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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 414/2020 & I.A. 12483/2020, I.A. 567/2021, I.A. 4577/2021,
I.A. 7859/2022, I.A. 1823/2023, I.A. 13013/2023, I.A. 13341/2023,
I.A. 3870/2024, I.A. 4415/2024 & I.A. 4416/2024
DR. P. V. VIJAYARAGHAVAN & ORS.Plaintiffs

Through: Mr Manish Kumar, Mr Piyush
Kaushik and Ms Aparajita Jha,
Advocates.

versus

NITYAM SOFTWARE SOLUTION PVT.
LTD., & ORS.Defendants

Through: Mr Nipun Saxena, Mr Aditya Raj
Pandey, Ms Mehreen Garg and Ms
Aadya Pandey, Advocates.
Mr Akshay Chowdhary, Advocate for
Administrator, IOA.

CORAM:s

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

04.09.2024

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1. A Seventh Report has been filed by the learned Administrator seeking
following directions from this Court:

(a) *The appropriate directions be issued by this Hon'ble
Court with respect to agency to be engaged for conducting the
IOA Elections;*

(b) *The appropriate directions be issued by this Hon'ble
Court with respect to the timelines in the completing the
elections; and*

(c) *The appropriate directions be issued with respect to the
computation of three chances of a candidate for contesting the
Elections.*

2. Mr. Akshay Chowdhary, appearing on behalf of the learned



Administrator submits that *vide* order dated 09.08.2024, this Court had directed the Administrator to draw up a firm election schedule for IOA Elections 2023 and ensure that IOA elections are concluded by 01.10.2024. The attention of the Court is drawn to para 11 of the said order in support of the submission so made by him. He submits that in compliance of the said order, the Administrative Committee of the IOA headed by the learned Administrator drew up the following schedule and issued election notification which is as follows:

Last date for receipt of Nomination form	05 th September, 2024 till 5:00 PM
Scrutiny and announcement of Nominations accepted	06 th September, 2024 at 5:00 PM
Last date for withdrawal of nominations	12 th September, 2024 till 5:00 PM
Scrutiny and announcement of Final List of candidates after withdrawal	14 th September, 2024 at 5:00 PM
Start of Online voting	20 th September, 2024 from 10:00 AM
Last date for receipt of online voting	30 th September, 2024 till 4:00 PM
Counting followed by announcement of results	30 th September, 2024 at 5:00 PM

3. He submits that after the Fourth Report dated 28.05.2024 was placed before the Court, the same was considered by the Court on 28.02.2024 and subsequently *vide* order dated 09.08.2024 direction was given to appoint suitable organisation to conduct the IOA elections. He submits that the learned Administrator has approached multiple vendors namely, CDSL Limited, NSDL Limited, Right2Vote, Ernst & Young and M/s Finesse



Interactive Solutions Pvt. Ltd. for conducting online IOA Elections. The deliberations which had taken place between the learned Administrator and the four vendors have been mentioned in Seventh Report itself.

4. He submits that CDSL Limited which had earlier conducted the elections for the year 2022 had though consented for conducting the elections but has expressed its difficulty to conclude the same within the timeline prescribed by this Court. He further submits that the learned Administrator has also communicated with the vendors, namely, M/s Ernst & Young and Right2Vote, who have proposed certain conditions which are not viable. Thus, the only vendor which can conduct the elections within the prescribed timeline is M/s Finesse Interactive Solutions Pvt. Ltd.

5. He submits that either the timeline may be extended or this Court may direct the learned Administrator to appoint M/s Finesse Interactive Solutions Pvt. Ltd. to conduct the elections.

6. Learned counsel for the parties jointly submit that it should be left to the discretion of the learned Administrator to decide as to which vendor is to be hired for the purpose of conducting elections.

7. In view of the consensus between the parties, this Court deems it appropriate that it should be left to the discretion of the learned Administrator to decide which vendor is to be hired for the purpose of conducting of IOA Elections, 2023. Ordered accordingly.

8. At this stage, a prayer is made by the counsel for learned Administrator that since the agency for conducting the elections is yet to be finalized which process may take time, therefore, the time period for conclusion of entire election process may be extended by another three weeks. The request is not opposed by the learned counsel for the parties.



9. In view of the above, it is directed that counting of votes followed by announcement of results shall be done latest by 20.10.2024. It will be at the discretion of the learned Administrator to revise the IOA Elections Schedule, 2023 keeping in view the revised date fixed by this Court for announcement of results.

10. At this stage, learned counsel for the plaintiffs submits that Code of Conduct which is part of Sixth Report indicates that any life member can contest for a particular post only thrice (three times). He submits that the plaintiff no.1 had contested for the third time as Vice President in the elections held in the year 2020 which was nullified by this Court *vide* judgment dated 20.10.2023, therefore, the contest by the plaintiff no.1 in such elections ought not to be counted towards third chance available to him under the Code of Conduct.

11. The attention of the Court has also been drawn to the Seventh Report filed by the learned Administrator in which the direction has been sought from this Court with respect to the computation of three chances of a candidate for contesting the elections.

12. I have perused the judgment dated 20.10.2023, more particularly para 64 thereof, wherein it has been observed that serious irregularities have *ex-facie* vitiated the elections held in November, 2020. *Vide* said order itself, this Court had appointed the learned Administrator to supersede the Executive Committee of IOA with a direction to take appropriate steps as enumerated in para 66 of the said judgment.

13. Subsequently, *vide* order dated 09.08.2024, the learned Administrator was requested to draw up a firm election schedule so that IOA Elections 2023 are conducted and concluded as soon as possible. The mandate of the



Administrator was also extended till 01.10.2024.

14. Admittedly, the elections are now likely to be conducted in the month of September/October, 2024. Since the Administrator has been appointed to supersede the Executive Committee of IOA by a judgment of this Court with a mandate to conduct elections of IOA for the year 2023, it is clear the new Committee will take over from the Administrator after the result of said elections is announced, which means that the Executive Committee which was elected in the elections held in the year 2020 and was subsequently superseded, will not be restituted. Thus, the elections for the year 2020 stands nullified for all practical purposes.

15. In this view of the matter, this Court is of the considered opinion that the contest by the plaintiff no.1 for third time as Vice President during the elections held in the year 2020, which as noted above stood nullified, will not be counted towards third chance available to him under the Code of Conduct. Accordingly, the plaintiff no.1 will be entitled to contest for the post of Vice President in the IOA Elections 2023. This principle will apply across the board to all the candidates, who are similarly situated as plaintiff no.1 and are otherwise eligible.

16. List on 25.10.2024.

VIKAS MAHAJAN, J

SEPTEMBER 4, 2024
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