

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Original Side Appeal Nos. 68 to 78 of 2023
and
CMP. Nos.7421, 7423, 7424, 7426, 7427, 7429, 7519, 7521, 7536, 7547,
7556, 7557, 7558 and 7563 of 2023 and 11641 of 2023

O.S.A. No. 68 of 2023

O. Panneerselvam
Co-ordinator/Treasurer, AIADMK
having office at No.226
Avvai Shanmugam Salai
Royapettah, Chennai - 600 014

.. Appellant

Versus

1. All India Anna Dravida Munnetra Kazhagam
rep. by its Co-ordinator and Joint Co-ordinator
having office at No.226, Avvai Shanmugam Salai
Royapettah, Chennai - 600 014
2. The General Council
All India Anna Dravida Munnetra Kazhagam
rep. by its Presidium Chairman
having office at No.226, Avvai Shanmugam Salai
Royapettah, Chennai - 600 014

3. Edapadi. K. Palaniswami
Joint Co-ordinator/Party Head Quarter's Secretary
AIADMK
having office at No.226, Avvai Shanmugam Salai
Royapettah, Chennai - 600 014

.. Respondents

O.S.A. No. 69 of 2023

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O.S.A. No. 70 of 2023

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.. Respondents

O.S.A. No. 71 of 2023

R. Vaithilingam

.. Appellant

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O.S.A. No. 72 of 2023

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O.S.A. No. 73 of 2023

- J.C.D. Prabhakar .. Appellant

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O.S.A. No. 74 of 2023

Paul Manoj Pandian @ P.H. Manoj Pandian .. Appellant

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O.S.A. No. 75 of 2023

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O.S.A. No. 76 of 2023

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O.S.A. No. 68 of 2023:- Original Side Appeal filed under Order 36 Rule 4 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in O.A. No. 251 of 2023 in C.S. No. 62 of 2023

O.S.A. No. 69 of 2023:- Original Side Appeal filed under Order 36 Rule 4 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in O.A. No. 250 of 2023 in C.S. No. 62 of 2023

O.S.A. No. 70 of 2023:- Original Side Appeal filed under Order 36 Rule 4 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in O.A. No. 249 of 2023 in C.S. No. 62 of 2023

O.S.A. No. 71 of 2023:- Original Side Appeal filed under Order 36 Rule 9 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in O.A. No. 237 of 2023 in C.S. No. 56 of 2023

O.S.A. No. 72 of 2023:- Original Side Appeal filed under Order 36 Rule 9 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in O.A. No. 221 of 2023 in C.S. No. 56 of 2023

O.S.A. No. 73 of 2023:- Original Side Appeal filed under Order 36 Rule 9 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in Application No. 220 of 2023 in C.S. No. 55 of 2023

O.S.A. No. 74 of 2023:- Original Side Appeal filed under Order 36 Rule 9 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in Original Application No. 164 of 2023 in C.S. No. 47 of 2023

O.S.A. No. 75 of 2023:- Original Side Appeal filed under Order 36 Rule 9 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in Original Application No. 222 of 2023 in C.S. No. 56 of 2023

O.S.A. No. 76 of 2023:- Original Side Appeal filed under Order 36 Rule 9 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in Original Application No. 235 of 2023 in C.S. No. 47 of 2023

O.S.A. No. 77 of 2023:- Original Side Appeal filed under Order 36 Rule 9 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in Original Application No. 219 of 2023 in C.S. No. 55 of 2023

O.S.A. No. 78 of 2023:- Original Side Appeal filed under Order 36 Rule 9 of O.S. Rules read with Clause 15 of Letters Patent against the order dated 28.03.2023 passed in Original Application No. 236 of 2023 in C.S. No. 55 of 2023

O.S.A. Nos. 68, 69 and 70 of 2023

For Appellants : Mr. P.S. Raman, Senior Counsel
& Mr. Guru Krishna Kumar, Senior Counsel
for Mrs. P. Rajalakshmi

For Respondents : Mr. C.S. Vaidyanathan, Senior Counsel
& Mr. Vijay Narayan, Senior Counsel
for Mr. K. Gowtham Kumar
& Mr. E. Balamurugan

O.S.A. Nos. 71, 72 and 75

For Appellants : Mr. C. Manishankar, Senior Advocate
for Mr. S. Elambharathi

For Respondents : Mr. C.S. Vaidyanathan, Senior Counsel
& Mr. Vijay Narayan, Senior Counsel
for Mr. K. Gowtham Kumar (R1, R2 & R4)
& Mrs. P. Rajalakshmi (R3)

O.S.A. Nos. 74 and 76 of 2023

For Appellants : Mr. Abdul Saleem, Senior Counsel
for Mr. S. Elambharathi

For Respondents : Mr. C.S. Vaidyanathan, Senior Counsel
& Mr. Vijay Narayan, Senior Counsel
for Mr. K. Gowtham Kumar
& Mrs. P. Rajalakshmi

O.S.A. Nos. 73, 77 and 78 of 2023

For Appellants : Mr. A.K. Sriram, Senior Counsel
for Mr. S. Elambharathi
For Respondents : Mr. C.S. Vaidyanathan, Senior Counsel
& Mr. Vijay Narayan, Senior Counsel
for Mr. K. Gowtham Kumar (R1, R2 & R4)
& Mrs. P. Rajalakshmi (R3)

COMMON JUDGMENT

R. MAHADEVAN, J.

I. OVERVIEW OF THE APPEALS

All these appeals arise from a common order dated 28.03.2023 passed by the learned Judge in the Original Applications filed by the appellants herein. For ease of reference, the challenges made in these appeals are tabulated below:

OSA No.	Challenge made	Prayer made in Original Application
68/2023 filed by the applicant / plaintiff viz., O.Panneerselvam	O.A. No. 251 of 2023 in C.S.No. 62 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from implementing/ enforcing the resolution nos.3,4,5 & 6 already passed on 11.07.2022 by the second respondent pending disposal of the suit.

69/2023 filed by the applicant / plaintiff viz., O.Panneerselvam	O.A.No.250 of 2023 in C.S.No. 62 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from conducting any election to the post of general secretary on 26.03.2023 or any other date, pursuant to the notice dated 17.03.2023 pending disposal of the suit.
70/2023 filed by the applicant / plaintiff viz., O.Panneerselvam	O.A.No. 249 of 2023 in C.S.No. 62 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from implementing / enforcing the special resolution dated 11.07.2022 of the 2 nd respondent pending disposal of the suit.
71/2023 filed by the applicant / plaintiff viz., R.Vaithilingam	O.A.No. 237 of 2023 in C.S.No. 56 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from conducting any election to the post of General Secretary on 26.03.2023 or any other date, pursuant to the notice dated 17.03.2023, pending disposal of the suit
72/2023 filed by the applicant / plaintiff viz., R.Vaithilingam	O.A.No. 221 of 2023 in C.S.No. 56 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from implementing/ enforcing the resolution Nos. 3, 4, 5 and 6 dated 11.07.2022 of the second respondent, pending disposal of the suit
73/2023 filed by the applicant / plaintiff viz., J.C.D.Prabhakar	O.A.No.220 of 2023 in C.S.No. 55 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from implementing/ enforcing the resolution Nos. 3, 4, 5 and 6 dated 11.07.2022 of the second respondent, pending disposal of the suit
74/2023 filed by the applicant / plaintiff viz., Paul Manoj Pandian @ P.H.Manoj Pandian	O.A.No. 164 of 2023 in C.S.No. 47 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from implementing/ enforcing the resolution Nos. 3, 4, 5 and 6 dated 11.07.2022 of the second respondent, pending disposal of the suit

75/2023 filed by the applicant / plaintiff viz., R.Vaithilingam	O.A.No. 222 of 2023 in C.S.No. 56 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from implementing/ enforcing the special resolution dated 11.07.2022 of the second respondent, pending disposal of the suit
76/2023 filed by the applicant / plaintiff viz., Paul Manoj Pandian @ P.H.Manoj Pandian	O.A.No. 235 of 2023 in C.S.No. 47 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from conducting any election to the post of General Secretary on 26.03.2023 or any other date, pursuant to the notice dated 17.03.2023, pending disposal of the suit
77/2023 filed by the applicant / plaintiff viz., J.C.D.Prabhakar	O.A.No. 219 of 2023 in C.S.No. 55 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from implementing/enforcing the special resolution dated 11.07.2022 of the second respondent, pending disposal of the suit
78/2023 filed by the applicant / plaintiff viz., J.C.D.Prabhakar	O.A.No. 236 of 2023 in C.S.No. 55 of 2023	to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from conducting any election to the post of General Secretary on 26.03.2023 or any other date, pursuant to the notice dated 17.03.2023, pending disposal of the suit

The appellants have questioned the common order passed by the learned Judge in dismissing the original applications filed by them, for the following reliefs:

(i) to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from implementing/ enforcing the resolution nos.3,4,5 & 6 already passed on 11.07.2022 by the second respondent pending disposal of the suit.

(ii) to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from conducting any election to the post of general secretary on 26.03.2023 or any other date, pursuant to the notice dated 17.03.2023 pending disposal of the suit.

(iii) to pass an order of ad interim injunction restraining the respondents, their men, agents and persons claiming through them from implementing / enforcing the special resolution dated 11.07.2022 of the 2nd respondent pending disposal of the suit.

2. The appellants herein viz., Mr. O.Panneerselvam, Mr. R.Vaithilingam, Mr. JCD. Prabhakar and Mr. Paul Manoj Pandian @ P.H.Manoj Pandian, have instituted four separate suits in C.S. Nos. 62 of 2023, 56 of 2023, 55 of 2023 and 47 of 2023 respectively. Pending the same, they preferred the original applications for the reliefs as stated supra. All the original applications have been dismissed by the learned Judge, *vide* common order dated 28.03.2023, which is impugned herein.

3. For the purpose of appreciation of the pleadings in these appeals, the suit in C.S. No. 62 of 2023 is taken as a lead case and the facts, which led to filing of the said suit are as under:

II. PLEADINGS OF THE PARTIES

Plaint averments

3.1. According to the plaintiff, the first defendant namely All India Anna Dravida Munnetra Kazhagam, (hereinafter shortly referred to as “AIADMK”) is a recognised political party in the State of Tamil Nadu, having founded by late Dr. M.G. Ramachandran in the year 1972. It is registered with the Election Commission of India and is one of the leading political parties in the State. The party is governed by its bye-laws, which have been amended from time to time.

3.2. The plaint further proceeds to state that the plaintiff enrolled himself as a primary member in the AIADMK party during the year 1977 and in the year 1980, he was appointed as Ward Member in Ward No.18 of Periyakulam Town, Theni District. Subsequently, he was holding various posts in the party, prominent among them are the Post of Chief Minister of the State thrice in the years 2001, 2014 and 2016, Leader of Opposition during the year 2006, and Finance Minister during the year 2017. According to the plaintiff, the AIADMK party had won majority of the general elections held in the State and had an extremely successful track record as one of the major political parties in the State. The party had been voted to power and ruled the State during the year 1977-1985 under the leadership of M.G. Ramachandran and

for the years 1991-1996, 2001-2006 and 2011-2021 under the leadership of Dr. J. Jayalalithaa until her death in the year 2016. After the death of the General Secretary, the Party was under the leadership of the plaintiff and the defendant No.3 jointly. At present, the AIADMK is the main opposition party in the Tamil Nadu Legislative Assembly.

3.3. Referring to the organisational structure of the party, the plaintiff stated that the primary membership or cadre of the AIADMK comprises of more than 1.5 crore members. The AIADMK is the only political party where the highest executive post of General Secretary was elected directly by the entire primary membership of the party. As per the bye-laws of the party, the General Secretary so elected is vested with the power of amendment of the bye-laws by convening a general council. This is a set up akin to the election of the President of the Country. The General Secretary of the party is also empowered to relax some of the conditions or make exception to any of the rules and regulations of the party, which are morefully set out in the bye-laws. According to the plaintiff, the two most prominent leaders of the party viz., (i) Dr. M.G. Ramachandran and (ii) Dr. J. Jayalalithaa, held the post of General Secretary during their life time.

3.4. The plaint also proceeds to state that on 05.12.2016, the then General Secretary Dr. J. Jayalalithaa died. Thereafter, the plaintiff was sworn

in as the Chief Minister of Tamil Nadu and he continued until 15.02.2017. The plaintiff would further state that during the life time of Dr. J. Jayalalithaa, when she was unseated from the post of Chief Minister on account of legal impediments, it was the plaintiff who was permitted to hold the post of Chief Minister twice till such impediments were resolved. This, according to the plaintiff, was in recognition of the plaintiff's loyalty to the party's ethos and his vast administrative and political experience. In this fashion, the plaintiff was in the post of Chief Minister during 2001-2002 and 2014-2015.

3.5. It was further stated by the plaintiff that soon after the death of the General Secretary of the party Dr. J. Jayalalithaa, certain unfortunate developments have taken place and in order to resolve the same, the plaintiff moved the Election Commission of India by filing a Dispute Case No. 2 of 2017 under the Election Symbols (Reservation and Allotment) Order, 1968. The Election Commission of India, by order dated 22.03.2017 froze the election symbol (two leaves) of the party. This turmoil was effectively resolved at a meeting of the General Council of the party held on 12.09.2017, after issuing a *sui generis* notice dated 28.08.2017 as per the bye-laws. The notice was issued taking note of the fact that the organisational structure of the Party was in a limbo due to various splinter groups of the party recognised by the interim order of the Election Commission of India. In the meeting held on

12.09.2017, several resolutions were passed and amendments were made to the bye-laws of the party. As per the same, Dr. J. Jayalalithaa, former General Secretary, would be the "eternal General Secretary of the party" and that, the post of General Secretary would be abolished. In the place of General Secretary, two new posts were created namely Co-ordinator and Joint Co-ordinator. While the plaintiff was elected as a Co-ordinator by the General Council, the third defendant was elected as the Joint Co-ordinator. That apart, various amendments were made to bye-laws of the party to ensure a joint leadership of the party. Such election of the post of Co-ordinator and Joint Co-ordinator was through voting by the General Council. Thus, the organisational structure has been substantially changed with the creation of two new posts namely Co-ordinator and Joint Co-ordinator. The amendments broadly categorise that the powers vested with the then General Secretary will be conveyed and vest with the Co-ordinator and Joint Co-ordinator for efficient governance of the party. As per the bye-laws, the tenure of the Co-ordinator and Joint Co-ordinator will be for five years. Therefore, the first tenure of the plaintiff as Co-ordinator and the third defendant as Joint Co-ordinator having commenced on 12.09.2017, was till 12.09.2022. Subsequently, on 23.11.2017, the Election Commission of India passed an order allotting the "Two leaves" symbol to the party. Thus, on account of

timely action by the plaintiff with his leadership and statesmanship, the turmoil in the party has been resolved and the party had successfully transitioned into a stable joint leadership.

3.6. The plaintiff also stated that from September 2017 to May 2021, the AIADMK party remained in power in the State under the Joint leadership of the plaintiff and the third defendant. In the Government, the third defendant was the Chief Minister and the Plaintiff was the Deputy Chief Minister. Whereas, in the party, the plaintiff was the Co-ordinator and the third defendant was the Joint Co-ordinator. In the meantime, the order dated 23.11.2017 passed by the Election Commission of India was challenged before the Delhi High Court by filing WP (C) No. 10725 of 2017 and batch, but they were dismissed on 28.02.2019, with some observations.

3.7. The plaint further proceeds to state that for the first time after the post of General Secretary was abolished and the posts of Co-ordinator and Joint Co-ordinator were created, the party contested the legislative assembly elections in the State under the leadership of the plaintiff and third defendant, in May 2021 and the AIADMK emerged as the largest Opposition Party. On 01.12.2021, in order to comply with the observations made by the Delhi High Court in the order dated 28.02.2019 passed in WP (C) No. 10725 of 2017 and on the request made by the primary members of the party, the Central

Executive Committee of the party passed a special resolution amending Rule 20A(ii), Rule 43 and 45 of the bye-laws. As per the said amendments, the electorate for the posts of Co-ordinator and Joint Co-ordinator would be the primary members and not the members of the General Council alone. In other words, before amendment, Rule 20A(ii) envisages that the Co-ordinator and Joint Co-ordinator shall be elected by members of the General Council, but after amendment, their election will be by the primary members of the party. Similarly, Rule 43, prior to amendment, envisaged that the General Council will have powers to frame, amend or delete any of the rules of the constitution of the Party. This was amended to the effect that even though the General Council will have powers to frame, amend or delete the rules, the election of the Co-ordinator and Joint Co-ordinator by all the primary members cannot be subjected to any change by the General Council or in any manner, amended as it forms the basic structure of the party. Likewise, Rule 45 conferred power to the Co-ordinator and Joint Co-ordinator to relax or make alterations to the rules, but after amendment, though the power to relax or make alterations of the rule was retained, the requirement that the Co-ordinator and Joint Co-ordinator should be elected only by all the primary members of the party was retained and it cannot be amended or changed. According to the plaintiff, the resolution so passed in the Executive Committee meeting on 01.12.2021

was also communicated to the Election Commission of India. As per the said amendments, on 06.12.2021, a party election was held, in which the plaintiff as well as the third defendant jointly contested and they were elected unopposed as Co-ordinator and Joint Co-ordinator. The result of the election was also notified to the Election Commission of India and it was duly signed by the plaintiff and the third defendant. During April 2022, the party organisational elections were held under the joint leadership and supervision of the plaintiff and the third defendant, result of which was intimated to the Election Commission of India through a letter dated 29.04.2022, jointly signed by the plaintiff and the third defendant. Similarly, on 30.05.2022, the plaintiff and third defendant signed Form AA and Form BB in relation to intimation of names of Party Candidate to Rajya Sabha elections. These facts stand testimony to the fact that the resolutions passed in the Executive Committee meeting on 01.12.2021 were duly acted upon.

3.8. While so, on 02.06.2022, the plaintiff and the third defendant jointly called upon a regular meeting of the General Council on 23.06.2022, which is akin to an ordinary Annual General Meeting. There was no fixed agenda for the meeting dated 23.06.2022, in which general administrative affairs of the party were discussed. However, shortly after the meeting, the third defendant started to act indifferently with a view to wrest control of the

party. This led to serious concerns among the party cadres and they were upset and angry inasmuch as the agreement to continue the joint leadership among the plaintiff and defendant No.3 was sought to be undone by the acts of the third defendant.

3.9. On 12.06.2022, ahead of the General Council meeting scheduled for 23.06.2022, an announcement was issued by the Head Office inviting party head-office bearers and District Secretaries to attend a committee meeting at the party head quarters on 14.06.2022. Accordingly, the meeting was held on 14.06.2022 and by way of press meet, Thiru. D. Jayakumar, a member of the General council has stated that a demand for single leadership had been mooted in the meeting on 14.06.2022 by few District Secretaries, but the head quarters news bulletin issued by the party did not record any such statement regarding the intention of the cadres for a single leadership. Thus, the third defendant unilaterally introduced an agenda in the General Council meeting on 23.06.2022 by garnering support from few disgruntled members for election of a single leader. Such attempts were made by the third defendant knowing fully well that they are contrary to the amended bye-laws and conventions of the party. Therefore, the plaintiff wrote a letter dated 19.06.2022 to the third defendant highlighting serious concerns regarding the decision taken note to invite special invitees to the scheduled General Council meeting. In the said

letter, reference was also made to the attempt to deviate from the past practise followed by the party cadres and the amendments made to the bye-laws. The plaintiff therefore suggested that the scheduled meeting on 23.06.2022 be postponed to a different date at a suitable time and venue with the consent of both the Co-ordinator and Joint Co-ordinator. But such suggestions made in the letter dated 19.06.2022 were simply brushed aside by the third defendant through a letter dated 21.06.2022. On the same date namely 21.06.2022, the plaintiff received an e-mail from the AIADMK party cadre office in which 23 draft resolutions proposed to be placed before the General Council to be held on 23.06.2022 were listed. On 22.06.2022 at 2.55 pm, the plaintiff also sent an e-mail to the AIADMK party head office conveying his approval for the 23 draft resolutions to be placed before the General Council meeting. In such circumstances, one Mr. Shanmugam, a member of the General Council, filed C.S. No. 111 of 2022 before the learned Judge, along with O.A.Nos. 327 and 328 of 2022 seeking interim injunction restraining the third defendant from convening the meeting on 23.06.2022. In the said suit, the plaintiff herein as well as the defendant No.3 were arrayed as parties. However, the learned Judge declined to grant any interim order and ordered notice returnable by 11.07.2022, against which O.S.A. No. 160 of 2022 was filed.

3.10. On 23.06.2022, a Division Bench of this Court passed an order permitting to conduct General Council meeting at 10.00 am on 23.06.2022, deliberate upon the 23 items mentioned in the draft resolution and take decision as per the Rules and Bye-laws with regard to the same, however, not to take any decision other than the 23 items mentioned in the draft resolution. The members of the General Council were also granted liberty to discuss any other matter, but no decision shall be taken with regard to the same. Aggrieved by the said order dated 23.06.2022 passed by the Division Bench of this Court in OSA No. 160 of 2022, SLP (C) No. 11237 of 2022 was filed by the third defendant, besides some of the supporters of the third defendant filed SLP (C) Nos. 11578 and 11579 of 2022.

3.11. On 23.06.2022, after the order passed by the Division Bench of this Court, the General Council meeting was held, in which the plaintiff was handed over a booklet containing 23 resolutions. On going through the same, the plaintiff noticed that the first resolution was contrary from the draft resolution proposed and approved by him in his e-mail dated 22.06.2022. This, according to the plaintiff, was in gross violation of the order dated 23.06.2022 by this Court. The 23 items mentioned in the draft resolution was wilfully altered and placed before the General Council. Further, in disobedience of the interim order passed by this Court, a new resolution was

introduced bereft of authorisation by the plaintiff, as required. As per the new resolution, Mr. Tamil Magan Hussain was appointed to the post of Permanent Presidium Chairman, which is in direct conflict with the order passed by this Court. Curiously, the Permanent Presidium Chairman, soon after his appointment, without any authorisation by the plaintiff, as a Coordinator, announced that the next General Council meeting will be held on 11.07.2022. Further, in the meeting, the plaintiff was heckled and gheraoed; slogans were raised against him; and bottles hurled, by those who were instigated by the third defendant. In the commotion, a purported requisition for convening the next general council meeting was submitted to the Presidium Chairman instead of submitting it to the Co-ordinator and Joint Co-ordinator as contemplated in the bye-laws.

3.12. The Plaint further unfolds that on 26.06.2022, a notice was circulated by the Party Head Quarters Secretary calling for the meeting of Chief Executive Officers of the party to be held on 27.06.2022. This notice did not bear the signature of either the Co-ordinator or the Joint Co-ordinator. The Plaintiff responded to the notice by stating that any meeting convened by the party officials without the consent of the Co-ordinator and Joint Co-ordinator is against the bye-laws of the party. The plaintiff also sent a detailed report on 27.06.2022 to the Election Commission of India under Section 29A(9) of the

Representation of People Act, 1951 informing the Commission about the unauthorised and unlawful manner in which meetings were conducted and resolutions were passed. The third defendant also sent a letter dated 28.06.2022 to the Election Commission of India stating that the amendments proposed have not been ratified by the General Council and therefore, those amendments are no longer in force and lapsed.

3.13. On 01.07.2022, the plaintiff received a notice inviting him to participate in the General Council meeting to be held on 11.07.2022. In the notice it was stated that on 23.06.2022, the General Council meeting did not approve the amendments made to the bye-laws and therefore, the concept of Co-ordinator or Joint Co-ordinator system of functioning does not exist. Such a statement in the notice dated 01.07.2022 is contrary to Rule 20A(iii) of the bye-laws wherein it is clearly stated that the tenure of the Co-ordinator and Joint Co-ordinator is five years and it was also unanimously approved by the party members on 05.12.2021. As per the amendment, the tenure of the Co-ordinator and Joint Co-ordinator shall exist till 05.12.2026. Therefore, the plaintiff has a vested right to hold the post of Co-ordinator until 05.12.2026. Even assuming without admitting that the election held in December 2021 was invalid having been elected by the General Council first on 12.09.2017, the first tenure of the Plaintiff and Defendant No.3 as Co-ordinator and Joint

Co-ordinator would have extended to 12.09.2022. Therefore, the notice dated 01.07.2022 contains misleading statement which is contrary to records. It is in those circumstances, on 05.07.2022, the plaintiff filed a suit in C.S. No. 118 of 2022 for the following reliefs:

"(i) For a declaration to declare that convening the General Council Meeting on 11.07.2022, or any other date, without the joint authorisation of both Co-ordinator and Joint Co-ordinator is illegal, and in contravention to the bye laws of the first defendant party, more particularly rule 20 A (iv) of the rules and regulations of AIADMK party

(ii) For a permanent injunction restraining the defendants from convening the General Council Meeting on 11.07.2022 or on any other date without the express authorisation of both the Coordinator and Joint Co-ordinator.

3.14. Pending Civil Suit No. 118 of 2022, the plaintiff also filed Original Application No. 368 of 2022 seeking to grant an order of ad interim injunction restraining the respondents/defendants from convening the alleged General Council Meeting on 11.07.2022 or any other date without the express authorisation of both the Co-ordinator and Joint Co-ordinator pending disposal of the suit.

3.15. On the same day (i.e.) on 05.07.2022, another suit in C.S. No. 119 of 2022 was filed by a member of General Council by name Vairamuthu along with an Original Application in OA.No.370 of 2022 for interim injunction. While so, on the next day, viz., 06.07.2022, the Hon'ble Supreme Court passed an order in SLP (C) No. 11237 of 2022, SLP (C) Diary Nos. 19149 and 19425

of 2022 to the effect that the third defendant shall conduct the General Council Meeting on 11.07.2022 in accordance with law.

3.16. On 07.07.2022, in the suit in C.S. No. 119 of 2022 filed by Vairamuthu, another application in OA No.379 of 2022 was filed praying to pass an order of ad interim injunction restraining the respondents from passing any resolution relating to the abolition of the post of Co-ordinator and Joint Co-ordinator as they were elected by the primary members of the party for a term of five years as per bye-laws 20A(ii) and 20A(iii) and consequently direct the respondents not to implement the resolution/decision relating to item Nos. 3, 4, 5, 6, 7 mentioned in the notice dated 01.07.2022 in the alleged General Council Meeting which is to be held on 11.07.2022 pending disposal of the suit.

3.17. On 11.07.2022, the date on which the General Council Meeting was to be convened, at 9.00 am, the learned Judge pronounced orders in the Original Applications, declining to grant interim relief. Consequently, the General Council meeting was held in which various illegal resolutions were passed converting the leadership structure of the party abolishing the system of joint leadership under the Co-ordinator and Joint Co-ordinator to that of single leadership under the post of General Secretary.

3.18. The plaintiff thereafter challenged the above said order dated 11.07.2022 passed in O.A. No. 368 of 2022 in C.S. No. 118 of 2022 by filing SLP (C) No. 12782 of 2022. The plaintiff in C.S. No. 119 of 2022 viz., Vairamuthu, also filed SLP (C) Nos. 12784 and 12785 of 2022 challenging the order dated 11.07.2022 passed in O.A. Nos. 370 and 379 of 2022 in C.S. No. 119 of 2022. By a common order dated 29.07.2022, all the Special Leave Petitions were disposed of remanding the matter to the learned Judge for fresh consideration of the issues on merits. On remand, the learned Judge passed a detailed order on 17.08.2022 in OA No. 368 of 2022 in C.S. No. 118 of 2022 and O.A. Nos. 370 and 379 of 2022 in C.S. No. 119 of 2022 granting interim relief in favour of the plaintiff.

3.19. Aggrieved by the order dated 17.08.2022, O.S.A. Nos. 227 of 2022, 231 and 232 of 2022 were filed before the Division Bench of this Court. The Division Bench, by judgment dated 02.09.2022 allowed the appeals and set aside the common order dated 17.08.2022 passed by the learned Judge, on the finding that the post of Co-ordinator and Joint Co-ordinator had lapsed for want of ratification of the amendments on 23.06.2022.

3.20. Challenging the judgment dated 02.09.2022 of the Division Bench of this Court, the plaintiff as well as the aforesaid Vairamuthu filed SLP (C) Nos. 15753 of 2022 and 15705 and 15706 of 2022 before the Hon'ble Supreme

Court. During the pendency of these appeals, an undertaking was given by the third defendant to the effect that he will not hold any election to the post of General Secretary. The said undertaking was recorded by order dated 30.09.2022 in the Special Leave Petitions. Subsequently, all the appeals were taken up for final hearing and by judgment dated 23.02.2023, the Hon'ble Supreme Court affirmed the order dated 02.09.2022 passed by the Division Bench of this Court. However, it was observed that they are not expressing any opinion as regards the validity of the resolution dated 11.07.2022 passed in the General Council. According to the plaintiff, even though the order dated 02.09.2022 has been upheld by the common judgment dated 23.02.2023 of the Hon'ble Supreme Court, the observations made by the Division Bench of this Court in para No.49 of the order dated 02.09.2022 still continue to be in force. In other words, the issue as to whether the posts of Co-ordinator and Joint Co-ordinator had lapsed or not, has not been dealt with and as such, the defendants cannot unilaterally assume that the posts have lapsed. In the above circumstances, the plaintiff has instituted the present suit in C.S. No. 62 of 2023 for the following reliefs:

(i) *Declaring that the Resolution Nos. 3, 4, 5 and 6 passed at the General Council Meeting of Defendant No. 1 held on 11.07.2022 at Srivaru Venkatachalapathy Palace, Vaanagaram and consequent amendments to the byelaws of the Defendant No. 1 (i.e., amendments to Rules 20, 20A, 20A (1 to 13), 20B, 20C, 43, 45 and wherever the words Co-ordinator and Joint Co-ordinator of Kazhagam appears are changed as General Secretary of Kazhagam are ultra vires to the bye laws / rules*

and regulations governing Defendant No.1 and hence, null, void ab initio and non est.

(ii) Declaring that the Special Resolution passed at the General Council Meeting of Defendant No. 1 held on 11.07.2022 at Srivaru Venkatachalapathy Palace, Vaanagaram is ultra vires to the byelaws/rules and regulations governing Defendant No.1 and hence null, void ab initio and non est.

(iii) Permanent injunction restraining the Defendant No.3 from functioning as the Interim General Secretary of the Defendant No.1

(iv) Permanent injunction restraining the Defendants and their representatives, employees, agents etc., from convening any General Council Meeting in a manner contrary to the Party's byelaws and passing any resolution and taking any decision therein.

(v) Permanent injunction restraining the Defendants and their representatives, employees, agents etc., from issuing membership cards to the primary members of the Defendant No.1 without the joint signatures of the Coordinator and the Joint Coordinator (i.e., Plaintiff and Defendant No.3)

(vi) Mandatory Injunction directing the defendants to revise and prepare its current voters list of primary members in accordance with its Constitution/Rules and Regulations

(vii) Permanent injunction restraining the Defendant No.1 and its representatives, employees, agents etc., from conducting any election to the post of General Secretary and any other organisational elections in a manner contrary to the byelaws of the party.

4. The other three appellants viz., R.Vaithilingam, JCD Prabhakar and Paul Manoj Pandian @ P.H.Manoj Pandian, had already instituted separate suits viz., CS.Nos.56 of 2023, 55 of 2023 and 47 of 2023 respectively, raising the same averments as pleaded in the suit in C.S.No.62 of 2023. The third defendant in CS No.62 of 2023 viz., Mr.Edappadi K. Palaniswami is the fourth defendant in the aforesaid three suits; and for the sake of convenience, we shall refer him as the third respondent in all these appeals, as per his ranking in OSA Nos.68, 69 and 70 of 2023. The identical reliefs sought therein are quoted below for ready reference:

i) Declaration that the resolutions passed on the General Council meeting of the 1st defendant held on 11.07.2022 at Srivaru Venkatachalapathy Palace Vaanagaram being Resolution Nos.3,4,5,6 and the Special Resolution dated 11.07.2022 passed therein and consequent amendment to the byelaws of the 1st defendant therein are ultra vires to the Constitution / Rules and Regulations and byelaws of the 1st defendant and hence void, and non est.

ii) Permanent injunction restraining the fourth defendant from functioning as the interim General Secretary of the 1st defendant

iii) Permanent injunction restraining the 1st defendant from convening any General Council meeting and passing any resolution and taking any decision therein.

iv) Mandatory injunction directing the 1st defendant to revise and prepare its current voters list of primary members in accordance with its Constitution / Rules and Regulations and byelaws

v) Permanent injunction restraining the 1st defendant from conducting any organisational election including the election for the party its General Secretary.

5. Pending the aforesaid suits, the appellants preferred original applications seeking ad interim injunctions as detailed at the first instance.

Counter of the respondents / defendants in the lead case

6. On notice, a detailed counter affidavit has been filed on behalf of the respondents / defendants viz., AIADMK party and Edappadi K.Palaniswami, seeking dismissal of the applications mainly on the ground that the reliefs sought for in the applications have become infructuous and they no longer survive for consideration of this Court. It was further stated that the reliefs sought for in the applications were already sought for in O.A. No. 379 of 2022 and therefore, for the same relief, the applicant cannot file the present

Original Applications. Furthermore, the applicant has suppressed many material particulars while filing the applications and therefore, the applications deserve to be dismissed. That apart, the description of the parties in the cause title of the plaint and interim applications are *per se* against the orders of the Hon'ble Supreme Court in Civil Appeal Nos. 1392 to 1397 of 2023. To be precise, the AIADMK is represented by its Interim General Secretary and not by Co-ordinator and Joint Co-ordinator as claimed by the applicant. The third defendant in the suit is the Interim General Secretary of AIADMK and he is not the Joint Co-ordinator as has been described by the plaintiff.

6.1. The counter affidavit of the respondents/defendants further proceeds to state that the AIADMK is a party registered under Section 29A of the Representation of People's Act, 1951 and it is bound only by its Rules and Regulations. The Rules and Regulations form the basis for relationship between the party and its members. As per the same, the General Secretary is the supreme authority and the decision of the General Council is final. The then General Secretary of the party Dr. J. Jayalithaa died on 05.12.2016 and after her death, a General Council meeting was convened by the office bearers of the party on 29.12.2016 nominating Mrs. V.K. Sasikala as the Interim General Secretary of the party. Thereafter, differences arose in the party which led to the members of the General council amending the Rules and

Regulations of the party on 12.09.2017 by which all the functions, which were being executed by the General Secretary previously, would be executed jointly executed by the newly created posts of Co-ordinator and Joint Co-ordinator. The General Council also amended Rule 43, which specifically recites that the General Secretary would be elected by the primary members, can never be amended. The Rule was amended to state that the Co-ordinator and Joint Co-ordinator would be elected by the General Council and not by primary members. Thus, on the basis of such amendments, the Co-ordinator and Joint Co-ordinator were elected. In the meeting held on 12.09.2017, while creating new posts of Co-ordinator and Joint Co-ordinator, the General Council also removed Mrs. V.K. Sasikala from her position and annulled all the decisions taken by her in her capacity as General Secretary.

6.2. It was further stated by the respondents / defendants that while the party was under the dual leadership, on 01.12.2021, certain amendments were made in the Executive Council meeting as to the manner of election of Co-ordinator and Joint Co-ordinator. The Executive Council had made certain amendments to change the mode of election of Co-ordinator and Joint Co-ordinator from being elected independently and it was also agreed by the members. A resolution was also passed to that effect and it was placed before the General Council for approval. Pursuant to such resolution, the elections

for the post of Co-ordinator and Joint Co-ordinator were announced and the plaintiff and the third defendant were elected without any contest.

6.3. According to the respondents / defendants, on 02.06.2022, the plaintiff and the third defendant jointly announced that the next General Council meeting will be held on 23.06.2022. Before convening the General Council meeting, there were several discussions among the party cadre that the dual leadership is ineffective and it requires to be changed into that of a single leadership. The issue was also brought by the cadre to the District Secretaries in the presence of the plaintiff and the third defendant on 14.06.2022 during the consultative meeting. After the consultative meeting, a Resolution Committee of the party held meeting on 16.06.2022 and 18.06.2022 to decide on the resolutions to be placed before the General Council meeting on 23.06.2022. The meeting clearly unfolded the intention of the cadres to have a single leadership. In this context, the plaintiff as well as one Mr. R.Vaithialingam (plaintiff in C.S. No. 56 of 2023) wanted to postpone the meeting to be held on 23.06.2022, but it was refused by the third defendant. Taking note of the commotion among the party cadres with respect to the issue of joint leadership and single leadership, some of the party cadres approached this Court in which the plaintiff intervened and opposed the grant of police protection. However, this Court, by order dated 21.06.2022 rejected the

objections raised by the plaintiff. Notwithstanding the same, the plaintiff had even approached the Commissioner of Police, Avadi to refuse permission for the meeting but it was also not considered. At this stage, one Mr. M. Shanmugam filed C.S. No. 111 of 2022 seeking stay of the meeting to be held on 23.06.2022, but the learned Judge of this Court did not grant interim stay. On appeal before the Division Bench on 23.06.2022, it was held that the meeting shall go on, but no decision would be taken except on the 23 resolutions which had been approved by the plaintiff. According to the defendants, the 23 resolutions were never agreed jointly by the plaintiff and the defendants nor the resolution committee concurred with it.

6.4. The respondents / defendants proceeded to state in the counter affidavit that after the order passed by the Division Bench of this Court on 23.06.2022, 2190 members of the General Council submitted written request to discuss and decide on the single leadership before taking any other item for consideration. In the meeting, majority of the members have clearly expressed their dissent against the plaintiff herein. The members of the General Council also submitted written request to discuss the issue of single leadership and to decide it. In view of such deadlock between the plaintiff and the third defendant, the Presidium Chairman on the floor of the General Council announced that the next general council meeting would be convened on

11.07.2022 at the same venue at 09.15 pm. Thereafter, 2432 members of the the General Council submitted letter on 24.06.2022 along with the agenda items that they intended to discuss in the meeting on 11.07.2022. Some of the office bearers also wanted to discuss on the way forward and accordingly on 26.06.2022 notice for the meeting was issued to all the office bearers. The plaintiff did not attend the meeting called on 27.06.2022, however, he had written a letter to the Election Commission of India under Section 29A (9) of The Representation of People Act in which he misrepresented the facts relating to the meeting held on 23.06.2022. The third defendant also communicated to the Election Commission of India on 28.06.2022, listing out the various events that had unfolded in the meeting on 23.06.2022. According to the third defendant, since the General Council on 23.06.2022 did not approve the amendments brought about by the Executive Council on 01.12.2021, the amendments had lapsed and therefore, the elections conducted to the post of Co-ordinator and Joint Co-ordinator, on the basis of such amendments, can no longer be valid.

6.5. It was also stated in the counter affidavit that as per the prevailing practice, invitation for the meeting of the General Council was issued on 01.07.2022. On receipt of the invitation, the plaintiff has filed a suit in C.S. No. 118 of 2022 before the learned Judge and a supporter of the plaintiff has

filed C.S. No. 119 of 2022. After filing of the suits, the appeal filed by the third defendant against the order dated 23.06.2022 of the Division Bench, came up before the Supreme Court on 06.07.2022. The Hon'ble Supreme Court granted interim stay of operation of the order of the Division Bench and permitted the meeting scheduled on 11.07.2022. Thereafter, the plaintiff in C.S. No. 119 of 2022 filed an application for interim injunction restraining the respondents from passing any resolution relating to the abolition of the post of Co-ordinator and Joint Co-ordinator and not to implement the resolution relating to item Nos. 3, 4, 5, 6 and 7 mentioned in the notice dated 01.07.2022 during the General Council meeting to be held on 11.07.2022. In the said application, orders were reserved and it was to be pronounced at 9.00 am on 11.07.2022. Accordingly, an order was passed dismissing the applications and permitting the meeting to be proceeded with. The order of the learned Judge was also taken on appeal.

6.6. The respondents / defendants further stated that in the meantime, even before the commencement of the meeting on 11.07.2022, the supporters of the plaintiff assembled outside the party office unlawfully and attacked the supporters of the defendants mercilessly. They also broke open the door with arms and damaged the property, stolen several vital documents from the party office including official records, title documents, bank records, income tax

records and other records pertaining to General council meeting. In this connection, a case in Crime No. 2 of 2022 was registered on 01.09.2022 by the CB-CID for the offences under Section 147, 148, 454, 380, 409, 427 and 506 (ii) IPC against the supporters of the plaintiff. In spite of the commotion, the meeting commenced as scheduled, in which the third defendant was elected unanimously as the Interim General Secretary and election officers were appointed for the conduct of election to the post of General Secretary within four months. The General Council also passed resolutions removing the plaintiff and other persons who acted against the principles of the AIADMK party from their basic and primary membership.

6.7. Thereafter, the plaintiff filed an appeal before the Supreme Court of India against the order dated 11.07.2022. By order dated 29.07.2022, the Hon'ble Supreme Court remanded the matter back to the learned Judge of this Court for re-consideration. Upon remand, the learned Judge passed an order dated 17.08.2022 to maintain status quo ante as on 23.06.2022. Aggrieved by the same, the third defendant filed an appeal against the order dated 17.08.2022 before the Division Bench of this Court. The Division Bench, by order dated 02.09.2022 set aside the order of the learned Judge and also dismissed the interim applications. Once again, the plaintiff filed appeal before the Supreme Court and by order dated 30.09.2022, the appeals were disposed

of holding that the status-quo order granted by the single Judge is perverse *inter alia* recorded the undertaking given by the third defendant that election to the post of General Secretary would not be conducted until the appeals are disposed of. Therefore, the plaintiff cannot at this stage raise the issue regarding the convening of the General Council meeting.

6.8. It was further stated in the counter affidavit that the General Council had the power to take any action. The plaintiff had received the notice for the meeting dated 11.07.2022 but chosen not to attend it. Instead, he instigated his supporters and ransacked the premises of the party head quarters. The party is a democratic political party in which all the leaders are bound to follow the Rules and Regulations. The plaintiff can claim no special equity because of the positions previously he held. He has been removed from the post on 11.07.2022 and for the past several months, he is not holding any post in the party. In such circumstances, the question of grant of interim injunction as prayed for in the applications will not arise. The advisory committee itself has been abolished by the General council and the plaintiff has no vested right to continue in any post. With these averments, the respondents / defendants prayed for dismissal of the original applications filed by the plaintiff.

III. ORDER UNDER APPEALS

7. On considering the rival submissions made on either side, the learned Judge concluded that the various issues raised including the enforceability of the amendments made to the organisational structure and validity of the resolutions passed in the General Council meeting on 11.07.2022, can be gone into only during the trial in the suits. However, it was observed that there has been infraction of Rule 6 which prescribes a 7 days' notice before initiating disciplinary action. The learned Judge also reasoned that even though the applicants have made out a prima facie case in their favour in respect of their expulsion from the party, the balance of convenience did not tilt in their favour nor any irreparable injury was caused to them. While so, if injunction is granted, it would cause irreparable injury to the political party concerned and therefore, the learned Judge rejected the plea of injunction made by the plaintiffs. The relevant portions of the order dated 28.03.2023 passed by the learned Judge, are reproduced below:

"Issue No. (a)

.....59. As I am prima facie satisfied that Resolution No.3 is valid, the resolution No.4, 5 & 6 to create the post of Interim General Secretary, to ppoint Edapadi K.Palaniswamy as Interm General Secretary and to conduct election for the post of General Secretary, in my view is also prima facie valid The reason for coming to such a conclusion is that by resolution No.3, the posts of the Coordinator and the Joint Coordinator have been abolished and the post of General Secretary has been created. In view of Resolution No.3, a vacuum has been created with regard to the leadership of the party, such vacuum has to be remedied and hence Resolution No.6 appointing an Election Committee to conduct the election for the post of General Secretary will have to follow. The said resolution

had slatted four months time for such Election Committee to conduct the election. In the Interregnum period, the party cannot be allowed to function without a leader. Hence, prima facie there is also no Infirmary in Resolution Nos.4,5 & 6.

.....

61. Hence, with regard to issue No.(a) I find no prima facie case has been made out for grant of interim Injunction from implementing the resolution Nos.3,4,5 & 6 of the General Council meeting held on 11.07.2022.

Issue No. (b)

.....

66. The issue relating to the said dispute with regard to the special resolution will have to be examined during the final proceedings in the Suit. However, I am of the prima facie view that there has been Infraction of Rule 6 which prescribes a 7 days notice before any disciplinary action.

.....

70. Even though I find a prima facie case in favour of the applicants, I do not find balance of convenience tilted in their favour or that any irreparable injury could be caused to them. On the contrary, I am of the view that if any injunction is granted, it would cause irreparable Injury to the political party concerned and hence, the injunction sought for against the special resolution will have to also be rejected.

Issue No. (c)

71. I have already arrived at a conclusion that the applicants are not entitled for an injunction as against resolution Nos. 3, 4, 5 & 6 dated 11.07.2022. After coming to such a conclusion and now granting an injunction to conduct the election for General Secretary would only put the political party into more trouble, as it would lead the party concerned to be without any leader.

72. The contention of the applicants that when a Division Bench of this Court and also Apex Court had not given any finding on the issue of lapse of the posts of Coordinator and Joint Coordinator, it is assumed that the said posts exist even as on today, when such post exist, there is no necessity to conduct election for the post of General Secretary. The further contention that if the elections are allowed to be conducted, the rights of the applicants in the suit would become infructuous. I am not in agreement with the said contentions raised by the applicants.

73. As I already found that there is a prima facie case in favour of the respondents in amending the bye-laws and if the election to the post of General Secretary is sought to be injected, thenm it would affect the functioning of the political party which has been recognised by

the Election Commission of India without it having a leader. Hence I do not find any prima facie case, balance of convenience or irreparable injury in favour of the applicants, but on the other hand, I find that the injunction as prayed for is granted, irreparable injury would be caused to the first respondent, as it would affect the functioning of the political party which has over 1.55 crores primary members in the State of Tamil Nadu.

Application in A. No. 1781 of 2023

74. *The applicant claims himself to be a member of the political party. He claims that due to the dispute between the two leaders of the political party, there has been unrest within the party. Therefore, he would suggest to appoint two retired Judges of the High Court to conduct the election for the post of General Secretary.*

75. *From his pleadings, the statement made across the bar and also the statement in the written submission it is obvious that he is not challenging the resolutions abolishing the post of Coordinator and the Joint Coordinator and reviving the post of General Secretary, since his request is to conduct election to the post of General Secretary by nominating two retired High Court Judges. There is no averment whatsoever as to why the election committee appointed under resolution No.6, dated 11.07.2022 would not be in a position to conduct the election. When no such averment is made, I do not find any reasons as to why such a claim should be entertained. Further, with regard to the dispute inter se parties in the suit and also of the fact that the suit has not been filed under representative capacity invoking the provisions of Order I Rule 8, there is no necessity to implead the applicant for effective disposal of the suit. Further, I am of the view that the applicant is a rank interloper. In his pleadings, he has averred that even the internal elections for various posts have not been held. This pleading is contrary to the facts recorded by the Division Bench of this Court in its judgment dated 02.09.2022, wherein the Division Bench in clear terms has approved the elections held to various posts (Refer paras 34 & 35 of the judgment). Hence, there is no merit in the application and it is liable to be rejected in limine.*

Application in A.No. 1726 of 2023

76. *This application has been filed seeking to strike out and amend the plaint. This application has been taken out by the fourth defendant in the suit. As no counter has been filed by the respondent-plaintiff, the same is delinked from these batch of applications and the respondent-plaintiff is directed to file a counter to the said application.*

77. *In fine,*

Application Nos. O.A. Nos. 250, 249, 251, 235, 164, 236, 219, 220, 237, 221, 222 of 2023 in C.S. No. 47, 55, 56 & 62 of 2023 and A.No. 1781 of 2023 are rejected. However, there shall be no order as to costs."

Aggrieved by the aforesaid order passed in the original applications, the applicants / plaintiffs are before this court with the present original side appeals.

IV. CONTENTIONS AND SUBMISSIONS OF COUNSELS

On the side of the appellants / plaintiffs:

8. Mr.Guru Krishna Kumar, learned Senior counsel for the appellant in OSA.Nos.68, 69 and 70 of 2023 began his submissions by contending that the approach adopted by the learned Judge in refusing the grant of interim injunction, was wrong. Adding further, the learned senior counsel submitted that the learned Judge failed to advert to the submissions put forth by the appellant regarding the validity of the resolutions passed by the General Council, rather erroneously proceeded to reject the interim reliefs prayed for, by placing reliance on the observations of the Apex Court in the previous round of litigation concerning interlocutory relief. It is also submitted that such reliance placed by the learned Judge is uncalled for and irrelevant, because what the Apex Court was concerned in that round of litigation, was only about the validity of convening of the meeting and not with the validity of the resolutions passed on 11.07.2022. Thus, the learned Judge proceeded on the wrong premise that once the meeting was validly convened, the resolutions that were passed would also consequently be valid, which is fallacious.

8.1. The learned senior counsel further submitted that when the basis of attack against the validity of the resolutions was that the resolutions were contrary to the established basic structure of the Party as was envisioned by the Founder, the learned Judge ought to have tested the resolutions in the light of the basic structure of the Party and given a finding on merits, but he rather left the issue of basic structure of the Party to be determined at the stage of trial. Even from the facts, there is glaring evidence to show that the resolutions were passed to single handedly overtake the Party, the learned Judge ought to have at least for that reason intervened and prevented autocracy in a democratic party.

8.2. The learned senior counsel also submitted that the General Council's power to amend the bye-laws is not absolute / plenary power. Rule 43 of the bye-laws contained an express limitation that the General Council cannot amend bye-laws in a way to alter the basic structure of the Party. In support of the same, he placed reliance on the decisions in (i)***Prasanna Venkatesa Rao v. K. Srinivasa Rao [(1931) 33 LW 113 (Mad)]*** and (ii)***Inderpal Singh v. Avtar Singh [(2007) SCC Online Raj 535]***. Adding further, the learned senior counsel submitted that the basic structure of the Party is that the election to the highest position in the Party i.e., General Secretary is to be done by its primary members, which means, the primary

members are the heart of the Party. From 2017, this basic structure was altered, the Executive Committee on 01.12.2021 thought it fit to restore the basic structure by making amendments to the effect that the top most position in the Party viz., Co-ordinator and Joint Co-ordinator will be elected by the primary members of the Party and the same was fully given effect to, and election took place accordingly. This amendment was even communicated to the Election Commission of India. However, the respondents conveniently omitted to submit all the events that happened between 06.12.2021 and 02.06.2022, in between these dates, all the decisions were taken by the Executive Committee including calling for election to the District Secretaries; the 3rd respondent wanted to hijack the Party administration and for that purpose, he came up with the theory that the creation of posts of Co-ordinator and Joint Co-ordinator did not get approval of the General Council and hence, has lapsed. Thus, according to the learned senior counsel, this is nothing but an attempt to take undue advantage of what could at best be a ministerial act and such a procedure is nowhere found in the Party's bye-laws.

8.3. The learned senior counsel also submitted that a bye-law is a contract between the members, and the General Secretary cannot be subjected to the decision of the General Council. If the Party members are dissatisfied with the General Secretary's functioning, the only recourse is to vote against

them in the next election unanimously. There is no provision to remove the General Secretary merely because there is a majority in the General Council in favour of the removal. The learned senior counsel would further contend that the power of the General Council is solely to implement the resolutions passed by the Executive Committee. But, it is entirely erroneous to claim that the General Council is superior to the General Secretary and that, it can remove the highest authority in the Party. On the contrary, the bye laws says, if any member of the General Council is subjected to disciplinary action, they can be removed by the General Secretary.

8.4. The learned senior counsel also submitted that the will of the primary members of the Party was reflected on 06.12.2021 when they elected the Co-ordinator and Joint Co-ordinator. Based on their election, both the individuals called for General Council meetings, conducted elections to the General Council, determined party policies, and elected members to the Rajya Sabha. The primary members expressed their willingness to elect them for a term of five years until 2026. Consequently, the appellant has a vested right to hold office in accordance with the will of the primary members, which has been illegally frustrated by the third respondent. It is also submitted that the respondents' claim that 2432 members were circulated the agenda for the 11.07.2022 meeting, but there is no material evidence to substantiate the same;

only a proposal to convene the General Council meeting is present; and that, there is no document demonstrating majority approval of that resolution. The learned senior counsel also submitted that the concept of "functional deadlock" is derived from company law, where the general body of shareholders intervenes when the Board of Directors cannot function. In the instant case, the primary members of the Party should constitute the equivalent of the general body of shareholders, but the respondents fallaciously claim that the General Council represents the primary members. It is further submitted that a letter dated 28.06.2022 written by the third respondent to the Election Commission of India states that all decisions within the Party must be taken collectively; and that the appellant's election was not ratified by the General Council and hence, the 3rd respondent also cannot function independently, resulting in a deadlock. A careful reading of this letter demonstrates that the deadlock theory is based on the notion of lapse, which is yet to be decided and therefore, the same cannot be put against the appellant for refusing injunction.

8.5. In addition, the learned senior counsel placed reliance on the judgment of the Hon'ble Supreme Court in *Laxmikant V. Patel v. Chetanbhat Shah and another in Appeal (Civil) No.8266 - 8267 of 2001 dated 04.12.2001*, wherein, it was observed as under:

"Neither the Trial Court nor the High Court have kept in view and applied their mind to the relevant settled principles of law governing the grant or refusal of interlocutory injunction in trade mark and trade name disputes. refusal to grant an injunction in spite of the availability of facts, which are prima facie established by overwhelming evidence' and material' available' on record justifying the grant thereof, occasion a failure of justice and such injury to the plaintiff as would not be capable of being undone at a latter stage. The discretion exercised by the Trial Court and the High Court against the plaintiff, is neither reasonable nor judicious. The grant of interlocutory injunction to the plaintiff could not have been refused, therefore, it becomes obligatory on the part of this Court to interfere."

He also placed reliance on the following decisions of the Hon'ble Supreme Court and other High Courts, to substantiate his contentions:

(i) T.P. Daver v. Lodge Victoria [(1964) 1 SCR 1 : AIR 1963 SC 1144]

(ii) Zenit Mataplast P. Ltd v. State of Maharashtra & others [SLP (C) No.18934 of 2008 dated 11.09.2009]

(iii) Ambalal Sarabhai v. Phiroz H. Antia [AIR 1939 Bombay 35]

(iv) N.F. Barwell v. Jackson and others [ILR (1947) ALL 758].

Thus, the learned senior counsel submitted that the learned Judge erred in dismissing the original applications filed by the appellant seeking interim injunction by the order impugned herein, which will have to be set aside.

9. Mr.P.S.Raman, learned Senior Counsel appearing for the appellant in OSA Nos.68, 69 and 70 of 2023 would further submit that the Special Resolution passed at the General Council meeting held on 11.07.2022, which purported to expel the appellant and other senior members of the Party

for the alleged anti-party activities, is illegal and void. Adding further, the learned senior counsel submitted that the Special Resolution violated the principles of natural justice and fair play in action. Without framing of any charges with specific allegation and clarity, the appellant and other senior members were thrown out from the Party as if the General Council was a lynch mob. Such act of expulsion was done by the 3rd respondent in order to wreck vengeance against the appellant and others. Furthermore, the Special Resolution was not a part of the agenda for the meeting, and the appellant had no prior notice in this regard. It is also submitted that it is settled principle that the members should be duly informed in advance of what is sought to be discussed on a specified date of meeting and when any discussion is made pertaining to a subject not in the agenda, every member is entitled to object to the same, whileso, the subject matter of expulsion which is a serious matter that adversely affects the interest of the appellant and other members ought to have been stated in the Agenda well before the meeting. Further, the Judgment of the Division Bench of this Court in OSA No. 160 of 2022 between the same parties to this *lis*, has highlighted the importance of Agenda and for the reason that no harm should cause to any party by discussing any subject not in the Agenda, this Court intervened and restrained the respondents not to entrench into discussing any subject not part of the Agenda already circulated

to the appellant. When that being so, the act of expelling the appellant without including it in the Agenda shows the high handedness of the respondents. The learned senior counsel further emphasized that expulsion of this nature requires due inquiry, proper notice of the charges, and an opportunity to defend oneself. He also referred to the decision of the Allahabad High Court in *Raja Himanshu Dhar Singh v. Additional Registrar, Co-op Societies [1961 SCC Online All 265 : AIR 1962 All 439]*, wherein, it was held that "*if notices had not been issued to all the members of the club, the meeting was illegal and its proceedings are void*".

9.1. The learned senior counsel further submitted that under the party's bye-laws, the General Council has not been conferred with powers to expel a member, that too, against the Co-ordinator of the party. Under Rule 20A, the power to take disciplinary action under the Party's bye-laws clearly vest only with the Co-ordinator and the Joint Co-ordinator. Thus, no such power has been conferred upon the General Council under Rule 20A, Rule 35 or any other provision of the bye-laws. The General Council is only "a creature of the rules" of the party and it cannot perform any function that the bye-laws do not authorize it to perform. The learned senior counsel also made reference to Rule 35 of the Party's bye-laws, which outlines an elaborate procedure that were scrupulously drafted to ingrain principles of natural justice at every stage

before imposing any punishment in disciplinary proceedings, even on ordinary members of the Party. These procedural safeguards are particularly important, when expelling senior members occupying high positions within the Party's organizational structure. When the founder of the Party deemed it necessary to incorporate the principles of natural justice when subjecting any member to disciplinary action, these principles cannot be taken away. To substantiate the same, the learned senior counsel placed reliance on the decision of the Hon'ble Supreme Court in *Ravi Yashwant Bhoir v. District Collector, Raigad and others [(2012) 4 SCC 407]*. It is also submitted by the learned senior counsel that the Supreme Court's judgment in Civil Appeal No. 1392 of 2023 does not specifically address the expulsion of the appellant. It would set a dangerous precedent to confer all powers to small organs of the party. In a democratic system, dissent is essential, and the appellant exercised his right to dissent, for which he is getting penalized without following proper procedures and adherence to the principles of natural justice.

9.2. The learned senior counsel further submitted that the learned Judge on a misreading of bye-law 35 presumed that General Council is supreme in disciplinary matters and is powerful enough to even remove the Co-ordinator and Joint Co-ordinator. It is also submitted that when it is admitted that no opportunity of being heard was afforded before removal,

injunction ought to have been granted. The learned senior counsel would submit that the learned Judge was not pleased to record balance of convenience in favour of the appellant for the reason that his further continuance would only further the existing deadlock in the Party. This reasoning is erroneous, because the whole theory of deadlock has been engineered by the 3rd respondent to retain his control and grip in the Party and to exclude others and he cannot be permitted to be benefited out of it. Further, the deadlock reasoning was given by the Apex Court when it was concerned with the question of validity of the meeting and the same cannot be adopted by the learned Judge without giving attention to the fact that in the present case, validity of the resolutions is in question. Moreover, if the injunction is not granted, the inner party democracy will be stifled and that, for the AIADMK Party to function as a vibrant opposition party, it is essential that its office bearers and members do not succumb to predatory takeover by any individual unlawfully. The learned senior counsel would further submit that the appellant is put to irreparable loss for the reason that he is completely excluded from the party administration being senior member and his right to function as elected legislator from AIADMK party is seriously compromised and furthermore, his right to contest in election to the post of General Secretary is taken away. The learned senior counsel also asserted that if the appellant was given an

opportunity to be heard, he could have addressed the erroneous assumptions made by the General Council. In this regard, he placed reliance on the decision in *Municipal Committee, Hoshiarpur v. Punjab SEB [(2010) 13 SCC 216]*, wherein, it was held that non-adherence to natural justice itself constitutes prejudice, and proof of prejudice is not required. The learned senior counsel also referred to the decision in *Gujarat Pottling Co. Ltd v. Coca Cola Co. [(1995) 5 SCC 545]*. With these submissions, the learned senior counsel submitted that if the injunction is not granted, the appellant would be put to irreparable injury and therefore, prayed for allowing the appeal and setting aside the order of the learned Judge passed in the original applications.

10. Mr.C.Manishankar, learned Senior counsel appearing for the appellant in OSA Nos.71,72 and 75 of 2023 submitted that the appellant Mr.R.Vaithilingam, is an active primary member of the party for more than 49 years and he was holding the post of Kazhaga Steering committee member for the period 2013-2017; from 2013, he was holding the post of Kazhaga Organisation Secretary and from 2017, he was holding the post of Kazhaga Deputy Co-ordinator. The appellant was also a Member of the Legislative Assembly elected from Orathanadu in the years 2006-2011, 2011-2016, and 2016-2021 and he was also Minister in the year 2011 to 2016 of the Party, besides nominated to the Rajya Sabha in the year 2016. In such capacities, he

has introduced various schemes to the downtrodden people. However, without any material, he was removed from the membership by the impugned resolutions dated 11.07.2022 passed by the General Council.

10.1. The learned senior counsel has submitted that there were three reasons given by the learned Judge for upholding the validity of Resolution No.3 passed by the General Council on 11.07.2022 viz., one was that the Apex Court had upheld the convening of the General Council meeting; the second reason was that General Council had power to amend the bye-laws and majority of the members of the General Council voted in favour of the resolution; and the third was that from the above two reasons, no *prima facie* case is made out, the finding regarding balance of convenience and irreparable loss need not be gone into. With regard to the resolution Nos. 4 to 6, the learned senior counsel submitted that no independent examination was made by the learned Judge, but the same were mechanically upheld on the notion that the resolutions had to be brought in to fill the vacuum. It is also submitted that the learned Judge failed to consider the grounds raised by the appellant herein.

10.2. By way of elaboration, the learned senior counsel submitted that the reasons for invalidating Resolution No.3 are that, firstly, the Executive Committee resolution dated 01.12.2021 was acted upon immediately and

followed until the impugned resolutions of the General Council were passed and hence, the same cannot now, be termed as lapsed and that, it was passed without any authority. Secondly, the claim for single leadership from the Party cadres as alleged, was not substantiated with empirical data. Lastly, the power of General Council to amend the bye-laws is undisputed, but their power to amend is subject to the limitation that they must not violate the basic structure of the Party.

10.3. Adding further, the learned senior counsel would contend that there is no provision in the bye-laws which contemplate that the resolutions of the Executive Committee have to be placed before the General Council and if not done, the resolutions will get lapsed. Even otherwise, ratification would only be a ministerial act. The 3rd respondent is answerable as to why the resolution passed by the Executive Committee was not placed before the General Council on 23.06.2022. Moreover, even if the resolutions passed by the Executive Committee did not get approved on 23.06.2022, it cannot lead to automatic lapse as it could still be placed in a subsequent General Council Meeting. The appellant and the 3rd respondent acted according to the amendments made to the bye-laws by the Executive Committee, which could be evident from the fact that elections to the office bearers were called for and conducted by them jointly. Thus, when the amendment was acted upon for a

whole year, it cannot now be contended by the 3rd respondent that it has lapsed for want of ratification. The resolution passed abolishing the post of Co-ordinator effectually overturned the will of the primary members of the Party, who are the heart and soul of the Party. When the primary members unanimously voted for the appellant to the post of Co-ordinator of the Party, it is impermissible to defeat their will without consulting the primary members of the Party. In support of the same, he relied on the decision of the Apex Court in ***Ravi Yashwant Bhoir v. District Collector, Rajdgad [2012 4 SCC 407]*** in which it was held as follows:

“ 34. In a democratic institution, like ours, the incumbent is entitled to hold the office for the term for which he has been elected unless his election is set aside by a prescribed procedure known to law or he is removed by the procedure established under law. The proceedings for removal must satisfy the requirement of natural justice and the decision must show that the authority has applied its mind to the allegations made and the explanation furnished by the elected office bearer sought to be removed.”

10.4. The learned senior counsel also submitted that Resolution No.3 reads that “at the request of basic members of Kazhagam”, post of General Secretary would be restored. This is an assertion out of thin air unsupported by any empirical data. There ought to have been some referendum/expression of opinion by primary members for bringing such a change in the party structure to ascertain their true wishes, but that was absent. The General Council is a mere unit of the Party which is elected by a section of the primary members of

the Party and it cannot be considered to be superior than the whole primary members of the Party which is 1.5 crores in number. Moreover, if General Council is taken to be representing the primary members of the Party, then, the person to the post of General Secretary could also be very well elected by the General Council itself and there would be no need for primary members to elect the General Secretary. This so called supremacy of the General Council was sought to be curtailed by the Founder of the Party which is exactly the reason why the top most position of the Party i.e., General Secretary/ Co-ordinator was made immune from any action stemming from the General Council. In this regard, he relied on the Judgment of the Bombay High Court in *Ambalal Sarabhai v Phiroz H. Antia [AIR 1939 Bom 45]* in which, it was held as follows:

“ 5. To deprive a gentleman of his position as a member of a Social Club is certainly a very serious and grave measure, it is entirely different where a Club refuses admission without a hearing or without giving reasons to a person-seeking membership, and the analogy of the procedure laid down in the rules in regard to admission cannot be applied to rules providing for expulsion. Undoubtedly a Club is an autonomous institution and a Court of law will not lightly interfere with its action in expelling a member unless it has violated the recognized rules of procedure in that connection or those of natural justice.”

10.5. With respect to Resolution nos.4 to 6, the learned senior counsel submitted that the amendment in 2017 made it clear that the post of General Secretary is abolished and for the times to come, Dr. J. Jayalalithaa will be the “eternal” General Secretary. The very use of the term “eternal” signifies that

there could be no person ever to grow to the stature of the then Chief Minister of Tamil Nadu to hold the post of General Secretary of the Party. Drawing the attention of the Court to the resolution No. 8 of the General Council Meeting held on 12.09.2017, the learned counsel for the appellant would contend that earlier, the General Council had deprecated the practice of appointment of V.K. Sasikala as the Interim General Secretary and it was specifically resolved that all the actions taken by her in that capacity would be null and void. Therefore, the General Council cannot now be permitted to take a diametrically opposite stand and support the creation of the post of Interim General Secretary.

10.6. Coming to the amendment of the bye-laws so as to prescribe extraordinary eligibility conditions for one to contest elections to the post of General Secretary, the learned senior counsel contends that it clearly shows the 3rd respondent's *mala fide* intention to take over the Party. The condition to be proposed and seconded by the District Secretaries would eventually boil down the fact that only a person who is to the liking of the members of the General Council could alone contest in the elections. These conditions could further encourage unfair attempts to influence and control District Secretaries. More importantly, the basic feature of the Party right from its inception is that any primary member who has been a member of the Party continuously without

any break, can aspire to become the General Secretary, but, that is defeated with the imposition of stringent conditions, such as, one must have served for a minimum period of 5 years continuously in some posts of the Party Headquarters to contest in election. Thus, the 3rd respondent has engineered his route to take over the Party by two ways viz., one to bring in self-serving resolution to impose stringent conditions to prevent primary members from contesting thereby virtually making it impossible for anyone to challenge him in elections and the second, to drive away potential rival candidates by expelling them. Without considering all these aspects, the learned Judge passed the order impugned herein, which will have to be set aside, according to the learned senior counsel.

11. Mr.Abdul Saleem, learned senior counsel appearing for the appellant in OSA Nos.74 and 76 of 2023 would submit that the appellant viz., Paul Manoj Pandian @ P.H.Manoj Pandian, has a long-standing history of involvement with the first respondent party and has made significant contributions to society throughout his career. He has been a dedicated member of the party for over 30 years, holding various positions within the party and even being nominated to the Rajya Sabha for a six-year tenure in 2010. Currently, he serves as a Member of the Legislative Assembly in Tamil

Nadu, representing the Alangulam Constituency after winning the 2021 elections with the First Respondent's ticket. The learned senior counsel would also submit that the appellant's commitment to public service is evident through his numerous initiatives aimed at benefiting the community. That apart, he has been an active member of the privilege committee of the Tamil Nadu Legislative Assembly and holds the position of Deputy Secretary of the All India Anna Dravida Munnetra Kazhagam legislature party in the assembly. He is also the organizing secretary of the First Respondent party and serves as a member of the Advisory Committee. Furthermore, the appellant is a practicing Advocate of this Court, which demonstrates his commitment to both legal and political spheres.

11.1. Adopting the aforesaid arguments, the learned senior counsel appearing for the appellant in OSA Nos.74 and 76 of 2023 would further submit that the reason why Dr. M.G. Ramachandran did not want to give excessive powers to the General Council is that in the past he himself was evicted from the General Council of the DMK Party despite there being unwavering support from the primary members. Therefore, the appellant believed that the General Council should not have the authority to remove the person holding the highest position in the party from the primary membership. According to the basic structure of the party, the primary members have the

power to elect the General Secretary, and if the General Secretary does not perform well, the primary members can vote him out in the next election and the General Council cannot usurp this power. Thus, the learned senior counsel submitted that the General Council has no powers either under the bye-law to take disciplinary action against the member of the party or to expel him from the party, however, the learned Judge failed to consider the same, while refusing to grant the order of injunction.

12. Mr.A.K.Sriram, learned senior counsel for the appellant in OSA Nos.73, 77 and 78 of 2023 would submit that the appellant viz., Mr.J.C.D. Prabhakar has been a dedicated member of the party for over 44 years and he was nominated as a member of the Ambattur Township by the esteemed Puratchi Thalaivar MGR in 1978. By his involvement, the appellant achieved a significant milestone in 1980 when he was elected as a Member of the Legislative Assembly, representing the Villivakkam Constituency. In 2011, the appellant was once again elected as a Member of the Legislative Assembly, representing the Villivakkam Constituency and was appointed as the Minorities Deputy Secretary within the first respondent's party. It is further submitted that during his tenure as the Chairman of the Tamil Nadu Small Industries Development Corporation Ltd (SIDCO) from 2013 to 2016, the appellant played a pivotal role in promoting small industries, thereby

contributing to economic growth and job creation.

12.1. The learned senior counsel further pointed out that the approach taken by the learned Judge is fundamentally flawed on the following reasons: Firstly, the impugned order fails to take into account the historical context of the All-India Anna Dravida Munnetra Kazhagam (AIADMK) party, the intent of the party's founder, Dr. M.G. Ramachandran, and the fundamental structure of the party. The seminal features of the party's structure are that (i) it is akin to the Presidential system, which was intentionally designed by the party's founder to ensure the direct election of the General Secretary by primary members. This design choice stemmed from Dr. Ramachandran's own past experience of being expelled from his previous political party by members of that party's General Council. The extraordinary powers vested in the General Secretary (now substituted by the Co-ordinator and Joint Co-ordinator acting jointly) under Rule 45 of the party's bye-laws. (ii) Right from the Party's formation, the bye-laws have always envisaged that any primary member of the Party can contest for elections to the post of General Secretary (later Coordinator and Joint Coordinator) as long as they have been members of the Party for 5 years without any break. There have never been significant or high threshold restrictions on whom can contest for elections to the top-most post of the Party.

12.2. Secondly, it is asserted that the learned Judge failed to adequately address the principal contention put forth by the appellant, namely, that Resolutions 3 to 6 passed at the General Council meeting held on 11.07.2022 violated the basic structure of the party's bye-laws. According to the learned senior counsel, this was the crucial question to be determined in order to ascertain whether the appellant had made out a prima facie case for grant of injunction. Instead of rendering prima facie findings on this issue, the learned Judge incorrectly relegated the issue relating to the alleged violation of basic structure for decision in the trial of the suit. Thus, the Impugned Order proceeds on the mistaken premise that the primary attack of the appellant in the current phase of interlocutory applications was that the resolutions were invalid because the convening of the General Council meeting was invalid.

12.3. Thirdly, it is contended by the learned senior counsel that the learned Judge erred in not appreciating that the approach for determining the balance of convenience and the risk of irreparable injury should be distinct in the current round of interlocutory applications. In this case, the challenge has been made against each of Resolution Nos. 3-6 and the Special Resolution passed at the General Council meeting based on their merits. Specific prayers and averments have been made concerning the legality and consequences of these resolutions on the vested rights of the appellant. However, the learned

Judge has committed the error of telescoping the analysis made in respect of these issues of balance of convenience and irreparable injury in the prior round of interlocutory applications, which assailed the validity of the convening of the General Council Meeting held on 11.07.2022.

12.4. Lastly, it is argued by the learned senior counsel that the learned Judge overlooked the fact that the entire suite of resolutions and bye-law amendments under the present challenge were designed to enable and facilitate the predatory takeover of the party by the respondent Thiru. Eddapadi K. Palaniswami. These resolutions and amendments were deemed detrimental to the party's interests, and this critical aspect was not duly considered by the learned Judge. Therefore, the learned senior counsel prayed for allowing this appeal by setting aside the order of the learned Judge.

Submissions made on the side of the respondents

13. Assailing the submissions made on behalf of the appellants, Mr. Vijay Narayan, learned Senior Counsel appearing for the General Council of AIADMK i.e., the 2nd respondent, advanced his submissions broadly on the following heads viz., Key dates and events, general resolutions that amended the bye-laws and the special resolution that expelled the appellants herein from the Party, Party's bye-laws, response to the arguments placed on the side of the appellants and relevant case laws.

(i) Key dates and events:

(a) The learned Senior counsel emphasized that the party was founded in the year 1972 by the esteemed leader M.G. Ramachandran, with the principle that the General Secretary, the topmost position in the party, would be elected by the primary members. This principle codified in bye-law 45, has been the foundation of the Party's functioning ever since its inception, except for a brief period between 12.09.2017 and 11.07.2022. During this period, the posts of Co-ordinator and Joint Co-ordinator were created in the place of General Secretary and elections to these posts were held by the General Council, thereby replacing the long-established practice of primary members electing the Party's top position. He further submitted that the Political parties are not categorized as companies, trusts, or societies, and therefore, they are not required to be registered under any specific statutory law. The registration of party bye-laws with the Election Commission of India serves a limited purpose, particularly during elections. This registration allows verification as to whether the person endorsing individuals on behalf of the party has authority, to prevent unauthorized claims and potential chaos. Section 29A of the Representation of Peoples' Act, 1951, pertains to this requirement, and it mandates the Party to inform the Election Commission of India about its bye-laws. The Election Commission of India performs a ministerial act of affixing

the seal when presented with the registered bye-laws.

(b) On 05.12.2016, Dr. J. Jayalalithaa, the General Secretary of the Party died and after her demise, on 12.09.2017, the post of General Secretary was abolished, and Dr. J. Jayalalithaa was made the eternal General Secretary of the Party. The posts of Co-ordinator and Joint Co-ordinator were created, with the power to elect individuals to these posts given to the General Council. On 24.09.2017, Mr. R.Vaithiyalingam / appellant in OSA Nos. 71, 72 and 75 of 2023 and Mr. O. Panneerselvam / appellant in OSA.Nos.68 to 70/2023 submitted affidavits to the Election Commission of India expressing support for the resolutions passed on 12.09.2017. On 01.12.2021, the Executive Council met and resolved to place the bye-law amendments regarding the election to the posts of Co-ordinator and Joint Co-ordinator before the General Council for approval. However, this approval has not been obtained till date. On 02.12.2021, elections for the posts of Co-ordinator and Joint Co-ordinator were held, and on 06.12.2021, the appellant in OSA Nos.68 to 70 of 2023 and the third respondent viz., Edapadi K. Palaniswami were declared to have been unanimously elected to the posts respectively. On 02.06.2022, a joint announcement was made by the Co-ordinator and joint Co-ordinator, calling for a meeting of the General Council on 23.06.2022. On 12.06.2022, the Party Headquarters announced a meeting of all District Secretaries and office

bearers on 14.06.2022. During this meeting, the majority expressed the view that the system of dual leadership was damaging the Party and called for the restoration of the single leadership system.

(c) On 19.06.2022, the appellant Mr.O.Panneerselvam wrote a letter to the third respondent, requesting to postpone the General Council meeting scheduled to be held on 23.06.2022, fearing that the single leadership would be restored. The third respondent Edapadi K. Palaniswami replied to the appellant on 21.06.2022, refusing to postpone the meeting. While so, a Writ petition in W.P.No.15621 of 2022 was filed by one P.Benjamin praying for grant of police protection for the Party's General Council meeting scheduled to be held apprehending law & order issues stemming from the appellant and his supporters. It is pertinent to note that the appellant opposed the grant of police protection by filing an intervening petition. However, despite appellant's opposition, the court held on 21.06.2022 that it was necessary and appropriate to provide police protection for the General Council Meeting scheduled to be held on 23.06.2022. On the very same day viz., 21.06.2022, the appellant took further action by writing a letter to the Commissioner of Police, Avadi, requesting to cancel the General Council meeting scheduled for 23.06.2022. This correspondence indicates that the appellant wanted to stall the said meeting by one way or the other. In the meanwhile, the appellant's

supporter initiated legal proceedings by filing C.S.No. 111 of 2022, seeking an order of injunction restraining the General Council Meeting scheduled for 23.06.2022 and the said application was dismissed on 22.06.2022. The dismissal of the application signifies the Court's determination that there was no legal basis to impede or prevent the General Council Meeting from taking place. Undeterred by the dismissal, an appeal was promptly filed before the Division Bench on the same day evening on 22.06.2022, and the Division Bench, after hearing the matter, pronounced a judgment on the early morning of 23.06.2022, at approximately 4:30 am, holding that the General Council may hold discussions on various matters but shall refrain from making any decisions, except for the 23 draft resolutions that had been circulated to the appellant.

(d) On the date scheduled for the General Council Meeting i.e., on 23.06.2022, a notable turn of events occurred. During the meeting, all 23 resolutions, previously circulated among the Council members, were subjected to a voice vote and rejected. The collective demand of the members of the Council was to prioritize the resolution of leadership issue above everything else. Demonstrating their unity and intent, a substantial majority of the General Council members, precisely, 2190 out of 2655, signed a requisition to hold the next General Council Meeting on 11.07.2022. The argument of the appellant

was that the aforementioned resolution to hold the subsequent meeting must have been placed before the Co-ordinator and Joint Co-ordinator, who would then jointly convene the meeting. However, it is crucial to clarify that such a procedure was unnecessary in this instance. The resolution, as submitted, was presented to the Presidium Chairman, Mr. Tamilmagan Hussain, who had been duly appointed jointly by the Co-ordinator and Joint Co-ordinator. Therefore, the resolution adhered to the proper channels of authority and did not require any additional steps. The Agenda for the meeting was circulated involving amendment of bye-laws, but there was no resolution for removal of any member in the Agenda, which would show that the resolution to remove the member in question was not pre-planned, but arose as a result of subsequent events and circumstances.

(e) In furtherance of internal party affairs, the party headquarters issued a notice convening an interim meeting of office bearers. During the course of these events, SLP (C) No.11237 of 2022 was filed by the third respondent. The Supreme Court, upon consideration of the appeal, issued an order staying the operation of the Division Bench order. It is important to note that this order came after the conclusion of the General Council Meeting, thus impacting subsequent proceedings. Subsequently, on 23.02.2023, all the Special Leave Petitions connected to this case were disposed of, making the interim order of

this court dated 06.07.2022 absolute. Feeling aggrieved, on the same day, the appellant and his supporter Vairamuthu filed a suit along with interim applications in O.A.Nos.368, 370 and 379 of 2022 with the aim of halting the meeting scheduled for 11.07.2022. This suit was heard on 08.07.2022, and the court pronounced its orders on the morning of 11.07.2022, dismissing all the applications primarily on the ground that the Court lacks jurisdiction to intervene in the internal affairs of the party. While the party members had already assembled at Vaanagaram, the designated venue for the General Council Meeting, the appellant and his supporters went to the Party Headquarters office at Royapettah in a van and they broke open the door. Their actions resulted in the ransacking of the headquarters, creating a chaotic and unsettling situation reminiscent of a state of war. The severity of their actions becomes even more apparent considering the items taken during the intrusion, which included the original title deeds of party-owned properties, original registration books of 35 vehicles, and hard disks containing crucial information. However, due to the diligent efforts of the police, these articles were recovered. The third respondent promptly filed an application seeking recovery of the articles seized during the ransacking. Initially, the Magistrate refused to entertain the application, but subsequent legal proceedings, including a Criminal Revision filed, resulted in a favorable order for the third

respondent, allowing him to take possession of the recovered articles.

(f) It is pertinent to mention at this juncture that the General Council Meeting attendees were not oblivious to the events unfolding at the Party Headquarters office. The members present had access to images and videos depicting the appellant and his supporters engaging in the aforementioned ransacking and destruction. Naturally, this information evoked a strong response from the members, leading to their agitation. In response to this agitation and citing the appellant's actions as detrimental to the Party's interests, the floor was opened for discussion, and an overwhelming majority expressed dissatisfaction with the appellant's continuance with the Party on 11.07.2022. As a result, the resolution for their removal from the primary membership was passed through a voice vote. As the person being removed, held the position of Co-ordinator of the Party, it is important to emphasize that only an authority higher than him, such as the General Council, possesses the jurisdiction to effectuate his removal. Therefore, the removal of the appellant was carried out in accordance with the Party's internal procedures, and no illegality can be ascribed to this action. On 11.07.2022, the Election Commission of India was intimated about the changes made in the bye-laws.

(g) Thereafter, the revenue officers sealed the party office, treating it as a property under dispute. Crl.O.P.No.16343 of 2022 was filed by the third

respondent challenging the 145 Cr.P.C. proceedings and the same was allowed on 20.07.2022 holding the appellant to be a trespasser and the same was upheld by the Supreme Court. Pursuant to the order of this court dated 11.07.2022, the appellant directly moved the Supreme Court by-passing the Division Bench and on 29.07.2022, the Supreme Court set aside the order of the learned Single Judge and remanded the matter to the learned Judge for fresh consideration and that, *status quo* has to be maintained till the disposal. Pursuant to the remand, the matter was heard and on 17.08.2022, the applications were allowed, setting aside the meeting held on 11.07.2022. The Court ordered a status quo ante as of 23.06.2022 though it was not prayed for by the appellant. Challenging the same, the third respondent filed O.S.A.Nos.227, 231 and 232 of 2022 and the Division Bench of this Court set aside the order of the learned Judge and held that the meeting held on 11.07.2022 was valid. It is relevant to point out that the subject matter of the case was limited to the convening of the meeting only and did not address about the validity of the resolutions passed during the meeting. The Supreme Court also affirmed the Division Bench's order in the month of February 2023 without delving into the resolutions, stating that any proceedings challenging the resolutions passed in the meeting should be decided in accordance with law. It is also pertinent to mention that during the course of SLP proceedings

filed by the appellant, the third respondent voluntarily gave an undertaking that no election to the post of General Secretary will be held till the disposal of the SLP and acted according to the said undertaking.

(h) On 25.01.2023, an application seeking impleadment of Election Commission of India was filed for the Election Commission of India to take on record the amended bye-laws of the Party as Erode by-election was around the corner. The most important reason, why the Election Commission of India had to update the bye-laws was, because Forms A and B were to be signed by the person authorised in the bye-laws for the purpose of fielding the candidate nominated by the Party. This impleading Application was necessary as the appellant was proclaiming that only he was authorised to nominate the candidate on behalf of the Party. Pending disposal of the SLP, the Supreme Court observed that since the validity of the General Council meeting held on 11.07.2022 has not yet been decided finally, the General Council can nominate candidate and it will be signed by the Presidium Chairman, because the doubt as to whether the General Secretary post is recognised and whether the posts of Co-ordinator and Joint Co-ordinator is abolished validly, is still to be tested, however the supremacy of the General Council is not doubted so this was recommended to be followed as an interim measure. The third respondent named a candidate and by a vast majority, the General Council approved it and

the appellant did not nominate anyone. The SLP preferred against the earlier Division Bench, which was passed on the early morning of 23rd June 2022 in which stay was granted, was disposed of with the stay being made absolute.

(i) The illegal nomination form in the Karnataka Legislative Assembly Election was filed by one Mr.K.Kumar with the signature of the appellant authorising him in the capacity of Co-ordinator of the Party. In this connection, a FIR was registered against the candidate and a complaint was also given to the Election Commission of India. Thereafter only, he withdrew his nomination. Meanwhile, the appellant has been appointing and removing District Secretaries of the Party without any authority. Thus, according to the learned senior counsel, on one hand, the appellant is challenging the resolution of his removal, but on the other hand, he is proclaiming himself to be the Co-ordinator everywhere and damaging the name of the Party.

(j) The learned senior counsel further submitted that on 03.03.2023, a fresh suit was filed and an interim application was filed to restrain the election for the post of General Secretary. The third respondent voluntarily undertook that elections would be conducted, but the results would not be declared until the disposal of the interim application and after disposal of the application, in May 2023, the third respondent was declared elected as the General Secretary. Meanwhile, the Delhi High Court was approached to direct the Election

Commission of India to update the party's bye-laws. The Court directed the Election Commission of India to take appropriate action which resulted in the bye-laws being updated as per the amendments made by the General Council. The original applications filed by the appellants herein, seeking interim injunction against the resolutions passed on 11.07.2022 were dismissed, aggrieved by which, the present appeals are filed.

(ii) General Resolutions that amended the bye-laws of the Party and the Special Resolution that expelled the appellants from the primary membership of the Party:

(a) The learned senior counsel submitted that by Resolution no.3, the Posts of Co-ordinator and Joint Co-ordinator were abolished and the post of General Secretary was restored and was to be elected by the primary members of the Party. Denying the stand of the appellants that the said resolution violated the basic structure of the Party, it is submitted that this amendment has only restored the basic structure of the Party. It is because 51 years have passed since the creation of the Party and for 47 years, this has been the Basic structure i.e., General Secretary being elected by the primary members of the Party and only due to aberration for a small period of 4 years, this was altered, but that does not become the basic structure of the Party. Till 2017, there was no qualification for a person to become the General Secretary, however on 29.12.2017, it was made that the persons to get elected to the posts of

Co-ordinator and Joint Co-ordinator must have been primary members of the party for at least 5 years and this is got amended in July 2022 replacing that a person to be elected to the post of General Secretary must have been an office bearer of the Headquarters office for a continuous period of 5 years and he must be proposed by 10 District Secretaries and seconded by 10 District Secretaries. What should be the eligibility condition for a Post, can always be fixed by the Party and the Court cannot question the wisdom of the Party in fixing the criteria as it would then amount to intrusion into the internal affairs of the Party. The amendments were implemented with the intention to ensure that the party would be led by an experienced individual with unwavering support from the grass root level.

(b) The learned senior counsel further submitted that by Resolution no.4, the Post of Interim General Secretary was created; as per Resolution No.5, the third respondent was named as interim General Secretary, by a voice vote; and Resolution No.6, pertains to the notification to the election of the post of General Secretary. The election to the post of General Secretary was resolved to be conducted within 4 months. On 28.05.2023, the third respondent was declared as elected to the post of General Secretary. This again was questioned by the appellant stating that the election ought not to have been held, when the subject matter is pending before this Court, but there was

nothing wrong in conducting the election, because there was no prohibitory order restraining the election.

(c) The learned senior counsel would also submit that the third respondent was the sole candidate, who contested in the election, and the resolutions in question were passed by 2524 out of 2655 members of the General Council. That apart, refuting the plea of the appellant that the resolution to remove him was passed before the amendments to the bye-laws were made, the learned senior counsel clarified that the amendments were made first.

(d) According to the learned senior counsel, in respect of disciplinary action against the member, Bye law 35 (7) assumes significance. It says, action could be taken by the Executive Council of the Party unit or by a Party Unit higher than it or by the General Secretary. In this case, the person to be removed is a member of General Council, so, the General Council can take disciplinary action. To make the Bye-law 35 workable and to remove the highest authority of the Party (at that time when he was the Co-ordinator), only a superior authority can remove him and it is only in that sense the General Council removed him. Injunction is an equitable relief and for a person to claim it, he must have equity on his side. The learned Judge in the order impugned herein, has stated that prime facie case has been made out on the

part of the appellant with regard to his removal. Even if there is a prime facie case, balance of convenience is to be looked at and if that is not satisfied, injunction can be refused. Hence, there is no application of Articles 14 and 16 for a Political Party, only the bye-laws govern the field. If balance of convenience is looked at, reinstatement of the appellant will only lead to further confusion and the political activities will lead to turmoil. Further, removal whether legal or not is to be gone into only at the stage of final hearing and not at the interim stage because never would a Court direct interim reinstatement. It would always ask the party to establish his right at the stage of final hearing and as such, the same logic is to be applied to the present case. The learned senior counsel also submitted that there are plenty of documents available to show that the appellant is acting detrimental to the Party's interest, such as, breaking of the Party headquarters and trespassing illegally and stealing all the documents, illegally nominating a candidate misusing the letterhead of the Party and appointing and removing District Secretaries and even dissolving the General Council. Moreover, the appellant has been removed in the month of July and only now, he is filing a Suit which means that no irreparable injury has been caused to him ever since his removal.

(iii) Party's Bye-laws:

Referring to an overview of various bye-laws, namely Bye-law 6 addressing the Village Panchayat Party Unit, Bye-law 8 governing the Municipal Town Party Unit, Bye-law 9 pertaining to the Township Party Unit, Bye-law 10 governing the Panchayat Union Party Unit, and Bye-law 11 focusing on the District Level Party Unit, it is submitted by the learned Senior counsel that at each of these levels, starting from the grass root level, democratic principles are diligently upheld. Significantly, all Secretaries elected in accordance with Bye-law 11 from the 75 Districts constitute an integral part of the general Council. He further submitted that Bye law 19 deals with General Council and it says, it is a supreme body with all powers of the kazhagam; Bye-law 19(8) says that General Council is vested with the power to make policies and implement them and it is binding on all the members of the party; and Bye-law 20A General Secretary post is now revived. Adding further, the learned senior counsel submitted that Bye-law 20A(c) is the new condition that says for a person to stand in election for the post of General Secretary, he must be proposed by 10 District Secretaries and seconded by 10 District Secretaries and each District Secretary can nominate only one person and General Secretary is elected by the primary members of the Party.

(iv) Response to the appellants' contentions:

(a) As regards the submissions of Mr. Mani Shankar, learned Senior counsel for the appellant in OSA Nos. 71, 72 and 75 of 2023 that Co-ordinator is the highest post in the Party and he cannot be removed, the learned senior counsel submitted that this argument can be negated by looking at bye-law 35, which says that every member of the Party is subject to the control of the General Council; Bye-law 35(12) also creates an exception from the normal procedure to be followed in case of emergency disciplinary action to be taken by the General Secretary. In this context, the learned Senior counsel referred to the decision of the Hon'ble Supreme Court in *Central Inland Water Transport Corporation v. Brojo Nath Ganguly [AIR 1986 SC 1571]*, wherein it was observed that a clause that gave power to the corporation to terminate permanent employee by giving him three months basic pay and D.A. was like "Henry the VIIIth" clause and it was struck down as violative of Articles 14 and 16. Political Parties' bye-law cannot be subjected to Constitutional mandate as it is a private organisation and it is free to have its own hire and fire policy. The Member cannot force the Association to have him as its member. This is also fortified by the judgement in *Supreme Court Bar Association v. B.D. Kaushik [(2011) 13 SCC 774]*, in which, it has been clearly stated that individual rights will get subsumed into the collective rights of the party whenever a person joins as a member of it. Although the bye-laws

empower only the General Secretary of the Party to take immediate disciplinary action, since, the person supposed to be removed is the Co-ordinator, which is the supreme position in the Party, in the fitness of things, it was thought fit that the General Council being supreme organ of the Party, would be competent to remove him from primary membership.

(b) The learned senior counsel also referred to Bye-law 45, which says that General Secretary is to be elected by the primary members of the Party and is the basic structure of the party; and Bye law 35 says that general power to frame amend the bye-laws is with the General Council. That apart, he relied on the documents which are filed after the learned Judge's order, currently under appeal, including the Declaration of 3rd respondent as General Secretary, the Order of the Delhi High Court directing the Election Commission of India to take action on the representation, the Election Commission of India taking on record the amended bye-laws, the Election Commission of India's letter to the Chief Electoral Officer responsible for the conduct of the Karnataka Assembly Election, the direction of Election Commission of India to grant the Two leaves symbol to the candidate fielded by the Party, the letter by the 3rd respondent stating objection to the nomination form, the FIR registered against K. Kumar, and the appellant using the Party letterhead and dissolving the alleged fake General Council of the

Party.

(c) Replying to the arguments advanced by Mr. P.S. Raman, learned Senior counsel for the appellant in OSA Nos.68, 69 and 70 of 2023, the learned Senior counsel submitted that the General Council howsoever supreme cannot act as a lynch mob. According to the learned senior counsel, the primary members of the Party and the will of the members is to remove the appellant for his conduct, the supreme organ vested with the power to take any decision binding on every member of the Party can validly remove the appellant. He further submitted that the decision in *Supreme Court Bar Association v B.D. Kaushik* [(2011) 13 SCC 774] clearly answers the point that the appellant's right is subject to the collective will of the Party and is subject to the rules and regulations of the Party. Continuing further, the learned senior counsel submitted that Bye-law 35(12) which is to be read independently, empowers even the Co-ordinator and Joint Co-ordinator to be removed without hearing, if the General Council feels it as urgent. When the appellant held the position of Co-ordinator in the party, he, along with the third respondent, removed O. Raja (who is the appellant's own brother) without any hearing or prior notice, claiming it was in the interest of the Party. However, the next day, upon his request for pardon, he was reinstated.

(d) Resisting the argument that the amendment was so done exclusively

for the purpose of preventing the appellant from contesting in the election, the learned senior counsel submitted that this is a fallacious, because there are 75 District Secretaries and even if the 3rd respondent commands the support and is able to get 20 District Secretaries in his favour for nominating and seconding still there will be 55 District Secretaries left so it is for the Appellant to garner support. Placing reliance on the decision in *Supreme Court Bar Association's* case (cited supra), the learned senior counsel submitted that internal matters of the body cannot be interfered with by the Court and it has to regulate itself and therefore, whatever be the condition or eligibility criteria, the Party feels to be right can be fixed by it rightfully unless it offends any statutory law.

(e) With regard to the submission that injunction ought not to have been refused after prima facie finding in the favour of appellant, the learned senior counsel placed reliance on various Judgments of the Apex Court and submitted that such an argument would not hold water as requirement of all the three factors viz., prima facie case, balance of convenience, irreparable loss, is necessary for order of injunction to be granted and satisfaction of just one ingredient is insufficient.

(f) Drawing the attention of this Court to the submission that removal

resolution was not in the agenda for 11.07.2022 meeting, the learned senior counsel would submit that the Party ever since its creation usually does not have the practice of circulating pre-written published agenda for its forthcoming meetings and it was only after the Division Bench judgement in O.S.A. No.160 of 2022, which ordered the General Council not go beyond the agenda, the party strictly started to list down the resolutions and subjects that are to be discussed in the meeting as Agenda, but when the Division Bench Judgment was ultimately stayed by the Hon'ble Apex Court, even that finding of the Division Bench directing the Council not to go beyond the Agenda loses force. Hence, according to the learned senior counsel, that cannot be an argument to whittle down the resolution otherwise passed with overwhelming majority.

(v) Relevant case laws:

In order to support his contentions, the learned Senior Counsel relied on the following decisions:

(a) Assistant Collector of Central Excise, West Bengal v Dunlop India [(1985) 1 SCC 260]

(b) Dalpat Kumar v. Prahlad Singh [(1992) 1 SCC 719]

(c) Colgate Palmolive (India) Ltd. v. Hindustan Lever Ltd. [(1999) 7 SCC 1]

(d) Best Sellers Retail (India) Pvt. Ltd. v. Aditya Birla Nuvo [(2012) 6 SCC 792]

(e) Mohd. Mehtab Khan v Khushnuma Ibrahim Khan [(2013) 9 SCC 221]

(f) Gujarat bottling Co. Ltd. v Coca Cola Co. [(1995) 5 SCC 545]

(g) Seema Arshad Zahirand vs Mumbai Corporation [(2006) 5 SCC 282]

(h) Judgment of the House of Lords in Tinsley v Milligan

With these submissions and case laws, the learned Senior counsel prayed for dismissal of all the appeals filed by the appellants herein.

14. Mr. C.S. Vaidyanathan, learned senior counsel appearing for the third respondent in OSA.Nos.68, 69 and 70 of 2023 viz., Mr. Edapadi K.Palaniswamy submitted that the very election of the appellant to the post of Co-ordinator is invalid because it was done pursuant to the amendments made to the Bye-laws by the Executive Committee on 01.12.2021. He would further submit that only the General Council has the power to modify, amend or alter the bye-laws and the Executive Committee lacks authority to amend the bye-laws, it is for this reason that the resolution amending the Bye-laws was agreed to be placed before the General Council for ratification but it was never placed before it. Therefore, when the General Council has not given the seal of approval, the amendments to the Bye-law would not stand and thus, the

appellant cannot claim any vested right to hold the said post. In this context, the learned senior counsel placed reliance on the observation of the learned Judge in Para 57 of the Impugned Order, which is quoted below for ready reference:

“57. The Division Bench had observed that the post of General Secretary had been substituted by the Coordinator and the Joint Coordinator. The change in nomenclature of the post may not amount too much, but the change of electors definitely disturbed the Constitution of the party. Taking into account the observations made by the Division Bench, the Executive Committee of the party had passed resolutions on 01.12.2021. The said resolutions in effect sought to amend the bye-laws of the party. Based upon such resolutions, elections were conducted to the post of the Coordinator and the Joint Coordinator, in which Mr.O.Paneerselvam and Edapadi K. Palaniswamy were elected as Coordinator and the Joint Coordinator respectively. The said resolutions were required to be placed before the next General Council. I am afraid that the resolution dated 01.12.2021 passed by the Executive Committee is without any authority, as the power to amend the bye-law is only vested with the General Council under Rule 43 of the bye-laws.”

14.1. The learned senior counsel further referred to Para 33 of the Division Bench Judgment in O.S.A No. 227 of 2022 etc., which was affirmed by the Apex Court by order dated 23.02.2023 in Civil Appeal No. 1392 of 2023 to substantiate the fact that the Executive Council lacks power to amend bye-laws. The said paragraph is profitably extracted below:-

*“33. Admittedly, there is a functional deadlock in the Party due to the stand taken by the appellant and the 1st respondent (in O.S.A. No. 227 of 2022). Rules 5, 19(i) and 19(viii) are absolutely clear that the General Council is the Supreme body of the Party. As per the By-laws of the Party, **the Executive Council has not been given power either to amend the Rules or to take any important decision. If such decision is taken, the same should be approved by the General Council of the Party.**”*

14.2. According to the learned senior counsel, the abolition of the posts of Co-ordinator and Joint Co-ordinator does not in any way destroy the basic structure of the Party, and the same was done out of necessity to remedy the functional deadlock that was existing in the Party; and for the purpose of restoring effective leadership in the Party, the General Council exercised its powers and amended the bye-laws for the effective and smooth functioning of the Party. He also drew the attention of this court to few paragraphs of the order of Hon'ble Apex Court in Civil Appeal No. 1392 of 2023 dated 23.02.2023 to submit that even the Apex Court has recognized the uneasy situation prevailing in the Party and the Apex Court has even observed that the same does not in any way offend the spirit of the bye-laws. Relevant portions of the Judgment is as follows :

“ 26. ... The Division Bench also referred to an undeniable fact situation that the Co-ordinator and Joint Co-ordinator were at loggerheads and any strict application of Rule 19(vii) was likely to result in a deadlock”

“ 28.1.When Coordinator and Joint Co-ordinator were shown to be not functioning jointly (for whatsoever reason), a functional deadlock came into existence for the party and a workable solution was required to be found.”

“ 32. ...Obviously, a workable solution was to be found; and when the solution as found and applied, does not otherwise appear offending the spirit of byelaws as also the norms of functioning of an association or a party”

14.3. The learned senior counsel would further submit that though the respondents have not preferred any appeal against the learned Judge's order,

they are aggrieved with the finding that *prima facie* case has been made out in favour of the appellants in relation to their expulsion from membership of the Party. It is also submitted that according to Clause (vii) of Rule 35, disciplinary action can be taken by the Executive Committee, a higher unit of the Party, or by the Coordinator and Joint Coordinator. Referring to paragraphs 65 and 66 of the impugned order, he would contend that clauses 35 (iii) to (xi) outlines the procedure for disciplinary action under normal circumstances but clause 35 (xii) should be interpreted independently. He emphasized that clause 35 (xii) stands on its own and is invoked by the Coordinator and Joint Coordinator only when immediate disciplinary action is deemed necessary. Therefore, in cases of immediate action, the process of issuing a charge sheet and seeking an explanation within seven days, as mentioned in clause 35 (vi), does not arise. Thus, according to the learned senior counsel, the learned Judge erred in concluding that a *prima facie* case was established by the appellants. However, with regard to other two factors, the learned Judge has rightly held that the same were absent and rightly refused to grant injunction. He further contends that the appellant's pleadings in OSA No. 68 of 2023 etc. only state that charges were not framed, principles of natural justice were not followed, and the power to take disciplinary action rests solely with the Coordinator and Joint Coordinator and not with the

General Council. However, it is evident from the Bye-laws that the General Council is the supreme organ and beyond any doubt, a higher party unit than the Executive Committee. Therefore, he strenuously contends that the General Council cannot be deemed to be lacking in authority. It is further submitted that a mere perusal of the plaint clearly reveals the absence of pleadings demonstrating a balance of convenience and the likelihood of irreparable loss. Furthermore, the contention that the appellant's expulsion would not only irreparably affect him, but also the electorate he represents, is baseless and unacceptable and fails to hold the ground as the appellant is still functioning as MLA, without causing any harm to the people. Thus, when the ingredients of balance of convenience and irreparable loss are clearly absent, it is not proper for the appellants to contend that the learned Judge should have automatically granted the injunction as prayed for by them based on the finding of a *prima facie* case finding alone.

14.4. To emphasize that the General Council is supreme of the party, the learned senior counsel referred to Rule 5(7) of the bye-laws as it stood prior to amendment, which states that the decision of the General Council is final and binding on all members, highlighting the long-standing principle in the Party that all members are subject to the General Council's decisions. He further read bye-law 19(viii) which states as follows :-

“(viii) The General Council will be the supreme authority to frame policies and programmes of the Party and for their implementation. The decision of the General Council is final and binding on all the members of the Party.”

14.5. According to the learned senior counsel, the argument that the basic structure is paramount and any resolution passed must align with the desires of the primary members, lacks foundation. He submits that if for all the matters, primary members are to be consulted, no decision can ever be taken and the Party would come to a standstill because it is a National Party with over 1.5 crore members. It is for this reason that the General Body is in existence, to represent the will of the primary members. He further submitted that this issue is finally decided by the Hon’ble Apex Court and it operates as res judicata between the parties herein. To substantiate the same, he took the Court through the following paragraphs from the Division Bench Judgment in O.S.A No. 227 of 2022 etc. cases, which was affirmed by the Apex Court by order dated 23.02.2023 in Civil Appeal No. 1392 of 2023.

“ 29. Moreover, the a`uthority of the General Council to deal with the relevant matters could not have been brushed aside with reference to the strength of the primary membership of the party”

“33. The supremacy of the General Council is because it is elected ultimately by the Primary Members in terms of Rules 6 to 14 of the Bye-Laws”

“34. As already stated, the General Council consists of 2665 members, who were elected through the Organizational Elections under Rules 6 to 14 of the By-laws. The elected General Council Members represent the Primary Members of the Party. It cannot be disputed that the General Council is the Supreme Body in the party....”

“42. The members of the General Council are representing the Primary Members of the Party and when the majority of the members of the General Council have given requisition for convening the Special General Council Meeting on 11.07.2022 and also supported the Resolutions on 23.06.2022 and 11.07.2022, the balance of convenience cannot be held in favour of the 1st respondent. ”

Thus, the appellant's contention that the General Council has acted in an autocratic manner by amending the bye-laws against the wishes of the members, is unfounded. The General Council, as the supreme body of the party, has the authority to make decisions in the best interest of the Party as a whole, and its actions cannot be deemed autocratic when they align with the established rules and principles of the Party, according to the learned senior counsel.

14.6. The learned senior counsel also referred to the following paragraphs of the decision in *T.P. Daver v. Lodge Victoria [1964 SCR (1) 1]* relied on by the appellant, and submitted that the same is irrelevant to the facts of the present case:

“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. ...”

Firstly, this judgment was rendered not at the stage of interim injunction, but at the final stage after taking evidence from either side and secondly, as enumerated before, unlike this case, there was no provision like bye-law 35(xii) that empowers the authority to expel a member without notice. He relied heavily on the Judgment of the Apex Court in **Supreme Court Bar Association's case (cited supra)**. Relevant paras are extracted hereunder:-

“43.It hardly needs to be emphasized that in any Body governed by democratic principles, no member has a right to claim an injunction so as to stall the formation of the Governing Body of the Association... “

“52. In matters of internal management of an association, the courts normally do not interfere, leaving it open to the association and its members to frame a particular bye-law, rule or regulation which may provide for eligibility and or qualification for the membership and/or providing for limitations/restrictions on the exercise of any right by and as a member of the said association. It is well settled legal proposition that once a person becomes a member of the association, such a person loses his individuality qua the association and he has no individual rights except those given to him by the rules and regulations and/or bye-laws of the association. “

“ ...The authority to frame, amend, vary and rescind such rules, undoubtedly, vests in the General Body of the Members of the Society. The power to amend the rules is implicit in the power to frame rules.”

The Supreme Court further observed in **Supreme Court Bar Association'** case, the Memorandum of Association is a contract amongst the members of the Society, which though required to be registered under the statute, does not acquire any statutory character. Further, in Para 51 of the Judgment, the Apex Court quoted Para 16 from the **Chheoki Employees' case [1997 3 SCC 681]**

wherein it was observed that:

*“... No individual member is entitled to assail the constitutionality of the provisions of the Act, rules and the bye-laws as he has his right under the Act, rules and the bye-laws and is subject to its operation. **The stream cannot rise higher than the source.**”*

Therefore, on the strength of the aforesaid Judgment, the learned senior counsel contends that the appellants are not entitled to seek an order of injunction to restrain the implementation of a resolution passed by a body governed by democratic principles. Once the appellant becomes a member of the Party, he does not possess an independent right, but his rights would be governed in accordance with the Party's bye-laws. Furthermore, the courts should refrain from interfering with the decisions made by such a body in adherence to the bye-laws, as doing so would constitute an unwarranted intrusion into the internal management of the Party. He further submits that the Apex Court has unequivocally held that the power to amend bye-laws is inherently vested in the authority that formulates the rules. Moreover, Rule 43 of the Bye-laws in the present case explicitly confers authority upon the General Council to amend the Bye-laws. The Party exists as a manifestation of the collective will of its members, and no individual can assert a right superior to the will of the party. The General Council, through its unanimous decision in favour of a single leadership, has effectively expressed the Party's will, and ever since then the Party is functioning efficiently. Further, the appellant's

attempt to obtain an order of injunction would essentially disrupt the Party's functioning and create an impasse. He would submit that the appellant is solely driven by the personal interests rather than the interests of the Party as a whole. It is emphasized that the supreme body of the Party, representing the primary members, has unequivocally expressed its will by unanimously abolishing the posts and restoring the fundamental structure of the Party, as well as unanimously expelling the appellant and the decision of the General Council cannot be overturned by this Court. Thus, according to the learned senior counsel, the order of the learned Judge, which correctly refused to grant the injunction, is perfectly valid and should not be interfered with.

Reply submissions made on the side of the appellants

15. In response to the various submissions made by the learned senior counsels for the respondents/defendants, Mr.Guru Krishna Kumar, learned senior counsel for the appellant in OSA Nos.68, 69 and 70 of 2023 submitted that the argument put forth by the respondents is solely based on the premise of the supposed supremacy of the General Council; that, the General Council is the ultimate authority of the Party and possesses autocratic power to make any decision that deems it appropriate; that, once the majority of the General Council members have voted in favour of a decision, it becomes unquestionable by any individual; and that, they rely on the General Council's

plenary power to amend bye-laws. However, the said argument contains an inherent fallacy as neither the party structure nor the bye-laws substantiate their claim.

15.1. In this regard, the learned senior counsel has referred to Rule 19(viii) of the bye-law.

“ viii) The General Council will be the supreme authority to frame policies and programmes of the Party and for their implementation. The decision of the General Council is final and binding on all the members of the Party.”

The respondents read out the above bye-law to emphasize that it explicitly refers to the terms 'supreme authority' and 'binding on all members of the party' and therefore, the General Council holds the topmost position in the party. On the other hand, the learned senior counsel for the appellant compared it with the same bye-law in Tamil version, which reads as follows:

"கழகக் கொள்கைகளை வகுப்பது - அவற்றை நிறைவேற்ற திட்டங்கள் தீட்டுவது, கழகத்தை நடத்திச் செல்லத் தேவையான நடவடிக்கைகள் எடுப்பது, இவைகளில் இறுதி முடிவெடுக்க பொதுக்குழுவே அதிகாரம் பெற்ற அமைப்பாகும்."

The Tamil version of the bye-law does not contain the term 'final and binding on all members.' Thus, it is suggested that the English version is a freehand/loose translation of the original Tamil bye-laws. Therefore, while the

General Council unquestionably holds an important position in the Party structure, it is not more than one of the organs of the Party.

15.2. Adding further, the learned senior counsel submits that it is absolutely absurd on the part of the respondents, who claim to follow the ideals of the founder, to suggest that there is no basic structure in the Party. The founder of the Party envisioned a basic structure that gives utmost importance to the primary members. These members, having willingly accepted the bye-laws, the Party's philosophy, and its ideas, are inherently bound by the basic structure outlined in the bye-laws. A political party is a crucial component of a democratic system, and it is unfathomable how a Party can function without a basic structure. Political party is an important spoke in the wheel of democracy. It is difficult to imagine how a Party can function without basic structure. The argument of the respondents was that the resolution passed on 11.07.2022 bringing in single leadership in the Party restores basic structure. If it restores the basic structure, they cannot be permitted to contend that there is no basic structure as both are diametrically opposite stands and cannot go together. While the General Council exercises power, parallelly independent powers are vested with General Secretary/Co-ordinator & Joint Co-ordinator (Bye law 45). The extent of power is to even give exemption from operation of bye-law to any person. This is akin to a

presidential form of government.

15.3. According to the learned senior counsel, the argument in relation to the term 'lapse' put forth by the respondents is irrelevant, as the Supreme Court left this question open for further determination. No decision should be taken by the respondents to render the issue moot until it is finally decided. If the issue of lapse is decided in favour of the appellant, he would function as Co-ordinator from his election in 2021 until 2026. Even before the matter is decided, the respondents have removed the appellant to dilute the issue of lapse. Resolution No. 3, dated 11.07.2022 clearly establishes the grounds for the abolition of the posts of Co-ordinator and Joint Co-ordinator, one of which is lapse. Therefore, the General Council's actions were based on misconceptions of fact and law. Furthermore, the respondents' claim that single leadership was the will of the Party was not supported by the grounds stated in the resolutions. That apart, there is no letter from the General Council requisitioning this resolution, as stated by the respondents. Only one letter was relied upon, and it even contains the handwritten additions of the words "otrai thalaimai" (single leadership). The learned Judge treated it as an interpolation and disregarded it at the interim stage, indicating that it should be considered during the trial. Therefore, the respondents should have conducted a consultation among the primary members to ascertain their views because, in

substance, the General Council's resolution reversed the will and mandate expressed by the primary members on 06.12.2021. There is no material to demonstrate that the General Council's resolution was also the opinion of the primary members.

15.4. All the case laws relied upon by the respondents to argue that a mere prima facie case would not entitle a person to an order of injunction, are inapplicable to the present case. The facts of those cases are distinguishable from the instant case, as the reliefs sought in those cases can be restored at the final stage even if denied at the interim stage. If the appellant is not reinstated now, his term would end by the time the suit is decided, causing significant prejudice. Hence, the principles enshrined in such judgments regarding the grant of injunctions should not be applied in this case. The learned Judge also erred in assessing the balance of convenience, as it should be considered from the view point of the parties to the litigation and not from the view point of the political party. It is also submitted that the issues of res judicata, lapse, and the validity of the resolutions passed on 11.07.2022 were all left open by the Supreme Court to be decided in appropriate proceedings. Therefore, even though the contentions may overlap, they do not foreclose their submissions on the ground of res judicata.

15.5. It is further submitted by the learned Senior counsel by way of reply that if the argument that the General Secretary has all the powers to remove any member from the Party is accepted, the third respondent could have removed the appellant, because even according to the respondents, the amendment to restore the position of General Secretary in the Party, was made prior to the resolution for removal of the appellant.

16. As a riposte, Mr.P.S.Raman, learned senior counsel submitted that the appellant should have been given the opportunity to defend himself and only after a fair hearing of the appellant's defense, any decision should have been taken. Moreover, if the bye-laws specify a particular method of removal, it is essential that the same be strictly followed. The learned senior counsel further submitted that the appellant strongly denies any involvement in the attack on the Party Head Quarters; he asserts that it was not carried out by him or his supporters, but rather by the supporters of third respondent; and hence, the said denial should be taken into account and thoroughly investigated before reaching any conclusions or imposing penalties.

16.1. According to the learned senior counsel, the fact that other members have been removed without proper inquiry in the past, does not

justify the appellant's removal. The illegality of previous removals cannot be endorsed simply because those members did not challenge them in court. Each case must be evaluated on its own merits, and in this case, the appellant's removal is without authority and without adherence to the principles of natural justice.

16.2. The learned senior counsel has further pointed out that if the respondents argument that party bye-laws are not sacrosanct to the functioning of the party and are merely submitted to the Election Commission of India for registration purposes, then, they should not heavily rely on them. However, the Election Commission of India has the authority to scrutinize and even refuse registration if the bye-laws are found to be atrocious. Therefore, the respondents' reliance on the bye-laws indicates their own recognition of their importance, which further emphasizes the need to adhere to them in the appellant's case.

16.3. It is further submitted that the indoor management theory should not be applied in this case because the appellant's vested rights have been violated, and he should not be left without a remedy. The maxim "*Ubi jus ibi remedium*" (where there is a right, there is a remedy) applies here, indicating that the appellant should be provided with a fair and just remedy for the alleged violations committed against him.

16.4. It is submitted that the decision in *T.P.Daver v. Lodge Victoria [1964 1 SCR 1]* established that when bye-laws are strictly followed in the removal of a person, a court cannot interfere unless there are allegations of malafides or unfair treatment. The principles derived from this case emphasize that a member of a club or organization is bound by the rules and should only be expelled according to the procedures outlined in those rules. The jurisdiction of a civil court is limited and can only set aside an order if the body acts without jurisdiction, lacks good faith, or violates the principles of natural justice. The relevant paragraph is extracted hereunder:-

*“Though it is advisable for a club to frame rules to avoid conflict of duties, if the rules sanction such a procedure, the party, who has bound himself by those rules, cannot complain, unless the enquiry held pursuant to such rules discloses malafides or unfair treatment. 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.**”*

Thus, when the organization has failed to follow its own rules and has with a mala fide intention removed senior members at haste without following principles of natural justice, this Court cannot be restrained from intervening and asked to remain a mute spectator.

16.5. The learned senior counsel also submitted that reliance placed by the respondents on case laws for injunctive relief is misplaced because all of them were cases concerning proprietary right that is amenable to restitution at a later date even if interim injunction is refused. However, in the instant case, denial of injunctive relief cannot be even adequately compensated in terms of compensation. The cases that lay down general principles for grant of injunction broadly would not be applicable to the facts of the present case as it is strictly governed by the bye-laws.

17. Mr. Abdul Salem, learned senior counsel would submit that regarding the lapse observed by the Supreme Court, it implies that the posts will continue until 2026 or until a competent court decides otherwise. The General Council has not considered the resolution related to the election of the appellant and the respondent for the positions of Coordinator and Joint Coordinator. Therefore, it cannot be assumed that the General Council has rejected the resolution when it has not even been presented to them. As long as the General Council has not deliberated and rejected the resolution, the appellant is considered to be continuing in the said post.

18. By way of reply, Mr.A.K.Sriram, learned senior counsel, submitted that bye-law 35 (12) should not be applicable in this case because it is an emergency provision. Bye law 5(7) that prevents a member from going to the Court against any of the decision taken by the party is hit by Section 28 of the Indian contract Act and the argument that there is no interim reinstatement of membership is a principle to be confined only to service jurisprudence and cannot be applied here. The balance of convenience and irreparable injury has to be tested as on date of the cause of action. Earlier observations made by the courts could not be applicable to the present case. In this context, the learned Senior Counsel placed reliance on the decision in **Arjun Singh vs Mohindra Kumar & Ors. [AIR 1964 SC 993]** to contend that interlocutory orders do not operate as res judicata. The relevant portion of the observations made in the aforesaid judgment is extracted below:-

“ 14. It is needless to point out that interlocutory orders are of various kinds; some like orders of stay, injunction or receiver are designed to preserve the status quo pending the litigation and to ensure that the parties might not be prejudiced by the normal delay which the proceedings before the court usually take. They do not, in that sense, decide in any manner the merits of the controversy in issue in the suit and do not, of course, put an end to it even in part. Such orders are certainly capable of being altered or varied by subsequent applications for the same relief, though normally only on proof of new facts or new situations which subsequently emerge. As they do not impinge upon the legal rights of parties to the litigation the principle of res judicata does not apply to the findings on which these orders are based, though if applications were made for relief on the same basis after the same has once been dis- posed of the court would be justified in rejecting the same as an abuse of the process, of court. There are other orders which are also interlocutory, but would fall into a different category. The

difference from the ones just now referred to lies in the fact that they are not directed to maintaining the status quo or to preserve the property pending the final adjudication, but are designed to ensure the just, smooth, orderly and expeditious disposal of the suit. They are interlocutory in the sense that they do not decide any matter in issue arising in the suit, nor put an end to the litigation. The case of an application under O. IX. r. 7 would be an illustration of this type. If an application made under the provisions of that rule is dismissed and an appeal were filed against the decree in the suit in which such application were made, there can be no doubt that the propriety of the order rejecting the reopening of the proceeding and the refusal to relegate the party to an earlier stage might be canvassed in the appeal and dealt with by the appellate court. In that sense, the refusal of the court to permit the defendant to "set the clock back" does not attain finality. But what we are concerned with is slightly different and that is whether the same Court is finally bound by that order at later stages, so as to preclude its being reconsidered. Even if the rule of resjudicata does not apply it would not follow that on every subsequent day on which the suit stands adjourned for further hearing the petition could be repeated and fresh orders sought on the basis of identical facts. The principle that repeated applications based on the same facts and seeking the same reliefs might be disallowed by the court does not however necessarily rest on the principle of resjudicata. Thus if an application for the adjournment of a suit is rejected, a subsequent application for the same purpose even if based on the same facts, is not barred on the application of any rule of res judicata, but would be rejected for the same grounds on which the original application was refused. The principle underlying the distinction between the rule of res judicata and a rejection on the ground that no new facts have been adduced to justify a different order is vital. If the principle of res judicata is applicable to the decision on a particular issue of fact, even if fresh facts were placed before the Court, the bar would continue to operate and preclude a fresh investigation of the issue, whereas in the other case, on proof of fresh facts, the court would be competent and would be bound to take those into account and make an order conformably to the facts freshly brought before the court"

Ultimately, it is submitted on the side of the appellants that the order of the learned Judge dismissing the original applications, has to be set aside and accordingly, the present appeals have to be allowed.

V. DISCUSSION AND FINDINGS

19. The short question that arises for consideration in the present appeals is whether the appellants, who were the applicants/plaintiffs in the respective applications/suits filed by them, are entitled to the reliefs as prayed for. As already referred to, all the original applications have been filed seeking interim injunction restraining the respondents, their men, agents and persons claiming under them, from implementing / enforcing the Special Resolution dated 11.07.2022 as well as the Resolution Numbers 3,4, 5 and 6 passed on 11.07.2022, and also for an interim injunction restraining the respondents, their men, agents and persons claiming under them, from conducting any election to the post of General Secretary on 26.03.2023 or any other date, pursuant to the notice dated 17.03.2023 pending disposal of the suit.

20. Since the present original side appeals have arisen from the common order passed in the original applications, it is made clear at the very outset that this Court does not intend to pass any orders that will touch upon the rights of the parties, which are to be decided at the time of trial in the four suits filed by the appellants herein.

21. We have given our anxious consideration to the detailed facts outlined in the previous paragraphs as borne out by the pleadings and records and materials placed before us as well as the detailed contentions and submissions made by the learned senior counsels on either side.

22. The undisputed facts which have a direct bearing on the present appeals are that for the first time on 12.09.2017, the post of general secretary of the AIADMK party came to be abolished, and the posts of Coordinator and Joint Coordinator were created, and Mr. O.Paneerselvam (OPS) was appointed as the Coordinator and Mr. Edapadi K. Palaniswami (EPS) was appointed as the Joint Coordinator. Amendments also came to be made to the Byelaws governing the party accordingly. The posts of Coordinator and Joint Coordinator were to be elected by the General Council as per the Byelaws of the Party. On 01.12.2021, in the meeting of the Executive Council in which the rules pertaining to the election of the Coordinator and Joint Coordinator were amended and it was specifically mentioned that the same would be placed before the next convened General Council meeting, where the said amendments were to be approved/ratified as the executive Council did not have the powers to amend the bye-laws, which powers exclusively vest with the General Council. After the election of OPS as Coordinator and EPS as

Joint co-ordinator, there was a joint announcement on 02.06.2022 convening the meeting of the General Council on 23.06.2022. However, there was a change in the events, when during the consultation meeting on 14.06.2022 the District secretaries discussed the need for a single leadership. The request of the appellant in O.A. No. 251 of 2023 seeking for postponement of the meeting which was scheduled on 23.06.2022 was not acceded to by the 3rd respondent, and accordingly, a suit in CS No. 111 of 2022 was filed by one Mr. Shanmugam, a supporter of the appellants, along with O.A. Nos. 327 and 328 of 2022 seeking interim injunction restraining the third defendant from convening the meeting on 23.06.2022. It is pertinent to mention at this juncture that the relief of interim injunction with respect to the meeting, was refused by the learned Judge. It is also a matter of record that the Division Bench had passed an interim order in CMP No. 9962 of 2022 in OSA No. 160 of 2022 granting an order of interim injunction against taking any decision on any of the Resolutions apart from the alleged 23 draft Resolutions approved by the Co-ordinator. However, on 23.06.2022 all the 23 Resolutions that were placed before the General Council were rejected, and that, it was announced that the next General Council meeting would be held on 11.07.2022. It is also a matter of record that in the said meeting on 23.06.2022, the first appellant herein was also present. In the meanwhile, by order dated 06.07.2022 the

Hon'ble Supreme Court stayed the operation of the order dated 23.06.2022 passed by the Division Bench. Thereafter, on the very same day, the suits have been filed by the first appellant O.Paneerselvam and one Vairamuthu, accompanied with interim applications seeking stay of the meeting dated 11.07.2022 after the order of the Supreme Court. The learned Judge dismissed the applications in OA Nos. 368, 370 and 379 of 2022 seeking for interim injunction against the meeting. As a result, the General Council meeting went on, on 11.07.2022, in which, 2460 members attended the meeting and the dual leadership that was approved earlier, viz. the posts of Coordinator and Joint coordinator, came to be abolished and the single leadership under general secretaryship was once again introduced and the post of interim general secretary was created. The third respondent was elected as the interim general secretary and election to the post of general secretary was to be conducted within four months and officers were to be appointed as per the Resolutions passed therein. Also importantly, the appellants were removed from their respective posts and primary membership of the party and new office bearers were appointed in their places. It is also seen that the amendments introduced by the General Council were intimated to the Election Commission of India by the 3rd respondent as the interim general secretary under section 29A of the Representation of People's Act 1951. When the order of the learned Judge

passed in the applications stated supra, came to be challenged before the Hon'ble Supreme Court and by order dated 29.07.2022, the Supreme Court had remanded the matter back to the High Court to reconsider the issue without being influenced by the orders of the Supreme Court either on 06/07/2022 or by the present order. Thereafter, on 17.08.2022 the said original application Nos.368, 370 and 379 of 2022 were allowed and status quo ante as on 23.06.2022 was ordered. Once again, OSA No.227 of 2022 etc cases, came to be filed against the order of the learned Judge passed on 17.08.2022, and on 02.09.2022 the Division Bench allowed the Original Side Appeals by setting aside the order dated 17.08.2022 and the original applications were consequently dismissed and the convening of the General Council meeting was upheld. On 30.09.2022, the first appellant and his group again approached the Supreme Court by filing SLP (c) Nos. 15705-15706 of 2022, wherein an undertaking was given on behalf of the 3rd respondent that the election to the post of general secretary shall not be conducted pending disposal of the SLP. The important turn of events happened at this stage is the subsequent judgement of the Hon'ble Supreme Court on 23.02.2023, by which, the appeals filed against the order of the Division Bench of this Court dated 02.09.2022, came to be dismissed and the convening of the General Council meeting held on 11.07.2022 was upheld as being valid. The SLPs filed against

the order of the Division Bench dated 23.06.2022 were also disposed of, by making the interim order dated 06.07.2022 absolute. Thereafter, the four suits seeking for declaration that the Resolutions passed on 11.07.2022 are illegal and invalid, came to be filed. In these suits, original applications have been filed for the interim reliefs that have been dismissed by the learned Judge by common order dated 28.03.2023, against which, the present Original Side Appeals have been filed.

23. The above narration of the unfolded facts and events and the connected litigation along with the orders passed by this Court as well as the Hon'ble Supreme Court would clearly expose that the parties have approached the Courts at every possible instance and the working and functioning of one of the major political parties of Tamil Nadu has been mired in controversy as well as in litigation for a long time. Now, an important fact that emerges from the above narration is that while several events unfolded to the displeasure of the appellants, and they approached the Courts time and again, and after two rounds of litigation, they had not made out a case to prove that injury that is incapable of being repaired or redressed by trial in the suits, has been caused to them at any point of time.

24. To start with, this Court would like to proceed with the word of caution as laid down in *Wander Ltd. and another v. Antox India (P) Limited [1990 Supp SCC 727]*, wherein it has been held that the Appellate Court could interfere with the exercise of discretion by the Court of first instance only when the discretion is shown to have been exercised arbitrarily or capriciously or perversely or where the Court has ignored the settled principles of law regulating the grant or refusal of interlocutory injunction.

25. That apart, the other guiding principles as laid down in the following cases are of relevance and are extracted hereunder for useful reference.

(i) *Assistant Collector of Central Excise, West Bengal v Dunlop India [(1985) 1 SCC 260]*:

“5. We repeat and deprecate the practice of granting interim order which practically give the principal relief sought in the petition for no better reason than that a prima facie case has been made out, without being concerned about the balance of convenience, the public interest and a host of other relevant considerations.”

(ii) *Dalpat Kumar v. Prahlad Singh [(1992) 1 SCC 719]*:

“5. Therefore, the burden is on the plaintiff by evidence alinude by affidavit or otherwise that there is "a prima facie case" in his favour which needs adjudication at the trial. The existence of the prima facie right and infraction of the enjoyment of his property or the right is a condition for the grant of temporary injunction. Prima facie case is not to be confused with prima facie title which has to be established, on evidence at the trial. Only prima facie case is a substantial question raised, bona fide, which needs investigation and a decision on merits. Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-

interference by the Court would result in "irreparable injury" to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely one that cannot be adequately compensated by way of damages. The third condition also is that "the balance of convenience" must be in favour of granting injunction. The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that it is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject-matter should be maintained in status quo, an injunction would be issued. Thus the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit."

(iii) *Colgate Palmolive (India) Ltd. v. Hindustan Lever Ltd. [(1999)*

7 SCC 1], in which, the principles of grant of interim injunction were laid down:

"24. We, however, think it fit to note herein below certain specific considerations in the matter of grant of interlocutory injunction, the basic being-non-expression of opinion as to the merits of the matter by the Court, since the issue of grant of injunction usually, is at the earliest possible stage so far as the time frame is concerned. The other considerations which ought to weigh with the Court hearing the application or petition for the grant of injunctions are as below:-

- (i) Extent of damages being an adequate remedy;*
- (ii) Protect the plaintiff's interest for violation of his rights though however having regard to the injury that may be suffered by the defendants by reason therefor;*
- (iii) The Court while dealing with the matter ought not to ignore the factum of strength of one party's case being stronger than the others;*
- (iv) No fixed rules or notions ought to be had in the matter of grant of injunction but on the facts and circumstances of each case - the relief being kept flexible;*
- (v) The issue is to be looked from the point of view as to whether on refusal of the injunction the plaintiff would suffer irreparable loss and injury keeping in view the strength of the parties case;*

(vi) *Balance of convenience or inconvenience ought to be considered as an important requirement even if there is a serious question or prima facie case in support of the grant;*

(vii) *Whether the grant or refusal of injunction will adversely affect the interest of general public which can or cannot be compensated otherwise."*

(iv) ***Best Sellers Retail (India) Pvt. Ltd. v. Aditya Birla Nuvo [(2012)***

6 SCC 792]:

"29. Yet, the settled principle of law is that even where prima facie case is in favour of the plaintiff, the Court will refuse temporary injunction if the injury suffered by the plaintiff on account of refusal of temporary injunction was not irreparable.

30. In Dalpat Kumar & Anr. v. Prahlad Singh & Ors. [(1992) 1 SCC 719] this Court held:

"Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-interference by the Court would result in "irreparable injury" to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely, one that cannot be adequately compensated by way of damages."

(v) ***Mohd. Mehtab Khan v Khushnuma Ibrahim Khan [(2013) 9***

SCC 221]:

"20. In a situation where the learned Trial Court on a consideration of the respective cases of the parties and the documents laid before it was of the view that the entitlement of the plaintiffs to an order of interim mandatory injunction was in serious doubt, the Appellate Court could not have interfered with the exercise of discretion by the learned Trial Judge unless such exercise was found to be palpably incorrect or untenable. The reasons that weighed with the learned Trial Judge, as already noticed, according to us, do not indicate that the view taken is not a possible view. The Appellate Court, therefore, should not have substituted its views in the matter merely on the ground that in its opinion the facts of the case call for a different conclusion. Such an exercise is not the correct parameter for exercise of jurisdiction while hearing an appeal against a discretionary order. While

we must not be understood to have said that the Appellate Court was wrong in its conclusions what is sought to be emphasized is that as long as the view of the Trial Court was a possible view the Appellate Court should not have interfered with the same following the virtually settled principles of law in this regard as laid down by this Court in Wander Ltd. v. Antox India (P) Ltd."

(vi) Gujarat bottling Co. Ltd. v Coca Cola Co. [(1995) 5 SCC 545]:

"47. In this context, it would be relevant to mention that in the instant case GBCX had approached the High Court for the injunction order, granted earlier, to be vacated. Under Order 39 of the Code of Civil Procedure, jurisdiction of the Court to interfere with an order of interlocutory or temporary injunction is purely equitable and, therefore, the Court, on being approached, will, apart from other considerations, also look to the conduct of the party invoking the jurisdiction of the Court, and may refuse to interfere unless his conduct was free from blame. Since the relief is wholly equitable in nature, the party invoking the jurisdiction of the Court has to show that he himself was not at fault and that he himself was not responsible for bringing about the state of things complained of and that he was not unfair or inequitable in his dealings with the party against whom he was seeking relief. His conduct should be fair and honest. These considerations will arise not only in respect of the person who seeks an order of injunction under order 39 Rule 1 or Rule 2 of the Code of Civil Procedure, but also in respect of the party approaching the Court for vacating the ad-interim or temporary injunction order already granted in the pending suit or proceedings."

(vii) Seema Arshad Zahirand vs Mumbai Corporation [(2006) 5 SCC

282]:

"30. The discretion of the Court is exercised to grant a temporary injunction only when the following requirements are made out by the plaintiff: (i) existence of a prima facie case as pleaded, necessitating protection of plaintiff's rights by issue of a temporary injunction; (ii) when the need for protection of plaintiff's rights is compared with or weighed against the need for protection of defendant's rights or likely infringement of defendant's rights, the balance of convenience tilting in favour of plaintiff; and (iii) clear possibility of irreparable injury being caused to plaintiff if the temporary injunction is not granted. In addition, temporary injunction being an equitable relief, the discretion to grant such relief will be exercised only when the plaintiff's conduct is free from blame and he approaches the Court with clean hands."

26. On the strength of the above trite position of law, we proceed to examine the correctness of the order under challenge. One of the important questions that arises in these appeals would be on the enforceability or otherwise of the earlier Resolution of the Executive Council on 01.12.2021 creating the posts of Coordinator and Joint Coordinator, which was kept for approval of the General Council; and whether such approval by the General Council can be said to be a mere ministerial act. This is important in view of the repeated foundational argument that a reading of Rules 19(vii) and 20-A(viii) would show that the authority to convene the General Council meeting is vested only with the Co-ordinator and the Joint co-ordinator, acting jointly and therefore, the presidium chairman neither had the power to make any announcement on 23.06.2022 about convening of the General Council meeting on 11.07.2022 nor he could have convened any such meeting. It is to be noted at this juncture that the very same contention has also been the subject matter of the Supreme Court in its order dated 23.02.2023. Similarly the issues of irreparable injury alleged to have been occasioned to the appellant and accordingly, the contention of the balance of convenience being in favour of the appellants or similarly situated persons who have been expelled from the primary membership of the party as a consequence of the Resolutions passed in the General Council meeting held on 11.07.2022, have

also been considered by the Supreme Court in the very same order dated 23.02.2023. The observations of the Supreme Court in Paragraphs 27-39 are of utmost relevance and the same are usefully extracted hereunder:

"27. In our view, the logic and reasoning of the Division Bench of the High Court stand in accord with law as also the facts of the present case.

28. The main plank of submissions on the part of the appellants in challenge to the order dated 02.09.2022 has been that convening of the meeting dated 11.07.2022 suffered from illegalities inasmuch as the meeting was not convened by an authorised person and that 15 days notice was not given. The same had been the reasoning adopted by the Learned Single Judge while finding a prima facie case in favour of the plaintiffs. The said reasoning and similar arguments remain fallacious and cannot be accepted.

28.1. The facts of the case make it abundantly clear that so far as convening of the meeting dated 23.06.2022 is concerned, the same had never been in doubt or in any dispute. The said meeting was indeed convened by the Co-ordinator and Joint Co-ordinator jointly, They had been working in tandem until that stage. However, they seem to have fallen apart immediately thereafter, particularly when a proposition for amendment of the byelaws and reverting to the system of single leadership was in the offing. In any case, the meeting dated 23.06.2022 was duly convened and the efforts to prevent the same did not meet with success in the Court. Even if the slated business was not transacted in the meeting dated 23.06.2022, all that had happened in that meeting could not have been ignored. It remains undeniable that the plaintiff OPS and the persons standing with him were also very much present in the said meeting. The General Council is said to be consisting of 2665 members. If 2190 members out of these 2665 gave a requisition on 23.06.2022 for convening the General Council meeting and the Presidium Chairman announced the date of this requisitioned meeting as 11.07.2022, in the given set of facts and circumstances, such announcement, at least at the present stage, cannot be dubbed as wholly redundant. At that point of when Co. ordinator and Joint Co-ordinator were shown to be not functioning jointly (for whatsoever reason), a functional deadlock came into existence for the party and a workable solution was required to be found. In the given scenario, the actions and steps taken by the requisitioning members as also by the Presidium Chairman cannot be declared as unwarranted or illegal at this stage. That being the position, convening of meeting dated 1 1.07.2022 could not have been taken as an act unauthorised. The Learned Single Judge while passing the order dated 17.08.2022 seems to have fallen in serious error and said order was clearly suffering from perversity when convening of the meeting dated 11.07.2022 was taken as an act unauthorised. The Division Bench of the High Court, in our view, has rightly looked at the substance of the matter and realities of the situation.

28.2. *The other alleged infirmity about want of clear 15 days' notice has also been rightly dealt with by the Division Bench of the High Court in the impugned order dated 02.09.2022. In our view, in such an internal matter of the party, approach of the Court and that while considering the prayer for interim relief, cannot be of finding technical faults and flaws detached from the substance of the matter. Even as regards technicalities, the Division Bench appears to have rightly analysed the frame of the said Rule 19(vii), where the requirement of 15 days' notice is referable to the regular meeting and not as such to a requisitioned or special meeting.*

29. *The considerations of the Learned Single Judge as regards the question of prima facie case had been suffering 'from basic flaws, as noticed above; and interference by the Division Bench was but warranted looking to the subject-matter of the litigation and its implications. This apart, and even if it be assumed that the plaintiffs were able to project some arguable case before the Court and some elements of prima facie case, in our view, the approach of the Learned Single Judge while examining the questions of balance of convenience and irreparable injury had been from an altogether wrong angle. As noticed, the Learned Single Judge took the view that by not granting injunction, EPS would be in a more convenient position for having allegedly removed the plaintiff OPS and few others from the party membership and they could not have even participated in the proposed General Secretary elections. According to the learned Single Judge, balance of convenience and irreparable injury, in the given context, were required to be visualised from the vantage point of the primary members. Such observations and considerations of the Learned Single Judge, in our view, do not stand in conformity with sound judicial principles. The questions of balance of convenience and irreparable injury in relation to the applications under consideration could not have been examined with reference to the consequences or fallout of the meeting dated 11.07.2022. Moreover, the authority of the General Council to deal with the relevant matters could not have been brushed aside with reference to the strength of the primary membership of the party. It is but clear that the Learned Single Judge has not kept in view the relevant tests as expounded in the decisions above-referred. In the present case concerning the internal management of the political party, and looking to the nature of claim made by the plaintiffs, the balance of convenience had not been in favour of granting any interim injunction on the applications under consideration.*

30. *Having examined the matter in its totality, we are constrained to observe that the Learned Single Judge in the present matter did not examine the questions relating to balance of convenience and irreparable injury in the correct perspective and particularly failed to weigh the competing possibilities and risk of injustice if ultimately the decision of main matter would run counter to the course being adopted and suggested in the order granting temporary injunction in the manner and form it was being granted. It gets perforce reiterated that if the order as passed by the learned Single Judge was to*

remain in force until decision of the suits, it would have been drastically detrimental to the interest of political party in question, which is a recognised political party with the Election Commission of India. In the matters of the present nature, the simple and precise view, as stated by the Learned Single Judge at the initial stage on 22.06.2022 while declining the prayer for interim relief, had been on the correct statement of law that ordinarily the Court would not interfere in the internal issues of an association/party and would leave it open to the association/party and its members to take a particular decision for better administration; and that had been the correct approach towards the facts of the case. In the present case, when General Council is shown to be the apex body of the party, taking any exception to the meeting of the General Council could have neither been countenanced nor interfered with by way of temporary injunction. In the given set of facts and circumstances, the hyper-technical suggestions as sought to be made about the want of valid notice with reference to date, time and place of meeting i.e., with reference to Chapter 5 from Shackleton on the Law and Practice of Meetings (supra) do not further the cause of the appellants, particularly when it is noticed that the date, time and place of the meeting in question were duly declared in the meeting dated 23.06.2022.

31. The submission on behalf of the appellants based on the decision in S.Thirunavukkarasu (supra) that the scheme of byelaws does not envisage the requisitions to convene the General Council meeting; and if the Co-ordinator and the Joint Co-ordinator jointly fail to convene the meeting, the only option is to seek intervention of the Court has its own shortcomings. As rightly noticed by the Division Bench in the order impugned. in the said case, an expelled member of the party called for a General Council meeting, parallel to the meeting called by the then General Secretary. In the given fact situation, the Court granted interim injunction in favour of the General Secretary against convening of the parallel meeting. In the present matter, no parallel meeting of General Council has been called for or requisitioned by any of the Members. The Division Bench of the High Court has rightly observed that as a general rule, it cannot be laid down that the requisitions have no option but only to go to the Court if the meeting is not convened. It has also been pointed out that in the past, when the interim General Secretary could not act in the year 2017, the Office Bearers stepped in and convened the meeting based on a requisition received. The present situation too, where the position as occupied earlier by the General Secretary was assigned to the Co-ordinator and the Joint Co-ordinator in their jointness and it remains beyond a shadow of doubt that Co-ordinator and the Joint Co-ordinator do not stand in jointness and cannot act jointly, is akin to the situation when the apex position holder was not in a position to act. Obviously, a workable solution was to be found; and when the solution as found and applied, does not otherwise appear offending the spirit of byelaws as also the norms of functioning of an association or a party, it cannot be said that declaration of the Presidium Chairman for the meeting of the General Council on 11.07.2022 and the follow-up notice by the Office Bearers at Party Headquarters had been wholly unauthorised.

32. *Apart from the foregoing, the other considerations in the impugned order dated 17.08.2022 which had prevailed with the Learned Single Judge make it clear that the Learned Single Judge has proceeded contrary to the sound and applicable judicial principles. It remains undeniable that law does not envisage performance of any impossibility nor any mandate could be issued by the Court for performance of a practical impossibility. The Learned Single Judge expressed the view that when OPS and EPS had successfully functioned jointly as Co-ordinator and Joint Co-ordinator how the party, with more than 1.5 crore cadre strength, suddenly decided to change the existing dispensation. With respect, in our view, such a question was not even germane to the points for determination arising before the Court. As to how any compact, be it an association or be it a political party, would manage its affairs and what alterations its governing body would consider appropriate in its rules, regulations or byelaws, are all the matters squarely within the domain of that compact and its governing body. In any case, in the applications before the Court, the only relevant question was about the validity of convening the meeting dated 11.07.2022. The Learned Single Judge appears to have traversed through such wide areas that ultimately the decision came to be based on entirely irrelevant considerations. It is also noteworthy that the ultimate injunction issued by the Learned Single Judge had been that of restoring status quo ante as on 23.06.2022 and further to that, the Learned Single Judge directed that the Co-ordinator and Joint Co-ordinator would have to function jointly; meetings have to be called with their Joint consent; and on being properly requisitioned, they would not refuse to convene the General Council meeting and that they could approach the Court for necessary directions for conducting the General Council meeting. Apart from the fact that the injunction as issued by the Learned Single Judge had been far away and beyond the scope of applications before him, the said injunction could have only perpetuated the functional deadlock in the party. The order passed by the Learned Single Judge could not have been countenanced from any angle and thus, the Division Bench, in our view, has rightly interfered with the same.*

33. *In the passing, we observe that while find the suit and seeking interim relief, the plaintiff OPS and even the other plaintiff, have arrayed the parties to the litigation in the manner that the political party AIADMK, as also-its General Council and its Central Executive Committee are said to be represented by "Co-ordinator and Joint Co-ordinator" in terms of assertions of these plaintiffs that the party and its governing/executing bodies are only to be represented by the Co-ordinator and the Joint Co-ordinator-jointly; This effort on the part of the plaintiffs carries its own shortcomings when it remains undeniable that they i.e., OPS and EPS, the Co-ordinator and the Joint Co-ordinator respectively, do not stand in jointness or even togetherness so as to work cohesively as a unit. The effort on the part of the plaintiffs does not stand in conformity with the existing realities.*

34. *Before closing on these matters, we need to make it clear again that though*

several submissions have been made on behalf of the appellants assailing the validity and correctness of the Resolutions said to have been adopted in the meeting dated 11.07.2022 and in counter to that, the respondents have attempted to justify the said decisions/Resolutions but we have chosen not to deal with any of those contentions. This is for the specific reason that the decisions taken in the meeting dated 11.07.2022 do not form the subject-matter of the applications for temporary injunction, which were restored for reconsideration by this Court and were ultimately decided by the Learned Single Judge by the order dated 17.08.2022 and then the intra-Court appeals against that order of the Learned Single Judge were allowed by the Division Bench on 02.09.2022. In the interest of justice, we leave all the related aspects concerning the said Resolutions open to be agitated, but strictly in accordance with law; and all the objections and rebuttals of the contesting parties are also kept open.

35.1. Having regard to the circumstances of the case and the scope of these appeals, we have not found it necessary to deal with any of the impleadment applications moved in these matters and we would leave it open for all such applicants also to take recourse to appropriate remedy in accordance with law, in case of any legal grievance existing with a right to seek relief in the appropriate forum.

36. For what has been discussed hereinabove, the appeals arising out of SLP(C) Nos. 15753 of 2022 and 15705-15706 of 2022 are required to be dismissed, while affirming the impugned order dated 02.09.2022.

37. So far as the other appeals are concerned, therein, the aforesaid order dated 23.06.2022 is in challenge. The operation and effect of the said order was stayed by this court on 06.07.2022. As noticed, the said order dated 23.06.2022 has even otherwise lost its relevance. However, in order to put the records straight, we deem it appropriate to make the stay order dated 06.07.2022 absolute so as to dispose of the appeals filed in challenge to the said order dated 23.06.2022."

27. Thus, it is clear from the reading of the judgment of the Apex Court dated 23.02.2023 that all the issues connected to the validity of the convening of the meeting dated 11.07.2022 have been dealt with and the reasoning of the Division Bench of the High Court in its order dated 02.09.2022 was affirmed by the supreme court. Further, it is also clear from

the above recapitulation of the facts that the Hon'ble Supreme Court had by its order dated 06.07.2022 permitted the General Council meeting to be held on 11.07.2022 and to proceed in accordance with law. The very same order dated 06.07.2022 has also been made absolute in its subsequent judgment dated 23.02.2023 as stated supra. It is also to be noted that the Resolutions passed on 23.06.2022 as well as on 11.07.2022 were not disturbed upto the pronouncement of the orders of the learned Judge in OA Nos.368, 370 and 379 of 2022 on 17.08.2022, which came to be set aside by the Division Bench on appeals, and the same was also affirmed by the Hon'ble Supreme Court. Thereafter, at no point of time, the convening of the General Council meeting on 11.07.2022 was either injuncted or declared to be invalid. On the contrary, the Supreme Court by its judgement dated 23.02.2023 has confirmed the order of the Division Bench dated 02.09.2022 and held that the convening of the meeting on 11.07.2022 was valid. Thus, these facts become very relevant to decide the aspects of *prima facie* case as well as the balance of convenience and irreparable injury, which are the deciding factors for grant or rejection of the interim injunction and other interim reliefs prayed for by the appellants in the original applications filed in the suits.

28. When the Apex Court has decided that the convening of the General Council meeting was valid and that, the validity of the Resolutions passed therein was to be decided by trial in the suits, and the taking of decisions of functioning of the party and convening of the General Council meeting on 11.07.2022 was allowed to be proceeded in accordance with law after two rounds of litigation, it is certainly open to challenge the validity of the resolutions made therein in the further suits on their own merits. However, what is to be decided in the present appeals is restricted to whether the appellants have made out a case for grant of injunction or interim reliefs so as to place the Resolutions made therein in abeyance pending disposal of the suits. The present appeals therefore would be whether the learned Judge had exercised his discretion in a manner that is both logical and reasonable, guided by the principles of law as applicable to the given facts and circumstances, which in turn would throw light on the triple factors of *prima face* case, balance of convenience as well as irreparable injury.

29. Before examining the order under appeal from the aforesaid standpoint, it is important to look at the Bye-laws of the AIADMK political party. The following bye-laws are extracted for reference:

Rules & Regulations from 11.07.2022	Rules & Regulations from 12.09.2017	Rules and Regulations in Tamil till 12.09.2017
<p style="text-align: center;">Rule 5(vii)</p> <p>Members shall have no right to resort to Court Proceedings regarding Party matters. If any Member of the Party resorts to any Court proceedings against the Party General Secretary's decision he/she shall cease to be a Primary Member of the Party.</p> <p>The decision of the General Council shall be final with regard to Party matters and only those who abide by this condition are eligible to admission for Membership.</p> <p>All those who have become Members of the KAZHAGAM are bound by the decision of the General Council.</p>	<p style="text-align: center;">Rule 5(vii)</p> <p>Members shall have no right to resort to Court proceedings regarding party matters. If any Member of the Party resorts to any Court Proceedings against the Party Coordinator's and Joint Coordinator's decision he/she shall cease to be a Primary Member of the Party.</p> <p>The decision of the General Council shall be final with regard to party matters and only those who abide by this condition are eligible to admission for Membership. All those who have become Members of the KAZHAGAM are bound by the decision of the General Council.</p>	<p style="text-align: center;">விதி 5 பிரிவு (7)</p> <p>கழக சம்பந்தமாக எந்தப் பிரச்சினைகள் பற்றியும் வழக்கு மன்றத்திற்கு செல்ல கழக உறுப்பினர்களுக்கு உரிமை இல்லை. அப்படியாராவது கழக உறுப்பினராக இருப்பவர் கழகப் பொதுச் செயலாளரின் முடிவை எதிர்த்து வழக்கு மன்றத்திற்குச் சென்றால் அவர் அடிப்படை தகுதியை இழக்கிறார்.</p> <p>பொதுக் குழுவின் முடிவே இறுதியானது. இதற்குக் கட்டுப்பாடுபவர்கள் மட்டுமே கழக உறுப்பினராகச் சேர முடியும்.</p> <p>கழகத்தில் சேர்ந்த அனைவரும் பொதுக் குழுவின் தீர்ப்புக்கும் கட்டுப்பட்டவர்கள் ஆவார்கள்</p>

<p>RULE - 19 : GENERAL COUNCIL OF THE CENTRAL ORGANISATION</p> <p>i) The General Council of the AIADMK shall consist of the Chairman, General Secretary, Treasurer, Headquarters Secretaries of the Party, the members of the Central Executive Committee, the members of the General Council elected from the Districts and other States, the Members of the Audit Committee, Property Protection Committee and the Parliamentary Board. The General Council shall be the Supreme body of the party with all powers of the Kazhagam.</p>	<p>RULE - 19 : GENERAL COUNCIL OF THE CENTRAL ORGANISATION</p> <p>i)The General Council of the AIADMK shall consist the Chairman, Coordinator and Joint Coordinator, Deputy Coordinators, Treasurer, Headquarters Secretaries of the Party, the members of the Central Executive Committee, the members of the General Council elected from the Districts and other States, the Members of the Audit Committee, Property Protection Committee and the Parliamentary Board. The General Council shall be the supreme body of the Party with all powers of the Kazhagam.</p>	<p>விதி 19 பிரிவு (1) தலைமைக் கழகப் பொதுக்குழு</p> <p>அனைத்திந்திய அண்ணா திராவிட முன்னேற்றக் கழக தலைமைக் கழக பொதுக்குழு - பொதுச் செயலாளர், துணைப் பொதுச் செயலாளர்கள், அவைத் தலைவர், பொருளாளர், தலைமை கழக செயற்குழு உறுப்பினர்கள், மாவட்டங்கள் மற்றும் பிற மாநிலங்களில் இருந்து தேர்ந்தெடுக்கப்படும் பொதுக்குழு உறுப்பினர்கள், தலைமைக் கழகச் செயலாளர்கள், தணிக்கை குழு, சொத்துக் பாதுகாப்புக் குழு, ஆட்சிமன்றக் குழு உறுப்பினர்கள் ஆகியோர்கள் அடங்கிய அமைப்பாகும். ககழகத்தின் முழு அதிகாரங்களைக் கொண்ட தலைமை அமைப்பாக பொதுக்குழு அமையும்</p>
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<p>Rule 19 (viii)</p> <p>The General Council will be the supreme authority to frame policies and programmes of the Party and for their implementation. The decision of the General Council is final and binding on all the members of the Party.</p>	<p>Rule 19 (viii)</p> <p>The General Council will be the supreme authority to frame policies and programmes of the Party and for their implementation. The decision of the General Council is final and binding on all the members of the Party.</p>	<p>விதி 19 பிரிவு (8)</p> <p>கழகக் கொள்கைகளை வகுப்பது - அவற்றை நிறைவேற்ற திட்டங்கள் தீட்டுவது, கழகத்தை நடத்திச் செல்லத் தேவையான நடவடிக்கைகளை எடுப்பது. இவைகளில் இறுதி முடிவெடுக்க பொதுக்குழுவே அதிகாரம் பெற்ற அமைப்பாகும்.</p>
<p>Rule 43. AMENDMENTS</p> <p>The General Council will have powers to frame, amend or delete any of the Rules the Party Constitution.</p> <p>But the Rule that the General Secretary should be elected only by all the Primary members of the Party cannot be removed, changed or amended since it forms the basic structure of the Party.</p>	<p>Rule 43. AMENDMENTS</p> <p>The General Council will have powers to frame, amend or delete any of the Rules of the Party Constitution.</p>	<p>விதி 43 - திருத்தம்</p> <p>கழக சட்ட திட்ட விதிகளை இயற்றவும் - திருத்தவும் - நீக்கவும் பொதுக்குழு அதிகாரம் படைத்ததாகும். ஆனால் இந்த சட்ட-திட்டங்களின் அடிப்படை உணர்வாக உருவாக்கப்பட்டுள்ள கழகப் பொதுச் செயலாளரை கழக பொது உறுப்பினர்கள் தேர்ந்தெடுக்க வேண்டும் என்ற விதியை மட்டும் மாற்றுவதற்கோ திருத்துவதற்கோ உரியதல்ல.</p>

30. A reading of the above Bye-laws would establish beyond doubt that the General Council of the party is supreme. The contention of the learned senior counsel for the appellants is that the Division Bench of this Court in its order dated 02.09.2022 had specifically held that the issue of 'lapse' will have to be taken up for trial in the pending suits and since the said findings had also been affirmed by the Hon'ble Supreme Court in its judgement dated 23.02.2023, Resolution No.3 which abolishes the posts of Co-ordinator and Joint Co-ordinator based on the presumption that the said posts have lapsed in view of the fact that the same had not been approved in the General Council meeting held on 23.06.2022, should not be given effect to. It is further contended that the further Resolutions, that is, the Resolution to appoint an interim general secretary and the Resolution to appoint the election committee to conduct the election of the general secretary and for the creation of the post of general secretary, also stand vitiated. While it may be true that all the issues touching upon the validity of the Resolutions would have to be decided on their own merits on the basis of relevant material evidence in trial, the decision on the interim reliefs to be granted will have to be decided on a prima facie understanding of these issues and it may not be appropriate to say that this Court is precluded from in any manner going into these issues while deciding whether the interim reliefs as prayed for are to be granted to the

applicants/plaintiffs in the suits, who are the appellants herein. Once it is established that for any Resolution to bring about an amendment to the Bye-laws of the party, the ratification and approval of the General Council is mandatory, the applicants/appellants (especially the first appellant) cannot derive a perennial right from the Resolution passed by the Executive Council without the same being ratified by the General Council. Further, even though the first appellant was the co-ordinator, he was also part of the subsequent factual developments wherein as many as 2460 members of the party had expressed their wish to have a single leadership and on that basis, General Council meeting was convened on 11.07.2022. It is pertinent to mention here that the meeting held on 11.07.2022 was not restrained or enjoined by any order. At different points of time, the appellants had approached this Court as well as the Supreme Court in two rounds earlier, wherein the convening of General Council meeting was never restrained. The Resolutions that were to be passed on 11.07.2022 were also available before the Court in the earlier round of litigation and in spite of that, considering the factors such as prima facie case, balance of convenience as well as irreparable injury, this Court as well as the Supreme Court did not find it necessary to enjoin or restrain the parties from proceeding with the General Council meeting on 11.07.2022. Even in the subsequent order of the Supreme Court on 23.02.2023, the

convening of the General Council meeting was upheld. It cannot be gainsaid that the impact of all these orders prior to the filing of the present suits and the original applications from which the present appeals arise, cannot be brushed aside and will have its own bearing in deciding these appeals. Importantly, the balance of convenience as well as the irreparable injury that is contended to be in favour of the first appellant in particular and the appellants in general, have also been weighed not only by this Court earlier, but also by the Supreme Court and the present appeals will also have to be decided only viewing the facts from the prism of this undisputed factual backdrop, applying the legal principles as applicable.

31. On the question of expulsion of the appellants from the party, once again the issue will have to be decided on the basis of the powers of the General Council and the relevant Bye-laws in this regard. This is an issue that must be necessarily tried in the suits and it is for the parties to make out their respective cases. While considering and weighing the important factors such as prima facie case, balance of convenience and irreparable injury, it is to be seen that what would be the comparative injury to both the parties and whether the injury that will be occasioned to the applicants is such as being incapable of being repaired/remedied in future, and in that view of the matter, the

balance of convenience must be decided in order to come to the conclusion as to whether an interim relief that sits on the tripod of the three factors, viz. prima facie case, balance of convenience and irreparable injury, must be decided to be granted or rejected.

32. In such perspective, while examining the order under appeals, it is seen that the learned Judge has dealt with three issues, viz.

a. whether the Resolution nos.3, 4, 5 and 6 dated 11.07.2022 passed in the General Council meeting held by the second respondent are prima facie illegal and arbitrary

b. whether the special Resolution passed by the General Council on 11.07.2022 is prima facie illegal, arbitrary and contrary to the Bye-law number 35, and

c. whether the respondents are right in conducting an election to the post of general secretary on 26.03.2023 or any other date pursuant to the notice dated 17.03.2023.

a)Resolution No.3

33. With respect to Resolution No.3, abolishing the posts of Co-ordinator and Joint Co-ordinator, a reading of the order under appeals would make it clear that before the learned Judge, the basic premise of the

contentions made by the applicants was that the notification for convening the General Council meeting on 11.07.2022 itself is without authority and therefore, the Resolutions passed in the General Council are prima facie bad. To this, the learned Judge has rightly held that after the order passed by the Hon'ble Apex Court on 23.02.2023, it became clear that the convening of the General Council on 11.07.2022 was not only permitted, but also held to be valid, and that, this basic premise must necessarily fall to ground and hence, fail. The further reasoning employed in the order under appeals is that under Rule 43 of the Bye-laws, the General Council has the power to frame, amend or delete any of the rules of the party constitution, and also that, out of 2665 members of the General Council, 2190 members had made a requisition to convene the General Council and 2460 members had attended the meeting of the General Council on 11.07.2022, and an overwhelming majority of the General Council passed a Resolution on 11.07.2022 to amend the Bye-laws of the first respondent, and as such, the learned Judge has on the basis of the above facts, held that no prima face case has been made out for grant of injunction against Resolution No. 3. We concur with these findings. In this context, the decision in *Raja Himanshu Tara Singh's case [AIR 1962 ALL 439]* that a body which is a creature of the rules of the party cannot perform any function which it is not authorized to perform under the Bye-laws, is also

relevant herein while dealing with the aspect of whether the decision to bring about the two posts of Co-ordinator and Joint Co-ordinator can be held to be valid without there being any ratification or approval of these Resolutions by the supreme authority of the party.

34. Further, the learned Judge has held that since the convening of the General Council was valid, and that no prima facie case has been made out by the applicants/appellants for grant of injunction against Resolution No.3, the aspects of balance of convenience and irreparable injury need not be gone into. This reasoning cannot be found fault with on technical grounds. This is primarily because when a prima facie case had not been made out for grant of interim injunction, the balance of convenience and irreparable injury also had not been made out for the very same reasons. The Supreme Court itself had left it open to the parties to agitate on the validity or otherwise of the Resolutions passed in the meeting held on 11.07.2022, the convening of which it had held to be valid. At the risk of repetition, it is stated that when once the Supreme Court had permitted the meeting on 11.07.2022 and further by way of a detailed judgement dated 23.02.2023 stated that convening of the meeting is valid and that, the Resolutions passed therein may be the subject matter of trial in the suits, the aspect of prima facie case for grant of injunction is

automatically taken out. When a prima facie case has not been made out, the balance of convenience would definitely not lie in favour of the applicants and it will be apposite to state that the injury that may be caused to the applicants/plaintiffs cannot therefore be construed to be such as that cannot be repaired by trial, that will ensue in the suits. On the contrary, the grant of any interim relief/injunction to the appellants would amount to granting the principal relief as prayed for in the suits itself, which cannot be done while granting an interim injunction. Hence, the order of the learned Judge rejecting the original applications seeking interim injunction, is hereby affirmed.

b) Resolution Nos. 4, 5 & 6

35. The further finding of the Learned Judge is that if the interim injunction as prayed for is granted, it would revive the pre-11.07.2022 scenario, wherein the Party would have to necessarily be administered by the Co-ordinator and Joint Co-ordinator jointly. This would touch upon the very convening of the meeting on 11.07.2022 which has been held to be valid specifically by the Supreme Court, which reasoning appears to be correct. In such view of the matter, when once Resolution No.3 cannot be held to be enjoined, the same reasoning must also follow for the other Resolution Nos. 4, 5 and 6, where also the appellants have not made out a prima facie case for intervention by grant of interim injunction.

36. It may also be pertinent to mention here that in C.S. No. 119 of 2022 filed by Vairamuthu, OA No. 379 of 2022 was filed for the grant of interim injunction restraining the respondents from passing any Resolution relating to the abolition of the posts of Co-ordinator and Joint Co-ordinator as they were elected by the primary members of the party for a term of five years as per bye-law 20A(ii) and 20A(iii), and consequently to direct the respondents not to implement the Resolution/decision relating to item Nos. 3, 4, 5, 6, 7 mentioned in the notice dated 01.07.2022 in the alleged General Council Meeting which is to be held on 11.07.2022 pending disposal of the suit. This application was considered and was rejected by the Division Bench in its order dated 02.09.2022 as confirmed by the judgment of the Supreme Court dated 23.02.2023. The relief now sought for in the applications leading to these appeals is fundamentally the same. It would therefore not be an overstatement to say that any deviation from the judgment dated 23.02.2023 of the Supreme Court, in these applications would be overreaching the said judgment, and hence, is not permissible. The contention that there is no res judicata against interim orders, will not apply to the case on hand, where the judgment of the Supreme Court is a detailed one related to the same parties, and on the same set of reliefs as prayed for in these applications. Hence, the prayer of the appellants in this regard, fails.

c) **Special Resolution**

37. On the aspect of deciding the grant of interim injunction in respect of the special Resolution, whereby the applicants have been expelled from the primary membership of the party, the Learned Judge has said that on account of an infraction of Rule 35(vi) which prescribes the seven days' notice before any disciplinary action is taken, a prima facie case has been made out with respect to this Resolution, but went on to hold in his discretion that inspite of making out a prima facie case, the appellants have not made out a case for balance of convenience or irreparable injury as the issue relating to whether such an expulsion is valid or otherwise, can be gone into at the time of deciding the issues in the suits. We are convinced that unless some urgent factors that cannot brook even the shortest delay are brought out to establish the irreparable injury that may be occasioned to the appellants due to this special Resolution, the reasoning of the Learned Judge cannot be said to be arbitrary or unreasonable so as to be interfered with, on the question of balance of convenience and irreparable injury.

38. However, on the initial question of making out a prima facie case for injunction against this Special Resolution expelling the appellants from the Party, this Court takes a different view from that of the Learned Judge. When

the Bye-laws make it amply clear that the General Council is the ultimate authority to take disciplinary action against any member of the party, the merits of the decision of the General Council in resolving to expel the appellants is necessarily a matter for trial. The contention of the learned senior counsel for the appellants in this regard is contradictory and self-defeating. In one breath, it is contended that Rule 35 does not vest any power with the General Council, and on the other hand, reliance is placed on the very same Rule to underline the need for providing seven days' notice before initiating disciplinary action. If reliance is placed on Rule 35 for stressing upon the requirement of notice, Rule 35 (xii) which authorises immediate disciplinary action when deemed necessary, cannot also be disregarded. The contention that Rule 35 vests power on the Co-ordinator and Joint Co-ordinator only and not in the General Council, touches upon the interpretation of Rules 19 and 35, their interplay, in view of the changed scenario, and the validity of the Resolution to abolish the posts of Co-ordinator and Joint Co-ordinator, and by virtue of our prima facie finding that in the absence of any approval of the creation of these posts by the General Council, these posts and the resultant amendments do not have force in law, these contentions do not have any merit and are hence, rejected. Any finding given on the merits of this decision may have a bearing on the suit and we consciously refrain from making any

observations on the alleged facts on the basis of which the purported action of expulsion was made and whether such facts merited emergent disciplinary action or action after a detailed procedure, is a matter for trial. Again, this Special Resolution was passed on 11.07.2022, was well before the order of the Supreme Court on 23.02.2023, when it decided the validity of the convening of the meeting on 11.07.2022. These factors demolish the case of the appellants for grant of interim injunction and to that extent, we are in disagreement with the order of the learned Judge to the extent that it states that on this count, a prima facie case has been made out.

39. In our opinion, no prima facie case for grant of injunction has been made out by the appellants in respect of the Special Resolution expelling them from the primary membership of the Party and hence, the question of balance of convenience tested on the anvil of irreparable injury need not be gone into. We therefore hold that no case has been made out for grant of interim injunction against the Special Resolution expelling the appellants from the membership of the Party, pending disposal of the suits.

d) Election to the post of General Secretary

40. On the issue as to the conduct of the election for the post of general secretary, it must be stated that this issue is also based on the previous premise of the order passed by the Supreme Court holding as valid the meeting

held on 11.07.2022. Any injunction with respect to the validity of these Resolutions would mean that a pre-11.07.2022 situation would have to be put in place and this would also mean that till the suit is completed, the party would face a situation of being without leadership as there would be no general secretary which also cannot be permitted. Further, this would mean that the party would have to be run under the Joint leadership of the Co-ordinator and Joint Co-ordinator which was not practically working out, and which led to the change in scenario. That apart, when the meeting dated 11.07.2022 was convened and has now received the stamp of approval of the Apex Court, the Resolutions adopted therein, most importantly relating to electing the General Secretary on the lines of restoring single leadership of the party, as has been the apparent majority wish, cannot be scuttled, before trial. The reasoning of the learned Judge is also on these lines and hence, cannot be held to be arbitrary or unreasonable in view of the fact that all issues connected herewith can be remedied in the suits. Further, the election to the post of General Secretary has already taken place and technically, this relief has become infructuous. More importantly, when the appellants have been expelled and there is no interim injunction against such action, pending the suits, the election to the post of General Secretary, cannot be enjoined at their instance.

VI. CONCLUSION

41. On the basis of the above reasoning and findings rendered on each of the issues, we conclude that the appellants are not entitled for interim injunction / relief as prayed for. Therefore, we do not intend to interfere with the order of the learned Judge in rejecting the original applications filed by the appellants herein.

42. In the result, all the Original Side Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(R.M.D., J) (M.S.Q., J)

25.08.2023

Index : Yes / No
Internet : Yes / No

rsh

OSA Nos. 68 to 78 of 2023

R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

rsh/rk

OSA Nos. 68 to 78 of 2023

25.08.2023