

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Original Side

APOT/78/2025

WITH

CS/13/2025

IA NO: GA/1/2025, GA/2/2025

JAI SURANA

VS

THE CALCUTTA SWIMMING CLUB AND ORS.

BEFORE: The Hon'ble JUSTICE ARIJIT BANERJEE

AND

The Hon'ble JUSTICE RAI CHATTOPADHYAY

For Appellant

: Mr. Ratnanko Banerji, Sr. Adv.

Mr. Jishnu Choudhury, Sr. Adv.

Mr. Rudrajit Sarkar, Adv.

Mr. Dhruv Surana, Adv.

Mr. Debangshu Dinda, Adv.

For Respondent no. 1 & 2

: Mr. Anindya Kr. Mitra, Sr. Adv.

Mr. Sarvapriya Mukherjee, Adv.

Mr. Yash Vardhan Kochar, Adv.

Mr. Souradeep Banerjee, Adv.

Ms. Shruti Pal, Adv.

Ms. Priyanka Garain, Adv.

For Respondent no. 3 & 4

Mr. Abhrajit Mitra, Sr. Adv.

Mr. Anirban Ray, Sr. Adv.

Mr. Yash Vardhan Kochar, Adv.

Mr. Souradeep Banerjee, Adv.

Mr. B. N. Joshi, Adv.

Ms. D. Mukherji, Adv.

Respondent no.13

Mr. Sudhir Kumar Mehta, Sr. Adv.

Mr. Anuj Singh, Adv.

Mr. Anurag Bagaria, Adv.

CAV on : 18.06.2025

Judgment on : 24.06.2025

Arijit Banerjee, J. :-

1. This appeal is directed against a judgment and order dated March 20, 2025. By the order impugned, learned Single Judge refused to grant *ad interim* relief to the appellant/plaintiff and directed exchange of affidavits.

2. The plaintiff essentially challenges a notice dated January 30, 2025, issued by the respondent Club placing the plaintiff under suspension and a notice dated February 6, 2025, whereby the appellant/plaintiff has been called upon to nominate members of the Club to represent the appellant before a Special Board for considering the issue of expulsion of the appellant from membership of the Club.

3. The appellant says that he is a member of the Club for the last 30 years. He is also a past President of the Club.

4. By a WhatsApp message addressed to the members of the Club, the appellant pointed out certain alleged financial irregularities in the annual

accounts of the Club which were to be placed for confirmation at the Annual General Meeting (in short 'AGM') scheduled to be held on September 28, 2024. The AGM was duly held. According to the appellant, the issues raised by him in his WhatsApp message were deliberated upon and the matter ended there.

5. However, after lapse of about 2 weeks, the appellant received an e-mail from the Chief Executive Officer (CEO) and Secretary of the Club calling upon the appellant to confirm whether the said WhatsApp message was indeed circulated by him. Thereafter, there was exchange of correspondence between the CEO of the Club and the appellant. The appellant questioned the authority or jurisdiction of the CEO to call for such confirmation. By a letter dated October 24, 2024, the CEO of the Club requested the appellant to appear before the Members Relationship Committee (in short 'MRC') on October 28, 2024, at 1800 hours to explain the contents of the WhatsApp message referred to above.

6. By an e-mail dated October 27, 2024, the appellant expressed his inability to be present before the MRC on October 28, 2024, as he would not be in Kolkata.

7. Thereafter, a meeting was held before the MRC on November 8, 2024, which was attended by the appellant. The entire meeting was video graphed. Learned Senior Counsel for the appellant says that till date the Minutes of the Meeting dated November 8, 2024, held before the MRC, have not been made available to the appellant in spite of repeated requests and demands. However, a copy of the video recording has been supplied to the appellant but the same cannot be a substitute for the Minutes of the Meeting. On

January 27, 2025, the appellant attended a meeting before the Executive Committee of the Club as he was requested to do. By a mail dated January 30, 2025, sent to the appellant by the CEO of the Club on behalf of the Executive Committee, the appellant was placed under suspension under Rule 22 (b) (ii) & (iii) of the Rules and Bye-laws (Revised 2023) of the Calcutta Swimming Club. Subsequently a notice dated February 6, 2025, was issued by the Club asking the appellant to nominate members of the Club who could represent the appellant before the Special Board contemplated in the aforesaid Rule 22 for considering whether the appellant should be expelled from the Club.

8. The appellant has challenged the aforesaid two notices dated January 30, 2025 and February 6, 2025, in the present suit. The appellant's prayer for *ad interim* order of injunction to restrain the respondents/defendants from giving effect to the said two notices has been refused by the learned Single Judge. Affidavits have been directed to be exchanged. Hence this appeal at the instance of the plaintiff.

9. Mr. Ratnanko Banerjee, learned Senior Advocate, representing the appellant/plaintiff vociferously argued that the plaintiff is sought to be victimized by the Executive Committee for having brought to light about financial irregularities in the Club and tampering with the accounts of the Club. Mr. Banerjee took us through the correspondence exchange between the CEO of the Club and the plaintiff, in great detail. He mainly urged the following points:-

(i) The suspension notice has been issued in breach of the principles of natural justice. No show-cause notice was issued or served on the plaintiff, prior to suspending him.

(ii) The issues raised by the plaintiff in the concerned WhatsApp message were duly discussed at the AGM. Thereafter the plaintiff has done nothing more which would justify suspension of the plaintiff.

(iii) Referring to Rule 46 of the Club's Revised 2023 Rules, learned Counsel said that all audited accounts of the Club, when passed by a General Meeting, shall be conclusive except as regards any error discovered therein within three months after passing. Whenever such error is discovered within that period, the accounts shall forthwith be corrected and thenceforth shall be conclusive. He said that having detected errors in the Account, the plaintiff, in good faith, drew the same to the notice of the members of the Club by circulating the concerned message through WhatsApp.

(iv) Referring to Rule 51, Mr. Banerjee submitted that the Minutes of each Meeting of the Committee and each General Meeting of the Club, is required to be fairly copied in a book and signed by the Secretary and Chairman of each Meeting. The Minutes of the Annual General Meeting shall be open to inspection by all members for one month from the date of such Meeting. He said that no Minutes of the Meeting before the MRC held on November 8, 2025, was ever prepared or made available to the plaintiff. Videograph cannot be a substitute for Minutes.

(v) Referring to Rule 60 (ii) which pertains to dissolution of the Club, Mr. Banerjee submitted that in case of liquidation or dissolution of the Club, the

surplus asset shall be distributed among the permanent members of the Club. Hence, the plaintiff, who is a permanent member, also has a proprietary interest which has been adversely affected by the suspension notice.

(vi) Learned Senior Counsel submitted that it is true that the Courts will rarely interfere with a Club's decision. However , the decision must be fair and in consonance with the principles of natural justice. In this connection learned Senior Counsel relied on the decision of the Hon'ble Supreme Court in the case of ***T.P. Daver v. Lodge Victoria No. 363 S.C. Belgaum and Ors., reported at AIR 1963 SC 1144***, paragraph 8, which reads as follows:-

“8. The following principles may be gathered from the above discussion. (1) A member of a masonic lodge is bound to abide by the rules of the lodge; and if the rules provide for expulsion, he shall be expelled only in the manner provided by the rules. (2) The lodge is bound to act strictly according to the rules, whether a particular rule is mandatory or directory falls to be decided in each case, having regard to the well settled rules of construction in that regard. (3) The jurisdiction of a civil court is rather limited; it cannot obviously sit as a court of appeal from decisions of such a body; it can set aside the order of such a body, if the said body acts without jurisdiction or does not act in good faith or acts in violation of the principles of natural justice as explained in the decisions cited supra.”

(vii) On the point of *audi alteram partem* and the contents of a show-cause notice, learned Senior Counsel referred to the decisions of the Hon'ble Supreme Court in the cases of: ***UMC Technologies Private Limited v. Food Corporation of India & Anr., reported at (2021) 2 SCC 551; Gorkha Security Services v. Government (NCT of Delhi) & Ors., reported at (2014) 9 SCC 105; State Bank of India & Ors. v. Rajesh Agarwal & Ors., reported at (2023) 6 SCC 1; and Suresh G. Seth & Ors. v. National Sports Club of India, reported at 2019 SCC OnLine Bom 6683.***

10. Mr. Banerjee summed up his opening submission by saying that the suspension order falls foul of the principles of natural justice, has been issued with the oblique motive of victimizing the appellant, attaches a social stigma to the appellant and also affects his property right under Rule 60 (ii) of the Revised 2023 Rules of the Club. The *mala fide* of the Executive Committee of the Club would be evident from the fact that even before being expelled, the appellant's name has been removed from the list of members on the website of the Club. The appellant is a member of the Club for the last 30 years. The *prima facie* case made out by the plaintiff and the balance of convenience warrant grant of interim protection as prayed for. In the event the plaintiff's challenge to the suspension notice fails, the Committee of the Club can always take action against him in accordance with the Rules and Bye-laws of the Club.

11. Appearing for the respondent nos 1 and 2, Mr. Anindya Kr. Mitra learned Senior Advocate, submitted that the plaintiff circulated the concerned WhatsApp message amongst the members of the Club only to discredit or disgrace the members of the Executive Committee. The act of

the plaintiff was *mala fide* . Learned Counsel submitted that in the notice of the AGM which was issued on September 12, 2024, it was mentioned that “to facilitate adequate replies to Member’s queries, only questions received before 20 September will be entertained or replied to. No other questions would be discussed.” The plaintiff wrote a letter dated September 20, 2024, addressed to the Secretary of the Club which reads as follows:-

“The Secretary, 20.09.2024

The Calcutta Swimming Club.

1, Strand Road

Kolkata

Dear Sir,

I am a Member of the club and my membership No. is S 1829

In term of Rule 49 of our club Rules, I would like to raise the following question in the ensuing Annual general Meeting fixed for 28TH September, 2024.

- How much money was spent to renovate the Men’s Changing Room and Bar No. 1?
- Whether any Quotations being taken before the start of work? If yes from how many Vendors?
- Is it not prudent to inform members before spending such huge amount on renovation?
- Is it also not prudent to circulate to all the members the major heads on which such expenses were made?

Yours truly,

Jai Surana”

Having done so, it was wholly unnecessary for the plaintiff to circulate the concerned message on WhatsApp on September 23, 2024, 5 days before the AGM. He submitted that any member can of course complain of irregularities in the management or administration of the Club affairs but the same must be done following the Club Rules / Discipline. The plaintiff's letters was placed at the AGM. His queries raised in that letter were answered. All the issues raised in the WhatsApp message were, however, not placed by the plaintiff at the AGM. This also shows that the real object of circulating the message on WhatsApp was to malign the members of the Executive Committee of the Club.

12. Mr. Mitra submitted that if the plaintiff had a genuine grievance regarding functioning of the Club or the accounts, he should have directly approached the committee members or should have written to them. The conduct of the plaintiff would show that he had no *bona fide* grievance regarding the accounts or other affairs of the Club. His attempt was to poison the minds of the members of the Club just before the AGM.

13. Referring to the correspondence exchanged between the CEO of the Club and the plaintiff, Mr. Mitra submitted that it took 3 meetings for the MRC to obtain confirmation from the plaintiff that it was he who had circulated the concerned message on WhatsApp. If the plaintiff had any *bona fide* intention, he would have straight away confirmed that it was he who had circulated the message. The MRC repeatedly wanted to know the basis for the allegations made by the plaintiff in the concerned WhatsApp message. The plaintiff refused to disclose the basis or the reason. This gives rise to a clear inference that the allegations were and are baseless.

14. Learned Counsel further submitted that it would appear from a letter dated November 9, 2024, written by the plaintiff to the Secretary of the Club that the plaintiff had readily agreed to the proposal of video recording of the meeting dated November 8, 2024, that was held before the MRC. It is not in dispute that an unedited copy of such recording has been made available to the plaintiff. Still, the plaintiff complains that Minutes of the Meeting dated November 8, 2024, have not been made available to him. No Minutes have in fact been prepared. The video recording would constitute the Minutes of the Meeting. The letter dated November 9, 2024, has been suppressed by the plaintiff which is a material suppression.

15. Learned Senior Counsel then submitted that the plaintiff contends that the Executive Committee should have raised queries about the concerned WhatsApp and not the MRC. Such stand is also *mala fide*. It would appear from the transcript of the video recording of the meeting dated November 8, 2024, that the plaintiff wanted MRC to frame the questions/queries.

16. Mr. Mitra then submitted that there has been no breach of the principles of natural justice. The Club Rules provide for suspension. The principles of natural justice are inbuilt in the Club Rules. Rather than issuing a show-cause notice, the plaintiff was asked to appear before the Executive Committee on January 27, 2025, so that the matter could be orally discussed between the plaintiff and the members of the Committee. This is better than issuing a show-cause notice since there was possibility of leakage of such notice to outsiders which would not enure to the plaintiff's credit.

17. It was finally submitted that by circulating the concerned message on WhatsApp, the plaintiff has tarnished the good reputation of the Club and also the character and good names of the Committee Members thereby causing annoyance to them. Hence, following Rule 22, the plaintiff has been suspended. Whether or not he will be expelled as member of the Club will be decided before a Special Board which would have a large number of people as members including all Ex-Presidents of the Club who are in Kolkata. There are presently 19 such Ex-Presidents. The proceedings before the Special Board will be completely fair and impartial. Decision will be taken by a majority of votes. If the majority is of the view that the conduct of the plaintiff does not call for expulsion from the Club, his suspension would be automatically lifted.

18. We have anxiously considered the rival contentions of the parties.

19. We are *prima facie* of the view that there was no good reason or justification for the plaintiff to circulate the concerned message amongst the members of the Club on September 23, 2024. The plaintiff had already written a letter dated September 20, 2024, raising queries about the accounts of the Club. Our attention was not drawn to this letter by the plaintiff. In our opinion, this letter is very material. The issues indicated by the plaintiff in his message circulated on September 23, 2024, could easily have been included in his letter dated September 20, 2024. We deem it appropriate to reproduce the message that the plaintiff circulated on September 23, 2024. The message reads thus:-

“TO ALL THE PERMANENT MEMBERS OF OUR CLUB

Subject: Calling members to Participate in Annual General Meeting to address pressing issues.

Dear Members,

I do hope this letter finds you in best of your spirits and health.

We are all valued and regular member of our esteemed club, I am writing to invite you to participate in the upcoming Annual General Meeting (AGM) scheduled to be held on 28th September, 2024 at 11.00 Am at the club.

It has recently come to light that there have been significant financial irregularities within the club, which require immediate attention and collective discussion in an open forum. These irregularities raise concerns about the financial management and transparency of our club, and it is imperative that we address these issues together to ensure the integrity and sustainability of our club's financial affairs. To summarise some of them:

- a. More than 8.25 Cr. has been spend on Building, Furniture and Fixtures and Equipments in one financial year;
- b. Investments coming down by 2.5 Cr.;
- c. Gross irregularities in figures which were shown last year and brought forward this year;
- d. No explanation or Schedule being provided to show the applicability of huge money spend;
- e. No prior intimation or permission sought from members before venturing to spend over 8 Cr. in a financial year.
- f. Whether three Quotations were invited before allocating work to a particular Vendor.

During the AGM, we will try to provide a detailed overview of the financial irregularities that have been identified, discuss their potential impact on the club, and collectively work towards finding solutions to rectify these issues. Your insights, input, and participation in this meeting are crucial as we navigate through these challenges and strive to uphold the values of transparency, accountability, and good governance within our club.

I urge you to mark your calendars and make every effort to attend the AGM on 28th September, 2024 to contribute to this important discussion and decision-making process.

Your active participation is vital in shaping the future of our club and ensuring its financial health and sustainability.

Warm regards,

Yours truly,

Jai Surana”

20. *Prima facie* the aforesaid message imputes lack of honesty to the persons in control and management of the affairs of the Club i.e., primarily the Executive Committee members. Financial irregularities have been alleged, calling in question the integrity of the persons in management of the Club. It would have been an entirely different thing if the grievance sought to be ventilated by the plaintiff by circulating the said message, was ventilated in the letter dated September 20, 2024 as he was entitled to do under the Rules of the Club. All such issues could then have been discussed at the AGM. The tenor of the message in question tends to indicate *prima facie* that the plaintiff has circulated the message to disgrace or malign the office bearers of the Club including the members of the Committee.

21. We are *prima facie* of the view that if the plaintiff had any *bona fide* concern about the affairs of the Club, he should have discussed the matter directly with the office bearers of the Club. He can still do so. After all, it is a Social Club where the members go to relax, for entertainment and to entertain guests. There should be camaraderie amongst the members of a Club. Ill feeling or animosity should not have any place amongst them. If a member like the plaintiff has genuine grievance as regards to any aspect of the Club, he should take it up personally with the persons running the Club or place it before the General Body of members following the Rules of the Club. The course adopted by the plaintiff by circulating the message dated September 23, 2024, *prima facie* does not meet with our approval.

22. We have also taken note of Rule no. 22 of the 2023 Revised Rules of the Club, which reads as follows:-

“Rule No. 22 – Suspension and Expulsion.

- (a) Any Member of the Committee may temporarily suspend any Member from the ‘Use of the Club’, for any breach of Rule or Bye-Laws, until the next meeting of the Committee, whose decision shall then be ascertained and made known to the Member concerned.
- (b) If it shall be alleged that any Member of the Club has committed a grave breach of any Rule or Bye-Law, or has been guilty of or responsible of any conduct, act or omission, whether within or outside the Club, such as to affect the character or good name of the Club, or to cause any annoyance to other Members, or if the Committee is satisfied that a Member or any relation of a Member enjoying the Club

facilities under the responsibility of that Member, has given any monies, gratuities or other inducements to any staff of the Club, the Committee may request such Members to appear before them at such date, time and place as may be specified, and if the Member shall then fail to appear as requested, or on appearing, shall fail to give explanation acceptable to the Committee for the matter alleged, the Committee shall have the power:-

- (i) To caution or reprimand such Member.
 - (ii) To suspend such Member from the 'Use of the Club' for any period not exceeding three months.
 - (iii) Where a Member is suspended as above, to call upon such Member to resign from the Club.
- (c) If having been called upon to resign as above, the Member concerned shall not do so within twenty-four hours thereafter, the Committee may refer the matter to the Special Board for decision as to the expulsion or otherwise of the Member.
- (d) The Special Board in such cases shall be constituted as follows:-
- Chairman- the President of the Club or in his absence the Vice President.
- Three Members of the Committee nominated by the Committee.
- Three Gentlemen Permanent Members nominated by the Member whose conduct is called in question, should the Member elect to do so.
- Such Ex Presidents of the Club as may be in Kolkata.
- (e) At any meeting of the Special Board, five shall constitute a quorum.

- (f) The Chairman of the Special Board shall fix the date, time and place of the meeting/meetings of the Special Board and he shall have the casting vote in the event of any equality of votes on any issue.
- (g) The Special Board shall enquire into the matter alleged in such manner and by such procedure as the Special Board may determine. Meetings of the Special Board shall be in camera, unless the Special Board shall otherwise direct; and only the Member whose conduct is called in question and such other persons as the Special Board may consider necessary, shall be heard and examined.
- (h) The Special Board may proceed in the absence of the Member whose conduct is called in question, should he or she, fail to attend after notice of any meeting of the Special Board has been given.
- (i) The Special Board shall arrive at their decisions by majority vote either by show of hand or by secret ballot, as the Chairman may determine, and the Special Board shall have the power to confirm, set aside, or vary the decision of the Committee under Sub-para (b) above, or to expel from the Club the Member whose conduct has been called in question.”

23. We therefore find that the Special Board contemplated under the said Rule would not only have all past Presidents of the Club who are present in Kolkata (19 in number as of now, as we are told) but also three members nominated by the plaintiff if he so wishes. There will be three members nominated by the Committee and also the President or the Vice President of the Club. Even if one were to assume – and we do not see any reason for such assumption – that the President / Vice President or the three members

of the Committee nominated by the Committee will not be unbiased, the other members of the Special Board should be presumed to be impartial and they are the majority. Therefore, the dispute between the plaintiff and the Club will almost certainly be considered and decided by the Special Board fairly, dispassionately and in an unbiased manner.

24. The Rules of a Social Club constitute a contract between the Club and its members has also the members inter se. All the members are bound by the Rules. If the Rules provides for suspension and/or expulsion, a member may be suspended or expelled following such Rules. As observed by the Hon'ble Supreme Court in the case of **Lodge Victoria (Supra)**, the role of a Civil Court in resolution of a dispute between a Club and its member or members inter se is very limited. The Court cannot sit in an appeal over a decision of the Executive Committee or governing body of a Club. The Court can at the highest set aside such a decision if it has been taken in bad faith or in violation of the principles of natural justice.

25. Let us note the observations of the Hon'ble Supreme Court made in the decisions cited by learned Senior Counsel for the appellant:-

(a) UMC Technologies (P) Ltd. v. Food Corpn. of India and Anr., (Supra):-

“13. At the outset, it must be noted that it is the first principle of civilised jurisprudence that a person against whom any action is sought to be taken or whose right or interests are being affected should be given a reasonable opportunity to defend himself. The basic principle of natural justice is that before adjudication starts, the authority concerned should give to the affected party a notice

of the case against him so that he can defend himself. Such notice should be adequate and the grounds necessitating action and the penalty/action proposed should be mentioned specifically and unambiguously. An order travelling beyond the bounds of notice is impermissible and without jurisdiction to that extent. This Court in ***Nasir Ahmad v. Custodian General, Evacuee Property reported at (1980) 3 SCC 1*** has held that it is essential for the notice to specify the particular grounds on the basis of which an action is proposed to be taken so as to enable the noticee to answer the case against him. If these conditions are not satisfied, the person cannot be said to have been granted any reasonable opportunity of being heard.”

(b) *Gorkha Security Services v. Govt. (NCT of Delhi) and Ors., (Supra):-*

“**21.** The central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of show-cause notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not

warranted in the given case, even if the defaults/breaches complained of are not satisfactorily explained. When it comes to blacklisting, this requirement becomes all the more imperative, having regard to the fact that it is harshest possible action.”

(c) *State Bank of India and Ors. v Rajesh Agarwal and Ors., (Supra):-*

“40. The process of forming an informed opinion under the Master Directions on Frauds is administrative in nature. This has also been acceded to by RBI and lender banks in their written submissions. It is now a settled principle of law that the rule of audi alteram partem applies to administrative actions, apart from judicial and quasi-judicial functions. It is also a settled position in administrative law that it is mandatory to provide for an opportunity of being heard when an administrative action results in civil consequences to a person or entity.

41. In *State of Orissa v. Dr (Miss) Binapani Dei and Ors reported at AIR 1967 SC 1269*, a two Judge Bench of this Court held that every authority which has the power to take punitive or damaging action has a duty to give reasonable opportunity to be heard. This Court further held that an administrative action which involves civil consequences must be made consistent with the rules of natural justice:

“9.... The rule that a party to whose prejudice an order is intended to be passed is entitled to a hearing applies alike to

judicial tribunals and bodies of persons invested with authority to adjudicate upon matters involving civil consequences. It is one of the fundamental rules of our constitutional set-up that every citizen is protected against exercise of arbitrary authority by the State or its officers. Duty to act judicially would therefore arise from the very nature of the function intended to be performed : it need not be shown to be super-added. If there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power. If the essentials of justice be ignored and an order to the prejudice of a person is made, the order is a nullity. That is a basic concept of the rule of law and importance thereof transcends the significance of a decision in any particular case.”

42. In *Maneka Gandhi v. Union of India and Anr reported at (1978) 1 SCC 248*, a seven Judge Bench of this Court held that any person prejudicially affected by a decision of the authority entailing civil consequences must be given an opportunity of being heard. This has been reiterated in a catena of decisions of this Court.

43. In view of the settled position of law, the next question that arises before us is the scope and definition of the phrase “civil consequences”.

44. In *Mohinder Singh Gill and Anr v. Chief Election Commissioner, New Delhi and Ors., reported at (1978) 1 SCC 405*, a Constitution Bench of this Court held that “civil

consequences” cover infraction of not merely property or personal rights but of civil liberties, material deprivations, and non-pecuniary damages. In that case, the Court held that denial of a democratic right to cast a vote inflicts civil consequences. In ***D.K. Yadav v. J.M.A. Industries Ltd., reported at (1993) 3 SCC 259 : 1993 SCC (L&S) 723***, a three Judge Bench of this Court observed that “everything that affects a citizen in his civil life inflicts a civil consequence”.

45. In ***Canara Bank v. V.K. Awasthy reported at (2005) 6 SCC 321 : 2005 SCC (L&S) 833*** , a two Judge Bench of this Court succinctly summarised the history, scope, and application of the principles of natural justice to administrative actions involving civil consequences in the following terms :

“14. Concept of natural justice has undergone a great deal of change in recent years. Rules of natural justice are not rules embodied always expressly in a statute or in rules framed thereunder. They may be implied from the nature of the duty to be performed under a statute. What particular rule of natural justice should be implied and what its context should be in a given case must depend to a great extent on the fact and circumstances of that case, the framework of the statute under which the enquiry is held. The old distinction between a judicial act and an administrative act has withered away. *Even an administrative order which involves civil consequences must be consistent with the rules of natural justice. The expression “civil*

consequences” encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. In its wide umbrella comes everything that affects a citizen in his civil life.”

46. There is a consistent pattern of judicial thought that civil consequences entail infractions not merely of property or personal rights, but also of civil liberties, material deprivations, and non-pecuniary damages. Every order or proceeding which involves civil consequences or adversely affects a citizen should be in accordance with the principles of natural justice.

80. *Audi alteram partem* has several facets, including the service of a notice to any person against whom a prejudicial order may be passed and providing an opportunity to explain the evidence collected. In ***Union of India and Anr v. Tulsiram Patel reported at (1985) 3 SCC 398***, this Court explained the wide amplitude of *audi alteram partem*:

“96. *The rule of natural justice with which we are concerned in these appeals and writ petitions, namely, the audi alteram partem rule, in its fullest amplitude means that a person against whom an order to his prejudice may be passed should be informed of the allegations and charges against him, be given an opportunity of submitting his explanation thereto, have the right to know the evidence, both oral or documentary, by which the matter is proposed to be decided against him, and to inspect the documents which are relied upon for the purpose of being used*

against him, to have the witnesses who are to give evidence against him examined in his presence and have the right to cross-examine them, and to lead his own evidence, both oral and documentary, in his defence. The process of a fair hearing need not, however, conform to the judicial process in a court of law, because judicial adjudication of causes involves a number of technical rules of procedure and evidence which are unnecessary and not required for the purpose of a fair hearing within the meaning of *audi alteram partem* rule in a quasi-judicial or administrative inquiry.”

81. *Audi alteram partem*, therefore, entails that an entity against whom evidence is collected must : (i) be provided an opportunity to explain the evidence against it; (ii) be informed of the proposed action, and (iii) be allowed to represent why the proposed action should not be taken. Hence, the mere participation of the borrower during the course of the preparation of a forensic audit report would not fulfil the requirements of natural justice. The decision to classify an account as fraud involves due application of mind to the facts and law by the lender banks. The lender banks, either individually or through a JLF, have to decide whether a borrower has breached the terms and conditions of a loan agreement, and based upon such determination the lender banks can seek appropriate remedies. Therefore, principles of natural justice demand that the borrowers must be served a notice, given an opportunity to explain the findings in the forensic audit report,

and to represent before the account is classified as fraud under the Master Directions on Frauds.

(d) *Suresh G. Seth v. National Sports Club of India, (Supra):-*

“5. It is true that ordinarily, no action of a private club qua its members can be challenged in a court of law save and except when such action is ultra vires the constitution of the club or is in breach of principles of natural justice or is actuated by *mala fide* or bad faith. At the same time, it is important to note that expulsion or suspension of a member entails serious civil consequences. A large part of modern day urban civic life consists of brotherhood of, and intermingling in, social clubs. Any expulsion or suspension order, in true sense, has drastic implications from the point of view not just of private rights of the persons involved as members of the club, but also their honour and reputation. These actions cause nothing less than social disgrace and acute loss of esteem, both self and public. It is also a notorious fact of club life nowadays that its elections are fought with such keenness and ferocity that the atmosphere at the club is completely vitiated, what with conspiracies abounding every now and then. Bearing all these aspects in mind, we have to assess the facts of the case and consider the relief. It must also be borne in mind that the application is presently being considered at an ad-interim stage, i.e. at a stage even preliminary to the interim notice where the court considers prima facie merits in a fuller measure.”

26. Observance of the principles of natural justice does not necessarily mean that a written show-cause notice has to be issued to a person against whom action is proposed to be taken. Granting an opportunity of hearing should be enough in many cases. *Prima facie* we find that in the present case, the plaintiff was given opportunity of hearing not only by the MRC but also by the Executive Committee. Therefore, *prima facie* we do not find violation of the *audi alteram partem* rule in this case. Therefore, *prima facie* we do not find the suspension of the plaintiff to be bad or dehors the Club Rules or in breach of the principles of natural justice. We have noted the decisions cited on behalf of the appellant/plaintiff on the point of natural justice. However, such decisions do not help the appellant in the facts of the present case.

27. We have also noted the decision of the Bombay High Court in the case of **Suresh G. Seth (Supra)**. The facts of that case were completely different and the learned Judge was of the view that placing the plaintiffs in that case under suspension was a punitive and vindictive measure adopted by the Club which was not justifiable in the facts of the case. In the present case, the learned Single Judge has recorded a detailed order while refusing *ad interim* relief to the plaintiff. The operative portion of the impugned order reads as follows:-

“**44.** In the present case after circulation of WhatsApp message by the plaintiff, notices were issued to the plaintiff for confirmation whether the said Circular was sent by the plaintiff or not. To give an opportunity to the plaintiff, the Member’s Relationship Committee was formed. The said committee has given personal

hearing to the plaintiff. After the said meeting, three queries were made to the plaintiff but the plaintiff has not answered to the said queries inspite of several opportunities. The Executive Committee also given an opportunity to the plaintiff to explain the basis of the allegation in its meeting on 27th January, 2025 but in the said meeting also, the plaintiff has not explained and again asked for the Minutes of the Meeting dated 8th November, 2024, though by an email dated 25th November, 2024, it was informed to the plaintiff that the meeting dated 8th November, 2024 was video graphed with the concurrence of the plaintiff and the video recording should be treated as the Minutes of the Meeting.

Inspite of serval opportunities, the plaintiff failed to answer the queries, accordingly, the defendants have issued the impugned order of suspension invoking the provisions of Rule 22(b)(ii) of the Club.

The plaintiff is placed under suspension and also called upon to resign from the Club as member under Rule 22(b)(iii). As per Rule 22(c) if the member concerned shall not do so within twenty four hours thereafter, the Committee may refer the matter to the Special Board for decision as to the expulsion or otherwise of the Member. In terms of Rule 22(d), the plaintiff is also entitled to nominate his three gentlemen permanent members. As per the provisions of Rule 22(g) the Special Board shall enquire in to the matter. The plaintiff will again get an opportunity to explain his grievances before the Special Board. After hearing the plaintiff's

grievances, the Special Board of the Club will take appropriate decision.

The cases relied by the plaintiff are connected with the black listing and there is no quarrel on the proposition that it is mandatory requirement to give show cause notice before blacklisting. In the case of the plaintiff is of suspension pending enquiry by the Special Board. The plaintiff will get an opportunity to place his grievances before the Special Board, thus there is no necessity to issue show cause upon the plaintiff before issuance of order of suspension.

45. As regard to the maintainability of the suit, this Court has not gone into at the stage of *ad interim* relief.

46. This Court finds that the plaintiff has not made out any prima facie case or balance of convenience or inconvenience in his favour. The *ad interim* injunction as prayed for by the plaintiff is refused at this stage. The defendant nos. 2, 3, 4 and 13 have already entered appearance accordingly, the plaintiff is directed to serve notice upon other defendants immediately and the defendants are directed to file affidavit in-opposition within two weeks, reply, if any, within a week thereafter.”

28. The learned Single Judge has taken a view and has exercised his discretion in a particular manner. We cannot say that the order is perverse. In an intra Court appeal, even if the Appellate Court has a view different from that of the learned Single Judge, unless the order appealed against is clearly wrong or perverse, or shocks the conscience of the Appeal Court, no

interference with the order is warranted so long as the order reflects a plausible view.

29. The plaintiff's application for interim relief is pending before the learned Single Judge. The learned Judge directed exchange of affidavits. We are told that affidavits have not yet been exchanged.

30. The respondents will be at liberty to the affidavit in-opposition before the learned Single Judge within a week from date. Reply thereto, if any, be filed within a week thereafter. The parties may pray for early hearing of the interlocutory application before the learned Single Judge. His Lordship may consider such prayer as per His Lordship's convenience.

31. The appeal and the connected application stand disposed of accordingly. There will be no orders as to costs.

32. We clarify that all observations in this order are *prima facie* and have been made only for the purpose of disposing of this appeal. Learned Single Judge is requested to decide the plaintiff's interlocutory application as well as the suit (as and when the occasion arises) independently, in accordance with law, without being influenced by any observation in this order.

33. Urgent Photostat certified copies of this judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Arijit Banerjee, J.)

I agree.

(Rai Chattopadhyay, J.)