

(2001) 06 MAD CK 0056
In the Madras High Court
Case No : O.S.A. No. 157 of 2001

Chennai Kancheepuram Tiruvelore District Film Distributors Association and another APPELLANT

Vs

Chinthamani S. Murugesan and 4 others RESPONDENT

Date of Decision : 28-06-2001

Acts Referred:

Citation : (2001) 3 LW 514

Hon'ble Judges : R. Jayasimha Babu, J;K. Gnanaprakasam, J

Bench : Division Bench

Advocate : Mr. B.S. Gnanadesikan, for the Appellant; Mr. Satish Parasaran and Mr. C. Ramesh, for the Respondent

Judgement

R. Jayasimha Babu, J.—Plaintiff in the suit has become the victim of the very rule, which he introduced into the bye laws of the association

which inter alia enable the Executive Committee to convert the membership of a full membership to that of an associate member with lesser rights if

the activities of the members are found to be detrimental to the interest of the association in the view of the Executive Committee.

2. Though the plaintiff had been the President of the Association for 18 years, during the last years, he did not hold that office. Those who were on

the Executive Committee having formed the view that the plaintiff was required to explain his conduct with reference to certain matters had caused

the issue of a show cause notice, wherein, several allegations were made against him, two of which, according to the plaintiff, were vague. To that,

he sent a reply in which he rebutted the allegations made, claimed that he was innocent of any wrong doing, stated that his reply was all that was

required is to put an end to the proceeding that was initiated by the Executive

Committee, and had also sought certain documents with reference to two of the charges. The executive Committee, however, after perusing that reply, proceeded to exercise its power under Rule 17-B of the Bye-laws, and made him an associate member with immediate effect. It may also be noticed here that there was no request for a personal hearing in the reply that had been sent.

3. Though the plaintiff had contended that the action so taken against him was vitiated by mala fides, the mala fides having been attributed to one of the office bearers, learned single Judge has found that the action was not vitiated by mala fide. He has noticed the fact that the decision was taken not by one person, but by the Executive Committee consisting of 24 members, 22 of whom were present, and who had unanimously voted that the membership of the plaintiff be changed to that of an associate member. The plaintiff has also alleged that despite the language of Rule 17B of the bye-laws that power could only be exercised by the General Body, and not by the Executive Committee. That argument did not appeal to the learned single Judge. We do not find anything in the language of Rule 17B of the bye-law, which makes it mandatory for the matter to be placed before the General Body.

4. Learned single Judge was persuaded to stay the resolution passed by the Executive Committee on the sole ground that the principles of natural justice had been violated. The learned trial Judge felt that there was vagueness in some of the charges that had been leveled against the plaintiff. We have been taken through the charges, as also the reply given by the plaintiff to those charges. Two of the charges referred to some of the orders that had been made by the plaintiff earlier, and one of the charge refers to complaints received from some persons with regard to certain matters. Besides those two charges, there are several other charges to which the plaintiff had pleaded that he was innocent of any violation of any of the Rules.

5. The Executive Committee of a voluntary association cannot be put on par with a Court or a Tribunal when dealing with the disciplinary matters concerning the membership of the Body. They have a very wide latitude in deciding as to when disciplinary action is warranted, and the extent to which the powers vested in them under the Rules or byelaws should be exercised

while penalizing the members for the misconduct which the appropriate Body within the association empowered to decide that question, considers him to be guilty. The procedure to be followed by such an association also cannot be that which is normally expected to be followed in a Court, or a Tribunal. Every letter written by the Executive Committee of an association to its member calling for an explanation is not to be judged under a lens to find out the possible defects therein for the purpose of holding that the action that followed was not in consonance with the principles of natural justice. Even principles of natural justice are not required to be applied with the same degree of rigour as they would be in the case of adjudication before a Court or a Tribunal.

6. What is required of such bodies is that they act fairly in a broad way without having to imitate the Courts and Tribunals, with regard to the rigour

and the formality of the procedures. Such bodies are of course expected to act in accordance with their own Rules, and stay within the limits

imposed by those Rules. If the Body vested with the power under the Rules, exercise that power within the ambit of the Rule, after having afforded

an opportunity to the member concerned to have his say in the matter, the decision rendered by such Committee cannot be regarded as illegal, or

violative of natural justice, or as arbitrary. The Courts will not sit in appeal over the decisions of such Committees, subject to such decision being

broadly in consonance with the general standard of fairness.

7. In *T.P. Daver Vs. Lodge Victoria No. 363*, S.C. Belgaum, , the Supreme Court quoted with approval the following observations of the Privy

Council in the case of *Lennox Arthur Patrick O'Reilly v. Cyril Cuthbert Gittens* AIR 1949 PC 313 thus:

It is important to bear in mind that neither the learned Judge nor their Lordships Board is entitled to sit as a Court of appeal from the decisions of a

domestic tribunal such as the Stewards of the Tribunal Truf Club.

All these matters, however, are essentially matters for the domestic tribunal to decide as it thinks right. Provided that the tribunal does not exceed

its jurisdiction and acts honestly and in good faith, the Court cannot intervene, even if it thinks that the penalty is severe or that a very strict

standard has been applied.

8. The Apex Court in that case, after examining the merits by the case brought

before it which concerned the expulsion of a member of a masonic lodge after the appropriate body within it had found him to be guilty of several charges of misconduct, concluded with the following observations:

Lastly an attempt was made to persuade us to resurvey the entire material and lest the correctness or otherwise of the decision of the Lodge. As we have pointed out earlier, civil courts have no jurisdiction to decide on the merits of a decision given by a private association like Lodge. Both the Courts below have held that the Daughter Lodge has acted in good faith in the matter of the complaint against the appellant. That is a concurrent finding of fact, and it is the practice of this Court not to interfere ordinarily with concurrent findings of fact.....

9. The plaintiff has, in this case clearly, failed to establish the case of mala fides. The Executive Committee has acted in good faith and taken a decision with which the Court may, or may not agree. The standard adopted by that Executive Committee may have been far more strict than what the Court in the given circumstances may have adopted. But those considerations are not irrelevant for the purpose of deciding as to whether the Court can, or cannot interfere with a bona fide decision taken by the Executive Committee.

10. As regards the alleged violation of the principles of natural justice, the Court, if satisfied that there has been broad fairness must refrain from interfering with the action taken by the voluntary association of which the plaintiff chose to become a member of his own volition. Natural justice in the conduct of such associations would not have the same degree of rigour, as those principles would have in matters which are required to be adjudicated upon before Courts and Tribunals. In this case, the charges against the plaintiff were made known. The list contains several charges, to most of which, the plaintiff did not feel the need to ask for any further documentation. He had been put on notice that there had been complaints, for which he merely asked for the copy of the complaints. Even if that charges were to be ignored on the ground that the documents had not been made available, nevertheless, the other charges have not been found to be vague even by the learned trial Judge. If the Executive Committee felt persuaded to take action against the plaintiff on the basis of what was before it in the form of the charges made known to him and the reply

received from him, it cannot be faulted on the ground that it should have proceeded to hold an enquiry as if it were an adjudicatory forum. We are satisfied that in this case broad fairness has been observed. A voluntary association is entitled to carry on its affairs in accordance with its own rules. A person becoming member of such a body contracts to be bound by those rules and by the actions taken by those in whom power is vested under the Rules.

11. In the circumstances, we must hold that the learned trial Judge was in error in staying the resolution that had been passed by the Executive

Committee of the association. The O.S. appeal is allowed. The impugned order to the extent it is against the appellant is, therefore, set aside. The application for stay of the resolution shall stand dismissed. No costs.