



C.M.P.Nos.10697 & 11409 of 2022
in O.S.A.No.371 of 2018

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M.DURAIWAMY, J.
and
SUNDER MOHAN, J.

(Order of the Court was made by M.Duraiswamy, J.)

The appellant in O.S.A.No.371 of 2018 filed a Civil Miscellaneous Petition in C.M.P.No.11409 of 2022 seeking for a direction to appoint the existing Convener as Sole Convener for conducting the General Body Meeting and election for the period valid till 2024 with the assistance of an Election Officer and an assistant, by finalizing the list of members eligible to take part in the General Body Meeting and election as per the bye-law of the Guild, in the interest of the Guild.

2.The respondents 1 & 6 have filed a Civil Miscellaneous Petition in C.M.P.No.10697 of 2022 seeking to appoint an Administrator as per due process of law to implement the orders passed by the Conveners (appointed by the Hon'ble Court) dated 19.04.2021, the order of “audited accounts, eligible members list” and 09.08.2021 “General Body Meeting and conduct election of the office-bearers” in a fair and free manner as per the circumstances of the case.

3.When the petitions were taken up for hearing, Dr.R.Maheswari, learned counsel appearing for the petitioner in C.M.P.No.11409 of 2022 and Mr.M.J.Jaseem Mohamed, learned counsel appearing for the petitioners in C.M.P.No.10697 of 2022



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submitted that this Court, while disposing of the Original Side Appeal in O.S.A.No.371 of 2018, appointed Hon'ble Mr.Justice D.Murugesan (Retired Chief Justice of Delhi High Court) and Hon'ble Mr.Justice P.Shanmugam (Retired Judge, High Court, Madras) as learned Observers, who shall observe the entire election process and ensure that the election is conducted in a fair and free manner. Further, the learned counsel on either side submitted that the learned Observers, appointed by this Court on 16.12.2019 while disposing of the Original Side Appeal, have recused from acting as Observers, hence, new learned Observers should be appointed.

4.It is also brought to the notice of this Court that Hon'ble Mr.Justice D.Murugesan had appointed Hon'ble Mr.Justice P.Kalaiyaran (Retired Judge, High Court, Madras) to act as a learned Observer in his place.

5.Mr.M.J.Jaseem Mohamed, learned counsel submitted that the appointment of Hon'ble Mr.Justice P.Kalaiyaran (Retired Judge, High Court, Madras) is vitiated for the reason that the learned Observers appointed by this Court had no powers to appoint some other Observer/Observers in their place.

6.The learned counsel on either side submitted that it would be suffice to appoint a new learned Observers in the places of Hon'ble Mr.Justice D.Murugesan



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(Retired Chief Justice of Delhi High Court) and Hon'ble Mr.Justice P.Shanmugam (Retired Judge, High Court, Madras) and also in the place of Hon'ble Mr.Justice P.Kalaiyarasan (Retired Judge, High Court, Madras). The learned counsel on either side also submitted that Hon'ble Mr.Justice M.Sathyanarayanan (Retired Judge, High Court, Madras) and Hon'ble Mr.Justice V.Bharathidasan (Retired Judge, High Court, Madras) may be appointed as learned Observers. Further, the learned counsel on either side submitted that with regard to the period of election to be conducted by the learned Observers, the same shall be decided by the learned Observers.

7.Having regard to the submissions made by the learned counsel on either side, by consent of the learned counsel on either side, we appoint Hon'ble Mr.Justice M.Sathyanarayanan (Retired Judge, High Court, Madras) and Hon'ble Mr.Justice V.Bharathidasan (Retired Judge, High Court, Madras) as learned Observers, who shall observe that the entire election process and that the election is conducted in a fair and free manner. We fix a sum of Rs.3,00,000/- (Rupees three lakhs only) as initial remuneration for each of the learned Observers and the Guild is directed to pay the said amount within a period of one week from the date of receipt of a copy of this order. In other aspects, the order passed by the Hon'ble Division Bench of this Court on 16.12.2019 in O.S.A.No.371 of 2018 shall remain unaltered.



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8. With the above directions, by consent of the learned counsel on either side, both the Civil Miscellaneous Petitions in C.M.P.Nos.10697 & 11409 of 2022 are disposed of.

[M.D.,J.] [S.M.,J.]
25.07.2022
(1/2)

va

Note: Issue order copy on 26.07.2022.



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**M.DURAIWAMY, J.
and
SUNDER MOHAN, J.**

va

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