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W.P.No.13970 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01.08.2023

Pronounced on : 11.08.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.13970 of 2023
and WMP.No.13616 of of 2023

Abha Tewari

... Petitioner

Vs.

1.Auroville Foundation

Rep by the Secretary to the Governing Board
Auroville Foundation Bhavan
Auroville - 605 101.

2.Officer on Special Duty

Auroville Foundation
Auroville Foundation Bhavan
Auroville - 605 101.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, to call for the records of the impugned office order bearing Reference No.AF/ESTT/OO/277 dated 12.04.2023 issued by the second respondent, purportedly on behalf of the first respondent, and quash the same.



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For Petitioner : Mr.B.N.Suchindran

For Respondents : Mr.Vaibhav R.Venkatesh
for Mr.Anirudh A.Sriram for R1
R2 - No appearance

ORDER

The petitioner herein is a member of the Residents' Assembly and also functions as an executive of "Mira Boutique" in the Auroville Visitors' Centre and the Village Action Group of Auroville Foundation.

2.The Auroville Foundation is governed by the Auroville Foundation Act, 1988. The structural arrangement for the Governance which the statute provides for managing the affairs for the Auroville Foundation involves a three-tier body, which are broadly required to work in tandem. They are:

- (i) the Governing Board, which is constituted by the Government of India under Section 11 of the Act with its powers and functions defined under Section 17 of the Act;
- (ii) the Residents' Assembly, which comprises of registered members of the foundation. (According to the petitioner, there are about 2,500 such registered members as of today, the respondent would inform



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that at present it is around 1,800); and

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(iii) the Auroville International Advisory Council constituted under Section 18 of the Act whose members are also appointed by the Government of India.

3. The controversy raised in this case is rooted in a decision of the Officer on Special Duty who vide an unilateral Office-Order, dated 12.04.2023, reconstituted as many as 14 Committees or Units of the Foundation. The petitioner's contention is that the Governing Board does not have any independent power to make changes without taking the Resident Assembly into confidence. This now requires an understanding of the powers of the Governing Board under Sec.17 of the Act and also the role of the Residents' Assembly under Sec. 19 of the Act.

4. The learned counsel for the petitioner submitted that Sec.17 of the Act delineates the powers and functions of the Governing Board, and if they are closely analysed, they indicate that the Governing Board has only a supervisory jurisdiction in the management of the foundation. According to the petitioner, it is the Residents' Assembly which is vested with the power



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to give a shape to the management of the foundation, and it is upon the recommendation of the Residents' Assembly that the Governing Board is required to make its decisions. While the statutory scheme for managing the Auroville Foundation stands thus, an officer on special duty has issued a unilateral office order, dated 12.04.2023 for reconstituting as many as 14 component units of the Auroville Foundation, and these changes were brought about without any recommendation from the Residents' Assembly and without even consulting any of the erstwhile members of the 14 component units or committees.

5.The respondent has raised two fundamental issues though its counter runs through a few pages, they are:

- (a) the petitioner has no *locus standi* since the impugned order has not disturbed her position as an executive of '*Mira Boutique*' and also the '*Village Action Group*' of Auroville Foundation, and those who are actually affected by the order have not chosen to come before the Court;
- (b) the very decision to reconstitute all these units was made pursuant to the decision taken in the 57th Governing Board Meeting.



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Therefore, it is not an unilateral decision of the Secretary, but it is a mere implementation of what has already been decided.

6. Responding to the issue of *locus standi*, the learned counsel for the petitioner submitted that inasmuch as the petitioner is a member of the Residents' Assembly, she has a right to challenge the said notification.

7. Rival contentions are carefully evaluated. The impugned communication dated 12.04.2023 discloses that some decisions were taken by the Working Committee and the Funds and Assets Management Committee jointly in discussion with the Governing Board to bring about certain changes in the composition of some of the teams that look after the different activities of Auroville.

8. Auroville was founded by the Divine Mother (originally Mirra Alfassa, who is being reverentially called the Divine Mother) in mid 1960s, and was managed by the Aurobindo Society. Later its affairs has assumed a certain unhealthy proportions and this resulted in the Parliament enacting the Auroville Foundation Act, 1988, and ever since it is administered as per the



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provisions of the Act and the Rules made thereunder.

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9. The administrative structure for managing the affairs of the Auroville as provided by the Act can be found in sec.10(3). They are: (a) The Governing Board; (b) the Resident Assembly; and (c) the Auroville International Advisory Council. In this proceeding, this court is concerned essentially with (a) and (b) as the dispute is all about the exclusivity of the authority of the Governing Board to re-constitute 14 committees without taking the Resident Assembly into confidence.

10. 1 Section 16 & 17 of the Act, read:

"16. Committees of the Governing Board :-

(1) The Governing Board may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

(2) The Governing Board shall have the power to co-opt as members of any committee appointed under sub-section (1), such number of persons who are not members of the Governing Board as it may think fit, and the persons so co-opted shall have the right to attend the meetings of the committee, and take part in the proceedings of the committee, but shall not have the right to vote.



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17. Powers and functions of the Governing Board :- The powers and functions of the Governing Board shall be :-

- (a) to promote the ideals of Auroville and to coordinate activities and services of Auroville in consultation with the Residents' Assembly for the purposes of cohesion and integration of Auroville;*
- (b) to review the basic policies and the programmes of Auroville and give necessary directions for the future development of Auroville;*
- (c) to accord approval to the programmes of Auroville drawn up by the Residents' Assembly;*
- (d) to monitor and review the activities of Auroville and to secure proper management of the properties vested in the Foundation under Section 6 and other properties relatable to Auroville;*
- (e) to prepare a master-plan of Auroville in consultation with the Residents' Assembly and to ensure development of Auroville as so planned;*
- (f) to authorise and coordinate fund-raising for Auroville and to secure proper arrangements for receipts and disbursement of funds for Auroville."*

10.2 Sec. 19 of the Act deals with the functions of the Residents' Assembly.

It is as below:

'19. Functions of Residents' Assembly:-

- (1) The Resident's Assembly shall perform such functions as*



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are required by this Act and shall advise the Governing Board in respect of all activities relating to the residents of Auroville.

(2) In particular, and without prejudice to the foregoing powers, the Residents' Assembly may :

(a) allow the admission or cause the termination of persons in the register of residents in accordance with the regulations made under section 32;

(b) organise various activities relating to Auroville;

(c) formulate the master plan of Auroville and make necessary recommendations for the recognition of organisations engaged in activities relating to Auroville for the approval of the Governing Board;

(d) recommend proposal for raising funds for Auroville for the approval of the Governing Board.

(3) For the purpose of carrying of its functions, the Residents' Assembly may establish such committees as it may consider necessary which shall represent it in relation to the functions to be performed by the Governing Board.'

11. On a close reading of Section 19, indicates that its functions are limited to admission or removal of any person from the register of Residents' Assembly, to organise various activities of Auroville, to formulate the



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master plan for Auroville, and to make recommendations to raise funds for Auroville. Sections 17(a), 17(b), 17(c), 17(d) and 17(f), essentially rely on powers and functions of Governing Board. However, constitution of various committees for efficient discharge of duties and functions of Act is left exclusively to the Governing Board. Therefore, the contention of the petitioner that the Governing Board ought to have consulted the Residents' Assembly before reconstituting the various committees is untenable. This apart, as rightly contended by the counsel for the respondent, those who are aggrieved by the removal vide the impugned proceedings have not chosen to challenge it, and hence the petitioner may not have a *locus standi* to maintain this petition.

12. For the above stated reasons, this Court does not find any merit in the petition, and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes / No
Speaking order / Non-speaking order
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N.SESHASAYEE.J.,

ds

Pre-delivery order in
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