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Ct-08

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FMA 439 of 2022
with
I.A No. CAN 1 of 2022

Tirthankar Mittra
Vs.
Biswajit Sil & Ors.

Mr. Somnath Gangopadhyay
.... For the Appellant

The appellant is the retired employee of Bharat Sanchar Nigam Limited (BSNL) Calcutta Telephones Circle. He retired from service on 30th November, 2020. The defendant no. 1 is the Secretary of the Business Area Head Quarters District, CTC, BSNL Employees Union.

The plaintiff alleged that he was elected as a president of the Business Area Head Quarters District, CTC, BSNL Employees Union for a period from 2022 to 2024 at the first meeting held on 6th January, 2022. Thereafter, he came across a notice on 7th February, 2022 forwarded by the defendant no. 2 circulating a notice issued by the defendant no. 1 requesting the members to attend the meeting held on 16th February, 2022 for the purpose of formation of Business Area Head Quarters District Committee.

This notice was challenged in the suit as it was stated in the plaint that there is no provision for calling such meeting with regard to the formation of a new committee as the appellant was elected President following the norms prescribed in the Constitution of the Union.

It appears that on 15th February, 2022 the plaintiff/appellant sent a legal notice to the respondent nos. 1 & 2 questioning the propriety

of such meeting. In reply to the said notice the appellant received reply letter dated 22nd February, 2022 mentioning that the original committee formed on 6th February, 2022 was formed in absence of defendant no. 2.

It was alleged that during the subsistence of the functioning of the committee appointed on 6th January, 2022 for the period of 2022 to 2024, no new committee can be formed until the expiry of the term of the committee in accordance with constitution of the Union.

It was further alleged that the respondent no. 1 acted malafidely, arbitrarily, illegally and whimsically to disrupt functioning of the democratically elected present committee by calling for a meeting to appoint new District Committee of BSNLEU at BA (HQ) by a notice dated 7th February, 2022.

However, by the time the suit was filed, the trial court, in our view, was justified in refusing the ad interim order of injunction at the initial stage as we also feel that an opportunity should be given to the respondents to justify their stand as stated in the letter dated 22nd February, 2022. Moreover, any order of injunction that has been constituted on 16th February, 2022.

It is submitted that in the trial court the matter could not be taken up for consideration on 8th April, 2022 as the requisites were not put in. We have been informed that the matter has been fixed for further consideration on 19th May, 2022.

The plaintiff/appellant is directed to put in requisites at once and serve a copy of the plaint as well as the injunction application upon the respondents by speed post with

acknowledgement due in course of this week with an intimation that they shall appear before the trial court on 19th May, 2022.

In the event the respondents are not represented in spite of notice, we request the learned trial judge to consider the prayer for injunction afresh on the basis of materials available on record.

In view of the above, FMA 439 of 2022 is disposed of.

In view of the disposal of the appeal, CAN 1 of 2022 is accordingly disposed of.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)

