



O.A.No.701 of 2024 in C.S.No.226 of 2024

Original Application No.701 of 2024 in
Civil Suit No.226 of 2024

Dr.G.JAYACHANDRAN,J.

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Civil Suit No:226 of 2024 is filed for the relief of Declaration and consequential Injunction.

2. The first defendant is the Indian National Trade Union Congress (shortly called as “INTUC- Central”) having jurisdiction over all territories within the Indian Union. The second defendant is its President. The third defendant is the Pradesh Branch (referred to as “INTUC - State”) of the first defendant Union. The Constitution of the first defendant says that the Pradesh Branch will have its own Constitution, it confers supervisory power to the INTUC – Central over the functioning of INTUC – State. Also, it vests with the President of the INTUC – Central, the power to suspend or dissolve the Pradesh Branch and form a Adhoc Committee to carry on the work of the Pradesh Branch.



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3. The subject matter of the suit is the Notification dated 06.09.2024 issued by the second defendant, who is the President of the first defendant (Central Union), appointing the defendants 5 to 13 and others as members of the Adhoc Committee to the third defendant (State Union), by implicitly ousting the plaintiffs and others, who were duly appointed as office bearers of the working committee of the third defendant (State Union) by the fourth defendant, who is the elected President of the third defendant Union.

4. Being aggrieved by the Notification dated 06.09.2024, the suit to declare the Notification as illegal, null, void, non-est in the eye of law and consequential Permanent Injunction restraining the defendants, men and their agents from interfering with the discharge of the duties and functions of the first plaintiff as Secretary General, the 2nd plaintiff as General Secretary and the third to sixth plaintiffs as Secretaries of the third defendant (State Union).



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5. The Original Application No. 701 of 2024, which is taken up for consideration, is for ad-interim injunction restraining the respondents/defendants, their men and agent, from giving effect to the impugned Notification dated 06.09.2024 signed by the second respondent as President of the first respondent.

6. The contention of the Learned Counsel for the petitioners/plaintiffs:

The 4th respondent was elected as the President of the third respondent (INTUC – State Branch) in its 27th State Delegates Conference held on 07.08.2022, as per the constitution of the 3rd respondent. In exercise of the power conferred on the President under Clause 11 (b) (2) of the Constitution, the fourth respondent nominated the office bearers and working committee members as specified under Clause 11 (c). The plaintiffs 1 to 6 were so appointed by the fourth respondent between 16.08.2022 to 20.08.2022 and they are carrying on their function as per the objects of the



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Union. As President of Indian National Engineering Employees Union (INEEU) the first plaintiff questioning the close associates of the fourth defendant for their illegal squatting of the property owned by Indian National Engineering Employees Union (INEEU) an affiliated body of the third respondent. Being disgruntled the fourth respondent in collusion with the second respondent has schemed to issue the impugned Notification.

7. According to the petitioners, the impugned Notification is illegal and abuse of power. No show cause notice issued to them before issuing the impugned Notification. Neither disciplinary proceedings nor dissolution proceedings initiated by the second respondent in the manner known to law before dissolving the duly elected working committee. The impugned Notification does not speak about the reason for appointing Adhoc Committee in the place of existing working committee appointed as per the Pradesh Constitution. Further, the Constitution of the third respondent there is no provision for appointment of Adhoc Committee.



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8. Referring Clause 11(c) of the Tamil Nadu State INTUC (third respondent) Constitution, the petitioners claim that the appointment of adhoc committee consisting of 32 members for the various posts as against the sanctioned strength of 21 members as provided under the third respondent constitution even without specifying the tenure of the Adhoc Committee is *exfacie* illegal.

9. Contention of the Learned Counsel for the first and second respondents:

According to these respondents, in view of Clause 20 of the first respondent Constitution, the suit itself is not maintainable before the Court at Chennai. As per Clause 20, any dispute regarding organisational matters, election issues of the organisation (INTUC) only the Courts at Delhi shall have the jurisdiction. To buttress this submission, the Hon'ble Division Bench Judgment by this Court rendered in C.S.No.566 of 2016, dated 8th December, 2016 is relied.



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10. The Learned Counsel for the respondents states that, under Clause 11(i) of its Constitution, the second respondent being the President shall exercise general supervision and control over the affairs of the organisation. The term 'organisation' is not confined to the 'Central organisation' alone but it also includes the Regional and Pradesh branches. The structure of INTUC is mentioned in Clause 4 of the first respondent Constitution and this Clause specifically declares that INTUC shall consist of Regional and Pradesh Branches. Further, under Clause 12 (i), the second respondent as President is empowered to appoint Adhoc Committee, if he finds that the Branch is not functioning properly.

11. Pursuant to the complaints received by the second respondent on the improper functioning of the Working Committee of the third respondent, the first respondent represented by its President- the second respondent appointed the Adhoc Committee under the impugned Notification dated 06.09.2024. The Notification was issued in the interest of the affiliated Unions under the third respondent and to protect the interest of lakhs of



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workmen under the affiliated Unions.

12. Based on the impugned Notification, the Adhoc Committee had taken charge on 06.09.2024 and discharging the duty. While so, producing a manipulated copy of the central organisation constitution, the petitioners have obtained interim order of injunction and had broke open the doors of the third respondent premises and over locked it detrimental to the interest of the Union. Therefore, the petitioners, who have come to the Court with unclean hands and acted detrimental to the interest of the members of the third respondent not entitled for injunction.

13. Contention of the fourth respondent:

This respondent is the elected President of the third respondent (INTUC- State Union). According to him, the Central Head Quarters of INTUC situated at New Delhi controls it Branches in State including the third respondent. Any person, who become a member of INTUC is bound by the provisions contained in the Constitution and no body can act or go



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against the provisions of the Constitution. Therefore, the suit for declaration instituted at Chennai is not maintainable in view of Clause 20 of the first respondent Constitution. As elected President of the third respondent, he appointed nearly 100 office bearers including the petitioners herein to the third respondent Union. While so, the petitioners, who are 6 in numbers alone have challenging the appointed of Adhoc Committee. This shows that the majority of them have no grievance. For this reason also, the suit is not maintainable.

14. Further, the Adhoc Committee appointed under the impugned Notification consists of a President, 5 Working Presidents, 1 Senior Vice President, 3 Vice Presidents, 1 Secretary General, 1 Senior Secretary General, 7 General Secretaries, 8 Secretaries, 6 Organising Secretaries and 1 Treasurer, the plaintiffs/petitioners had laid the suit only against 10 of them and left the others. Therefore, the suit is bad for non joinder of necessary parties and on this score also liable to be dismissed.



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15. The Learned Counsel for the fourth respondent questions the credential of the petitioners for not furnishing the true copy of the first respondent Constitution and attributes it as a wilful suppression with intention to screen from the Court the ouster of jurisdiction clause.

16. As reply, the Learned Counsel for the petitioners submitted that, the impugned order passed affecting the civil right of the petitioners from functioning as office bearers of the third respondent Union, which has its Head Quarters at Chennai and governed by its owns Constitution. The Clause 20 of the first respondent Constitution will confine only to the disputes regarding organisational matters and election issues. The term 'organisation' refers only to 'central organisation' and not the 'Pradesh Branches'. The judgment of the Division Bench rendered in C.S.No. 566 of 2016 is not a speaking order and the *prima facie* opinion regarding jurisdiction expressed by the Single Judge without any reasoning has no binding effect.



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17. The Learned Counsel also submitted that, since part cause of action arose within the territorial jurisdiction of this Court and some of the respondents are residing/carrying on business outside the territorial jurisdiction of this Court, the petitioners have obtained leave to sue under Order XIV, Rule 8 of Original Side Rules and Order III, Rule (1) of Original Side Rules r/w Clause 12 of Letters Patent. The grant of leave is in force and the respondents have not chosen to file petition to revoke the leave. Therefore, Clause 20 of the first respondent Constitution which does not cover the issue involved in this suit is not applicable.

18. Heard the submission made by the Learned Counsels.

19. The facts narrated above are substantially admitted by both the parties. While considering the application for interim injunction, the trite principle laid by the Courts is the triple test (a) prima facie case, (b) irreparable loss, and (c) balance of convenience. That apart, in addition, yet



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another issue regarding the maintainability of the suit before this Court is raised by the respondents.

20. The cause of action for the suit as stated in the plaint is as below:-

“(14) The cause of action of the present suit arose on 07.08.2022 when the 27th Delegates conference was convened at Madurai, wherein the 4th Defendant has been elected as President with power to nominate other office bearers and members of the working committee; on 16.08.2022 when the 4th Defendant herein had appointed the 1st Plaintiff as Secretary General of the working committee; on 16.08.2022 when the 4th Defendant has appointed the 2nd Plaintiff as General Secretary of the Working Committee; on 20.08.2022, when the 4th Defendant appointed the plaintiffs 4 to 6 as Secretaries of Working Committee; on 06.09.2024, when the 1st Defendant had issued the Impugned Notification appointing the Adhoc committee for the administration and management of the 3rd Defendant herein with 32 members as office bearers of various post as against the sanctioned strength of 21 members as provided under the Constitution of 3rd Defendant and thereby impliedly ousting the elected working committee body with an unelected body at the whims and Fancies of the Defendants 2 and 4 herein and on subsequent dates with part of cause of action, being arouse within



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the territorial jurisdiction of this Hon'ble Court. It is pertinent to mention that Head Quarters of the 3rd Defendant is situated within the territorial jurisdiction of this Hon'ble Court and thus the part of cause of action has arisen within the territorial jurisdiction limits of this Hon'ble Court. Further, some of the Defendants are residing outside of the territorial jurisdiction of this Hon'ble Court, and thus, a leave has been sought from this Hon'ble Court vide order dated 19.09.2024 made in Application No.4808 of 2024 and A.No.4917 of 2024, order dated 24.09.2024 on obtaining such leave the present suit is filed.”

21. This Court being satisfied that part cause of action in the suit had arose within the territorial jurisdiction of this Court had granted leave to sue and the said order of granting leave is not challenged.

22. To show that the petitioners have not come to the Court with clean hands, the Constitution copy of the first respondent relied by the petitioners which apparently not similar to the copy relied by the respondents. Submission is made that to suppress the Clause which oust the jurisdiction, the petitioners have produced a truncated copy of the Constitution which



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ends with Clause 14.

23. In response to this submission, the learned counsel for the petitioners states that the copy of the constitution available with them was produced before the Court and it was not with any intention to suppress any fact. Even if Clause 20 is taken into consideration, the ouster of the jurisdiction of other Courts is only in respect of disputes connected with organisational matters of the Central Unit and Election Disputes. In the interim order granted by this Court on 27/09/2024, the question of maintainability was considered and held that, the subject matter under consideration is not in connection with the organisational matter but relates to democratic functioning of the State Unit as per its Constitution.

24. To examine whether the expression 'organisational matters' used in Clause 20 of the first respondent Constitution will cover the affairs of the Office Bearers and Working Committee Members of the third respondent, it is necessary to first look at Clause 4 of its Constitution which reads as



4. Structure

“The INTUC shall consist of (1) Central Organisation, (2) Affiliated Unions, (3) Industrial Federations duly constituted (4) Regional/Pradesh Branches and Division. District, Taluka, Block, Mandal and Panchayat Councils functioning under the direct control and supervision of the Central Organisation, (5) Assembly of delegates, (6) General Council and (7) Working Committee and other committees special or/and Ad hoc, created by aforesaid constituent (Working Committee or the Central Organisation, and other committee and its office bearers and or organs created by the Working Committee) to which the Working Committee has delegated its power for the proper functioning of the Central Organisation.”

25. In this clause, the term ‘organization’ is qualified with a word ‘Central’. Therefore, though Pradesh branches are included under the structure of the Central Unit, the affairs of the Pradesh Branches, which are to be governed by its own Constitution as per Clause 12 (e) cannot be fixed within the scope and ambit of Clause 20 which reads as below:

20. Settlement of Dispute:

In case of any dispute regarding organisational matters, election issues of the organisation (INTUC) only the



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Courts of Delhi shall have the jurisdiction.

26. The name and jurisdiction of the first respondent (Central Unit) and the third respondent (State Unit) also makes it clear that ‘organizational matters’ referred in Clause 20 is only to the organization mentioned in Clause 1 of the Constitution and not in respect of other organization which have their own separate Constitution, name and identity.

27. For convenient sake the respective clause regarding name and jurisdiction of first and third respondent is extracted below:-

Clause 1 of the first respondent reads as:

The name and the Organisation shall be INDIAN NATIONAL TRADE UNION CONGRESS, (RASHTRIYA MAZDOOR CONGRESS) and its jurisdiction shall comprise all territories within the Indian Union.

Whereas , Clause 1 of the third respondent reads as:

(a)The name and the Organisation shall be INDIAN NATIONAL TRADE UNION CONGRESS,



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Tamil Nadu Branch, hereinafter referred to as Tamil Nadu INTUC.

(b) Its jurisdiction shall extend to all Districts of Tamil Nadu State.

28. For the reasons stated above, there can be no doubt about the jurisdiction of this Court to entertain the suit and the interlocutory application. In view of the fact that the impugned Notification touches upon the functioning of the office bearers of the third respondent Union which has its head office at Chennai and have territorial jurisdiction extending all Districts of Tamil Nadu, this Court holds that Clause 20 of the first respondent Constitution will not oust the jurisdiction of this Court from entertaining this suit. The plaint for consideration is whether the impugned notification suffers an illegal infirmities.

29. For the sake of convenience, the impugned notification dated 06.09.2024 is extracted below:-



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INDIAN NATIONAL TRADE UNION CONGRESS
(INTUC) NATIONAL HEADQUARTERS

Phone: 2374 7557/55
Fax: 2338 4244
E-mail: intucn@gmail.com
Website: www.intuc.net



"SHRAMIK KENDRA"
4, BHAI VEER SINGH MARG,
NEW DELHI - 110 001

NOTIFICATION

All India INTUC pleased to appoint the following Adhoc Committee for the Tamilnadu INTUC Branch with immediate effect in the interest of the Affiliated Unions and its members of Tamilnadu INTUC.

The Adhoc committee will hold the Office till the direction of Central INTUC. If any Addition and Removal office-bearer in the Adhoc committee could be made only the State INTUC President and the same has to be informed to Central INTUC.

District INTUC Presidents, State Federations and Working Committee Members will be nominated by the State President INTUC.

Central INTUC advised to State Branch to maintain discipline in the Organisation and requesting all affiliate Unions to take advice from the State Branch and extend all cooperation to State Branch.

List of Office-bearers

- | | |
|-----------------------|---|
| 1. President | Sri.V. R. Jaganathan |
| 2. Working Presidents | 1.Sri.R.Audikesavan
2.Sri.P.Kathirvel
3.Sri.K.A.Manoharan
4.Sri.R.P.K.Murugesan
5.Sri.R.Kuppusway |

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राष्ट्रीय मजदूर कांग्रेस INDIAN NATIONAL TRADE UNION CONGRESS (I.N.T.U.C.) NATIONAL HEADQUARTERS	
Phone: 2374 1767/68	SRAMIK KENDRA
Fax: 2358 4244	4 BHAI VEER SINGH MARG
E-mail: intuco@gmail.com	NEW DELHI-110001
Website: www.intuc.net	
3. Senior Vice-presidents	Sri. R. Srinivasan
4. Vice-presidents	1. Sri. N.Thulasidas 2. Sri. Arul Prasad 3. Sri. V.R. Kalyankumar
5. Secretary General	: Sri.T.V.Xavier
6. Senior General Secretary	: Sri.V.K. Nallamuthu
7. General Secretaries	:1.Sri.K.Elavari 2.Sri.K.K.Kalngium 3. Sri.B.Jeevan Murthy 4. Sri. A. Balaraman 5.Sri.G.K.Muralidharan 6.Smt..Bhuvaneshwari Najappan 7.Sri.K.Perumal Swamy
8. Secretaries	:1. Sri. B.Antharamakrishnan 2.Sri.S.A.Welington, Advocate 3. Sri. K.Rajashekaran 4. Sri. K.Guruswamy 5. Sri. Banu Nagappan 6. Sri. A.Jayachandran

dr. J. C. P. [Signature]

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9. Organising Secretaries : 1.Sri. Seamen R Shunmugam
2.Sri.D.Ramesh Babu
3. Sri. J.Ebenezer Emannuvel
4. Sri. C. Stephen Mathan
5. Sri. Karthe R. Gowtham
6. Sri. S. Suresh

10. Treasurer : Sri. G. Prabakaran

Date:06-09-2024

(Dr. G. SANJEEVA REDDY)
PRESIDENT - ALL INDIA INTUC

Copy to: All Government Officials

All the Managements

All Affiliated Unions



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30. The Respondents admits that these petitioners were appointed by the fourth respondent in exercise of the power vested in him under Clause 11(b) (2) of the third respondent Constitution. In the counter filed by the second respondent, he claims that he is empowered to appoint Adhoc Committee under Clause 11(i) and 12(i) of the first respondent Constitution. There is specific denial that the action was not under Clause 16 which relates to disciplinary proceedings.

31. Examination of Clauses 11(i) and 12(i), we find that Clause 11(i) deals with the power and functions of the President and it reads as under:

(i) President: The President shall preside over all meetings, give rulings, sign all minutes. He shall conduct all correspondence and exercise general supervision and control over the affairs of the organisation. He in consultation with General Secretary will fill up the vacancies of Office Bearers or any member of the Working Committee occurring due to any reason for the



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remaining tenure and will take approval of the Working Committee in its next meeting. He shall also have the powers to expel any members in case of mis-conduct or anti-organisational activities and seek approval in the next Working Committee Meeting of the Congress. He can also call Special Meetings of the Working Committee to discuss important urgent issues with due notice to all concerned.

32. Clause 12 is about the Pradesh Branches. Sub clause (a) of clause says, the Pradesh Branches will have their Head Quarters at such places as they choose. Sub clause (e) says, each Pradesh branch of INTUC will have its own Constitution. Sub-Clause (f) entrust the charge of the affairs of the Union within its own jurisdiction to the Pradesh Branches subject to the general supervision and control of the Working Committee. Sub Clause (i) is the authorisation given to the President of the Central Union to suspend or dissolve the Pradesh Branch and form an Adhoc Committee to carry out its work.



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33. In the given context, it may be relevant to extract sub-clauses (e), (f) and (i) of Clause 12 to determine whether the impugned order clear the test of competency.

12. Pradesh Branches:

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(e) Each Pradesh Branch of INTUC will have its own constitution which will have the same organs as at the Central Level subject to the approval of the Working Committee of INTUC. In future the Working Committee may issue a Model Constitution for the Branches to follow any substantive changes in the Model Constitution will have to receive prior approval of the Working Committee.

(f) Subject to general supervision and control of the Working Committee the Pradesh Branches shall be in charge of the affairs of the Union within its own jurisdiction, and shall function in the same manner as the INTUC within its jurisdiction. The Pradesh Branch shall also implement all the resolutions of the Working Committee, General Council and the Assembly of Delegates and any directive that may be issued by the Working Committee or on its behalf by the President or the General Secretary.



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(g)...

(h)....

(i) On failure of the Pradesh Branches to function in terms of the Constitution or in accordance with the directions of the Working Committee or if the Working Committee has found that the Branch is not functioning properly, the Working Committee may authorise the President to suspend or dissolve the Pradesh Branch concerned and form an Ad-hoc Committee to carry on its work.

(Emphasis added)

34. The impugned Notification extracted above does not mention the reason why Ad hoc Committee is Constituted and what will be their tenure. It also does not disclose whether the appointment of the Adhoc Committee is due to failure of the Pradesh Branch to function in terms of the Constitution or on the finding of the working Committee that the Branch is not functioning properly. Under Clause 12 (i) of the first respondent Constitution, the second respondent cannot constitute an Adhoc Committee on his own at his whims and fancy. He can exercise his power only if any one of the reasons mentioned in the Clause 12(i) satisfied. That apart, yet



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another illegality in the impugned Notification noticed is that the delegation of power to add or remove the office- bearer in the Adhoc Committee is given to the State INTUC President ie the fourth respondent. When the second respondent himself have no power to appoint Adhoc Committee arbitrarily and unilaterally without compliance of the requirement mentioned in Clause 12(i). The delegation of the power to the fourth respondent had made the illegality in the impugned notification more manifest.

35. The petitioners, who are all duly appointed office bearers cannot be substituted with an Adhoc Committee unilaterally by the second respondent. His power is subject to the conditions mentioned in Clause 12(i) of the constitution. Since the impugned Notification is issued without authority and contrary to the constitution of the first and third respondent, the petitioners have made out a *prima facie* case to interfere in this matter. If the implementation of the impugned Notification is not restrained by an order of injunction, the term of the petitioners being 3 years and to expire by

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August 2025, the petitioners will be put to irreparable loss and cannot be compensated in terms of money or by any other means. The Adhoc Committee appointed in contradiction to the provisions of the constitution cannot be entrusted to carry on the work of the third respondent. Unless, injunction is granted, the members of the third respondent will be put to inconvenience by being administered by persons appointed illegally. The balance of convenience is also in favour of the petitioners.

36. As a result, **the interim order granted on 27.09.2024 is made absolute.** Considering the nature of the dispute no order as to costs.

12.11.2024

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Index:yes
Internet:yes/no
Speaking order/non speaking order

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delivery Order made in
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