by them on assuming office after election.*

6. Without complying with the said order, the contempt petitioners filed appeal before the Division Bench of this Court in O.S.A.Nos.224 & 225 of 2021 against the said order dated 22.03.2021 in O.A.Nos.712 & 713 of 2020 and A.Nos.15 & 16 of 2021. These appeals were withdrawn on 09.07.2021. On the same day, the present Cont.P.No.1048 of 2021 was filed



to punish the respondents for willful disobedience of the said order dated 22.03.2021 in O.A.Nos.712 & 713 of 2020 and A.Nos.15 & 16 of 2021 stating that though this Court in the order dated 22.03.2021 had permitted the second and third contempt petitioners to continue as office bearers, they were not allowed to function by locking the premises of the first contempt petitioner by the fourth respondent in Cont.P.No.1048 of 2021.

7. The contempt petitioners withdrew the said O.S.A.Nos.224 & 225 of 2021 purportedly after the Division Bench of this Court had expressed its opinion to appoint a Retired Judge of this Court as an Election Officer to conduct the election of the first contempt petitioner. After the said appeals were withdrawn, a fresh application was also filed by the contempt petitioners in A.No.2091 of 2021 on 03.06.2021 for extension of time to conduct the election. An another application was filed by the first and second respondents in A.No.2405 of 2021 for grant of extension of time and for appointment of election officer and to re-schedule the date of fresh election to be drawn within a specified time.

8. By a common order dated 06.09.2021, A.No.2405 of 2021 filed by first and second respondents was closed with liberty to file the same at a later point of time, if the circumstances so warranted and A.No.2091 of 2021 filed by the contempt petitioners was allowed by extending the time



for conducting election on or before 15.10.2021.

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9. However, the election was not conducted within the aforesaid period. Instead, an another application was filed by the first and second respondents in A.No.3643 of 2021 for appointment of a Retired High Court Judge to finalise and for conduct of the election of the first contempt petitioner union within a specified period. By an order dated 08.10.2021, A.No.3643 of 2021 was disposed with the following observations:-

*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 there are rival 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.*



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

10. Subsequent to the above, the second Cont.P.No.1461 of 2021 has been filed on the ground that the respondent violated the order dated 08.10.2021 of this Court and that the respondent has allegedly assaulted the election officer, the videographer engaged and three candidates and had damaged the ballot boxes.

11. The learned Senior Counsel for the contempt petitioners submitted that pursuant to the order dated 08.10.2021, about 69 persons have paid subscription fees. It is further submitted that the second respondent (R.Krishnarajan) in Cont.P.No.1048 of 2021 / sole respondent in Cont.P.No.1461 of 2021 was under suspension for anti-union activities from 2019 and the voter list put up by the election officer indicates that Mr.Kamaraj was under suspension and therefore the nomination of the R.Krishnarajan was rejected and the said Mr.K.Kamaraj cannot participate in the election process. In this connection, the learned Senior Counsel



referred to the averments in the affidavit filed in support of the suit and the averments in the affidavit filed in support of O.A.Nos.712 & 713 of 2020 to state that this aspect has not been denied.

12. It is further submitted that the respondents have not denied the above fact in the counter filed in O.A.Nos.712 & 713 of 2020. It is further submitted that the respondents had resorted to violation by assaulting the election officer, the videographer engaged by the election officer and three candidates and that a police complaint has been filed before the B1 Police Station. It is therefore submitted that the entire episode also stands recorded in the CCTV footage at the premises, at No.233, NSC Bose Road, Chennai – 600 001 and that a legal notice had also been issued by the contempt petitioners with a copy marked to the Inspector of B1 Police Station to preserve the CCTV recordings.

13. The learned Senior Counsel for the contempt petitioners specifically submitted that the election was proposed to be held on 09.11.2021 and due to the inclement weather prevailing, the election cannot be held on the said date and is to be postponed. An order to that effect was also passed on 08.11.2021.



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14. Appearing on behalf of the respondent, Mr.N.G.R.Prasad, the learned Senior Counsel submits that the contempt petitioners did not take steps to conduct the election in time. It is submitted that last election was held in 2018 and the term of the office bearers came to an end. However, the second and third contempt petitioners are continuing to usurp the power and have stalled democratic election of the first contempt petitioner Union.

15. It is further submitted that earlier, an order came to be passed on 22.03.2021 by fixing the date of election on 22.06.2021. It is submitted that instead of holding election on 22.06.2021, the contempt petitioners field an appeal before the Division Bench of this Court and later withdrew the same and also filed an application for extending the time for conducting the election which was also granted by this Court on 06.09.2021 by fixing the date on or before 15.10.2021 and that an application filed by the respondents for appointment of a retired High Court Judge as a Election Officer for conducting the election was closed.

16. The learned Senior Counsel for the respondents/respondent further submitted that several persons were not allowed to pay subscription fees and that the second and third contempt petitioners are latching to hold on to the power in the first contempt petitioner Union using unfair means by ousting the members. The learned Senior Counsel therefore prays for



ensuring that the election be ordered to be held and conducted in a free and fair manner by appointing a Retired Judge of this High Court.

17. It is submitted that so called disqualification / suspension of the second respondent (R.Krishnarajan) in Cont.P.No.1048 of 2021/ the sole respondent in Cont.P.No.1461 of 2021 in 2019 and others by the contempt petitioners is of no consequence. It is also submitted that last election of first contempt petitioner Union was held on 24.10.2018. Therefore, the decision taken thereafter by the second and third contempt petitioners to oust any of the members was and *non est* in law.

18. By way of rejoinder, the learned Senior Counsel for the contempt petitioners submitted that the second respondent (R.Krishnarajan) in Cont.P.No.1048 of 2021 /sole respondent in Cont.P.No.1461 of 2021 was not allowed to pay subscription fees as the said respondent was suspended in 2019.

19. It is submitted that even otherwise the respondent is liable to be punished for having committed contempt of court for resorting to violence to stall the election scheduled to be held on 12.10.2021 pursuant to an order of this Court.



20. Heard Mr.V.Prakash, the learned Senior Counsel for the contempt petitioners and Mr.N.G.R.Prasad, the learned Senior Counsel for the respondents and perused the records.

21. There is no doubt that the contempt petitioners have questioned the locus of the second respondent (R.Krishnarajan) in Cont.P.No.1048 of 2021 / sole respondent in Cont.P.No.1461 of 2021 to file nomination as he was suspended as early as 2019 and that it was not denied either in the counter affidavit filed in O.A.Nos.712 and 713 of 2020. However, these were not the submissions of either of the counsels when successive orders were passed by this Court on 22.03.2021, 06.09.2021 & 08.10.2021.

22. Disqualification of the second respondent (R.Krishnarajan) in Cont.P.No.1048 of 2021 / the sole respondent in Cont.P.No.1461 of 2021 and others by the office bearers (the second and third contempt petitioners) was clearly illegal. These contempt petitioners themselves had no power to hold office as their so called election was not in accordance with the Bye-Laws. The manner in which the affairs of the first contempt petitioner Union are conducted by them raises serious doubts regarding their *bona fide*.



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23. The conduct of these contempt petitioners speaks volume and show that theses contempt petitioners are latching on to the post and have been successfully scuttled all the known tenets of democratic process of holding election and are attempting to unfairly oust members who have been questioning the method of running the first contempt petitioner Union.

24. Earlier not only Cont.P.No.1048 of 2021 was filed but also an application was filed for extension of time after realizing the fact that there was no merits in pursuing with the appellate remedy against the order dated 22.03.2021 of this Court.

25. Applications filed for holding election by extending time came to be allowed on 06.09.2021 notwithstanding the fact that the contempt petitioners had earlier filed an appeal before the Division Bench of this Court and later withdrew to pursue the remedy in the application. The application was allowed only with a view to ensure a democratically elected body is able to take charge of the affairs of the first contempt petitioner Union. The request of the respondent was turned down to avoid unnecessary expenses considering the fact that the first contempt petitioner Union has a



small capital reserve from the contributions of its members and a non-profit organization.

26. An order was passed on 08.10.2021 again with a view to bring to an end to the internecine dispute between the two rival groups so that a democratically elected body can take control of the affairs of the first contempt petitioner Union and to put an end to dispute between the rival groups who were fighting inter se to wrest control of the first contempt petitioner Union. However, the attempt of this Court to ensure election is conducted in a free and fair manner is being thwarted by the second and third contempt petitioners by their action.

27. The second extension which was given to ensure that the election is again held in a free and fair manner by an order dated 06.09.2021 has been frustrated by the second and third contempt petitioners. These contempt petitioners by their conduct have demonstrated their unwillingness to conduct the elections in a free and fair manner to uphold democratic principle.



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28. The second and third contempt petitioners have demonstrated that they have no will to conduct the election in a free and fair manner and are attempting to oust the members even though their earlier election itself was contrary to the Bye-Laws of the first contempt petitioner Union. There is an ample proof in body of applications which have been filed which demonstrate that the second and third contempt petitioners are themselves guilty of contempt of court.

29. Failure to hold election by attempting to read in between the lines of the order of the Court to justify their conduct itself attracts contempt.

30. These contempt petitions are nothing, but, an attempt to legitimize the conduct to hoodwink the Court. The second and third contempt petitioners have clearly resorted to prevarication of the orders of this Court. It shows willful disobedience of the Court Order by them in a bid to quell a fair election.

31. The second and the third contempt petitioners have frustrated the order of this Court both in letter and spirit by not only delaying the election but also by disqualifying a section of members represented by the respondent who are seen as a threat to their ascending to the power. The conduct of the second and third contempt petitioners is unreasonable and reprehensible and cannot be condoned. Their conduct lacks *bona fide*.



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32. There are also no evidences to substantiate that the ballot box was destroyed by the respondents barring the few pictures to show upheavaled ballot boxes. There is no merit in the respective Contempt Petitions.

33. Though the second and the third contempt petitioners are themselves liable for being punished for contempt of court, however, the Court is not inclined to punish them for contempt of Court and to impose cost on second and the third contempt petitioners even though precious time of the Court has been wasted by them by seeking extension. As there is no merit in the respective Contempt Petitions, they are therefore liable to be dismissed.

34. On the other hand, this is a fit case for appointing an election officer to conduct the election of the first contempt petitioner Union as the second and the third contempt petitioners and others who have been given power to hold election have demonstrated by their conduct that they are unwilling to hold election with sincerity and in letter and spirit of this Courts orders dated 22.03.2021, 06.09.2021 and 08.11.2021.



35. However, this Court is refraining from passing any order for appointing an Election Officer while dismissing these Contempt Petitions.

However, liberty is given to the respondent to move appropriate application for appointing an Election Officer to conduct free and fair election of the first contempt petitioner Union.

36. Cont.P.No.1048 of 2021 is dismissed and Cont.P.No.1461 of 2021 is disposed with the above directions. No cost.

SD/-  
ASSISTANT REGISTRAR(COMM.CASES)

//Certified to be true copy//

Dated at Madras this the      day of      2022.

COURT OFFICER(O.S.)  
from 25<sup>th</sup> day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

Gs/21/02/2022