IN THE HIGH COURT OF DELHI AT NEW DELHI
(ORDINARY ORIGINAL CIVIL JURISDICTION)

DA 5/E

No. 23308/I Orgl.II/DHC 12/09/15

DASTI

From

The Registrar General
Delhi High Court
New Delhi.

To

PLAINTIFF
Ashwani Dagar,
S/o Shri Veer Singh
A-51, Sector-56,
Noida, (U.P.)-201301

DEFENDANTS NO. 1 TO 4

1. Association of Radio and Television Engineering Employees
   Through its President Umesh Chandra Sharma
   Room No. 542, Akashwani Bhawan,
   Parliament Street, New Delhi-110001
2. Shri Umesh Chandra Sharma
   President, Association of Radio and Television
   Engineering Employees
   G-119, Sanjay Nagar,
   Sector-23, Ghaziabad (U.P.)-201002
3. Shri Rajesh Kumar, Returning Officer,
   Engineering Assistant,
   Doordarshan Kendra,
   Phase-II, Doordarshan Bhavan,
   New Delhi-110001
4. Union of India
   Through Secretary,
   Ministry of Information & Broadcasting
   A-Wing, Shashtri Bhawan,
   New Delhi-110001

Sub: In the matter of **CS (OS) 2052/2015.**

Ashwani Dagar ..Plaintiff

Versus

Association of Radio and Television
Engineering Employees (ARTEE) and ors. ..Defendants

Sir/Madam,

I am directed to forward herewith for information and necessary compliance, a copy of order dated **11.09.2015** passed by **Hon'ble Mr. Justice Manmohan Singh,** of this Court. A copy of memo of parties is also enclosed herewith.

Yours faithfully

15/9/15

Administrative. Officer (Judl.), orgl.
for REGISTRAR GENERAL
sj

Encl: 1. Copy of Order dated **11.09.2015**
passed by **Hon'ble Mr. Justice Manmohan Singh**

2. Copy of Memo of parties.

IN THE HIGH COURT OF DELHI AT NEW DELHI

C.S. (OS) NO. 2002 OF 2015

IN THE MATTER OF:-

Ashwani Dagar ..... Plaintiff

Versus

Association of Radio and Television Engineering Employees (ARTEE) and Ors. ..... Defendants

MEMO OF PARTIES

Ashwani Dagar,
S/o Shri Veer Singh
A-51, Sector- 56,
Noida, (U.P.) - 201301 ..... Plaintiff

Versus

1. Association of Radio and Television Engineering Employees
Through its President Umesh Chandra Sharma
Room No. 542, Akashwani Bhawan,
Parliament Street, New Delhi-110001.

2. Shri Umesh Chandra Sharma
President, Association of Radio and Television
Engineering Employees
G-119, Sanjay Nagar,
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3. Shri Rajesh Kumar
Returning Officer,
Engineering Assistant,
Doordarshan Kendra,
Phase-II, Doordarshan Bhavan,
New Delhi-110001.

4. Union of India
Through Secretary,
Ministry of Information & Broadcasting,
A-Wing, Shastri Bhawan,
New Delhi-110001.

.... Defendants

PLAINTIFF

THROUGH

(SANAT KUMAR)
COUNSEL FOR PLAINTIFF
399,LAWYERS' CHAMBER-II,
DELHI HIGH COURT,
NEW DELHI-110003.

New Delhi
Dated: 13.07.2015

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

\+ CS(OS) 2052/2015

ASHWANI DAGAR ..... Plaintiff

Through Mr.Sanat Kumar, Adv. with
Mr.Yashvardhan S. Soam, Adv.

versus

ASSOCIATION OF RADIO AND TELEVISION ENGINEERING EMPLOYEES (ARTEE) AND ORS ..... Defendants

Through Mr.Anil Sapra, Sr. Adv. with
Mr.Rajesh Srivastava, Adv. for D-1 & D-2 along with D-2 in person.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER

% **11.09.2015**

CS(OS) 2052/2015 & I.A. No.14140/2015 (u/o XXXIX R.1 & 2 CPC) and I.A. No.14142/2015 (u/s 80(2) r/w s. 151 CPC)

The plaintiff has filed the present suit for declaration and permanent injunction. The contention of the plaintiff is that the procedure adopted by defendants No.1 & 2 to amend the bye-laws was not only illegal and contrary to Clauses 47 & 50 of the bye-laws and RSA Rules, 1993, even the amendments which have been carried out by defendants No.1 & 2 are also patently illegal. Some of the clauses which have been inserted by amending the bye-laws are against the basic democratic principles. The only grave urgency for carrying out the amendments seem to be the self interest of

defendant No.2 who was completing two terms. The said amendments depict a sordid state of affairs. The Prasar Bharati in its report had recommended that due to vast reach of defendant No.1-Association, the elections should be conducted by it through electronic mode to avoid any malpractice. However, the said recommendation of Prasar Bharati has been completely ignored.

Learned counsel for the plaintiff has referred sub-paras (vii) and (viii) of para 15 of the plaint wherein it is stated that a new Clause 54 has been inserted in the bye-laws whereby the members have been restrained from airing their resentment/views against the leadership in social media platforms like Facebook, WhatsApp etc. In case of violation of the said rule, a member is liable for disciplinary action as per Rule 37 which provides for suspension of membership. This amounts to curtailing the fundamental right of a member to express his opinion as guaranteed under Article 19(1)(a) of the Constitution of India. Prior to amendment as per Clause 37(a) of the bye-laws, if a member of the association acted against the interests of the Association directly or indirectly, it was the Unit Secretary who would call for the explanation from the member concerned within a time period of one week. If the unit committee was not satisfied with the reply, the Unit Secretary would refer the case with all necessary documents including the reply from the member to the General Secretary for further action. The General Secretary would then send to the affected member a list of charges against him in writing and full 30 days time was allowed to such person to explain the charges and to prove his innocence. As per the amendments, it is the Central Executive which can directly ask explanation from any ordinary member and serve the charge-sheet, then the

General Secretary can take a decision of suspension and expulsion with the approval of Central Executive and Central Council. No time limit has been prescribed for this process. Clause 37(a) has been modified in such a way to snatch the time-tested democratic system of the units of defendant No.1-Association by directly entrusting the powers for suspension or expulsion of any ordinary member of the units spread over whole breadth and length of this vast nation with Central Executive bypassing the Unit Committee. This provision is bound to be misused by the central leadership. Counsel further stated that the election schedule 2015-17, which is to be held on 24th and 25th October, 2015 is contrary to the Clauses 47 & 50 of the bye-laws.

Learned Senior counsel appearing on behalf of the defendants No.1 & 2 has also made his submissions for some time. Upon instructions from defendant No.2, who is also present in Court, learned Senior counsel submits that without prejudice, his clients are inclined to hold the meeting of Central Committee as per the procedure laid down in Rule 50 of the bye-laws. He stated that defendant No.1 will comply all the requirements under the said Rule. However, the entire process will take about two months. He further submits that in the meanwhile, defendant No.4/Union of India through Secretary, Ministry of Information & Broadcasting be also directed to take a decision in this regard. Ordered accordingly.

List this matter on 11th December, 2015.

Till the next date of hearing, defendants No.1 & 2 shall not implement the amended Rules and Regulations/Bye-Laws/Election Bye-Laws carried out by defendant No.1 on 8th & 9th May, 2015 and also not to hold the elections in pursuance to the notification dated 29th June, 2015 which are proposed to be held on 24th & 25th October, 2015.

Copies of this order be given *dasti* to both the parties.

Sd/-

MANMOHAN SINGH, J.

SEPTEMBER 11, 2015/ka