

D/L.19.
November 24, 2025.
MNS/SSS.

FMAT No. 465 of 2025
+
CAN 1 of 2025

Abhoy Deo Sharma
Vs.
Chandan Das and another

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.,
Mr. Siddhartha Sankar Mandal,
Ms. Sharmistha Dhar,
Ms. Arunima Das Sharma
... for the appellant.

Mr. Samrat Sen, Sr. Adv.,
Mr. Bratin Kumar Dey,
Ms. Anjana Banerjee

...for the respondent no. 1.

1. Leave is granted to the appellant to file the certified copy of the impugned order as and when the same is obtained by the appellant.
2. Since questions of both fact and law are involved in the appeal, the same is admitted to be heard on the grounds taken in the memorandum of appeal.
3. The appeal is taken up for hearing along with the connected application on consent of learned senior counsel appearing for both the parties.
4. The present challenge has been preferred by the plaintiff in a suit wherein the plaintiff, being the Chief Secretary of the respondent no. 2, staff association, has assailed a notice dated October 14, 2025 issued by the defendant/respondent no. 1, who is the Deputy Chief

Secretary of the association, calling for a meeting of the Central Executive Committee of the said association and against consequential actions. In the said suit, a temporary injunction and ad interim injunction in similar terms was sought, *inter alia*, restraining the defendants from acting on the impugned notice and all subsequent steps taken in consequence thereof. The learned Trial Judge having refused such ad interim order, the present appeal has been preferred.

5. Learned senior counsel appearing for the plaintiff/appellant contends primarily that the Deputy Chief Secretary had no authority under the Rules and Constitution of the association to convene such meetings. It is contended that the authority to convene such meetings is vested exclusively in the Chief Secretary.

6. In support of his contention, learned senior counsel places reliance, in particular, on Rule 70 (ii) whereby the Chief Secretary is to convene all meetings of the Central Committee/Central Executive Committee/Central Disciplinary Action Committee/Central Grievance Committee/ General Council and record the minutes of the meetings.

7. Learned Senior counsel further places reliance on Rule 75, as per Clause (i) of which the Chief Secretary may convene a Special General Council and Circle General Secretary may convene a Special Circle General Council to deal with matters considered to be of special importance in the interest of the Union when they consider

necessary or on a requisition made in writing by at least 51% of the total number of Electoral College of the General Council/ Circle General Council as the case may be under the circumstances as specified therein.

8. Conspicuously, it is argued, Clause (ii) of Rule 75 provides that in case of non-compliance of a valid requisition mentioned in Rule 75 (i) thereinabove within one month from the date of its receipt by the Chief Secretary/ General Secretary of the concerned circle, as the case may be, the “requisitioned” (*sic*) shall have the right to convene such a special meeting of the General Council/Circle General Council by themselves announcing the time, date, etc. of the meeting.

9. Thus, it is argued that even if there is a grievance against the Chief Secretary himself/herself, the members of the association have a right under Rule 75(ii) to convene a requisition meeting and take appropriate steps consequent thereto. However, in the present case, no option was given to the plaintiff/ Chief Secretary to have the right of refusal to convene a meeting, upon being so approached to do, and no requisition meeting was called.

10. Thus, in the absence of such request and denial on the part of the Chief Secretary/plaintiff, the notice dated October 14, 2025 and subsequent consequential action is *de hors* the regulations of the association itself.

11. Learned senior counsel further points out that although in the impugned order it is recorded that the plaintiff had prayed after the refusal of ad-interim injunction

that the defendants be requested not to act on the impugned notice, and an assurance being given that the same would be done, the defendants went ahead with the meeting scheduled by virtue of the impugned notice dated October 14, 2025 and in fact, have subsequently removed the plaintiff from the post of Chief Secretary.

12. Learned senior counsel places reliance on a Division Bench judgment of this court in the matter of *Indian Cable Company Limited vs. Smt. Sumitra Chakraborty* reported at *AIR 1985 Cal 248* for the proposition that in such circumstances, the court has the power to restore the subject matter of a *lis* to its original position by granting *status quo ante*, if necessary by granting the relief sought in the main suit itself.

13. While controverting the above arguments, learned senior counsel appearing for the defendants/respondents contends that Rule 75 is not the only provision under which a meeting can be convened by some person other than the Chief Secretary within the four corners of the regulations.

14. Learned senior counsel relies on Clause (vii) of Rule 92, which contemplates that if there is an allegation that the Chief Secretary has done any act prejudicial to the interest of the Union or brought disrepute to the Union, it may be proposed to initiate a disciplinary action against him.

15. Although the main provision i.e. Rule 92 provides that if in the opinion of the President or the Chief

Secretary, any of the subordinate office bearers mentioned therein are guilty of such prejudicial act, the procedure laid down therein shall be followed, Clause (vii) carves out an exception where such allegations are against the Chief Secretary himself, in which case, if the Central Executive Committee is of the opinion that the Chief Secretary has committed any act prejudicial to the interest of the Union or brought disrepute to the Union, the Deputy Chief Secretary so authorized by the Central Executive Committee will refer the matter to the Central Disciplinary Action Committee which will, in turn, authorize any office bearer as a substitute of the Chief Secretary to draw/frame charges and issue the charge sheet and adopt the procedure to be followed in the other cases of the Office bearers in the Central Disciplinary Action Committee.

16. Drawing the attention of the court to the impugned notice dated October 14, 2025, learned senior counsel for the respondents submits that it is clearly mentioned therein that on the request of the Central Executive Committee members, such notice was being given. Even the proposed agenda of such meeting, it is pointed out, is covered by Rule 92 (vii). As such, the action taken against the plaintiff, it is argued, was well within the four corners of the regulations of the association.

17. Learned senior counsel next points out that in the suit and the injunction application, not only the notice dated October 14, 2025 but also subsequent action taken pursuant thereto has been impugned.

18. Learned senior counsel places before the court a charge sheet dated October 27, 2025, which was also a part of the injunction application filed by the plaintiff/appellant in the trial court, to show that such a charge sheet has been issued by one Pankaj Kaushik, designated as Acting Chief Secretary by the Central Executive Committee within the contemplation of Rule 92(vii).

19. It is argued that the suit is bad for non-joinder of the said Shri Pankaj Kaushik, against whom allegations have also been levelled in the plaint itself. By way of reference, learned senior counsel for the respondents places reliance on Paragraph 2 (ix) and (x) where specific allegations have been levelled against the said Pankaj Kaushik.

20. Apart from the ground of non-joinder, learned senior counsel adds that subsequent action taken in pursuance of the impugned notice, culminating in the removal of the plaintiff from the post of Chief Secretary and from basic membership of the association, having not been challenged in the suit by way of an amendment to the plaint, although considered by the learned Trial Judge in the impugned order, the present relief has been rendered infructuous and cannot be pursued.

21. Thus, the argument of grant of *status quo ante*, it is submitted, is not backed by appropriate reliefs having been sought by way of amendment in the plaint of the suit or a subsequent injunction application having been filed.

22. Lastly, learned senior counsel argues that admittedly, the plaintiff is due for superannuation as an employee of the State Bank on November 30, 2025.

23. Learned senior counsel places reliance on the relevant provision of the regulations i.e. Rule 8 (i), which provides that a member who ceases to be an employee of the bank shall not continue to be such member of the association. Clause (ii) of Rule 8 also provides that none but a regular member of the Union, other than the Chief Patron, will be allowed to hold a post in each Committee consisting of Central, Circle and Unit Committees.

24. Thus, it is submitted that the suit, by its very nature, is on the verge of being rendered infructuous in any event, since the plaintiff cannot continue in the post of Chief Secretary or otherwise after his superannuation.

25. On a careful consideration of the arguments of the parties and the regulations of the defendant no. 2 association which are placed before us, we find substance in the contention of the defendants/respondents.

26. Even apart from the provision of requisition meeting contemplated in Rule 75 (ii), Rule 92 clearly envisages situations where specific allegations are made against Office bearers of any act prejudicial to the interest of the Union or which bring disrepute to the Union, for the purpose of initiating disciplinary action.

27. Although such power is vested in the President and the Chief Secretary in respect of subordinate office bearers, for obvious reasons, Clause (vii) of Rule 92

provides that if the allegation is against the Chief Secretary himself/herself, in the event the Central Executive Committee is of the opinion that such offence has been committed by the Chief Secretary, the Deputy Chief Secretary can be authorized by the Central Executive Committee, who will refer the matter to the Central Disciplinary Action Committee for authorization of any office bearer as a substitute of the Chief Secretary for the limited purpose of drawing/framing charges and issuing charge sheet.

28. In the present case, even going by the *prima facie* case made out in the plaint and injunction application, the strength of which is the standard yardstick at the ad interim stage, we find that the impugned notice dated October 14, 2025 categorically refers to a request by the Central Executive Committee members, upon which purportedly such notice was being given for holding a Central Executive Committee meeting by the Deputy Chief Secretary.

29. The agenda of the said meeting clearly refers to disciplinary action proposed against the plaintiff, who was the Chief Secretary. Thus, the said notice comes squarely within the purview of Clause (vii) of Rule 92 of the Regulations of the association and there is no perceivable lack of authority on the part of the Deputy Secretary, as per the statements made in the impugned notice itself, for the purpose of issuance of such notice. Whether the background allegations necessitating such notice are true

and/or the Central Executive Committee members actually conferred such powers on the defendant no. 1, the Deputy Chief Secretary, Chandan Das, for holding such meeting are matters of trial, to be decided on evidence in the suit itself, and cannot be gone into at this stage. What the court has to ascertain is whether the learned Trial Judge accepted one of the plausible views which can be derived from the materials before the said court.

30. We find sufficient reason to back up the refusal of the ad interim injunction on the basis of the impugned notice dated October 14, 2025 in that regard.

31. That apart, another *prima facie* valid question has been raised by the defendants as to whether, in view of the nature of the reliefs sought in the suit, which is not restricted to the notice dated October 14, 2025 but also subsequent consequential action, the author of the charge sheet dated October 27, 2025 issued in consequence thereof i.e. one Pankaj Kaushik, the acting Chief Secretary purportedly appointed for such purpose by the Chief Executive Committee under the provisions of Rule 92 (vii), ought to have been impleaded as a party and whether the non-joinder of the said person renders the suit bad for non-joinder of necessary parties.

32. The other objection raised by the respondents is whether in the absence of any challenge to the subsequent action by amendment to the plaint, the further relief of *status quo ante* and/or reliefs in the nature of restoration of the parties to the original position is

concerned, we are not much convinced on such argument at this stage.

33. It is well-settled that in the event the defendants take some action to alter the status of the subject matter of the suit as prevalent on the date of filing of the suit so as to affect the outcome of the same at the final hearing, the court may very well consider, under certain circumstances, as to whether to grant mandatory injunction or *status quo ante* to restore the position of the parties to the date of institution of the *lis*.

34. Be that as it may, such proposition is not attracted in the present case, in view of our above observations.

35. As to the impending superannuation of the plaintiff on November 30, 2025, we desist from making any comment thereon, since it would be premature to make such comment, although there is only barely a week left for such superannuation.

36. In view of the above, we are of the opinion that the impugned order of the learned Trial Judge, who adopted one of the plausible views on the premise of the materials before the said court, ought not to be interfered with.

37. Accordingly, FMAT 465 of 2025 is dismissed on contest.

38. Consequentially, CAN 1 of 2025 is also dismissed.

39. There shall be no order as to costs.

40. We make it abundantly clear that none of the above observations or the observations made in the order impugned herein shall be of conclusive nature and/or

binding on the parties and/or the learned Trial Judge while deciding finally the injunction application and/or any other interlocutory application and/or deciding the suit on its own merits independently.

41. Parties shall act on the server copy of this order, duly downloaded from the official website of this court.

(Supratim Bhattacharya, J.) (Sabyasachi Bhattacharyya, J.)