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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CM(M) 1023/2022 & CM APPL. 42239/2022**

DELHI AMATEUR WUSHU ASSOCIATION Petitioner
Through: **Mr. Vipin Kumar Saini, Adv.**

Versus

WUSHU ASSOCIATION OF INDIA AND ORS.. Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

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23.09.2022

1. This petition under Article 227 of the Constitution of India assails order dated 20th September 2022, passed by the learned Civil Judge in CS SCJ 78/2018 (*Delhi Amateur Wushu Association v. Wushu Association of India*). By the said order, the learned Civil Judge has adjudicated on an application filed by Respondents 3 and 4, as Defendants 3 and 4 in the suit, under Section 151 of the Code of Civil Procedure, 1908 (CPC). The application was stated to have been filed in accordance with para 4 of the order passed by a coordinate Bench of this Court on 10th October 2019 in CM (M) 374/2019 (*The General Secretary, Delhi Amateur Wushu Association (Genuine/Elected Dawa) v. The General Secretary, Delhi Amateur Wushu Association (Non Elected/Fake Dawa)*).

2. CM (M) 374/2019, in which the aforesaid order dated 10th



October 2019 came to be passed by this Court, challenged order dated 28th November 2018, passed by the learned Civil Judge in an application under Section 151 CPC, in which it was directed thus:

“An application has been filed on behalf of the plaintiff under Section 151 CPC for passing necessary direction to defendant no. 1 to conduct joint Trial of the players selected by the plaintiff and the players selected by defendant no. 3 & 4 at the venue for the 17th Junior National WUSHU Championship at Tamilnadu.

Heard on the application.

The counsel for the defendants submitted that he has received the copies today itself and he wants to file a reply to the said application.

The alleged championship is to be held on 1st to 6th December at Tamilnadu. The counsel for the defendants has shown the copy of railway tickets which have already been booked for the players for travel on 29.11.2018.

This court is of the view that there is very less time left for the conduct of joint trial as prayed by the plaintiff and it may not be feasible at the venue and there is likelihood of injury in the trial which would disadvantage the players which are already selected. Thus, this court is not inclined to allow the application at this last hour.

Before parting this order, to obviate the future controversy between the parties regarding the trial, it is hereby ordered that defendant no. 1 WAI shall conduct the trial for all the upcoming national championships of the list of players provided by plaintiff and the list of players provided by the defendant no. 3 & 4, till the disposal of the present suit.....”

3. This Court has, in the order dated 10th October 2019, noted the fact that there was a dispute as to the party who was entitled to



represent Delhi Amateur Wushu Association (DAWA). That issue, notes the order, would be decided by the learned Civil Judge after the pleadings are completed. The order maintains the arrangement put in place by the order dated 28th November 2018 till said decision was arrived at.

4. Para 4 of the order dated 10th October 2019 reads thus:

“4. It is made clear if any elections are to be held for the various positions in DAWA, the same shall be done after obtaining orders of the Trial Court and with an independent supervision.”

5. Clearly, para 4 envisages a situation where, during the pendency of the trial in CS SCJ 17/2018, elections to the positions in the DAWA were proposed. The order directs that any such elections would be conducted only after obtaining orders of the learned Civil Judge and under independent supervision.

6. It is in this scenario that Respondents 3 and 4 moved an application before the learned Civil Judge in CS SCJ 78/2018, seeking holding of elections in the DAWA.

7. The learned Civil Judge has disposed of the said application with the following observations and directions:

“6. Perusal of the reply to the application shows that there is no real objection taken by the plaintiff. The only objection that he has taken is that there are other pending issues which need to be decided. The issues which are pending before the court can be decided only after trial. This cannot be a ground



to delay the elections of the defendant association, being currently represented by defendant no.3 and 4. Further, the other ground taken by the plaintiff is that the order of the Hon'ble High court has been misinterpreted.

7. A perusal of Paragraph 4 of the order of the Hon'ble High Court of Delhi in CMM 374/2019 & CM Appl.10048/2019, dated 10.10.2019, shows that it has been specified that – “it is made clear if any elections are to be held for various positions in DAWA, the same shall be done after obtaining orders of the Trial court and with an independent supervision.”

8. Thus, paragraph 4 of the order is clear in its terms that elections can be conducted only after obtaining orders of the trial court.

9. Therefore, I do not find any merit in the objections raised by the plaintiff in conducting elections of the association represented by defendant no.3 and 4.

10. Therefore, the application under Sec. 151 CPC is allowed subject to the condition that the elections are conducted under independent supervision as ordered by the Hon'ble Delhi High court. Therefore, Mr. Amit Kumar Gupta, Enrolment No. D/1743/07, Mobile No. 9211270350, Chamber No. 105, First Floor, Lawyer Chamber Block, Saket Court, New Delhi-110017, is appointed an independent supervisor to supervise the elections of DAWA to be conducted on 25.09.2022 at the International Youth Hostel, 5, Nyay Marg, Chanakyapuri, New Delhi-110021. The defendant no. 3 and 4 are directed to pay a fee of Rs. 30,000/- to the independent supervisor on the date of elections. It is the responsibility of the independent supervisor to supervise the overall conduct of the elections and prepare his report and file the same in court within 4 days thereafter.”

8. Mr. Vipin Kumar Saini, learned Counsel for the petitioner, submits that, as there were several disputed issues which still await adjudication in CS SCJ 78/2018, the elections should not be permitted to be held till they were decided. This precise submission has been



raised before the learned SCJ and has been answered by the learned SCJ, holding that there was no legal interdiction on holding of elections till the issues in controversy were finalized. Indeed, if the submission of Mr. Saini were to be accepted, it would render redundant the direction contained in para 4 of the order dated 10th October 2019 of this Court in CM (M) 374/2019.

9. As such, this Court does not find any infirmity in the impugned order dated 20th September 2022, passed by the learned SCJ, as would call for supervisory correction under Article 227 of the Constitution of India.

10. Nonetheless, in order to assuage the apprehension expressed by Mr. Saini, it is clarified that liberty would be reserved with the petitioner to challenge the elections or the outcome thereof by all means known to law and all issues and contentions that the petitioner may seek to urge, including the issues which form subject matter of trial in CS SCJ 78/2018, would remain open to be urged by the petitioner in any such challenge that the petitioner may seek to lay.

11. Subject to the aforesaid caveat, this petition is dismissed. Pending applications, if any, stand disposed of.

12. No costs.

C.HARI SHANKAR, J

SEPTEMBER 23, 2022/ r.bararia