

Item No. 13
23.02.2024
Court. No. 19
GB/S. Biswas

C.O. 660 of 2024

All India Chess Federation (AICF) & Anr.
Vs.
Bengal Chess Association (BCA) & Ors.

Mr. Saptangsu Basu,
Mr. Debasish Roy,
Mr. Sourav Sen,
Ms. Sumitra Das

...for the Petitioners.

Mr. Rachit Lakhmani,
Mr. Sarbananda Sanyal

... Opposite Party No.1.

1. The revisional application arises out of an order dated February 16, 2024, passed by the learned District Judge at Alipore, District – 24 Parganas (South) in Misc. Appeal No.25 of 2024. The Misc. Appeal No.25 of 2024 arose out of Title Suit No.18 of 2024.
2. By the order impugned, the learned court allowed an ex parte ad interim injunction by which the Bengal Chess Association (BCA) was allowed to participate in the AGM to be held in March 2024 and also to exercise its vote at the election. Such order has been passed on the consideration of a, prima facie, case and balance of convenience and inconvenience.
3. The misc. appeal arose out of an order of refusal of an ad interim order by the learned trial judge. The learned trial judge was of the view that as the plaintiff was disaffiliated by the federation and the federation is duly recognized by the Government of India, an interim order, allowing the opposite party to

participate and cast vote in the ensuing election, could not be passed. The background was taken note of by the learned trial judge. Challenging the disaffiliation, an earlier suit was filed being the Title Suit No.600 of 2021. Initially an ad interim order was passed in the said suit but thereafter, upon perusal of Clauses – 26(a) to 26(i) of the Constitution and Bye laws of the All India Chess Federation, it was found that the court did not have any jurisdiction to decide the suit. There was an ouster of jurisdiction. Accordingly, the plaint was returned and the order of injunction was vacated.

4. In the present suit, it was found that the plaintiff had again assailed the order passed in Title Suit No.600 of 2021 on the ground of fraud and prayed for further injunction restraining the defendant from interfering with the regular functioning of the body.
5. According to the learned trial judge, an order of injunction was not warranted in the facts of the case. The learned appellate court held that the plaintiff had a prima facie case and the balance of convenience and inconvenience was in favour of the plaintiff and passed orders restraining the All India Chess Federation from denying the right of the Bengal Chess Association to participate in the AGM to be held in the month of March 2004 and from exercising voting right till March 2024. Such order has been assailed before this Court by the All India Chess Federation

and the affirmation of the revisional application has been done by one Asit Baran Chowdhury.

6. Mr. Basu, learned senior advocate appearing on behalf of the All India Chess Federation submits that the election process has been going on as per the direction of the Delhi High Court under the supervision of two special officers. That the Alipore court did not have jurisdiction to entertain the suit in view of Clause 26(g) of the Constitution and bye laws of the All India Chess Federation. It appears that All India Chess Federation had authorized Asit Baran Choudhury, the treasurer of Sara Bangla Daba Sangstha to act on its behalf in all cases. Such authorization was given by Mr. A. K. Verma, the Interim Secretary, All India Chess Federation.
7. According to Mr. Basu, in view of the clause, the suit was not maintainable. Secondly, the main relief in the suit was allowed. This disaffiliated body could not be allowed to participate in the election.
8. Mr. Lakhmani, learned advocate for the Bengal Chess Association submits that the affidavit has been affirmed by an imposter. Asit Baran could not act on behalf of the AICF. That the Bengal Chess Association held its election under the direction of this Hon'ble court. The group of Sara Bangla Daba Sangstha lost the election and started disturbing the regular functioning of the Bengal Chess Association. They joined hands with one Mr. Chauhan who was the

earlier secretary of the All India Chess Federation and he was subsequently removed. Mr. Chauhan had caused disaffiliation of the Bengal Chess Association.

9. It is also stated that in the provision of Clauses 24 and 25 of the Constitution of India and Bye-laws, there was no scope for disaffiliation. The body could have been suspended and new body could have been authorized to function, but the disaffiliation was totally illegal and should not be given credence at all.
10. Thus the learned lower appellate court did not act illegally in allowing the Bengal Chess Association to cast its vote and to participate in the election as also the AGM.
11. It is next submitted that the earlier plaint was returned by the learned court in Title Suit No.600 of 2021, on the basis of the amended provisions of the bye-laws. Such provision was not in existence when the suit had been filed. By practicing fraud, such order was obtained.
12. This court finds from the plaint that the reliefs sought for were as follows:
 - a) "A decree for declaration that the order dated 15.12.2021 passed by the court of learned 4th Civil Judge (Senior Division) Alipore in Title Suit No.600 of 2021 has been obtained by practicing fraud upon the learned court and as such is a nullity and is

non-est in the eye of law and not binding upon the plaintiff.

- b) A decree for permanent injunction restraining the defendants from interfering with the regular function of the plaintiff as an affiliated body of defendant no.1;
- c) Costs;
- d) Ad-interim relief on similar terms;
- e) Such other relief or reliefs as may be found the plaintiff is entitled to in law and in equity.”

13. The first prayer is with regard to the declaration that the order passed in Title Suit 600 of 2021 was obtained by the fraud and was a nullity. Second one is a prayer restraining the defendants from interfering with the regular functioning of the Bengal Chess Association, as the affiliated body of the defendant no.1. From the plaint, I do not find any averment with regard to the ensuing election or participation in the election. There are no prayers either. In any event, the learned trial judge, upon taking note of the earlier suit and the order, came to the conclusion that ad interim order of injunction could not be passed without hearing the defendants, in view of the background and the return of the plaint.
14. In my view, the learned lower appellate court failed to take into consideration the aspects which have been

discussed by the learned trial judge. The main relief in the suit has been allowed at the ad interim stage. The order of disaffiliation is not under challenge in the plaint. Reasons have not been recorded as to why the learned court was of the view that the participation in the election process by the Bengal Chess Association should be allowed at the ad interim stage, without hearing the defendants. Inconvenience in not allowing such order in favour of the Bengal Chess Association or the irreparable loss and injury that would be caused to the Bengal Chess Association, if such order was not passed, have not been discussed. Amidst the existence of an order of disaffiliation, an ad interim order was passed allowing casting of vote. There is also a clause with regard to ouster of jurisdiction, at present.

15. Under such circumstances, the order impugned is set aside. As nothing remains to be decided in the Misc. Appeal, the same is disposed of. All the issues raised by Mr. Lakhmani and the petitioner shall be adjudicated by the learned trial judge while disposing of the application for injunction. The cardinal principles of prima facie case, balance of convenience and inconvenience and irreparable loss and injury shall be applied to the facts of the case. A copy of the plaint and the injunction application with all annexures and documents which have been filed in the suit, shall be handed over to the learned advocate on record for the petitioner before this court, within

February 26, 2024. The objection to the said injunction application shall be filed within two days from receipt thereof. The learned trial judge shall decide the injunction application on a day to day basis, and dispose of the same within March 8, 2024 as the court is informed that the election is on March 10, 2024.

16. The observation in this order shall not influence the learned trial judge, who shall decide the matter independently. The election process will continue.
17. The revisional application is accordingly disposed of.
18. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)