

15.09.2022
KC(55&56)

F.M.A.T. 376 of 2022
The Saturday Club Limited and Anr.
-versus-
Neelam Sahay @ Neelam Rikhye Sahay and Anr.
With
F.M.A.T. 377 of 2022
The Saturday Club Limited and Ors.
-versus-
Neelam Sahay @ Neelam Rikhye Sahay and Anr.
With
CAN 1 of 2022

Mr. Aniruddha Chatterjee,
Mr. Chayan Gupta,
Mr. Rajesh Upadhyay,
Mr. Pourush Bandyopadhyay,
Ms. Surabita Biswas.....For the appellants.

Mr. Rachit Lakhmani,
Mr. Shanuak Mukherjee,
Mr. Avishek Das.....For the respondent
no. 1.

Mr. Sayantan Chatterjee,
Mr. Ayant Shaw..... For the proforma
respondent.

We admit the appeals.

Considering the urgency pleaded we took up the
appeals for hearing today itself, dispensing with all
formalities.

The subject matter of the dispute is disciplinary
proceedings initiated by a recreational club against one
of its members who is also a member of the general
committee and chairperson of the library committee.

Going by the general law the court should be slow
in interfering with the internal affairs of a body

corporate or a legal entity, unless the facts are so glaring that intervention is necessary to prevent wrong doing or injustice.

In those circumstances, we set aside those parts of the impugned orders dated 26th August, 2022 and 6th September, 2022 staying the show cause notices served by the club on the said member.

But at the same time, we are of the opinion that the show cause notices be heard out without suspending the “library portfolio” of the respondent. That part of the decision of the club, embodied in its letter dated 17th August, 2022 to the respondent, at page 172 of the stay petition, is set aside.

This is so because this kind of a decision immediately tends to convey a message that the noticee is guilty and also suggests pre-disposition on the part of the adjudicating authority. At any rate, suspension from the “library portfolio” could only be made to prevent the chairperson from doing irreversible harm during the pendency of the show cause notices, which from the allegations against the respondent is not likely to happen.

The club is free to proceed with the show cause notices against the respondent according to the rules but should they propose to suspend the respondent before the election, the decision shall be subject to express confirmation by the learned court below.

This is so because according to submissions made the election for the general committee of the club is scheduled to be held on 28th September, 2022. If the respondent is suspended on the charges in the show cause notices she would immediately be disqualified to contest the election or vote. That it is why it is necessary that on the eve of the election the decision should be subject to confirmation of the learned court below.

We clarify that if the decision is taken after the election, it need not be ratified by the court to valid but shall abide by the result of the suit or the interim application.

The impugned orders of the learned court below are modified to the above effect.

The Order XXXIX Rules 1 and 2 and Order XXXIX Rule 4 applications may be heard out by the learned court below as scheduled. All points are kept open before the learned court below.

The appeals (F.M.A.T. 376 of 2022 and F.M.A.T. 377 of 2022) and the connected application (CAN 1 of 2022) are disposed of.

(I.P. MUKERJI, J.)

(BISWAROOP CHOWDHURY, J.)

