

08.05.2025
Court No.6.
AB

C. O. 1682 of 2025

**Sachinandan Brahmachari Gurupita
B.P. Yati Maharaj & Others
Vs
Mayapur Sri Chaitanya Math & Others**

Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee,
Mr. Samrat Chakrabortyfor the Petitioners.

Mr. Pradip Dutta, Sr. Adv,
Mr. Sudip Deb, Sr. Adv,
Mr. Chanchal Kr. Dutta,
Ms. Ipsita Ghoshfor the Opposite Parties.

This application under Article 227 of the Constitution of India is at the instance of the defendants and is directed against an order dated May 5, 2025, passed by the learned Additional District Judge, Nabadwip, Nadia, in Title Appeal No. 10 of 2024.

By the order impugned, the application filed by the respondent nos. 2, 3, 5 to 10, and 13 to 18 in Title Appeal No.10 of 2024 stood rejected and a date was fixed for argument.

The opposite parties herein filed a suit being Title Suit No. 58 of 2018 for declaration that the plaintiff nos.2 to 8 are duly elected Governing Body Members of the plaintiff no.1 and are entitled to remain in control, possession, custody, management and administration of the plaintiff no.1 and all its

branch, math, temples, lands, building and other property affairs and for further declaration that the defendants are not entitled to act in terms of the purported Resolution dated March 19, 2018 nor in terms of initiation allegedly given on March 9, 2018 by the defendant no.1 and/or to act in terms thereof. The said suit was decreed in part by a judgment and decree dated November 22, 2024.

Being aggrieved by the said judgment and decree, the plaintiffs preferred an appeal being Title Appeal No.10 of 2024.

During the pendency of the said appeal, the opposite party no.2 herein issued a notice dated April 25, 2025, calling for an Annual General Meeting of Sri Chaitanya Math to be held on Sunday, May 11, 2025 at 11 a.m. Challenging the action of the opposite party no.2 in issuing the notice for holding Annual General Meeting, the petitioners herein filed an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure in Title Appeal No.10 of 2024 praying for an order of injunction restraining the opposite party no.2 from proceeding with the proposed meeting to be held on May 11, 2025. The said application was contested by the opposite parties herein by filing a written objection.

The learned Judge of the First Appellate Court, by an order dated May 5, 2025, rejected such

application. Being aggrieved against such order, the defendants have approached this Hon'ble Court with this civil revision application.

Mr. Partha Pratim Roy, learned advocate, appearing for the petitioners submits that the learned Trial Judge has specifically held that the plaintiff nos.2 to 8 have failed to bring cogent evidence to prove as to how and when they became the Governing Body Members of the plaintiff no.1.

He further submits that the learned Trial Judge by the judgment and decree dated November 22, 2014 appointed a Receiver for the purpose of calling for a General Body Meeting of the Math to elect a Governing Body after attaining proper quorum as laid down in the Articles and Memorandum of Association.

He further submits that the Receiver was also vested with the authority to conduct the election within the Governing Body to elect and appoint the Office Bearer by attaining the quorum as laid down in the Articles and Memorandum of Association.

Mr. Roy further submits that the appeal is at the final stage of argument and at that stage the opposite party no.2 issued the notice for holding the Annual General Meeting in order to get some of his followers illegally elected as members during the pendency of the appeal.

Mr. Dutta, learned Senior Advocate assisted by Mr. Deb, learned Senior Advocate, submits that as per the by-laws of the opposite party no. 1, the AGM is to be called not later than 15th month of the previous year's meeting. He further submits that the opposite party no. 1 is a society registered under the West Bengal Societies Registration Act, 1961. By referring to Section 16 of the 1961 Act, Mr. Dutta contended that the statute requires that every society shall hold an AGM at least once in every year and not more than 15 months shall elapse between two successive AGMs. He further submits that in the event the prayer of the petitioners herein is allowed, there shall be contravention of the provisions of Section 16(1) of the 1961 Act and for which the opposite party no. 1 society may be liable to be punished as per the provisions of the said statute. Mr. Dutta further submits that the agenda as stated in the notice dated April 25, 2025 is strictly in terms of the by-laws of the society and at the proposed AGM the members of the Governing Body as well as the office bearers shall not be elected and it is only the members of the association who will be elected.

Heard the learned advocates for the respective parties and perused the materials placed.

Issue no. 7 in Title Suit No. 58 of 2018 was whether B. P. Yati Maharaj was the Secretary and

Acharya of the Math till his death on January 18, 2018.

Issue no. 8 was whether the plaintiffs are entitled to get the reliefs as prayed for or what other reliefs the plaintiffs are entitled to.

After going through the judgment and decree dated November 22, 2024, this court finds that the learned trial judge while dealing with issue no. 7 has recorded that a serious issue arises with regard to the resignation letter because the entire fact of resignation given by B. P. Yati Maharaj was kept outside the purview of the pleadings based on which the plaintiffs brought the suit. It was further noted that even in the written examination in chief of PW-1 the fact for such resignation did not find any mention and it was only at a later stage during cross-examination of PW-1 such fact was for the first time brought before the Court. The learned trial judge while dealing with the issue no. 8 has recorded that it is clear that the plaintiff nos. 2 to 8 have failed to bring cogent evidence to prove as to how they became the Governing Body members of the plaintiff no. 1. However, the learned trial judge decreed the said suit in part thereby appointing an advocate as the Receiver of the plaintiff no. 1 and its branches and the Receiver was given the power and authority if necessary to call for a General Body meeting of the Math to elect a Governing Body after attaining proper

quorum as laid down in the Articles of Association and it was also mentioned therein that the Receiver shall also have the authority to conduct the election within the Governing Body to elect and appoint the office bearers by attaining the quorum as laid down in the Articles of Association.

On December 10, 2024, the learned advocates appearing for the respective parties in the Title Appeal submitted that there are 42 branches of Mayapur Sri Chaitanya Math and the disputes are required to be settled early for which the main stay application and the appeal may be heard at an early date and both sides undertook not to take any adjournment and pray for calling for the trial court records. On the basis of the submissions of the learned advocate for the parties, the learned judge of the first appellate court by an order dated December 10, 2024, directed the learned Receiver appointed by the learned trial judge in Title Suit No. 58 of 2018 not to take any further steps in terms of the impugned judgment and decree till final hearing of the stay application along with the appeal.

Upon going through the said order this court is of the considered view that the learned judge of the first appellate court only directed the learned Receiver not to take any steps in terms of the directions passed in the judgment and decree of the trial court till the

final hearing of the stay application along with the appeal. The order directing appointment was, however, not set aside by the learned judge of the first appellate court at that stage.

The question that arises for consideration is whether the AGM, proposed to be held on May 11, 2025 by issuing a notice dated April 25, 2025 should be allowed to be held at this stage.

Rule 10(a) of the by-laws states that there shall be one AGM of the association to be called by the General Secretary every year during the festival of Dolyatra/Gaur Jayanti but in no case later than 15 months of the previous year's meeting at such date and hour as the General Secretary from time to time may determine.

Record reveals that the last AGM was held on April 21, 2024. Therefore, the outer limit of 15 months shall expire only in the month of July, 2025.

Rule 2(a) of the by-laws states that all followers whether lay or monastic of Sri Chaitanya Dev may be members of the Association if elected at a meeting of the Association or nominated by the Governing Body hereinafter mentioned.

Thus, the members of the Association may be elected or even nominated by the Governing Body.

Rule 10(b) states the nature of the business that shall be transacted at the AGM.

After going through the said rules this court finds that election of members is also one of the business which shall be transacted at an AGM. However, the question that arises is whether the election of members should be allowed at the AGM proposed to be held on May 11, 2025.

Record further reveals that the learned judge of the First Appellate Court in its order dated 18th December, 2024 has recorded that the appellant no. 2/opposite party no. 2 herein has authority to act as Acharya and General Secretary of appellant no. 1 till election of regular governing body members/office bearers to be conducted by the receiver but his position is completely “acting” till election and appellant no. 2 / opposite party no. 2 should mention his designation clearly as acting Acharya and acting General Secretary instead of Acharya and General Secretary.

The notice dated 25th April, 2025 has been issued by the opposite party no. 2 herein as acting Acharya and acting General Secretary. The order dated 18th December, 2024 also recognized that the opposite party no. 2 has authority to act as Acharya and General Secretary of the Math till election of regular governing body members / office bearers to be conducted by the receiver. Therefore, the order of the learned Trial Judge directing appointment of receiver

for the purpose of conducting the election of governing body members / office bearers was not interfered with even at that stage.

As observed hereinbefore that the members of the association may be elected at a meeting of the association or even nominated by the governing body.

Mr. Ray, learned advocate for the petitioners places reliance of the decision of the Hon'ble High Court at Bangalore in D. Pushpa and Anr. -Vs.- Regional Transport Authority, Bangalore (Rural), reported at 2000 SCC OnLine Kar 698 in order to highlight the effect of officiating appointments and in-charge arrangements. In the said reported case, the issue was whether a person who was temporarily holding the charge of the office of the Secretary as an ad hoc arrangement during the absence of regular Secretary had the authority to issue the time table for stage carriage service.

The said decision has no manner of application to the case on hand as the learned judge of the first appellate court held that the opposite party no. 2 shall act as the acting Acharya and Acting General Secretary.

While acting as General Secretary, the opposite party no. 1 is obliged to conduct AGM as per the Byelaws of the Math and the provision of the 1961 Act.

This court is, therefore, of the considered view that the opposite party no. 2 had the authority to issue the notice for holding the AGM.

Record reveals that the appellants in Title Appeal No. 10 of 2024 have filed their written argument in terms of argument and 16th May, 2025 has been fixed for argument by the respondents in Title Appeal. Though the fact remains that after institution of the suit two Annual General Meetings were held and the last Annual General Meeting was also held on 21st April, 2024. Thus there is no impediment for holding the AGM on 11.05.2025.

The learned First Appellate Court is in seisin over the appeal against the judgment appointing the Receiver. Whether the Receiver shall conduct the election as directed by the learned Trial Judge shall be decided in the said appeal.

Mr. Dutta, learned Senior Advocate submitted that the members of the Governing Body or the office bearers shall not be elected at the Annual General Meeting. The Receiver was appointed only for the purpose of conducting election of the members of the Governing Body and the office bearers.

Thus, in view of the submissions made by learned Senior Advocate for the opposite parties instead of interfering with the holding of the Annual General Meeting at this stage it is observed that

neither the members of the Governing Body nor office bearers shall be elected in the AGM which is scheduled to be held on 11.05.2025.

Since the hearing of the appeal has been fixed on 16.05.2025 the learned Judge of the First Appellate Court is requested to make an endeavor to dispose of the Title Appeal no. 10 of 2024 as expeditiously as possible but preferably on or before the end of the month of June, 2025 without granting any necessary adjournments to either of the parties. In the event the argument is not completed on 16.05.2025, the learned Judge of the First Appellate Court is requested to fix short dates for hearing of the appeal.

The impugned order is modified only to the extent by directing that in the Annual General Meeting scheduled to be held on 11.05.2025 no steps for election of the members of the Governing Body or the office bearer shall be taken. With the above observations CO 1682 of 2025 stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)