REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10846 OF 2018

ADV BABASAHEB WASADE & ORS. **...APPELLANT(S)**

VERSUS

MANOHAR GANGADHAR MUDDESHWAR & ORS. **...RESPONDENT(S)**

J U D G M E N T

VIKRAM NATH, J.

1. The present appeal assails the correctness of the judgment and order dated 20.07.2017, passed by the Nagpur Bench of the Bombay High Court in First Appeal No. 811 of 2016, whereby the Appeal was dismissed, thereby confirming the order passed by the District Judge-IV, Chandrapur which confirmed the order passed by the

Assistant Charity Commissioner, Nagpur rejecting the change report filed by the appellants.

2. There is a society by the name of Shikshan Prasarak Mandal, Mul[1] registered under the Societies Registration Act, 1860[2] as a charitable society since 1946. The Society in its turn framed its rules and regulations. Later on, the Society was registered as a Public Trust under the Bombay Public Trusts Act, 1950[3]. The rules and regulations of the Society were incorporated as its bye-laws and were duly registered under the Trusts Act.

3. As per the rules and regulations, the Society has four types of members i.e. Life members,

[1] In short, "Society"
[2] In short, Registration Act"
[3] In short, "Trusts Act"

Employee members, Ordinary members and Donor members. The members of each category were required to pay an annual membership subscription of Rs. 11/- per year to the Society.

4. The effective office bearers of the Society namely the President, Vice-President and the Secretary of the Society expired. Even prior to the death of the President due to his poor health, the Executive Body under his presidentship passed a resolution on 01.07.1997 empowering Advocate Babasaheb Wasade (appellant No. 1) to be designated as the Working President and he was required to look after day-to-day affairs and management of the Society. This status of Working President was given to the appellant No.1 at a time when the President was suffering from serious illness and later on succumbed due

to ill health on 24.05.1998.

5. As there was no elected President, Vice-President or the Secretary, 16 members of the Society requested appellant No.1 vide written request dated 20.08.2002 to summon extraordinary meeting to hold the elections. Pursuant to the receipt of the said request, the appellant No.1 acting as Working President, issued notice on 03.09.2002 for summoning a special meeting for the elections of new Executive Body. The elections were held on 08.09.2002 and a new Executive Committee was elected with appellant No.1 as the President and appellant No.2 as the Secretary. Accordingly, a Change Report bearing no. 668 of 2002 was submitted under Section 22 of the Trusts Act before the Assistant Charity Commissioner, Chandrapur.

6. Objections were filed by 7 persons alleging to be members of the Society on the ground that notice dated 03.09.2002 had not been served on them and that appellant No.1 had no authority to issue notice to summon a meeting for election. It was also alleged in the objections that the signatory nos. 12 to 16 to the request letter dated 20.08.2002, were not valid members of the Society and were yet to be approved by the Executive Committee. Further signatory nos. 4 to 7 of the same objection had retired and hence, they ceased to be members.

7. The elected Secretary filed his response to the said objections stating therein that signatory nos. 4 to 7 and 12 to 16 are valid members of the Society. Further that the 7 Objectors had not paid their annual subscriptions for more than

the prescribed period under Section 15 of the Registration Act as such they were barred from voting, and therefore, even if notices were not sent to them, it would not make any difference.

8. Before the Assistant Charity Commissioner parties led evidence. The Assistant Charity Commissioner vide order dated 19.06.2010 allowed the objections and accordingly rejected the Change Report. The appellant preferred an appeal before the Joint Charity Commissioner, Nagpur. The appeal was allowed by order dated 12.04.2016 and the Change Report was accepted. Against this, Miscellaneous Civil Application No. 50 of 2016 was filed by the Objectors before the District Judge-4, Chandrapur, which was allowed vide judgment dated 29.07.2016. Aggrieved by the same, the

First Appeal was preferred before the Bombay High Court which has since been dismissed by the impugned order, giving rise to the present appeal.

9. Certain facts are not disputed by the parties. The same are being recorded hereunder:

i) 7 Objectors who had filed objections against the Change Report were admittedly defaulters in payment of their annual subscriptions, and were covered by the second part of Section 15 of the Registration Act which stated that no person shall be entitled to vote or be counted as a member whose subscription at the time shall have been in arrears for a period exceeding three months. The 7 Objectors admittedly fell under this

category of default.

ii) Notice for the meeting fixed for 08.09.2002 was not issued to the 7 Objectors for the reason that they were in arrears and as such would not have the right to vote or be counted as members.

iii) All the office bearers holding important posts like President, Vice-President and Secretary had expired prior to request dated 20.08.2002 and no election had been held till then to fill up the said posts.

iv) The appellant No.1 was functioning as Working President since 1997 without there being any challenge to such assignment in the Executive Body meeting dated 01.07.1997.

v) All the 7 Objectors who had filed objections to the Change Report had died

during the pendency of the appeal before the Joint Charity Commissioner. The contesting respondents applied before the Joint Charity Commissioner to be impleaded as respondents. Said request was allowed, despite objections by the appellants that they had no locus as they were neither trustees or members of the Society or the Trust.

vi) The appellants are in effective control of the Society and the Trust for the last more than two decades and are being elected during fresh elections held in the last two decades.

10. We have heard Shri Shekhar Naphade, learned Senior Counsel for the Appellants and Shri Narender Hooda, learned Senior Counsel appearing for the private respondents.

11. The arguments of Shri Naphade on behalf of the appellants are briefly summarised hereunder:

i) Today none of the 7 Objectors are alive. The private respondents to this appeal having not raised any objections to the Change Report, cannot be heard because they are neither trustees or members of any category of the Society.

ii) Consistent finding recorded by the Authorities, the District Judge and the High Court is that the 7 Objectors were in default in payment of their annual subscription and therefore, were not entitled to any notice for the meeting of the elections as they were prohibited from voting and being counted as member under Section 15 of the Societies

Registration Act. The Courts below committed an error in holding that due to lack of service of notice, the proceedings of meeting dated 08.09.2002 were vitiated.

iii) The appellants are in effective control of the Society as also the Trust and have been functioning in accordance with its bye-laws for more than two decades and they are continuing to hold elections from time to time, and should therefore, not be disturbed.

iv) The reasoning given by the Courts below that as there was no order of cancellation of membership or cessation of the membership, the 7 Objectors would be entitled to notice and the question whether they would be allowed to vote or

not would be a separate issue.

v) Reliance has been placed upon by Shri Naphade on a judgment of this Court in the case of **Hyderabad Karnataka Education Society Versus Registrar of Societies and Others**[4]**,** where a provision similar to Section 15 of the Registration Act was being considered and this Court held that the provision was valid and a member defaulting in payment of subscription would for all practical purposes be deemed to not be a member entitled to notice.

12. On the other hand, Mr. Hooda has strongly relied upon the reasoning given by the High Court.

i) He has submitted that it suffers from no

[4] In (2000) 1 SCC 566

infirmity, warranting any interference.

ii) The appellants are not entitled to any relief from this Court, as they were not entitled to convene the meeting for the elections. Appellant No.1 was neither Secretary nor President and under the bye-laws, it is the Secretary who would convene the meeting.

iii) He further reiterated that the effect of Section 15 of the Registration Act would not be of cancelling the membership of the Objectors. Referring to the **Hyderabad Karnataka Education Society** (supra) case, Mr. Hooda submitted that in the aforesaid case under the bye-laws there was a provision that if there was a default, the membership would stand cancelled, which is not the case here as there is no

such provision under the bye-laws. According to him, the said judgment would be of no help to the appellant as it would not apply to the present case.

iv) Lastly, it was submitted that a number of signatories to the requisition dated 20.08.2002 and also elected as executive members on 08.09.2002, were not members of the Society at that time for the reason that either they had retired or were never elected as per the bye-laws.

v) Mr. Hooda has further relied upon the following judgments as part of his submissions:

i. **Shri Bhaurao Versus Shri Dyaneshwar**, in First Appeal No. 1435 of 2017 passed by the High Court of Judicature at Bombay, Nagpur Bench,

ii. **Ramesh Gangadhar Dongre and another vs. Charity Commissioner, Mumbai and others**[5],

iii. **Santosh vs. Purushottam**[6],

iv. **Shri Sarbjit Singh & Others vs. All India fine Arts & Crafts Society & Others**[7].

13. Having considered the respective submissions, the following questions arise for consideration:

i) Whether the Working President Mr. Wasade could have convened the election meeting for 08.09.2002 as according to the Objectors, it was only the Secretary or in the alternative the President who could have convened the meeting under the bye-

[5] 2020(5) Mh.L.J.
[6] 2017(6) Mh.L.J.
[7] ILR (1989) 2 Del 585

laws?

ii) Whether the 7 Objectors were entitled to a notice for the meeting of 08.09.2002 in view of their disqualification under Section 15 of the Registration Act?

iii) Whether lack of notice to the said 7 Objectors would vitiate the entire election meeting of 08.09.2002?

iv) Whether invalid members had signed the requisition dated 20.08.2002 and had been elected to the Executive Committee?

v) Whether the private respondents had the locus to be heard before any forum or to file an appeal/petition against the order of the Joint Charity Commissioner?

14. It is not in dispute that in the meeting of the Executive Body held on 01.07.1997, the then

President on account of his ill health had got a resolution passed that Mr. Wasade would thereon be the Working President and will look after the day-to-day affairs and management of the Society. The said resolution of 01.07.1997 was not put to any challenge by any of the Trustees or the members of the General Body. It is also not in dispute that before 20.08.2002, the President, the Secretary, the Vice-President and the Joint-Secretary were not alive. In the absence of the office bearers authorised under the bye-laws who could convene the meeting, the only option left for convening the meeting could either be with the Working President on his own or upon the requisition made by the members to convene a meeting.

15. There is a doctrine of necessity where under

given circumstances an action is required to be taken under compelling circumstances. One of the earlier proponents of the Doctrine of necessity in Common Law was William Blackstone, who in his book, **"Commentaries on the Laws of England" Book 1 of the Rights of Persons**, discusses the meeting of the convention-parliament before Charles II's return, noting that it was an extraordinary measure taken out of necessity. He describes the use of the doctrine of necessity to justify actions that would otherwise be outside the norm due to the urgent need to restore order. He describes another instance during the Glorious Revolution when the lords and commons assembled and acted without the usual royal summons, justified by the extraordinary circumstance of a perceived vacant throne and the urgent need to address the

governance of the country.

> "It is also true, that the convention-parliament, which restored king Charles the second, met above a month before his return; the lords by their own authority, and the commons in pursuance of writs issued in the name of the keepers of the liberty of England by authority of parliament: and that the said parliament sat till the twenty ninth of December, full seven months after the restoration; and enacted many laws, several of which are still in force. But this was for the necessity of the thing, which supersedes all law; for if they had not so met, it was morally impossible that the kingdom should have been settled in peace. And the first thing done after the king's return, was to pass an act declaring this to be a good parliament, notwithstanding the defect of the king's writs. So that, as the royal prerogative was chiefly wounded by their so meeting, and as the king himself, who alone had a right to object, consented to wave the objection, this cannot be drawn into an example in prejudice of the rights of the crown. Besides we should also remember, that it was at that time a great doubt among the lawyers, whether even this healing act made it a good parliament; and held by very

many in the negative: though it seems to have been too nice a scruple.

It is likewise true, that at the time of the revolution, A.D. 1688, the lords and commons by their own authority, and upon the summons of the prince of Orange, (afterwards king William) met in a convention and therein disposed of the crown and kingdom. But it must be remembered, that this assembling was upon a like principle of necessity as at the restoration; that is, upon an apprehension that king James the second had abdicated the government, and that the throne was thereby vacant: which apprehension of theirs was confirmed by their concurrent resolution, when they actually came together. An in such a case as the palpable vacancy of a throne, it follows ex necessitate rei, that the form of the royal writs must be laid aside, otherwise no parliament can ever meet again. For, let us put another possible case, and suppose, for the sake of argument, that the whole royal line should at any time fail, and become extinct, which would indisputably vacate the throne: in this situation it seems reasonable to presume, that the body of the nation, consisting of lords and commons, would have a right to meet and settle the government; otherwise there must

be no government at all. And upon this and no other principle did the convention in 1688 assemble. The vacancy of the throne was precedent to their meeting without any royal summons, not a consequence of it. They did not assemble without writ, and then make the throne vacant; but the throne being previously vacant by the king's abdication, they assembled without writ, as they must do if they assembled at all. Had the throne been full, their meeting would not have been regular; but, as it was really empty, such meeting became absolutely necessary. And accordingly it is declared by statute 1 W & M. st. 1. c. 1. that this convention was really the two houses of parliament, notwithstanding the want of writs or other defects of form. So that, notwithstanding these two capital exceptions, which were justifiable only on a principle of necessity, (and each of which, by the way, induced a revolution in the government) the rule laid down is in general certain, that the king, only, can convoke a parliament."

16. The doctrine of necessity has been elucidated by a Constitution Bench of this Court in **Charan Lal**

Sahu vs. Union of India[8] as follows:

> "The question whether there is scope for the Union of India being responsible or liable as a joint tort-feasor is a difficult and different question. But even assuming that it was possible that the Central Government might be liable in a case of this nature, the learned Attorney General was right in contending that it was only proper that the Central Government should be able and authorised to represent the victims. In such a situation, there will be no scope of the violation of the principles of natural justice. The doctrine of necessity would be applicable in a situation of this nature. The doctrine has been elaborated, in Halsbury's Laws of England, 4th edn., page 89, paragraph 73, where it was reiterated that even if all the members of the Tribunal competent to determine a matter were subject to disqualification, they might be authorised and obliged to hear that matter by virtue of the operation of the common law doctrine of necessity. An adjudicator who is subject to disqualification on the ground of bias or interest in the matter which he has to decide may in certain circumstances be required to

[8] In (1990) 1 SCC 613 in para 105

adjudicate if there is no other person who is competent or authorised to be adjudicator or if a quorum cannot be formed without him or if no other competent tribunal can be constituted. In the circumstances of the case, as mentioned hereinbefore, the Government of India is only capable to represent the victims as a party. The adjudication, however, of the claims would be done by the court. In those circumstances, we are unable to accept the challenge on the ground of the violation of principles of natural justice on this score. The learned Attorney General, however, sought to advance, as we have indicated before, his contention on the ground of de facto validity. He referred to certain decisions. We are of the opinion that this principle will not be applicable. We are also not impressed by the plea of the doctrine of bona fide representation of the interests of victims in all these proceedings. We are of the opinion that the doctrine of bona fide representation would not be quite relevant and as such the decisions cited by the learned Attorney General need not be considered."

17. The applicability of the Doctrine of Necessity was further clarified by this Court in **Election**

Commission of India v. Dr Subramaniam Swamy reported in **(1996) 4 SCC 104** as follows:

> " 16. We must have a clear conception of the doctrine. It is well settled that the law permits certain things to be done as a matter of necessity which it would otherwise not countenance on the touchstone of judicial propriety. Stated differently, the doctrine of necessity makes it imperative for the authority to decide and considerations of judicial propriety must yield. It is often invoked in cases of bias where there is no other authority or Judge to decide the issue. If the doctrine of necessity is not allowed full play in certain unavoidable situations, it would impede the course of justice itself and the defaulting party would benefit therefrom. Take the case of a certain taxing statute which taxes certain perquisites allowed to Judges. If the validity of such a provision is challenged who but the members of the judiciary must decide it. If all the Judges are disqualified on the plea that striking down of such a legislation would benefit them, a stalemate situation may develop. In such cases the doctrine of necessity comes into play. If the choice is between allowing a biased person to act or to stifle the action altogether, the choice must fall

> in favour of the former as it is the only way to promote decision-making. In the present case also if the two Election Commissioners are able to reach a unanimous decision, there is no need for the Chief Election Commissioner to participate, if not the doctrine of necessity may have to be invoked."

18. In the present case, had the Working President not convened the meeting, the elections of the executive body would have been in limbo for an unreasonable amount of time. The convening of the meeting by the Working President upon the requests by the 16 surviving members was a "necessity" at the time.

19. There is one more aspect of the matter to be discussed here with respect to the duties of the 'Working President'. Clause 11 of the Byelaws recognizes a Working President and also defines his rights and duties. The same is reproduced

below:

"11. "Working President" –

The Rights and Duties of Working President:

1. To complete the work as per the written instructions of the President of the Shikshan Prasarak Mandal, the executive body of the Mandal and the General Body of the Mandal.
2. Make efforts from the point of extending the area of operation of the Shikshan Prasarak Mandal."

As per the above clause, the 'Working President' was to act on the directions of the President, Executive Body and the General Body. In the present case, the recognition was by almost all the members of the General Body. He had no option but to call for a general body meeting in accordance with the rights and duties conferred upon him.

20. In the present case, it was not only appropriate

but also legal for the surviving members to request for convening a meeting. Further in the present case, as many as 16 members had requested in writing for convening the meeting. If the submission of the Objectors is to be accepted that the Working President could not convene the meeting, then no alternative has been suggested by the Objectors as to who could convene the meeting. Alternatively, the President and Secretary who were authorized under the bye-laws had died and no election had been held for replacing them. Even the Vice-President and the Joint-Secretary had also passed away and they had also not been replaced by any fresh elections. The only person who could be said to be managing the affairs of the Society was the Working President Mr. Wasade, and in particular, when all the 16 surviving and valid

members had made a request for convening a meeting, no fault could be found with the decision of the Working President Mr. Wasade to convene the meeting. The other option could have been that all the 16 members could have themselves nominated any one of the members to chair the meeting of the Executive Body and thereafter they could have proceeded to take appropriate decisions. In such situation, we are of the view that the convening of the meeting for holding the elections on 08.09.2002 cannot be faulted with. Question No.1 is answered accordingly in favour of the appellants.

21. Coming to the next question regarding notice to the objectors, at the outset, Section 15 of the Registration Act is reproduced hereunder:

"Section 15 in The Societies Registration Act, 1860

> 15. Member defined.— Disqualified members - For the purposes of this Act a member of a society shall be a person who, having been admitted therein according to the rules and regulations thereof, shall have paid a subscription, or shall have signed the roll or list of members thereof, and shall not have resigned in accordance with such rules and regulations; Disqualified members.—But in all proceedings under this Act no person shall be entitled to vote or be counted as a member whose subscription at the time shall have been in arrears for a period exceeding three months."

The High Court, in the impugned order, has held that the said provision is applicable.

22. It is not in dispute that all the Objectors were in arrears of their membership fee for a period of more than three months. This fact is admitted as is recorded by not only the High Court but all the three authorities. In fact, these Objectors had gone to the extent of saying that even if notices were issued to them, they will not receive it. The

question is what would be the effect of such non-payment in the light of the proviso contained in Section 15 of the Registration Act. The specific language used is that such members in default of membership fee would not be entitled to vote and would not be counted as members of the Society. If they were not entitled to vote and they were not to be counted as members, there would be no illegality or for that matter any prejudice being caused by not issuing any notice as the same would be an exercise in futility.

23. It is a fact that under the bye-laws of the Society, there was no provision that a member defaulting in payment of membership fee and duly covered by the proviso to Section 15 of the Registration Act, would automatically lose his membership or in effect would cease to be a member of the

Society. Be that as it may the only limited status left of such members would be that their name would continue to be in the Roll of the Society and at best by clearing of the arrears of the membership fee in addition to any penalty or fine liable to be charged for being reinstated as valid members would survive to them. Such defaulting members could have applied that they are ready and willing to pay their arrears and upon such application and payment being made, the effect of the proviso to Section 15 of the Registration Act could be considered by the appropriate officer/Committee of the Society. Till such time they would continue to remain as suspended members having no right to participate in any meeting.

24. The Executive Body or any other body competent

under the bye-laws could take up their matter and give them a show cause notice and opportunity to save their membership by fulfilling their obligations failing which their membership would be terminated. When despite the same, they would not fulfil their obligations their membership would be declared to have been terminated.

25. This Court in the case of **Hyderabad Karnataka Education Society** (supra) was dealing with a similar provision under Rule 7-A of the Rules framed by Hyderabad Karnataka Education Society, read with Section 2(b) and Section 6(2) proviso of the Karnataka Societies Registration Act, 1960. Section 2(b) of the said Act defined 'member' which provided that to be treated as a member of the Society for the year concerned, he

should have been admitted to that membership in accordance with rules and regulations and shall have paid the subscription as laid down therein. Section 6(2) of the said Act was akin to the proviso to Section 15 of the Registration Act that in default of payment of membership fee for more than three months, the membership would cease. The validity of such rule 7-A was challenged before the High Court which found the same to be very harsh and accordingly had held it to be ultra vires of Section 6(2) of the Karnataka Societies Registration Act, 1960. This Court disagreed with the reasoning given by the High Court and accordingly set it aside. This Court held that the said rule could not be said to be harsh or unreasonable, rather it was in line and in tune if it is read with Section 2(b) and Section 6(2) of the said Act.

26. It is true that in the bye-laws of the present Society or the Rules of the Society, there is no such provision of automatic cessation of membership where a member goes in default of payment of membership fee for more than three months. However, the effect of the proviso to Section 15 of the Registration Act which admittedly is applicable to the Society, the Objectors have to be treated as suspended members and therefore, would not be entitled to any notice as they had no right to vote or to be counted as members. Once they are not to be counted as members, there was no occasion to give them notice as such Non-issuance of notice to the Objectors would not vitiate the proceeding of the special meeting held on 08.09.2002. The argument raised by Mr. Hooda is to the effect that

Hyderabad Karnataka Education Society (supra) judgment would not apply to the present case and would be of no help to the appellant. This submission same cannot be accepted in view of the discussion made above and also for the reasoning given by this Court in the said judgment. Even if we do not take into consideration the judgment of this Court **Hyderabad Karnataka Education Society** (supra), we may record that a clear reading and interpretation of the proviso to Section 15 of the Registration Act would disentitle such defaulting members from being given any notice even if their membership was not terminated or ceased. Question nos. 2 and 3 are thus answered in favour of the appellants.

27. In so far as the fourth question is concerned with

regard to the participation of invalid members in signing the requisition and being elected in the executive is concerned, the same have been duly explained by the appellants. The signatories at serial nos. 12 to 16 of the requisition dated 20.08.2002, had been duly admitted in the General Body Meeting on 11.11.2001. The said resolution of the meeting was never challenged. The same is on record as Exhibit 131 and one of the Objectors Dhanji Virji Shah was a signatory in the said proceeding. With respect to the objections relating to signatory nos. 4 to 7, the explanation is that were of the category of Employee Members. In due course they had retired from service. However, even after their retirement, they had continued to pay their subscription. As their membership(s) have continued, at this stage, objection(s) with regard

to the validity thereof is not being examined in detail, given the lack of clarity and absence of material facts on this aspect.

28. Coming to the last question regarding locus of the contesting respondent which has been seriously pressed by Mr. Naphade, learned Senior Counsel no material has been placed before us by the respondent senior Counsel Mr. Hooda to establish their locus.

29. During the pendency of the appeal before the Joint Charity Commissioner all the seven objectors had died. The Joint Charity Commissioner decided in favour of the appellants and directed for accepting the Change Report. The contesting respondent preferred a petition before the District Judge. He was neither an objector before the Assistant Charity

Commissioner nor a valid member of the Society. He would have no locus to maintain the petition before the District Judge. Although the contesting respondent claimed himself to be the Vice-President of the Society but has not been able to substantiate his claim. On this ground alone the District Judge ought to have dismissed the petition.

30. The judgments relied upon by Mr. Hooda referred to above are on issue which were not argued before the High Court even otherwise they relate to 15 days' notice for convening a meeting which point could have been raised by a valid member and not by a suspended member.

31. For all the reasons recorded above, the impugned judgment of the High Court and the other authorities adverse to the appellants cannot be

sustained. The Change Report No.668 of 2002 deserves to be accepted. The Joint Charity Commissioner had rightly accepted it.

32. The appeal is accordingly allowed. The impugned judgment and order of the High Court as also the orders rejecting the Change Report regarding General Body Meeting dated 08.09.2002 are set aside and the Change Report is accepted.

33. However, having allowed the appeal, before parting, we would like to address one grey area, which having been left unexplained cannot be brushed aside. Insofar as it relates to four signatories to the Requisition for calling a General Body Meeting, specifically being Members 4 to 7 from the category of Employee Members, from a perusal of the available record,

it transpires that they had retired from service. Yet even after this, they had continued to pay their subscription and as such, their membership had continued.

34. In this context, the obvious question that arises is that once the said Members were Employee Members, their categorisation as such was dependent on them being in service. On retirement, the said signatories would cease to be employees, come out of the category of Employee Members and their membership in the Society could not have continued. Upon superannuation or cessation of their employment, such four signatories could very well have been made members of the Society, but there is no indication on the record that they were made members of the Society by a specific resolution and thereafter continued as members and paid the subscription

fee(s). Thus, they could not have continued as members of the Society in the category of Employee Members even upon their superannuation by merely paying the yearly subscription fee thereby blocking the entry of the persons, who were still employees.

35. Moreover, we find that the stalemate in the Society has continued for a pretty long time, which does not bode well for any institution, much less an institution which is running educational institutions and is required to be run in a fair, transparent and legal manner. Thus, we direct that fresh elections shall be held for the new Executive Committee of the Society by the Charity Commissioner in accordance with law within six months from the receipt of a copy of this Judgment. It is left open for him to delve into

all aspects of the matter for ensuring that the issue of membership/members of the Society is resolved in terms of the existing records of the Society, ascertaining the factual position and status of the members at relevant point of time as also their right to continue as members of the Society and be on the electoral roll for conduct of fresh election for constitution of a new Executive Committee.

36. There shall be no order as to costs.

……J.
(VIKRAM NATH)

……J.
(AHSANUDDIN AMANULLAH)

NEW DELHI
JANUARY 23, 2024