

CS No.636/2020

Indian Society of Extension Education (ISEE) Vs. U.S. Gautam & Ors.

And

CS No.1051/2019

Dr. U.S. Gautam & Anr. Vs. Baldeo Singh & Ors.

26.11.2020

Present : Sh. Vikas Sharma, Counsel for the plaintiff (through VC) in CS No.636/20 (Counsel for D2 in CS no.1051/19).
Sh. Rajiv Kumar (through VC) & Ms. Ritu (appeared physically) Counsels for defendant no. 1 to 4 with defendant no. 2 (appeared physically) in CS No.636/20 (Counsels for plaintiffs in CS no.1051/19)

1. At the outset, it is mentioned that there are two connected matters between the parties in which the main issues are almost identical in nature.

2. Vide this common order, I will dispose of two interim applications filed u/o 39 Rule 1 & 2 CPC by Dr. Kartar Singh. In CS No.636/2020, the interim application u/o 39 Rule 1 & 2 CPC has been filed by Dr. Kartar Singh being authorized executive councilor of ISEE / **plaintiff** and in the suit no. 1051/19, the interim application u/o 39 Rule 1 & 2 CPC has been filed by the **defendant no. 2 Dr. Kartar Singh**, Vice President ISEE.

3. In both the interim applications filed u/o 39 Rule 1 & 2 CPC, Dr. Kartar Singh / ISEE has mainly sought the relief that the opposite party should be restrained from holding and conducting fresh elections for executive council of ISEE, on 30.11.2020 on the basis of notification dated 31.08.2020.

4. The brief facts of the cases necessary for the disposal of the interim applications are as following :

It is stated that ISEE is an educational society engaged in academic and research activities and at present having about 2,500 life members all over India. The society is registered under Societies Registration Act. It is mentioned that on 17.05.2019, the society notified the election for the new executive council for the term 2019 to 2022 as per the Constitution of the society and in pursuant to the said notification dated 17.05.2019, on 21.09.2019, the executive council of the society was elected for 03 years i.e. from 2019 to 2022. The said executive council is stated to have taken over the charge of the affairs of the society.

It is alleged by Dr. Kartar Singh / ISEE that in complete counterblast to the election results declared on 21.09.2019, Dr. U.S. Gautam and Dr. B.K. Singh, who are the previous officer bearers of the society, illegally and unlawfully issued one notification dated 31.08.2020 to hold fresh elections of the society for the year 2020 to 2023 in complete disregard to the provisions / by-laws of the constitution of the society and in pursuant to the said notification dated 31.08.2020, the elections are going to be held on 30.11.2020.

5. On the other hand, the opposite party i.e. Dr. U.S. Gautam / B.K. Singh took the stand that the election of the society held on 21.09.2019 was held in contravention of the provisions of Constitution of the society, for which an Election Tribunal constituted and that Election Tribunal of the society in the matter titled as Dr. U.S. Gautam and Ors. Vs. Baldeo Singh & Ors. passed

an award / order dated 07.12.2019, whereby the Election Tribunal declared the elections held on 21.09.2019 as null and void and directed that free and fair elections of ISEE executive council be conducted afresh within one year from 07.12.2019 and, it is stated that, therefore, a notification dated 31.08.2020 has been issued for holding elections on 30.11.2020.

6. Dr. Kartar Singh has alleged that Dr. U.S. Gautam, Dr. B.K. Singh and others are trying to set up a parallel executive council of the society in contravention to the provisions of Constitution of the society and the Election Tribunal was constituted illegally and, therefore, the decision of that Election Tribunal is not binding upon Dr. Kartar Singh, who is allegedly representing society in these matters.

7. I have perused the case files and heard the arguments made by the Ld. Advocates for the parties.

8. It is noted that CS no.1051/19 titled as Dr. U.S. Gautam & Anr. Vs. Baldeo Singh & Ors. was filed in the Court on 03.07.2019 and the suit bearing no.636/20 titled as Indian Society of Extension Education (ISEE) Vs. U.S. Gautam & Ors. was filed in the court on 15.10.2020. In the CS no.1051/19, the plaintiffs Dr. U.S. Gautam and Dr. B.K. Singh mainly sought the relief of declaration to delcare the notification dated 17.05.2019 in pursuant to which elections were held on 21.09.2019, as null and void alongwith consequential relief of injunction. The interim application filed by the plaintiffs in CS no.1051/19 u/o 39 Rule 1 & 2 CPC for stay of elections held on

21.09.2019 was dismissed by my Ld. Predecessor vide order dated 19.09.2019 mainly on the ground that the Courts should not generally interfere in the election process as per the mandate of Constitution Bench Judgment of Hon'ble Supreme Court in the case titled as N.P. Ponnuswami Vs. Returning Officer, AIR 1952 SC 64.

9. Now, in the interim applications filed u/o 39 Rule 1 & 2 CPC, the plaintiff in CS no.636/20 and defendant no. 2 in the CS no.1051/19, the main interim relief sought is stay of elections going to be held on 30.11.2020 in pursuant to the notification dated 31.08.2020.

10. I have perused the Constitution of ISEE. In the said Constitution, clause 11.3(g) provides that objection, if any, regarding election will be referred to Tribunal constituted by the existing executive council. The applicant in the interim applications under consideration has disputed the reference for constitution of Election Tribunal, the very Constitution of Election Tribunal as well as decision of Election Tribunal dated 07.12.2019. Now, in pursuant to the order of Election Tribunal dated 07.12.2019, elections of society are going to be held on 30.11.2020 in pursuant to the notification dated 31.08.2020.

11. It can be decided only during trial after evidence of the parties as to whether the reference for constitution of Election Tribunal, the Constitution of Election Tribunal and the order dated 07.12.2019 of the Election Tribunal are valid or not. At this stage, if the election, which is going to be held on

30.11.2020, in pursuant to the notification dated 31.08.2020 is stayed, it will amount to interfering in the election process and such interference has been frowned upon by the Constitution Bench of Supreme Court in the case titled as **N.P. Ponnuswami Vs. Returning Officer, AIR 1952 SC 64**. In this judgment, the Hon'ble Supreme Court of India categorically held that the courts should not generally interfere in the election process, otherwise no election can ever be held. The Court further held that the objections, if any, to the elections etc., be filed by way of election petition or other appropriate remedy and should be dealt later on after the elections.

In the matters under consideration, there is a decision of Election Tribunal of the society and, therefore, *per se* this Court does not find any plausible reason not to accept the decision dated 07.12.2019 of the Election Tribunal and, therefore, granting injunction not to hold elections on 30.11.2020, which are going to be held in pursuant to the order of election Tribunal dated 07.12.2019, would amount to interference in the election process. Since there is decision of Election Tribunal dated 07.12.2019 in favour of non-applicants, it can be said that there is no prima-facie case in favour of applicant. The other two factors like balance of convenience and irreparable injury also tilt in favour of non-applicants as stopping elections midway will put more inconvenience to non-applicants, as election process requires good amount of finance, time and involvement by all concerned parties.

12. In view of the aforesaid discussion, the interim applications under consideration filed u/o 39 Rule 1 & 2 CPC are dismissed and are

disposed of accordingly. Nothing said in this order will tantamount to any expression on the merits of the cases.

13. Put up for completion of pleadings with copy to each other, framing of issues and further proceedings on **24.03.2021 at 10.00 a.m.**

**Announced in the
open Court today
i.e. 26.11.2020**

**(Dheeraj Mittal)
Sr. Civil Judge-cum- Rent Controller
PHC, New Delhi/26.11.2020**