

CS 91/25  
SIMRAN SODHI Vs. S VENKAT NARAYAN

**20.03.2025**

Present : Ms Amrita Sharma, Ld. Counsel for the plaintiff.  
Ms Sunita Bhardwaj, Ld counsel for respondent no. 1 and 2.  
Counsel for respondent no. 3.

Written Statement has been filed on behalf of respondent no.  
3. Copy supplied.

Separate written statement has been filed on behalf of respondent no. 1 and 2 along with reply to the application under order 39 rule 1 and 2 CPC. Certain documents along with list have also been filed on behalf of respondent no. 1 and 2. Another application under order 7 rule 11 CPC has been filed on behalf of respondent no. 1 and 2. Copies supplied.

An application for preponement has been moved by respondent no. 1 and 2. It is submitted by Ld counsel for the respondent no. 1 and 2 that she is not pressing the instant application, hence the application for preponement is disposed of as not pressed.

An application under order 39 rule 4 CPC has been moved on behalf of respondent no. 1 and 2 for modification of the order dated 10.03.2025.

An application under order 39 rule 2 A CPC has also been moved on behalf of the plaintiff contending the violation of the interim order passed by this court vide order dated 10.03.2025.

Ld counsel for respondent no. 1 and 2 submits that she has not received the copy of the contempt application. Ld counsel for respondent no. 1 and 2 has accepted the notice of the application on behalf of

respondent no. 1 and 2. Ld counsel for respondent no. 1 and 2 seeks some time to file the reply.

Ld counsel for the plaintiff seeks some time to file the reply under order 7 rule 11 CPC filed on behalf of respondent no. 1 and 2.

At request of Ld counsel for the plaintiff and Ld counsel for respondent no. 1 and 2, the application under order 39 rule 1 and 2 CPC is taken up for consideration.

At the very outset, Ld counsel for plaintiff has challenged the authority of Ld counsel for respondent no. 1 and 2 contending that Ld counsel Ms Sunita Bhardwaj was representing the plaintiff in a pending defamation complaint and she is privy to certain confidential communication, which is prone to be mis-used and thus she is not to be permitted to represent the case of respondent no. 1 and 2.

Upon a specific query by the court, Ld counsel for plaintiff submits by accepting the brief on behalf of respondent no. 1 and 2, Ld counsel Ms Sunita Bhardwaj has in fact violated the standards of professional conduct and etiquette provided under Chapter 2 of the Bar Council Rules and Regulations.

It is unfortunate that such an issue is being agitated before the court. Suffice it would be to observe that in case of any breach of any rule regarding professional conduct and etiquette, plaintiff is at liberty to approach Bar Council. I accordingly proceed to hear the arguments on the application under order 39 rule 1 and 2 CPC.

Briefly stated: the plaintiff claims herself to be an esteemed journalist and member of Foreign Correspondents Club of South Asia (respondent no. 2 herein). Shorn of all unnecessary details, the case of the plaintiff can be adumbrated herein as under:

It is averred that S. Venkat Narayan (Respondent No. 1 herein) :President of respondent no. 2, was not conducting the affairs of respondent no. 2 as per the bye laws and regulations. Despite various requests respondent no. 1 did not mend his ways and style of functioning. The plaintiff and other members of the Governing Committee(GC) accordingly convened a meeting on 04.10.2024 and passed a resolution recognising the plaintiff to be an interim President by passing a No Confidence Motion against respondent no. 1 and further resolved to hold fresh elections. It is averred that agitated by the acts of the plaintiff, the respondent no. 1 issued a show cause letter dated 08.10.2024 directing the plaintiff to show cause as to why she should not be expelled from the respondent no. 2 and file her explanation within 7 days of the show cause notice. It is further averred that subsequently vide order dated 15.10.2024, in violations of bye laws, plaintiff herein was expelled from membership of respondent no. 2, without affording any opportunity to represent her case before the Governing Committee. Against this factual matrix, the plaintiff has filed the present suit with the following prayers:

(a) Issue a Declaration that the letters dated 08.10.2024 and 15.10.2024 as issued by Defendant as without authority and null and void;

(b) Issue Mandatory injunction against Defendant No.1 from officiating as President after the no confidence motion passed vide resolution dated 04.10.2024 of the GC as null and void;

(c) Issue Permanent Injunction against Defendant No.1 from acting contrary to the Bye-laws/rules and regulations of the Defendant No.2/FCC:

d) Issue mandatory injunction to Defendant No. 1 from creating any impediments against the Plaintiff from enjoying her membership of the Defendant No. 2 Society or performing the functions as a member of the Defendant No. 2 Society;

Pass any other order(s) or grant any other reliefs in favour of Plaintiff as this Hon'ble Court may deem fit.

The suit is also accompanied with an application under order 39 rule 1 and 2 CPC seeking the following prayers:

- a) Pass and exparte ad interim injunction in favour of the plaintiff, staying the operation of the show cause notice dated 08.10.24 and expulsion letter dated 15.10.2024 issued to her by the defendant no. 1 till the pendency of the suit;
- b) Pass an exparte interim injunction against the defendants No. 1 and defendant No. 2 appointing a retired district Court Judge as the returning officer/observer for the ensuing elections;
- c) pass an exparte ad interim injunction against defendant no. 1 and no. 2 to disallow members to vote the ones who have been inducted after 04.10.2024 without any ratification by the Governing Committee.

It is contended on behalf of the plaintiff that as per clause 4(b) , it is the Governing Committee which shall have power to decide on the eligibility for membership and to accept or reject, without assigning any reasons, an application for membership of the society and in case of any disagreement, decision shall be taken by the approval of 51% of the total

membership. It is pointed out that as per clause 4(i) of the bye laws a member can only be expelled by the Governing Committee. It is submitted that it is the duty of the Governing Committee to see whether the conduct of the member is unbecoming or contrary to the objective of the society. It is pointed out that as per provision of 4 (j), it is mandatory that such member, whose expulsion is under question, shall be given an opportunity to appear before the Governing Committee and represent his case before expulsion of any member. It is submitted that neither the show cause notice dated 08.10.2024 was issued by any member of the Governing Committee nor subsequent order was passed by the Governing Committee in accordance with the bye laws. It is submitted that no opportunity to represent her case was afforded to the plaintiff and she has been expelled in gross violation of the principles of natural justice enshrined under rule (j) of bye laws. It is submitted that show cause notice dated 08.10.24 stipulated that plaintiff could have filed reply to the notice within seven days but before the expiry of time, she was expelled on 15.10.2024 itself.

On the contrary, Ld counsel for the respondent No. 1 and 2 has resisted the plea of the plaintiff contending that plaintiff herself is part of a mischievous group headed by some lawyers, who have filed multiple litigations against the respondents and when they have failed to achieve their sinister objectives, instant suit has been mischievously filed by the plaintiff to harass the respondents. It is submitted that rule 6 of the bye laws confers vast powers upon the Governing Committee. It is submitted that Governing Committee acts through its President, who is competent not only to convene a meeting but also take effective decision on the part of the Governing Committee. It is submitted that functioning of the respondent no. 2 would become impossible in case if the courts chose to intervene at the beck and call of disgruntled members on miscellaneous and petty issues

relating to the functioning of the respondent no. 2. It is submitted that plaintiff herein is involved in complaint against respondent no. 1 and respondent no. 2, which is not only tarnishing the image of an esteemed body of international repute, at national level but also at international level. It is submitted that the suit of the plaintiff is not maintainable in the wake of the statutory bar under section 6 of the Society Registration Act. It is submitted that President has been impleaded in his personal capacity and has not been impleaded as President. It is submitted that plaintiff has consciously opted not to implead Sh Pankaj Yadav as a party in the instant suit, who is a necessary party in the instant matter. It is submitted that as per rule 9(c), it is only the president who is competent to convene a meeting and the plaintiff or other members of the Governing Committee were not competent to convene the meeting dated 04.10.24. It is submitted that the allegations of the plaintiff regarding the misuse of any funds is devoid of merits. It is submitted that budget was allocated as per rules and bye rules and was duly approved by the General Body Meeting dated 20.07.2024, which was duly video-graphed. It is submitted that the plaintiff has mischievously described the expulsion order dated 15.10.2024 as a letter whereas it is an order. It is submitted that plaintiff in collusion with Deepak Dwivedi has not only hijacked the web-site of the respondent but even illegally represented herself as president of respondent no. 2. It is submitted that a complaint has already been made before Cyber cell in this regard. It is submitted that the plaintiff has deliberately and consciously withheld her letter dated 11.10.2024, wherein she has unauthorizedly not only questioned the authority of respondent no. 1 but has also illegally and unauthorizedly claimed herself to be interim president. It is submitted that in the wake of said allegations, nothing remained to be adjudicated against her with respect to her expulsion. It is submitted that plaintiff was

accordingly expelled on 8<sup>th</sup> day, after issuance of show cause notice dated 08.10.2024.

It is submitted that plaintiff herself has neither recognized authority of respondent no. 1 as president of respondent no. 2 nor she has any authority to act as interim president on behalf of respondent no. 1. It is argued that once the election process has been initiated, the court is not competent to interfere with the election process. Ld counsel for the respondent no. 1 and 2 has relied upon the judgment of Hon'ble Apex Court in **Civil Appeal No. 1629 of 2016 titled as Shaji K. Joseph vs V. Viswanath and Ors decided on 22.02.2016.**

It is further submitted that relief as sought in the suit is not maintainable and even the suit is not maintainable, the application under order 39 rule 1 and 2 CPC deserve to be dismissed.

It is further submitted that on 10.03.2025, plaintiff has deliberately concealed the fact that even before the filing of instant suit, election process has already been initiated on 10.02.2025.

After dictating the above part, this court has confirmed from the lawyers as to if their submissions have been noted down to which they confirmed that all the contentions as agitated by Ld counsels at bar have been noted down. Ld counsel for respondent no. 1 and 2 submits that all her contentions have been duly noted down but Ld counsel for plaintiff submits that it may also additionally be recorded that returning officer is not acting fairly after passing of the order dated 10.03.2025 and name of the plaintiff has not been included in the voter list dated 17.03.2025.

I have given my thoughtful consideration to the arguments addressed at bar and gone through the material available on record.

In the case at hand, unfortunately two senior members of an esteemed organization, instead of symbiotically acting for the advancement

of the cause of the organization, seems to be at loggerheads to wrest control of respondent no. 2. Both plaintiff and respondent no. 1 are busy expelling each other with scant reverence to the relevant rules and regulations. Be that as it may, without commenting any further upon the conduct of the parties, it is pertinent to observe here that the relevant rules and regulations cannot be ignored by either of the parties.

The nub of the issue in the instant case is wrongful expulsion of plaintiff from primary membership of respondent no. 2. The relevant clause as per Memorandum of Association, regarding expulsion from the membership of respondent no. 2, i.e. rule no. 4(j) and 4(i) are reproduced herein as under for ready reference:

(I) The Governing Committee **may by resolution** expel any member of the Society belonging to any category in the event of such a member being convicted of any criminal offence, adjudged as bankrupt, committed as being of unsound mind or for violation of any rules and regulations of the Society or generally for conduct which in the Governing Committee's view is unbecoming or contrary to the objects of the Society.

(j) In the event of the Governing Committee passing a resolution for the for the expulsion of any member pursuant to the preceding(sic) sub-clause on grounds of violation of any rules and regulations of the society or generally the conduct unbecoming or contrary to the objects of the society, such member shall be given one opportunity to appear before the Governing Committee and explain his conduct.”



Evidently, as per rule 4 (i), it is only the Governing Committee, which is competent to pass a resolution for expulsion of any member on the ground of violation of any rules and regulations of society or any conduct unbecoming of a member or contrary to the object of the society.

This court has specifically inquired from Ld counsel for respondent no. 1 and 2 about any such resolution being passed by the Governing Committee. Instead of apprising the court about the existence of such resolution, Ld counsel for respondent no. 1 and 2 has attempted to argue that since election process has already been initiated, therefore, respondent no. 1 is functus officio and is not in a position to apprise the court about such resolution. It is argued by Ld counsel for respondent no. 1 and 2 that sufficient opportunities were granted to the plaintiff to present her case and vide communication dated 11.10.2024 plaintiff instead of representing her case, has challenged the authority of respondent no. 1 and has claimed herself to be an interim president. It is submitted that such a conduct of plaintiff is unpardonable and cannot be vindicated by any amount of generosity. However, this court has offered the counsel for respondents as to if she needs assistance of the court for digging out the Governing Committee's resolution to which she paid no heed and evaded the specific query raised by the court. Consequently, I have no other option but to draw an adverse inference that no such resolution was passed in the instant matter by the Governing Committee regarding the expulsion of the plaintiff from primary membership of the respondent no. 2. The rule 4(i) and (j) specifically stipulates that it is the Governing Committee and not the president or any other officer, who is competent to expel the member from the membership of respondent no. 2. In the absence of any such Governing Committee's resolution, the expulsion notice is non est in the eyes of law.

The plaintiff cannot be denied legal protection against an evident wrong merely because various litigations inter-se between the parties are pending. To a specific query by the court as to if issue at hand was the subject matter of the suit in earlier litigations between the parties or not, the answer to the query by the defendant was in negative. Mere non impleadment of Shri Pankaj Yadav is not an important issue which hardly has any bearing upon the merits of the case. Evidently, respondent no. 2 has been impleaded through its Secretary, therefore, there is no question of statutory bar under section 6 of the Societies Registration Act.

Plaintiff herein has set out a prima facie case in her favour with respect to the legal effect of communication dated 08.10.2024 and 15.10.2024. Further, it is substance of the letter dated 15.10.2024 which is to be examined by the court and not its nomenclature. Whether the communication dated 15.10.2024 is referred as letter or as an order is immaterial.

Besides seeking the stay of operation of the show cause notice dated 08.10.2024 and expulsion dated 15.10.2024 the plaintiff is also seeking the appointment of retired District Judge as Returning officer in the ensuing election. Such prayer is beyond the purview of the instant suit. Therefore, as far as prayer (b) is concerned, same cannot be granted.

Similarly by way of prayer clause (c), plaintiff is seeking an ad-interim injunction seeking to restrain defendant no. 1 and 2 to from allowing the members who have been inducted after 4.10.2024 to vote. Even this prayer cannot be granted to the plaintiff for want of requisite particulars. Neither the requisite particulars as to who have been inducted and how their induction is in conflict with Memorandum of Association has been set out in the pleadings. Even the so called members have not been impleaded, in whose absence no effective order can be passed against them

denying them their right to caste votes. Consequently prayer (b) and (c) in the application cannot be allowed.

However, as far as the stay of the communication dated 08.10.2024 and expulsion letter dated 15.10.2024 is concerned, I am of the opinion that plaintiff has set up a prima facie case in her favour and in case if her expulsion is not stayed, she would suffer irreparable injuries. Balance of convenience is also found in favour of the plaintiff. Accordingly, it is hereby directed that expulsion letter dated 15.10.2024 is hereby stayed till the disposal of the instant suit. The status of the plaintiff with respect to her membership in respondent no. 2 is hereby restored.

Needless to say that this order shall not tantamount to any expression of opinion on the merits of the case. The application under order 39 rule 1 and 2 CPC stands disposed of.

Now to come up for reply and arguments on all the pending miscellaneous applications for **24.04.2025**.

The copy of the order be given dasti to all the concerned parties.

**(Dharmender Rana)**  
**District Judge – 01**  
**PHC/New Delhi/20.03.2025**