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

+ W.P.(C) 6816/2019

AJEET NAGAR & ANR Petitioners

Through Mr.D.K.Rustagi, Adv.

versus

UNION OF INDIA & ORS Respondents

Through Mr.Vivek Goyal, Adv. for UOI/R-1
&2.

Mr.Sudhir Naagar, Adv. for R-3 to 5.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **16.10.2020**

This hearing is conducted through Video-Conferencing.

CM No. 26315/2020

1. This application is filed by the petitioners seeking stay of two letters dated 18.09.2020 issued allegedly to circumvent the judicial process and necessary orders for holding the elections under the Returning Officer to be appointed by the court.
2. A perusal of the communication dated 18.09.2020 shows that it is addressed to all the Affiliated State Associations/Unit Members of respondent No. 5/Shootingball Federation of India and seeks authorized representatives for elections of the Executive Committee of the said respondent No. 5. As per the said communication, the terms of the new Executive Committee will be from 2020-21 to 2024-2025 for four years.
3. As per the election schedule placed on record, the polling and



counting of votes are to take place on 18.10.2020. Justice (Retd.) R.A. Singh has been appointed as a Returning Officer and he has issued the election schedule on 18.09.2020.

4. By the present application, now on the last minute, an attempt is being made to stall the election process.

5. I may note that this writ petition is filed seeking the following reliefs:-

“(a) set aside the letter / order dated 23.05.2019 issued by Respondent No. 1 & 2 granting the recognition to Executive Committee, which in variance to Executive Committee as declared elected on 30.12.2016 for term of 4 years by the Returning Officer, Justice C K Mahajan (Retd.) along with all subsequent acts taken in furtherance thereto;

(b) direct for holding of fresh elections based on Electoral Roll as updated on 27.12.2016 by appointing an independent returning officer as measure of long lasting solution;”

6. The matter is already part-heard and the next date for hearing is fixed as 20.10.2020.

7. I may note that essentially the grievance of the petitioners is that the Executive Committee of respondent No. 5 was elected on 30.12.2016 for a term of 4 years under the Returning Officer Justice (Retd.) C.K. Mahajan. As per the impugned communication dated 23.05.2019 issued by the Ministry of Youth Affairs and Sports, Union of India it was noted that an election was conducted on 31.03.2019 and two persons were elected, namely, Dr. Anil Aggarwal as President and Mr. Dinesh Pratap Singh as Executive Member. The election to the post of Treasurer was not accepted as the concerned person was a government employee.

8. Today, learned counsel for the petitioners has vehemently urged that



the fresh elections which are now proposed are being called by the same Executive Committee/same lot of persons whose election is under challenge. He seeks stay of the elections. Alternatively, he seeks that this court may appoint an Electoral Officer.

9. Learned counsel appearing for respondent No. 5 however states that the elections in question have been called by the Secretary General who is authorized under the Memorandum to call the elections. Further, it is stated that Justice (Retd.) R.A.Singh has been appointed as a Returning Officer and hence, the elections are going to be fair and impartial.

10. In my opinion, prima facie, merely because there is a challenge pending to the election results that were held in 2019 to the post of President and Executive Committee Member cannot prima facie be a ground to stop the fresh elections which are now sought to be called. Further, the elections under challenge are essentially of Dr. Anil Aggarwal, the President and Mr. Dinesh Pratap Singh, the Executive Committee Member inasmuch as the petitioners have not made any challenge to the Executive Committee that was allegedly elected in the elections held on 30.12.2016. Further the elections were notified on 18.09.2020 and now, at the last moment, the present application is filed. Clearly, no prima facie case is made out

11. To ensure fair and impartial elections, it was suggested to the learned counsel for the petitioners that the court may appoint a retired judge of the High Court or a learned senior counsel to be a Court Observer for the elections in question.

12. Learned counsel for the petitioners objects to the appointment of an Observer saying that unless the Observer is given powers to re-check the entire electoral rolls and as to whether, a voter is duly authorized by the



concerned body to cast a vote, no purpose would be served by appointing an Observer.

13. Later on, learned counsel for the petitioner agrees that a Court Observer may be appointed.

14. Learned counsel for respondent no. 5 has no objection to the appointment of the Court Observer.

15. Accordingly, Mr. Justice N.K. Mody (Retd.) (Mobile No.: 08319397393/09425115911) is appointed as a Court Observer who will be present on the day of the elections. The elections are to be held on 18.10.2020 at Hotel Fortune Inn Grazia, Sanjay Nagar, District Centre, Ghaziabad at 10.00 A.M. Respondent No. 5 will ensure that all relevant material for the elections are forwarded to the learned Court Observer to enable him to act as an observer to ensure fair elections. It is made clear that this order does not in any manner modify or change the powers of the learned Returning Officer. The fee of the Court Observer is fixed at Rs.1 lakh plus out of pocket expenses to be paid on the day of the elections by respondent No. 5. The learned Court Observer may file his report within two weeks.

16. It is made clear that the elections will be subject to orders in the writ petition.

17. The application stands disposed of

JAYANT NATH, J

OCTOBER 16, 2020
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