



A. Nos.4225 and 4226 of 2021 and
O.A. No.695, 641, 653 of 2021
in
C.S.Nos.311, 316 & 329 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 23.12.2021

PRONOUNCED ON : 11.01.2022

Coram:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**A. Nos.4225 and 4226 of 2021 and
O.A. No.695, 641, 653 of 2021
in
C.S.Nos.311, 316 & 329 of 2021**

A. No.4225 of 2021

S. Gunasekaran

... Applicant / Plaintiff

Vs

1. Tamil Nadu Elementary School
Teachers Federation
(Reg. No.118/1961)
Represented by its General Secretary
N.Rengarajan

2. N. Rengarajan

... Respondents / Defendants

Prayer: Application filed under Order XIV Rule 8 of O.S. Rules read with
order XXXIX Rule 2A of CPC for the following reliefs :



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- a) This application should not be treated as urgent?
- b) The Hon'ble Court should not be pleased to punish the 2nd respondent / defendant for wilful disobedience of the Order dated 12.10.2021 passed in O.A. No.653 of 2021 in C.S. No.316 of 2021?
- c) And pass such other suitable orders as this Hon'ble Court may deem fit and proper in the circumstances of this case and thus render justice.

For Applicant /Plaintiff : Mr.Issac Mohanlal, Senior Counsel
for M/s. Issac Chambers

For Respondents / Defendants : Mr.S.R.Rajagopalan,
for Mr.Arvind Srevatsa

COMMON ORDER

Teachers are the ultimate role model for the students. The case on hand is a classic example as to how due to the unsavoury dispute between the office bearers of an Association representing the interest of the Elementary School teachers belonging to Government Aided School, a bad example has been set by them for the students who are considered to be nation builders.



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2. The dispute pertaining to all the three suits has emanated from an alleged resolution passed on 22.07.2021 by the Tamil Nadu Elementary School Teachers' Federation which shall hereinafter be referred to as the “Federation” whereby in an Executive Committee Meeting, it was resolved to convene a General Body Meeting on 17.10.2021 for the purpose of taking action against the office bearers of the District Federations who had allegedly misused the funds collected for Covid-19 relief and not deposited the collected fund into the nominated bank account of the federation as per the communication sent by N.Rengarajan, the General Secretary of the Federation on 18.05.2021. There are three players involved in this common dispute, viz., (a) N.Rengarajan, the General Secretary and his supporters on one side, (b) S.Gunasekaran, the President of the Federation cum District Secretary, Virudhunagar and c) V.S.Muthuramasamy, the District Secretary of Erode District on the other.



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Mr.N.Rengarajan has filed the suit CS.No.311 of 2021 seeking for the following reliefs:

(a) Grant a judgment and decree of declaration declaring the defendant's notice dated 24.09.2021 issued to the members of the State General Council of the Tamil Nadu Elementary School Teachers' Federation convening an Extraordinary General Body Meeting of the State General Council of the Federation on 16.10.2021 as null and void.

(b) Grant a judgement and decree of permanent injunction restraining the defendant, his men, agents or anyone claiming authority under him or through him from conducting Extraordinary General Meeting of the State General Council of the Tamil Nadu Elementary School Teachers' Federation on 16.10.2021 or any other date without following the due procedure contemplated in Section 28 and Rule 27 of Tamil Nadu Societies Registration Act, 1975 and Rules 1978.

(c) Award cost to the plaintiff.



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Secretary of Virudhunagar District has filed the suit CS.No.316 of 2021 seeking for the following reliefs:

(a) Declaring the resolution No.6 passed in the Minutes of Meeting of the Executive Committee of the 1st Defendant Federation dated 22.07.2021 as null and void, non-est and contrary to the provisions of the Bye Laws of the 1st Defendant Federation.

(b) Declaring the consequential Letter dated 20.09.2021 convening the Executive Committee Meeting of the 1st Defendant Association on 17.10.2021 as null and void, non-est and contrary to the provisions of the Bye-Laws of the 1st Defendant Federation.

(c) Permanent injunction restraining the 2nd Defendant, his men, persons claiming under him or acting on his behalf from convening and conducting the Executive Committee Meeting of the 1st Defendant Federation based on the Letter dated 20.09.2021, either on 17.10.2021 or any other date without following the provisions of the Bye Laws of the 1st Defendant Association and the Provisions of the Tamil Nadu Societies



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Registration Act, 1975 and the Rules framed thereunder.

(d) Directing the defendants to pay the costs of the suit.

5. V.S.Muthuramasamy, the District Secretary of Erode District has filed the suit CS.No.329 of 2021 seeking for the following reliefs:

(a) To declare the resolution No.6 of the Minutes of Meeting of the Executive Committee Meeting of the 1st Defendant Federation dated 22.07.2021 as null and void, non-est and contrary to the provisions of the Bye Laws of the 1st Defendant Federation;

(b) To declare the State Executive Committee Meeting of the 1st Defendant Federation alleged to have been conducted on 17.10.2021 at Kasturiba Gandhi Higher Secondary School, Tiruvarur 17.10.2021 as null and void, non-est and contrary to the provisions of the Bye-Laws of the 1st Defendant Federation and contrary to the provisions of the Tamil Nadu Societies Registration Act, 1975 and the Rules framed thereunder;

(c) To declare the alleged resolutions recorded to have been approved at the Meeting of the State Executive Committee Meeting of the 1st



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Defendant Federation alleged to have been conducted on 17.10.2021 as null and void, non-est and contrary to the provisions of the Bye-Laws of the 1st Defendant Federation

(d) Permanent injunction restraining the Defendants, their men, agents, servants and anyone claiming under them or acting on their behalf from in any manner whatsoever giving effect to and acting upon the Minutes of the Meeting of State Executive Committee of the 1st Defendant Federation alleged to have been conducted on 17.10.2021.

(d) Directing the defendants to pay the costs of the suit.

6. Mr.S.Gunasekaran, the plaintiff in CS.No.316 of 2021 shall hereinafter be referred to as “President”, Mr.V.S.Muthuramasamy, the plaintiff in CS.No.329 of 2021 shall hereinafter be referred to as “Erode District Secretary” and Mr.N.Rengarajan, the plaintiff in CS.No.311 of 2021 shall hereinafter be referred to as the “General Secretary”.

7. It is not in dispute that all the office bearers of the Federation were elected in February 2021. A call was given by the General Secretary to all



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the District Associations to collect funds for Covid-19 relief by his whatsapp communication dated 15.05.2021 continued by his communication dated 18.05.2021 in which he has requested the members to contribute the collected funds into the specified bank account. The charges levelled by the General Secretary against the President and the Erode District Secretary as well as one more District Secretary who is not a party to the aforementioned suits are that they have collected funds for Covid-19 relief and misappropriated the same as they have not remitted the entire money collected to the specified bank account intimated by the General Secretary in his communication dated 18.05.2021 to all the members.

8. As per the Resolution No.6 dated 22.07.2021 alleged to have been passed by the Federation, a General Body Meeting was convened on 17.10.2021 for the purpose of taking action against the erring office bearers who had misappropriated the funds meant for Covid-19 relief. Pursuant to the alleged Resolution dated 22.07.2021 passed by the Federation, the Federation represented by its General Secretary has issued separate charge



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9. On receipt of the charge memo dated 17.08.2021, the President sent a reply dated 01.09.2021 denying the charges levelled against him and also questioning the authority of the General Secretary to issue such a letter levelling false charges against him. The General Secretary has also sent a reply dated 10.09.2021 to the reply sent by the President on 01.09.2021 reiterating his allegations. Similarly, the Erode District Secretary also sent a reply dated 27.08.2021 denying the allegation of the General Secretary and categorically stating that the charges levelled against him are false.

10. Subsequent to the exchange of the correspondence, pursuant to the levelling of charges against the President and the Erode District Secretary, the President convened an Extraordinary General Body Meeting of the Federation on 16.10.2021 vide his letter dated 24.09.2021. According to him, since his request by letter dated 30.08.2021 to the General Secretary



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to convene the Extraordinary General Body Meeting was not responded, he had to convene the same on 16.10.2021 by his letter dated 24.09.2021 which according to him is permissible as per the Bye-Laws of the Federation.

11. The Agenda for the Extraordinary General Body Meeting on 16.10.2021 convened by the President is for the purpose of declaring the Resolution No.6 dated 22.07.2021 passed by the Federation represented by its General Secretary as null and void. Subsequent to the issuance of letter dated 24.09.2021 by the President convening the Extraordinary General Body Meeting on 16.10.2021, the Federation represented by its General Secretary filed the suit CS.No.311 of 2021 before this Court to thwart the meeting on 16.10.2021 convened by the President as according to them, it is illegal and not in accordance with the Societies Registration Act, its Rules and the Bye-Laws of the Federation.

12. Pending suit, the Federation represented by its General Secretary had also sought for an injunction in O.A.No.641 of 2021 restraining the



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President from convening the Extraordinary General Body Meeting of the Federation on 16.10.2021 or any other date without following the due procedure contemplated under Section 28 and Rule 27 of Tamil Nadu Societies Registration Act, 1975 and Rules 1978. By order dated 08.10.2021, this Court granted an exparte interim injunction as prayed for in O.A.No.641 of 2021 in CS.No.311 of 2021.

13. Subsequent to the filing of the suit C.S.No.311 of 2021 by the Federation represented by its General Secretary, the President has also initiated a separate suit in CS.No.316 of 2021 to declare the Resolution No.6 dated 22.07.2021 whereby it was decided to convene a meeting on 17.10.2021 to take action against the erring members / office bearers who had misappropriated the funds meant for Covid-19 relief as null and void, non-est and contrary to the provisions of the Bye-Laws of the Federation and to declare the consequential letters of the Federation represented by its General Secretary as null and void.



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WEB COPY 14. Pending suit, CS.No.316 of 2021, O.A.No.653 of 2021 was filed by the President seeking for an Interim injunction to restrain the Federation represented by its General Secretary not to convene the General Body Meeting on 17.10.2021, pursuant to the Resolution No.6 dated 22.07.2021 alleged to have been passed by the Federation. By order dated 12.10.2021 in O.A.No.653 of 2021 in CS.No.316 of 2021, in the presence of the learned counsel appearing for the Federation represented by its General Secretary passed the following order and permitted the Federation represented by its General Secretary who is the plaintiff in CS.No.311 of 2021 to file their counter:

“10. After giving due consideration to the aforementioned factors and in view of the fact that this is a Vacation Court, this Court is inclined to direct the respondents, as undertaken by the learned counsel for the respondents, on instructions, to strictly abide by the due procedure contemplated under the provisions of the Tamil Nadu Societies Registration Act, 1975 and its Rules while conducting Executive Committee Meeting for the Association on 17.10.2021.



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11. However, it is made clear that any Resolution passed in the said Meeting on 17.10.2021, to be conducted by the respondents, it shall be subject to the final outcome of this Application.”

15. The contention of the Federation represented by its General Secretary who is the plaintiff in CS.No.311 of 2021 is that the General Body Meeting was duly held on 17.10.2021 and a valid Resolution was passed to take action against (a) the President who is also the Secretary of Virudhunagar District Association, (b) Erode District Secretary and (c) Trichy District Secretary for having misappropriated the funds collected by them for Covid- 19 relief as they have not deposited the entire funds collected into the specified bank account of the Federation given by the General Secretary.

16. However, it is the contention of the President and the Erode District Secretary that the General Secretary does not have the authority on



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his own under the Bye-Laws to call upon the members of the Federation to contribute towards Covid-19 relief and cannot arbitrarily decide and nominate a bank account for deposit of those funds. According to them, even as per the communication of the General Secretary dated 18.05.2021, the Agenda did not include taking action against the members and office bearers who are alleged to have misappropriated the funds meant for Covid-19 relief. According to them, arbitrarily and in a hurried manner, without discussion, the Resolution No.6 is alleged to have been passed by the Federation represented by its General Secretary on 22.07.2021 whereby the General Body Meeting was agreed to be convened on 17.10.2021 for the purpose of initiating action against the members and the office bearers who are alleged to have misappropriated the funds meant for Covid-19 relief. It is also their contention that the charges levelled against them by the Federation represented by its General Secretary on 17.08.2021 are false. It is also their contention that no meeting was held on 17.10.2021 and the police refused permission to hold the meeting by the Federation represented by its General Secretary on 17.10.2021.



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17. However, according to the Federation represented by its General Secretary, the meeting was properly held on 17.10.2021 though at a different venue namely Kasturibai Gandhi Matriculation Higher Secondary School, Tiruvarur instead of the original venue as the police refused to grant permission which was solely due to the law and order problem created by the conduct of the President and the erring members who had misappropriated the funds meant for Covid-19 relief. According to them, placard was kept in the original venue mentioned in the notice that the venue of the meeting has been changed to Kasturibai Gandhi Matriculation Higher Secondary School, Tiruvarur and they were directed to attend the meeting on the very same date i.e., on 17.10.2021 and at the very same time. According to them, 51 out of 86 members who are authorised to vote participated in the meeting on 17.10.2021 and only thereafter, a valid Resolution No.6 was passed whereby it was decided to take action against the President, Erode District Secretary and Trichy District Secretary for having committed misappropriation of funds meant for Covid-19 relief.



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18. The points for consideration in all the three suits are

(a) Whether the Resolution No.6 passed by the Federation represented by its General Secretary on 22.07.2021 followed by the Resolution passed on 17.10.2021 authorising the Federation to take action against the President, Erode District Secretary and Trichy District Secretary for misappropriation of funds meant for Covid-19 relief fund is valid or not; and

(b) Whether the letter dated 24.09.2021 issued by the President convening the Extraordinary General Body Meeting of the Federation on 16.10.2021 is legally valid or not.

19. Heard Mr.S.R.Rajagopalan, learned counsel assisted by Mr.B.Arvind Srevatsa, learned counsel for the President and also assisted by Mr.Tanya Kapoor, learned counsel for the Erode District Secretary and Mr.Issac Mohanlal, learned Senior Counsel representing M/s.Issac Chamber appearing for the Federation represented by its General Secretary.



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Secretary, Mr.S.R.Rajagopalan, learned counsel drew the attention of this Court to the following:

(a) Bye-Laws and Rules and Regulations of the Tamil Nadu Elementary School Teachers' Federation and in particular, he referred to Bye-Law Nos. 6(B)(1), 6(B)(3), 6(B)(5), 8(D)(1), 8(D)(2), 9(3)(F) and 9(3)(G) and would submit that Federation represented by its General Secretary has violated its Bye-Laws by not adhering to the procedure contemplated therein while passing Resolution No.6 dated 22.07.2021 and the Resolution dated 17.10.2021 against the President, Erode District Secretary and Trichy District Secretary.

(b) Whatsapp message dated 15.05.2021 sent by the General Secretary to all the members in his individual capacity calling upon the members to contribute for Covid-19 relief fund. He would submit that the said message has been sent without any approval from the Executive Committee of the Federation and therefore, it cannot be acted upon.



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WEB COPY (c) A letter dated 18.05.2021 sent by the Federation represented by its

General Secretary calling upon all the members to contribute monies towards Covid-19 relief to the nominated bank account referred to in the said letter and he would submit that it has been issued without authority. He would further submit that the earlier Whatsapp communication dated 15.05.2021 sent by the General Secretary and the letter dated 18.05.2021 sent by the General Secretary representing the Federation are contrary and completely different.

(d) Reply dated 30.08.2021 sent by the President to the Show Cause Notice dated 17.08.2021 sent by the Federation represented by its General Secretary. He would submit that the President immediately on receipt of the Show Cause Notice dated 17.08.2021 has replied denying the allegations contained in the Show Cause Notice and has also questioned the authority of the General Secretary to act upon the invalid Resolution on 22.07.2021 as the said Resolution has been passed hurriedly without notice to the President and other District Secretaries against whom the action has been



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WEB COPY initiated and without any discussion whatsoever in the meeting on 22.07.2021. He would also submit that there was no Agenda for the meeting on 22.07.2021 against the erring members who had allegedly committed misappropriation of funds while collecting funds for Covid-19 relief, but despite the same, Resolution No.6 against the President and the District Secretaries is alleged to have been passed which is illegal.

(e) Notice dated 20.09.2021 sent by the Federation represented by its General Secretary convening the Executive Committee Meeting on 17.10.2021, pursuant to the explanation submitted by the President and the other alleged erring members with regard to the charges of misappropriation of funds. He would submit that the venue of the meeting on 17.10.2021 was at Platinum Hall, Hotel Selvis and was scheduled to take place at 10 a.m. However, the meeting did not take place in the said venue as the police refused permission for the said meeting on 17.10.2021. According to him, no meeting took place as claimed by the General Secretary on 17.10.2021.

(f) Affidavit dated 22.11.2021 of V.Chinnasamy, Administrative Manager of Kasturiba Gandhi Matriculation Higher Secondary School. He



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would submit that the Administrative Manager of the School where the meeting was alleged to have been taken place on 17.10.2021 has himself stated that no meeting of the Federation took place on 17.10.2021.

(g) Photographs taken at Hotel Selvis, Tiruvarur on 17.10.2021. He would submit that as seen from the photographs, there is no placard as alleged by the General Secretary kept in the hotel informing the members that the venue of the meeting has been shifted to Kasturiba Gandhi Matriculation Higher Secondary School.

(h) Paragraphs 23 and 28 of the counter affidavit filed by the General Secretary and Federation in O.A.No.653 of 2021 and would submit that the General Secretary has himself admitted that the President has not signed the minutes on 22.07.2021. He would also submit that baseless allegations have been made against the President and the Erode District Secretary without any iota of evidence against them.

21. Mr.S.R.Rajagopalan, learned counsel would further submit that the Bank account from where the funds were transferred by the President to



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the nominated account of the General Secretary is in existence from 2014 and there is no misappropriation of funds as alleged by the General Secretary and only due to personal rivalry and to victimise the President and the Erode District Secretary, false charges have been levelled against them by the General Secretary which has caused stigma on them.

22. Mr.S.R.Rajagopalan, learned counsel also submitted that in violation of interim order granted by this Court on 12.10.2021 in O.A.No.653 of 2021 where the Federation represented by its General Secretary gave an undertaking to this Court that they will strictly abide by the Societies Registration Act, its Rules and Bye-Laws of the Federation, the Federation represented by its General Secretary has disobeyed the said order and the General Secretary is liable to be punished for contempt of Court.

23. Mr.S.R.Rajagopalan, learned counsel also drew the attention of this court to additional documents filed by the Federation represented by its



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General Secretary enclosing Photographs of the alleged meeting dated 17.10.2021 at Kasturiba Gandhi Matriculation Higher Secondary School and would submit that they are all fabricated documents. He would also submit that even though the signature of the President is found in the minutes of the meeting on 17.10.2021 submitted by the General Secretary, in the counter affidavit filed by the General Secretary, he himself has admitted that the President refused to sign the minutes and therefore, it is clear that the documents are fabricated.

24. Per contra, Mr.Issac Mohanlal, learned Senior Counsel for the Federation represented by its General Secretary would submit that the President on his own collected Rs.12,00,000/- towards Covid-19 relief fund, but transferred only Rs.2,00,000/- to the nominated account of the Federation. He would submit that a proper notice was given to all the members for the Executive Committee Meeting on 22.07.2021. He would also submit that as per the Bye-Laws, the General Secretary is having the powers to include new Agendas. He would submit that a valid Executive Committee Meeting was held on 22.07.2021 and valid Resolutions were



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passed on an unanimous decision. According to him, Resolution No.6 is also a valid Resolution. According to him, since the explanation given by the President and other erring members were not satisfactory, the meeting was convened on 17.10.2021 and a notice was also given to the President and other erring members namely Erode District Secretary and Trichy District Secretary. He would submit that the venue of the meeting on 17.10.2021 was changed due to refusal of the police to grant permission which was only at the behest of the President. However, he would submit that all the members who came for the meeting on 17.10.2021 at Hotel Selvis, Tiruvarur were informed through a placard stating that the venue has been shifted to Kasturiba Gandhi Matriculation Higher Secondary School at Tiruvarur which is within the very same vicinity i.e., two kilometers away from Hotel Selvis, Tiruvarur. He would also submit that 51 out of the 86 members who had voting rights participated in the meeting and the meeting was also photographed and videographed. According to him, a valid Resolution was passed against the President and the other erring District Secretaries and it was an unanimous decision.



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25. Mr.Issac Mohanlal, learned Senior Counsel would further submit that the Resolution passed on 17.10.2021 has not been put to challenge by the President and the other erring District Secretaries against whom Resolutions were passed. Mr.Issac Mohanlal, learned Senior Counsel then drew the attention of this Court to section 28 read with Rule 27 of the Societies Registration Act and Rules and would submit that the President has not adhered to the statutory provisions for convening the Extraordinary General Body Meeting on 16.10.2021. According to him, as per the Bye-Laws for convening the Extraordinary General Body Meeting, 1/3rd of the members who are eligible for voting will have to give their consent and no such, consent was obtained by the President prior to convening the meeting on 16.10.2021 and no request was also made by 1/3rd of the members who had the voting right to convene the Extraordinary General Body Meeting. He would also submit that Rule 27 of the Tamil Nadu Societies Rules was also not adhered to by the President while convening the meeting on 16.10.2021.



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26. Mr.Issac Mohanlal, learned Senior Counsel then drew the attention of this Court to the additional typed set of papers filed by the Federation represented by the General Secretary and would submit that as seen from the photographs, it is clear that a valid meeting was held on 17.10.2021. Therefore, according to him, Resolutions passed against the President and other erring District Secretaries are valid. He also drew the attention of this Court to the Bye-Laws and would submit that it is only the General Secretary who can convene the meeting for the Federation and the President does not have any such power. He would further submit that under section 26 of the Societies Registration Act, which pertains to Annual General Body Meeting, there is no necessity to mention the place of the meeting as in the case of an Extraordinary General Body Meeting under section 28 of the said Act and therefore, the meeting held on 17.10.2021 though at a different venue is a valid meeting. He would submit that none of the documents submitted by the General Secretary are fabricated documents as alleged by the President. To conclude, he would finally submit that the



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meeting convened by the President pursuant to his letter dated 24.09.2021 on 16.10.2021 is invalid and the Resolutions passed on 22.07.2021 and 17.10.2021 in the meetings convened by the General Secretary are valid Resolutions.

Discussion:

27. Temporary injunction can be granted only when the applicant has satisfied the following requirements:

- (a) Prima Facie case
- (b) Balance of convenience
- (c) Irreparable injury

28. It is also settled law that a person seeking temporary injunction must approach the court with clean hands. The decision relied upon by the learned counsel for the President, in the case of *V.Chandrasekaran and another vs. an Administrative Officer and others* reported in (2012) 12 SCC 133 reiterates the said proposition. Paragraphs 44 and 45 of the said



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judgment deals with the said proposition and it is extracted hereunder:

“44. The appellants have not approached the court with clean hands, and are therefore, not entitled for any relief. Whenever a person approaches a court of equity, in the exercise of its extraordinary jurisdiction, it is expected that he will approach the said court not only with clean hands but also with a clean mind, a clean heart and clean objectives. Thus, he who seeks equity must do equity. The legal maxim jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiores, means that it is a law of nature that one should not be enriched by causing loss or injury to another. (Vide Ramjas Foundation v. Union of India [1993 Supp (2) SCC 20 : AIR 1993 SC 852] , Noorduddin v. K.L. Anand [(1995) 1 SCC 242] and Ramniklal N. Bhutta v. State of Maharashtra [(1997) 1 SCC 134 : AIR 1997 SC 1236] .)

45. The judicial process cannot become an instrument of oppression or abuse, or a means in the process of the court to subvert justice, for the reason that the court exercises its jurisdiction, only in furtherance of justice. The interests of justice and public interest coalesce, and



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therefore, they are very often one and the same. A petition or an affidavit containing a misleading and/or an inaccurate statement, only to achieve an ulterior purpose, amounts to an abuse of process of the court.”

29. It is an admitted fact that S.Gunasekaran is the President, N.Rengarajan is the General Secretary of the Tamil Nadu Elementary School Teachers Federation and V.S.Muthuramasamy is the Erode District Secretary. It is also not in dispute that funds for Covid-19 relief was collected by Federation from its members and other donors. According to the General Secretary, funds collected by the President and the Erode District Secretary for Covid-19 relief was misappropriated by them as they did not deposit the entire funds collected into the nominated bank account of the Federation as intimated by the General Secretary by his letter dated 18.05.2021. It is the contention of the General Secretary that the President collected the funds and deposited the same into his individual account.

30. However, it is the contention of the President that without



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approval of the Executive Committee Meeting, the General Secretary arbitrarily and illegally has requested the members to collect funds for Covid-19 relief and deposit the same into the bank account nominated in his letter dated 18.05.2021. According to the General Secretary, since the President and two other erring members including the plaintiff in CS.No.329 of 2021 did not deposit the collected funds into the nominated bank account and have misappropriated the funds, action will have to be initiated against them. It is the case of the General Secretary, the meeting of the General Body was convened on 22.07.2021 and one of the agendas for the said meeting is whether action will have to be taken against the President who is also the District Secretary of Virudhunagar District Association as well as the Erode and Trichy District Secretaries for the irregularities committed by them in the collection of funds meant for Covid-19 relief. The Erode District Secretary is the plaintiff in CS.No.329 of 2021.

31. However, it is the contention of the President and the Erode District Secretary that the Agenda fixed for the meeting convened by the



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General Secretary included only six items and there was no agenda with regard to the action to be initiated against the President and Erode District Secretary who is the plaintiff in CS.Nos.316 & 329 of 2021 respectively. It is the contention of the President and Erode District Secretary that without adhering to the Bye-Laws and the Societies Registration Act and its Rules, the meeting on 22.07.2021 in a hurried manner, an illegal Resolution No.6 was passed permitting the Federation to convene an Executive Committee Meeting for the purpose of getting approval from the majority of the members for initiating legal action against the President, Erode District Secretary and Trichy District Secretary.

32. According to them, without any discussion, Resolution No.6 is said to have been passed by the Federation on 22.07.2021 for which approval is alleged to have been given by the members of the Federation for convening the Meeting to decide upon the legal action to be initiated against the President, Erode District Secretary and Trichy District Secretary. After passing of the alleged Resolution No.6 dated 22.07.2021 by the Federation, the President has convened the Extraordinary General Body Meeting on



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16.10.2021 for the purpose of declaring the Resolution No.6 allegedly passed by the Federation vide his letter dated 24.09.2021 as null and void. Before the said meeting could be held, the Federation through its General Secretary filed a suit in CS.No.311 of 2021 to declare the meeting convened by the President and scheduled on 16.10.2021 as null and void. Pending suit, an application No.641 of 2021 was filed seeking for injunction restraining the conduct of the said meeting on 16.10.2021 and this Court by its order dated 08.10.2021 granted an interim injunction as prayed for.

33. It is the contention of the General Secretary that the President does not have the power to convene the Extraordinary General Body Meeting under the Bye-Laws and according to him, it is only the General Secretary who can convene such a meeting. In terms of the Resolution No.6 passed by the Federation on 22.07.2021, the General Secretary convened the meeting of the Executive Committee on 17.10.2021 and the main agenda for the said meeting was whether legal action should be initiated against the President, Erode District Secretary and the Trichy District Secretary for the



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alleged misappropriation of funds collected for Covid-19 relief.

34. Before the scheduled date of the meeting on 17.10.2021, the President filed another suit CS.No.316 of 2021 seeking for declaration that the Resolution No.6 passed by the Federation on 22.07.2021 and the consequential meeting dated 17.10.2021 and the Resolution therein are null and void as according to the President, the alleged Resolution No.6 dated 22.07.2021 is illegal and the meeting was held on that date without any authority by the General Secretary and therefore, the consequential meeting dated 17.10.2021 and the Resolution if any passed on that date by the Federation are null and void.

35. This Court in the suit filed by the President in CS.No.316 of 2021 passed the following order in A.No.653 of 2021 seeking for injunction restraining the General Secretary from holding the meeting on 17.10.2021 and passing any Resolution.

“10. After giving due consideration to the



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aforementioned factors and in view of the fact that this is a Vacation Court, this Court is inclined to direct the respondents, as undertaken by the learned counsel for the respondents, on instructions, to strictly abide by the due procedure contemplated under the provisions of the Tamil Nadu Societies Registration Act, 1975 and its Rules while conducting Executive Committee Meeting for the Association on 17.10.2021.

11. However, it is made clear that any Resolution passed in the said Meeting on 17.10.2021, to be conducted by the respondents, it shall be subject to the final outcome of this Application.”

36. The object of an interim injunction application is to protect the plaintiff against the injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action, if the uncertainty were resolved in his favour at the trial. The need for such protection has however, to be weighed against the corresponding need of the defendant to be protected against injury resulting from him having been prevented from exercising his own legal rights for which he could not be



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adequately compensated. The Court must weigh one need against another and determine where the balance of convenience lies. Discretion is best exercised when it is in conformity with the spirit of law with a view to subserve and not impede or defeat the ends of substantial justice.

37. In the case on hand, there are several debatable issues involved as regards the authority of the President and the General Secretary to hold their respective meetings which is the subject matter of challenge in CS.No.316 of 2021 & CS.No.311 of 2021. The General Secretary claims that the meeting convened by him on 22.07.2021 is an Executive Committee Meeting and the Agenda as regards the misappropriation of funds by the President, Erode District Secretary and Trichy District Secretary was also included. However, as seen from the Agenda for which meeting was convened by the General Secretary on 22.07.2021, the Agenda with regard to the alleged misappropriation of funds collected for Covid-19 relief by the President and other erring District Secretaries does not find a place, though the General Secretary pleads that as per the Bye-Laws, at his option, new



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Agendas can be included on the date of the Executive Committee Meeting.

Whether the Agenda with regard to misappropriation of funds can be included without prior notice is a debatable issue, though the Bye-Laws enable the General Secretary to introduce new subjects for discussion on the date of Executive Committee Meeting as taking action against the erring members/District Secretaries for the alleged misappropriation of funds is a serious issue which has serious ramification over the holding of the office by the President and the Erode District Secretary. This Court is of the considered view that under normal circumstances, prior notice ought to have been given to all the members with regard to taking action against the erring members/District Secretaries by the General Secretary who has convened the meeting on 22.07.2021.

38. The contention of the President and the Erode District Secretary are that they were not informed about the new agenda with regard to taking action against them for the alleged misappropriation of funds before hand and in a hurried and vindictive manner, the Resolution No.6 is alleged to



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have been passed in the meeting convened by the General Secretary on 22.07.2021. All the office bearers of the Federation were elected admittedly in February 2021. Excepting for the allegations levelled by the General Secretary against the President and the Erode District Secretary, there are no other allegations of irregularity made against them in the plaint filed in support of CS.No.311 of 2021.

39. The General Secretary has also not disputed that the President and the Erode District Secretary were validly elected in February 2021. Similarly, the convening of meeting by the President on 16.10.2021 through his notice dated 24.09.2021 seeking to pass a Resolution to declare the Resolution No.6 allegedly passed by the Federation at the instance of the General Secretary on 22.07.2021 as null and void. It also raises suspicion in the mind of this Court as to its validity.

40. As seen from the Bye-Laws of the Federation, under normal



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circumstances, only the General Secretary can convene the meeting and only when he fails to convene the meeting, despite the request made by the requisite members as per the Bye-Laws, the requisitionists having adequate strength can convene the meeting. The President in his suit CS.No.316 of 2021 has not filed any documentary evidence to prove that he has satisfied the requirements of the Bye-Laws to enable him to convene the meeting on 16.10.2021 through his notice dated 24.09.2021.

41. Communications dated 15.05.2021 and 18.05.2021 sent by the General Secretary are questioned by the President as according to him, the said communications were sent without authority and approval from the Executive Committee and General Body of the Federation. According to the President, the issue of jurisdiction goes to the root of the matter and nullifies all actions taken based on Resolution No.6. Bye-Laws is silent as regards the powers of the General Secretary to issue such communications referred to supra dated 15.05.2021 & 18.05.2021 and therefore, this Court is of the considered view that whether the General Secretary is having the authority



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to send communications as in the nature of his communications dated 15.05.2021 and 18.05.2021 is in doubt. This Court is of the considered view that only after trial, it can be decided whether the communications dated 15.05.2021 and 18.05.2021 sent by the General Secretary are valid or not.

42. As observed earlier, the Resolution No.6 has been inserted in the minutes of the meeting by the General Secretary on 22.07.2021. Originally, in the invitation dated 01.07.2021 sent by the General Secretary, it contains only six agendas for the meeting on 22.07.2021. The contention of the President and the Erode District Secretary is that arbitrarily and without discussion, an illegal Resolution No.6 has been passed by the Federation by which the General Secretary convened the meeting on 17.10.2021 for the purpose of taking action against the erring members/District Secretaries of the Federation. According to the President and the Erode District Secretary, the Resolution No.6 dated 22.07.2021 has been passed arbitrarily and illegally without any discussion. The General Secretary as seen from his pleading found in his suit CS.No.311 of 2021 and in the affidavit filed by



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him does not disclose as to whether a full fledged discussion was held in the meeting on 22.07.2021 with regard to Resolution No.6 passed against the erring member/District Secretaries of the Federation.

43. The General Secretary claims that the President had collected Rs.12,00,000/- for Covid-19 relief, but deposited only Rs.2,00,000/- into the specified bank account mentioned by the General Secretary in his communication dated 18.05.2021 and thereby, had committed misappropriation of funds. No proof has been produced by the General Secretary to show that Rs.12,00,000/- was deposited into the President's personal account and only Rs.2,00,000/- was deposited into the specified bank account mentioned in the General Secretary's communication dated 18.05.2021. It is also denied by the President that he had misappropriated the funds as alleged by the General Secretary. This being the case, when there is no prima facie evidence to prove misappropriation on the part of the President and the Erode District Secretary, the claim of the General Secretary can be tested and decided only after trial.

44. This Court is also having doubt as to whether proper meeting was



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conducted on 17.10.2021 by the General Secretary. Admittedly, the meeting on 17.10.2021 convened by the General Secretary was scheduled to take place only at Hotel Selvis, Thiruvavarur. According to the General Secretary, the meeting could not be held at the said venue due to the refusal of police permission to hold the meeting at the said venue on 17.10.2021. According to the General Secretary, the venue of the meeting was shifted to Kasturiba Gandhi Matriculation Higher Secondary School, Thiruvavarur, which is within the vicinity of Hotel Selvis and that, it was informed to all the members who had come to attend the meeting by having a placard at Hotel Selvis that the venue of the meeting has been shifted to Kasturiba Gandhi Matriculation Higher Secondary School. The said statement is unbelievable as the police having refused permission to convene the meeting, it is highly unlikely that a placard could have been kept at Hotel Selvis on the meeting date informing the members that the venue has been shifted to Kasturiba Gandhi Matriculation Higher Secondary School which is within its vicinity. The police would not have remained a silent spectator, despite refusing the permission for the Federation to hold the meeting though at a different



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venue. The Police would have certainly taken action against the erring Federation and its office bearers for disobeying its order of refusal to hold the meeting by Federation on 17.10.2021. An affidavit has also been filed by the Administrative Manager of the Kasturiba Gandhi Matriculation Higher Secondary School dated 22.11.2021 stating that no meeting was convened on 17.10.2021 in the school by the Federation, though the same is disputed by the General Secretary. The General Secretary has also produced the photographs and some other documents to substantiate his case that the meeting was infact held on 17.10.2021 at Kasturiba Gandhi Matriculation Higher Secondary School where the Resolution was alleged to have been passed to take action against the President, the Erode District Secretary and Trichy District Secretary for misappropriation of funds committed by them in Covid-19 relief.

45. This Court after giving due consideration to the aforementioned factors is of the considered view that there are serious doubts as to the statements made by the General Secretary as well as the President and the



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Erode District Secretary and all of them seem to have approached this Court with unclean hands and with ulterior motive. The General Secretary as well as the President accuse each other of fabricating documents. The documents produced by both the parties also raise doubts in the mind of the Court about its genuineness.

46. The Resolutions passed on 22.07.2021 and 17.10.2021 by the General Secretary and notice dated 24.09.2021 issued by the President for convening the Extraordinary General Body Meeting on 16.10.2021, on a prima facie consideration seem to be passed/issued due to personal rivalry between the General Secretary on one hand and the three District Secretaries on the other.

47. It is well settled that a party seeking temporary injunction has to satisfy the triple requirements of prima facie case, balance of convenience and irreparable injury. A party with the burden of proof presents a prima facie case when the party presents enough evidence to support a verdict in



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the party's favour, assuming the opposing party does not rebut or disprove it. In the case on hand, neither the President nor the General Secretary have presented sufficient evidence to support a verdict in their respective favour.

48. There are serious doubts as seen from the pleadings and evidence available on record as to the genuineness of the respective claims. Prima facie means based on the first impression i.e., the Court while exercising its discretionary power has to accept the statement to be correct until proved otherwise. On a prima facie consideration, the evidence produced by the respective parties in support of their request for the grant of temporary injunction does not deserve any discretion to be exercised in any of their favour for the grant of temporary injunction as there are several doubts in their respective claims. The finding on prima facie would be a finding of fact. However, while arriving such a finding of fact, the Court not only must arrive at a conclusion that a case for trial has been made out, but also other factors requisite for grant of injunction exist. From the pleadings and documents produced by the respective parties, this Court does not find any



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prima facie evidence for grant of temporary injunction in favour of both the parties namely General Secretary on one side and the president and the Erode District Secretary on the other.

49. Refusal of injunction to both the parties will also not cause irreparable loss to any of them as the meeting can be convened once again by following the procedure contemplated under the Societies Registration Act, its Rules and Bye-Laws of the Federation. No damage will be caused to any of the parties, if such an exercise is done if the parties deem fit to do so.

50. The nature of action contemplated by the General Secretary against the President, the Erode District Secretary and the Trichy District Secretary is serious in nature having far reaching consequences with regard to proper functioning of the Federation. This being the case, only through a meeting properly convened in accordance with statute and the Bye-Laws of the Federation an action in the nature contemplated in the alleged Resolution dated 17.10.2021 can be passed.



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52. The contention raised by the respective parties are debatable and is filled with several ambiguities. The balance of convenience means that comparative mischief from the inconvenience which is likely to arise from withholding the injunction will be greater than which is likely to arise from granting it. In applying this principle, the Court has to weigh the amount of substantial mischief that is likely to be done by the applicant, if the injunction is refused and compare with them which is likely to be caused to each other, if the injunction is granted.

53. The pleadings and the evidence available on record in all the three suits raises doubts as to who is the mischief maker. There is no clinching evidence produced by either of the parties to prove that the other party alone



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is a mischief maker and he is innocent. The contentions of both the parties are doubtful and it can be decided only after trial and not in the interlocutory stage.

54. A party seeking discretionary relief must approach the court with clean hands. As seen from the evidence available on record, there are allegations and counter allegations made against each other and this Court is of the considered view that both the parties cannot be declared to be absolutely innocent as important office bearers of the Federation, they may have personal rivalry against each other. Apart from the alleged resolution No.6 allegedly passed on 22.07.2021, the General Secretary has also not pointed out any other irregularities committed by the President. The office bearers took charge of the Federation only in February 2021 and this has also to be borne in mind. All these factors does not enable this Court to exercise its discretionary power for grant of interim injunction in favour of either of the parties. Balance of convenience is not in favour of any of the parties and both of them are not entitled for grant of interim injunction as



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prayed for by them in their respective interlocutory applications.

55. The third test to be satisfied is irreparable injury. Since there is no clinching evidence to prove that the meeting was validly convened by the General Secretary on 22.07.2021 and the Resolution No.6 was validly passed on that date and consequential meeting was validly held on 17.10.2021 and consequential Resolutions were validly passed on that date, this Court is of the considered view that if an interim injunction is granted despite the same, irreparable injury will be caused to the President and Erode District Secretary as their reputation is at stake and it will cause stigma to them, in case after trial they are found to be innocent.

56. For the foregoing reasons, this Court is of the considered view that both the parties have not made out a prima facie case and balance of inconvenience is also not in their favour for the grant of injunction as prayed for by them in their respective applications. Irreparable injury will be caused to the other, if injunction is granted by this Court, despite not having



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satisfied the requirements namely prima facie case, balance of convenience and irreparable injury.

57. In the result, there is no merit in all the interlocutory applications filed by the respective parties in CS.Nos. 311, 316 & 329 of 2021 and they are all dismissed and consequently, the injunction granted by this Court O.A.No.641 of 2021 on 08.10.2021 is vacated. The interlocutory prayers sought for by the respective parties can be decided only after trial in the main suits.

58. In view of the dismissal of all the interlocutory applications in all the three suits, the respective parties cannot act upon the respective resolutions / circulars and therefore status quo ante before filing of the suit C.S. No.311 of 2021 shall be maintained by all the parties as the legality of the resolutions passed through the General Secretary on 22.07.2021 and 17.10.2021 and the meeting convened by the President on 16.10.2021 through his Circular, dated 24.09.2021 can be tested only after trial.



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