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

+ **CS(OS) 148/2018**

**THE YOUNG MENS CHRISTIAN ASSOCIATION OF
ERNAKULAM & ORS**

..... Plaintiffs

Through: Mr. P.I. Jose and Ms. P.S.
Chandralekha, Advocates.
(M:9811556966)

versus

NATIONAL COUNCIL YMCAS OF INDIA Defendant

Through: Mr. Kunal Manav, Advocate in I.As.
665/2019 and 667/2019.
(M:9953860121)
Mr. Manukrishnan and Mr. Nikhil
Parikshit, Advocates for Applicant.
(M:9599566339)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **01.02.2019**

I.A. 1582/2019

1. This is an application seeking impleadment of Mr. Peniyathu Philip Varughese as Defendant in the present suit. It is submitted that he is one of the Regional Chairmen elected by the Central India Region, YMCA. He is also a member of YMCA, Bhopal. Since this suit is of a representative character under Section 92 CPC and since the applicant is an interested person, he is impleaded as Defendant No.4 in the present matter. Amended memo of parties be filed within a week.

**I.A. 1580/2019**

2. This is an application filed by Mr. Peniyathu Philip Varughese who is the Regional Chairman of the Central India Region. It is his submission that in the meeting which has been called today, as per order dated 17th January 2019, apart from the office bearers i.e. the President, three Vice Presidents and the Treasurer, all the members of the National Executive should be allowed to participate in the meeting.

3. The relevant portion of the last order reads as under: -

“5. Upon the Local Commissioner’s exercise being completed, a meeting shall be called of the following persons: -

- a) President – Mr. J.B. Koshy*
- b) Vice President(s) – Mr. Asokan Solomon,
Mr. Gaurav Kalyan and
Mr. Jacob Koshy*
- c) Treasurer – Mr. R.S. Shettian*

6. The meeting shall take place on 1st February, 2019 at 2:30 pm, in the presence of the Court observer, Ms. Rebecca John, Senior Advocate (M: 9810068499). The venue for the meeting of the office bearers shall be the office of the Council in Delhi. The office bearers shall take a decision in respect of the following: -

- (i) Appoint a new National General Secretary for the National Counsel of YMCAs of India.*
- (ii) Appoint counsels who would be representing Defendant No.1 and execute the necessary vakalatnamas.*
- (iii) Decide a date for the meeting of the National Board.*
- (iv) Decide on a schedule for the conduct of the elections of the National Executive.*

The decisions shall be drawn up in the form of



minutes and shall be placed before this Court on the next date, under the signatures of the Observer.”

4. The fundamental basis of the present suit under Section 92 CPC, is that the YMCA is not being run in a proper fashion, as per the Memorandum, Rules and Regulations. Vide order dated 19th July, 2018, elections were directed to be held and an Election Officer was appointed. Paragraph 46 of the said order reads as under: -

- “46. It is deemed fit to appoint Justice Mr. Anil Dev Singh (Retd) as the Election Officer for conducting the elections, as per the Schedule announced by the Defendant. The Election officer would be empowered to:*
- a) To draw up/finalise the list of ‘good standing’ member YMCAs that would be entitled to send their delegates/nominees for voting in the forthcoming elections;*
 - b) Review the list of member organisations, who have been either suspended or not allowed to participate in the elections and afford them an opportunity to rectify the shortcomings and enable their participation in the elections, as per the Rules;*
 - c) Verify the lists of delegates being nominated by the various YMCAs organizations;*
 - d) Call for any information that may be required to establish their genuinity as members of the said local organizations;*
 - e) Draw up a final list of voters who would be entitled to vote on behalf of their various member organizations;*
 - f) Scrutinise the eligibility of the persons nominated by the Nomination committee;*



- g) Scrutinise the counter nominations that may be filed;*
- h) Interact with the member organizations in respect of the venue for the elections and if required, change the venue;*
- i) Conduct the elections in a free and fair manner and if required by secret ballot;*
- j) Announce the final results.”*

5. Subsequently, the learned Election Officer has drawn up a list of members of `good standing`. The elections to various posts were held on 2nd December 2018, for the post of President, Vice President and the Treasurer. The elections to the National Executive did not take place, after the members of good standing, were determined by the Ld. Election Officer. It is submitted on behalf of the Applicant, by Mr. Krishnan Ld. Counsel, that the National Executive is a continuing body and hence even if elections were not held the members ought to be permitted to participate in the meeting today. The question as to whether the National Executive is a continuing body or not is yet to be decided inasmuch as the Chairmen of various regions who constitute the members of the National Executive have to be elected as per the Memorandum of YMCA only by members of `good standing`. Admittedly, the applicant was elected in July 2018, prior to the election officer determining the members of `good standing`. It is only members of `good standing` who are permitted to vote in the election for the Regional Chairman. Any election conducted prior to the Election Officer determining the members of good standing cannot be considered to be proper and, in that sense, the National Executive is to be reconstituted. One of the agenda items for today's meeting is to decide on a schedule for the conduct of elections of the National Executive. Permitting the Regional



Chairmen who were elected prior to the determination of members of 'good standing' by the learned Election Officer would defeat the entire purpose. Thus, only the office bearers who were elected pursuant to the elections conducted on 2nd December, 2018 are allowed to participate in today's meeting. It is made clear that the decisions taken by the elected office bearers in the meeting to be held today would be subject to further orders.

6. It has also been pointed out by learned counsel for the Plaintiff that the Ld. Division Bench vide order dated 29th January, 2019 has passed the following order in an appeal filed by Mr. Mani Kumar challenging the order dated 17th January, 2019.

“Mr. C.R.P. Manikumar, the appellant herein claims to be appointed as the National General Secretary of the YMCAs of India and his grievance is that learned Single Bench while passing the impugned order on 17.01.2019, directed for a meeting to be held on 01.02.2019 at 2:30 p.m. in the presence of the Court Observer wherein a decision has been taken to appoint a new General Secretary. This, according to the appellant, has been done without issuing notice to him as well as without hearing him, particularly, when there being no challenge to his appointment in the original suit.

It is his contention before us that in directing for his removal and fixing a meeting under the Court Observer to appoint a new General Secretary, rights which had accrued to him by virtue of his appointment are being taken away behind his back in total violation to the principles of natural justice and the provisions of the constitution of the YMCAs have been violated.

If that be so, the appellant, should, at the first instance, file an appropriate application bringing all these facts to the notice of the learned Single Judge where the suit is pending and thereafter it is for the



learned Single Judge to pass an appropriate order on such application. The appellant should file such an application within two days from today.

Till the orders are not passed on the said application to be filed by the appellant, the decision in the meeting to be held on 01.02.2019 with regard to Item No.6(i) i.e. appointment of National General Secretary for the National Council of YMCAs of India shall be kept in abeyance.

With the aforesaid liberty being granted to the appellant, the appeal stands disposed of.

Copy of the order be given dasti under the signature of the Court Master.”

7. As per the above order of the Division Bench, Mr. Mani Kumar was to prefer an application before this Court within two days. However, no application has been filed till date. Be that as it may, the meeting, as scheduled today shall go on, in terms of the order passed by the Ld. Division Bench. The learned Observer would place the minutes of today's meeting on record. The Observer's report be filed within 10 days from today.

8. This Court, would pass appropriate orders on the appointment of the National General Secretary after receiving the report of the observer.

I.A. 1581/2019

9. Issue notice. Reply be filed within a week. Rejoinder, thereto, be filed before the next date. The hard copy of the report of the Election Officer be sent for the next date.

10. *Dasti.*

PRATHIBA M. SINGH, J.

FEBRUARY 01, 2019

Rekha