



WEB CO **SENTHILKUMAR RAMAMOORTHY,J**

O.A.No.752 of 2022

This application is presented by a registered society, which claims membership of churches coming under the aegis of the Seventh-day Adventist Church. The applicant seeks to restrain the second respondent from convening the constituency session of the Southeast India Union of Seventh-day Adventist (SEIU), which is scheduled to be held between 30.11.2022 and 03.12.2022.

2. The applicant relies upon the arbitration clause contained in the Articles of Association of the first respondent, which is a company limited by guarantee and incorporated under the name and style of “Services Association of Seventh-day Adventists Private Limited”.

3. Learned counsel for the applicant states that office bearers of the second respondent were elected in contravention of applicable policies in July 2022. As a person aggrieved by such election, learned counsel for the applicant states that the applicant invoked the arbitration



WEB COPY

clause in the Articles of Association and issued a notice dated 24.09.2022 to the first respondent under Section 21 of the Arbitration and Conciliation Act 1996 (the Arbitration Act). The first respondent failed to respond to the said notice.

4. Meanwhile, the constituency session has been convened by these office bearers. According to learned counsel, if the constituency session is proceeded with, irreparable hardship would be caused to the applicant pending arbitral proceedings.

5. This application is opposed by the respondents. Learned senior counsel for the second respondent states that the constituency session was convened by issuing notice dated 20.10.2022 to the delegates. Such delegates are entitled to participate in the constituency session wherein office bearers at the district level would be elected. If the conduct of the constituency session is interdicted at this juncture, he states that irreparable hardship would be caused to the delegates. He also points out that the applicant is not a delegate and is not entitled to



WEB COPY

participate in the constituency session. Therefore, it is submitted that the applicant does not have the *locus standi*.

6. In order to invoke Section 9 of the Arbitration Act, a party should provide evidence that such party is a party to the arbitration agreement. The applicant cites clause XVI of the Articles of Association of the first respondent. Clause XVI is set out below:

“XVI. ARBITRATION

Any dispute or difference arising or existing between the Association and any other company, association, society, firm or persons including staff and other employees or members past, present, and future relating to the working or the discipline of the Association or other affairs shall be referred under the Indian Arbitration Act of 1940 to the person or persons appointed by the chairman of the Division Committee whose decision in the matter so referred to shall be accepted as final.”



WEB COPY

7. On perusal, clause XVI is widely worded but limited to disputes pertaining to the working or affairs of the company. The applicant has been unable to provide evidence that the applicant is a member of the first respondent, as defined in Article 1 (5) of the Articles of Association, or that the dispute pertains to the affairs of the first respondent. For purposes of this application, it is not necessary to record definitive conclusions with regard to the membership of the applicant but the lack of such evidence is to be reckoned along with other aspects..

8. The application is filed largely on the ground that the election of office bearers of the second respondent at the election held between 10th and 13th July 2022 is not valid. The said election is said to be the subject of arbitral proceedings. Therefore, at this juncture, the election of the office bearers holds good. The applicant is endeavoring to interfere with the conduct of the constituency session by such office bearers. The constituency session was convened by notice dated 20.10.2022. The applicant has approached this Court in late November 2022. If the constituency session is interdicted at this juncture, it is clear



that considerable hardship would be caused not only to the respondents herein but to the participating delegates. Therefore, the balance of convenience is clearly not in favour of the applicant.

9. Therefore, the applicant has failed to make out a case warranting interference with the constituency session. Hence, O.A.No.750 of 2022 is dismissed without any order as to costs.

29.11.2022

kal



WEB COPY



SENTHILKUMAR RAMAMOORTHY,J

kal

O.A.No.752 of 2022

29.11.2022