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W.P.No.20070 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.10.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.20070 of 2023

&

WMP.Nos.19418 & 19420 of 2023

M.Arulmani Arasu

... Petitioner

Vs

1. National Commission for Scheduled Castes,
5th Floor, Lok Nayak Bhawan,
Khan Market,
New Delhi – 110 003
Rep. by its Chairman.
2. National Commission for Scheduled Castes,
5th Floor, Lok Nayak Bhawan,
Khan Market,
New Delhi – 110 003
Rep. by its Deputy Director.
3. Shri. Sreedhar Swamy Dola
4. Indian Overseas Bank,
Human Resources Management
Department (HRMD),
Central Office, No.762, Anna Salai,



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Chennai – 600 002

rep. by its General Manager (HR).

... Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling the records pertaining to the order of the 2nd respondent made in File No.S-5/Bank (IOB) – 12/2023/SSW-II [65880] dated 27.06.2023 and quash the same.

For Petitioner : Mr.R.Malaichamy

For Respondents : Mr.K.Srinivasamurthy (R1 and R2)
Senior Panel Counsel for Central Government
Mr.P.Subba Reddy (R3)
Mr.R.Manimuthu (R4)

ORDER

The petitioner is a member in the All India Scheduled Castes/Scheduled Tribes (SC/ST) Association of Indian Overseas Bank (IOB) employees (in short 'Association'). Elections were held in respect of the Association for the term 2022 to 2025 at Vishakapattinam and the parties to this Writ Petition were at odds with each other in respect of the procedure followed. Allegations of forgery, fake votes and erroneous polling were levelled.

2. O.S.No.8285 of 2022 has been filed before the I Assistant Judge, City Civil Court, Chennai by this very petitioner praying for a declaration that the



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election held on 13.11.2022 at Vishakapattinam in respect of various posts of the Association be declared as null and void.

3. Yet another member of the association has also filed a original suit in O.S.No.7639 of 2022 wherein, the Writ Petitioner is arrayed as R3. The relief sought in that Suit is more restricted when compared with the relief sought for in O.S.No.8285 of 2022 insofar as that plaintiff has only asked for declaration of the nomination of certain persons as null and void and not the entire election itself. Both the Suits were tagged together and pending before the I Assistant Judge, City Civil Court, Chennai.

4. Bearing in mind the internal rivalry between the members of the Association, the senior manager of the Velachery branch of IOB had suspended the operations in the bank account, being savings bank No.12961000023200 (in short 'bank account'). This is in line with normal practice when the account holders are engaged in litigation.

5. Applications for interim relief have been filed before the City Civil Court seeking appointment of Advocate Commissioner and a direction to the Senior Manager of Velachery Branch of IOB, where the Association operates the bank account, to allow operation of that account either by the newly elected office bearers or by the erstwhile office bearers till the disposal of the suits.



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6. The proper course of action would have been for the parties to pursue the interlocutory application relating to the operations of the bank accounts, since all the key members in the Association are members in one or the other suit. Instead, what has been done is that R3 in this Writ Petition, Sri.Sreedhar Swamy Dola, who is the present General Secretary of the Association had made a representation before the National Commission for Scheduled Castes (in short 'Commission') seeking unblocking of the bank account and restoration of a quaterly meeting of the office bearers of the Association.

7. In *All India Indian Overseas Bank SC and ST Employees' Welfare Association and others V. Union of India and others* ((1996) 6 SCC 606), the Hon'ble Supreme Court has held that the powers of the Commission are procedural in nature, for the limited purpose of investigating matters falling under Article 338(5)(a) or inquire into any complaint under Article 338(5)(b) of the Constitution. Such powers do not extend to the grant of injunction, temporary or permanent.

8. As such, such powers do not inhere in the Commission nor could such powers be inferred or derived from a reading of clause (8) of Article 338 of the Constitution. In that case, the Commission had issued an interim direction and that was held to be bad in law.



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9. In the present case, based on the complaint/representation of R3, the Commission has conducted a meeting on 15.05.2023 and has inter alia recommended that the Managing Director of IOB, Egmore Branch may revoke the suspension imposed the operation of the bank account, with immediate effect. The Commission has also issued a direction to conduct quarterly meetings with elected office bearers of both the groups. Though other directions were also issued, however, the first direction issued, in relation to the revocation of the bank account, is alone the subject matter of the present Writ Petition.

10. By communication dated 27.06.2023, the Commission has written to the Managing Director and CEO of IOB, Central Office calling for his appearance before the Commission to enquire into the representation of R3 and enclosing a copy of minutes dated 15.05.2023.

11. Today, learned counsel for R3 files affidavit dated 05.10.2023 deposing at paragraph 4 that the Association and the newly elected office bearers shall not precipitate the matter before the Commission and shall instead, pursue O.S.No.8285 of 2022 pending before I Assistant City Civil Court, Chennai. This is recorded.

12. In light of the judgment of the Hon'ble Supreme Court in the case of *All India Indian Overseas Bank SC and ST Employees' Welfare Association*



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(supra), impugned communication dated 27.06.2023 and the recommendation of the Commission in minutes dated 15.05.2023 for revocation of the suspension of the bank account bearing savings account No.129601000023200 in IOB, Velachery Branch are set aside.

12. It is made clear that any other enquiry that the Commission has embarked upon pursuant to the representation may continue, as the parties before me are unanimous to state that the issue addressed in this Writ Petition only concerns the suspension of operations of the bank account.

13. The 1st Assistant Judge, City Civil Court, Chennai shall take up the interlocutory applications, that are slated for hearing on 11.10.2023, hear the parties and pass orders thereupon expeditiously, in any event, within a period of two (2) weeks from date of hearing of the applications.

14. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

05.10.2023

Index : Yes / No

Speaking Order : Yes/No

Neutral Citation: Yes/No

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Note: Registry is directed to issue a copy of this order on or before 09.10.2023.



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To
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1. The Chairman.
National Commission for Scheduled Castes,
5th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi – 110 003.
2. The Deputy Director.
National Commission for Scheduled Castes,
5th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi – 110 003.



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Dr.ANITA SUMANTH,J.

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