



C.M.P.No.4174 of 2023
in C.M.P.No.14291 of 2022 in W.A.No.1961 of 2022

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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU,J.

(Order of the court was made by the Hon'ble Chief Justice)

The present application is filed for vacating the order of stay granted by this Court on 26.8.2022 in C.M.P.No.14291 of 2022 in W.A.No.1961 of 2022.

2. We have heard Mr.Sriram Panchu, learned Senior Counsel for the applicant and Mr.AR.L.Sundaresan, learned Senior Counsel for Mr.Vaibhav Venkatesh, learned for the first respondent/appellant.

3. The appellant has filed the appeal against the common judgment and order passed by the learned Single Judge of this Court on 12.8.2022 in a batch of writ petitions. Under the said order, the learned Single Judge, in paragraph 69, observed and directed as under:



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"69. For the foregoing reasons, the impugned communication dated 06.05.2022 which is the subject of W.P.No.14707 of 2022 and the impugned Office order No.491 dated 15.07.2021 which is the subject matter of W.P.No.11738 of 2022 are hereby quashed and the writ petitions are allowed with the following directions:

"The Secretary of the Auroville foundation is directed to give wide publicity through whatever way she deems fit in the interest of the foundation for its effective administration for updation of Register of Residents Assembly is updated, the four statutory bodies namely (a) Governing Board, (b) Residents' Assembly, (c) Working Group of Residents' Assembly and (d) International Advisory Council shall not take any policy decision which alters the existing structure and working of the Auroville Foundation. Once the Register of Residents' Assembly is updated by the Secretary of the Auroville foundation, all the four statutory authorities referred to supra shall act in accordance with the Auroville Foundation Act and its rules."



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4. The writ appeal is pending before this Court.

5. This Court, while granting stay to the impugned judgment, observed that the direction given by the learned Single Judge in paragraph 69 is not only going beyond the prayer in the writ petitions, but even the finding and the observation made in reference to the pleadings.

6. Learned Senior Counsel for the applicant and learned Senior Counsel for the appellant took us through the scheme of the Auroville Foundation Act, 1988 (for short, "*the Act of 1988*"); constitution of the Committees, such as, the Governing Board; the Residents' Assembly and Advisory Council, so also the powers and functions of the respective bodies.

7. The relevant aspects about the powers and functions will be considered when the appeal is decided on its own merits.



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8. We do not find the observation of this Court while passing the interim order that the learned Single Judge has gone beyond the prayer in the writ petitions and the pleadings while passing the order to be without substance.

9. From a perusal of the impugned order, it is manifest that the learned Single Judge has travelled beyond the prayer in the writ petitions and the pleadings and the said fact is also accepted by the learned Senior Counsel for the applicant and learned Senior Counsel for the appellant.

10. In the present application, we are only concerned with the contentions raised by the Residents' Assembly. Sections 18 and 19 of the Act of 1988 deal with the constitution of Residents' Assembly and the functions of the Residents' Assembly. The Residents' Assembly is a statutory body. No doubt, the Governing Board and the Advisory Council are also statutory bodies. When the impugned judgment and order is stayed, even the order of the



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learned Single Judge regarding functioning of the Residents' Assembly with a further rider not to take any policy decision is also stayed. The work of preparing the Register of the Residents' has to be completed and the said Register has to be maintained.

11. Under sub-section (2)(a) of Section 19 of the Act of 1988, the Residents' Assembly may allow the admission or cause the termination of persons in the register of residents in accordance with the regulations made under Section 32. As far as the preparation of master plan is concerned, the same has to be submitted for approval of the Governing Board. It has to recommend the proposal for raising funds for approval of the Governing Board. The Working Committee of Residents' Assembly is contemplated under Section 20 of the Act of 1988. The learned Single Judge, while passing the impugned order, has only prohibited the bodies from taking policy decision.

12. The statutory body may not be restrained from



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functioning. That would be against the very scheme of the Act, unless and otherwise it is shown that the authority exists to disband the Residents' Assembly. *Prima facie*, in our opinion, it would not be appropriate to completely disband the Residents' Assembly.

13. In the light of the above, we partly modify the interim order of stay dated 26.8.2022 passed by this Court qua Residents' Assembly as under:

- (i) The Residents' Assembly may function as provided under Sections 18 to 20 of the Auroville Foundation Act, 1988.
- (ii) The Residents' Assembly shall not take policy decision which shall alter the existing structure and working of the Auroville Foundation.

14. The application, accordingly, stands disposed of.

(S.V.G., C.J.)

(P.D.A., J.)

04.09.2023

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