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O.S.A.No.160 of 2022 and
C.MP.No. 9962 of 2022

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M.DURAI SWAMY, J.
and
SUNDER MOHAN, J

(Order of the Court made by M.DURAI SWAMY, J.)

In view of the urgency expressed by the learned counsel appearing for the appellant, the Hon'ble the Chief Justice has permitted the learned counsel for the appellant to move the above Original Side Appeal for admission at the residence of one of us (Justice M.Duraiswamy). Accordingly, we took up the Original Side Appeal along with the Interim Injunction Petition for hearing at 03.00 a.m. and concluded the hearing at 04.40 a.m.

2. Challenging the order passed by the learned Single Judge in O.A.No. 328 of 2022 in C.S.No.111 of 2022, the plaintiff has filed the above Original Side Appeal.



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3. It is the case of the petitioner-appellant that in the year 1972 late Dr.M.G.Ramachandran found the party viz., All India Anna Dravida Munnertra Kazhagam (hereinafter referred to as 'AIADMK'), and the same was registered with the Election Commission of India as a recognized political party. The AIADMK party is governed by a written set of rules and regulations and Bye-Laws which were duly registered with the Election Commission of India on 17.12.1972, The AIADMK was elected to power and Dr.M.G.Ramachandran was elected as Chief Minister of Tamil Nadu in the year 1977 and held the said post till his demise in the year 1987. On 12.09.2017, a General Council Meeting was convened and in the said meeting 12 resolutions were passed and the rules and regulations of the Bye-Laws were amended. As per Resolution No.10, new posts, i.e. one Co-ordinator and one Joint Co-ordinator and two Deputy Co-ordinators were created. As per Resolution No.11, all the administrative powers and responsibilities of the General Secretary were assigned to Co-ordinator and Joint Co-ordinator jointly. On 21.09.2017, the amendment made to the Bye-Laws



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were informed to the Election Commission of India. Thereafter, the Co-ordinator and Joint Co-ordinator have exercised their powers and duties in accordance with the Bye-Laws of the party. On 01.12.2021, meeting of the party was held and various resolutions were passed. As per the amended provisions of Rule 20A Part-ii, Rule 43 and Rule 45 of the Bye-Laws, the Co-ordinator and Joint Co-ordinator shall be elected jointly by a single vote. On 02.12.2021, the election for the post of the Co-ordinator and Joint Co-ordinator has been notified and after the completion of the election on 07.12.2021, results were declared on 08.12.2021 electing the respondents 4 and 5 as Co-ordinator and Joint Co-ordinator respectively.

4. Today, i.e. 23.06.2022, the respondents 4 and 5 scheduled the General Council Meeting at 10.00 a.m.

5.1 The appellant filed the suit in C.S.No.111 of 2022 seeking for the following reliefs:-

a. Granting permanent injunction restraining



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the defendants convening any General Council Meeting either on 23.06.2022 any other subsequent dates till the disputes are resolved or settled amicably;

b. granting permanent injunction restraining the respondents in placing any agenda in the meeting of the General Council of Central Organization of the 1st respondent to be held on 23.06.2022 or on any other date with respect to the amendment of Rule-20A 1 to 13 of the 1st respondent political party;

c. cost of the suit; and

d. to pass such further or other orders as this Hon'ble court may deem fit and proper in the facts and circumstances of the case and thus render justice.

In the said suit, the appellant filed an application in O.A.No.328 of 2022 seeking for an order of interim injunction restraining the respondents in placing any agenda in the meeting of the General Council of Central Organization of the 1st respondent to be held on 23.06.2022 or on any other date with respect to the amendment of Rule-20A 1 to 13 of the 1st



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5.2 The appellant has stated that he was invited to attend the General Council Meeting on 23.06.2022 at Srivaru Venkata Chalapathy Mandapam, Chennai. The appellant further contended that a meeting of District Secretaries was held on 14.06.2022 at the 1st respondent party headquarters and by way of a press meet given by the Party Organiser, he came to know that a new demand was raised for demanding that the party should be governed by a single leadership. The appellant further contended that there was no discussion or resolution with regard to single leadership of the party and the respondents 2, 3 and 5 unilaterally intend to introduce an agenda in the General Council Meeting to be held on 23.06.2022 for the election of a single leader and they intend to pass a resolution to that effect in the General Council of the Central Organization, which, according to him, is illegal and against the bye-laws and practice of the party. The appellant further contended that the proposed meeting to be held on 23.06.2022 is only for the purpose of approval of resolutions passed by



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WEB COPY the Central Executive Committee [CEC] held on 01.12.2021.

6. Mr. A.K. Sriram, learned counsel appearing for the appellant submitted that any amendment is made in Rule-20A 1 to 13, 45 and 45 of the bye-laws of the party without obtaining the consent of the 4th respondent is illegal. The learned counsel also submitted that the draft resolution containing 23 items was prepared by the Co-ordinator and Joint Co-ordinator, who are respondents 4 and 5 respectively, and the same was approved by the 4th respondent on 22.06.2022 for discussion and for taking decisions in the General Council Meeting scheduled to be held on 23.06.2022.

7. Mr. Aravind Pandian, learned Senior Counsel appearing for the 4th respondent produced a draft resolution containing 23 items, which are to be placed in the General Council Meeting scheduled to be held on 23.06.2022. On a perusal of the same, it is clear that the 4th respondent had approved the said draft resolution containing 23 items and also made an endorsement agreeing to place the same in the General Council

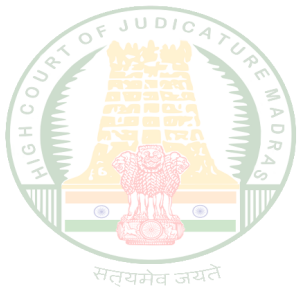


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8. Mr. Vijay Narayan, learned Senior Counsel appearing for the 5th respondent submitted that it is not the practice of the party to issue any Agenda prior to the convening the General Council Meeting and the subjects would be taken up as and when the members of the council raise the same.

9. However, the submission made by the learned Senior Counsel appearing for the 5th respondent cannot be accepted for the reason that the draft resolution containing 23 items that were to be discussed and decided in the General Council Meeting scheduled to be held on 23.06.2022 was approved by the 4th respondent on 22.06.2022, i.e. prior to the date of the General Council Meeting. Therefore, by the approval given by the 4th respondent on 22.06.2022, it is clear that subjects that are to be discussed and decided in the General Council Meeting requires his approval.



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WEB COPY 10. Mr. S.R.Rajagopal, learned counsel who is also appearing for the 5th respondent submitted that the Original Side Appeal filed against the interim order passed by the learned Single Judge is not maintainable for the reason that though the learned Single Judge had passed a detailed order in the applications, ultimately he ordered notice to the respondents returnable by 11.07.2022, hence, the Original Side Appeal filed as against the said order is not maintainable. However, we made it clear to the learned counsel that the said submission with regard to maintainability can be made by him at the time of hearing the Original Side Appeal.

11. Since the draft resolution approved by the respondents 4 and 5 does not contain an item with regard to the amendment of the Rule-20A 1 to 13, 45 and 45, we are of the view that the appellant has made out a *prima facie* case for the grant of an order of interim injunction. In the event of not granting any interim order in the above petition, the appellant and the 4th respondent would be greatly prejudiced. Further, if an order of injunction is not granted, the prayer sought for in



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the suit will become infructuous. We are also of the view that the interim injunction sought for by the petitioner to prohibit the respondents from conducting the General Council Meeting cannot be granted. However, the General Council can discuss and take decisions only with regard to 23 items mentioned in the draft resolution, which has been approved by the respondents 4 and 5. The respondents shall not take any decision apart from the 23 items mentioned in the draft resolution. The General Council are at liberty to discuss any other matter apart from the 23 items mentioned in the draft resolution, however, no decision shall be taken in the General Council Meeting with regard to the same.

12. In the result, we permit the respondents 4 and 5 to convene the General Council Meeting at 10.00 a.m. on 23.06.2022 and we also permit the General Council to discuss and take any decision as per the Rules and Bye-Laws with regard to 23 items mentioned in the draft resolution and we make it clear that the respondents shall not take any decision other than the 23 items mentioned in the draft resolution. The



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members of the General Council are at liberty to discuss any other matter, however, no decision should be taken in the General Council with regard to the same.

Notice to the respondents 1 to 3 returnable by 19.07.2022.

[M.D., J.] [S.M., J.]
23.06.2022

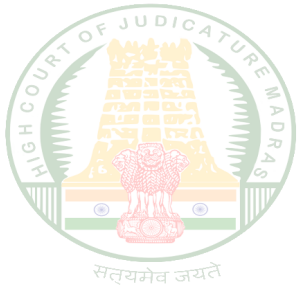
Index : Yes/No

Speaking Order/Non Speaking Order

Note : Issue copy of the order today itself.

Rj

M. DURAISWAMY, J.



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