

(2011) 04 KAR CK 0196
In the Karnataka High Court
Case No : M.F.A. No. 2414 and 2415 of 2011

Srinivasa Gowda and Others

APPELLANT

Vs

The President, The Karnataka Power Transmission Corporation Employees Union and Others
 The Karnataka Power Transmission Corporation Employees Union and Others Vs The President, The Karnataka Power Transmission Corporation Employees Union

RESPONDENT

Date of Decision : 07-04-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 4
Karnataka Power Transmission Corporation Employees Union Rules — Rule 12A, 12C (5), 7 (e)

Citation : (2011) 04 KAR CK 0196

Hon'ble Judges : S.N. Satyanarayana, J

Bench : Single Bench

Advocate : K.N. Putte Gowda, in M.F.A. No. 2414/2011 Sri. B. Roopesha and Sandeep M. K in M.F.A. No. 2415/2011, for the Appellant; Mohamed Nasiruddin in M.F.A. No. 2414/2011 Sri Mohamed Nasiruddin in M.F.A. No. 2415/2011, for the Respondent

Judgement

S.N. Satyanarayana

1. The plaintiffs in OS. Nos. 1260/2011 and 1335/2011 pending on the file of I Addl City Civil and Sessions Judge Court, Bangalore (CCH-2) have come up in these appeals challenging the common order dated 9.3.2011 passed on applications in I.A. Nos. I, II and V filed in OS. No. 1335/2011 and I.A. No. 1 in OS. No 1260/2011. In both the appeals the challenge is only in respect of the order passed on I.A. No. I in respective suits. Brief facts leading to these appeals are:

OS No 1260/2011 is filed by the General Secretary of Karnataka Power Transmission Corporation Employees Union, in the capacity of General Secretary of said Union as well as in his individual capacity as member along with 30 other

members of the Central Executive Committee (CEC for short) of said Union. The second suit in OS. No. 1335/2011 is filed by another 28 members of CEC of the Union. The 1st plaintiff Union is stated to have in all about 91 CEC members. Among them around 80 members were elected in Triennial Conference of Union held on 28.8.2008, The remaining members are Nominated members of CEC.

2. The admitted facts are, on 22.11.2010 the General Secretary of the Union called for meeting of CEC to be held on 3.12.2010 at about 10 am., in the premises of the Union with an agenda to discuss five subjects in the said meeting. Out of that, first four subjects of the agenda are on specific issues. The 5th one is with reference to any other subject to be discussed with the permission of chair. Subsequently, on 27.11.2010 the Local Committee (Central), Bangalore of the Union (3rd defendant in OS. No. 1260/2011 and 5th defendant in OS. No. 1335/2011) passed a resolution in recommending to CEC for extension of 2nd plaintiff's membership in 1st plaintiff Union for a period of six months from the date of: his attaining superannuation on 31.1.2011 in the alternative till election of next CEC. The said resolution was communicated to the Union by its letter dated 27.11.2010 received by the 1st plaintiff Union subsequent to issuance of notice dated 22.11.2010 regarding CEC meeting and prior to the meeting on 3.12.2010.

3. Plaintiffs in both suits state that on 3.12.2010 CEC meeting was held under the Chairmanship of its President 1st defendant. In the said meeting, after conclusion of transaction on subjects 1 to 4, one Nagaraj, Organising Secretary of Kolar Branch of the Union moved the chair seeking permission to take up for consideration the recommendation of Local Committee (Central), Bangalore pursuant to its resolution dated 27.11.2010. The said resolution is recommendation to seek extension of membership of 2nd plaintiff with the Union as he was due to retire on 31.1.2011. The plaintiffs in both suits state that President also appreciated the service of 2nd plaintiff as General Secretary of Union. However, initially he suggested that said subject could be taken up in a special meeting to be held for the said purpose within one month from that day, as there was time for 2nd plaintiff to retire from service.

4. It is also their case that on persuasion by majority of members on the ground that time available between that date till date of retirement of 2nd plaintiff being very short and to avoid another meeting which would cost enormous expenditure to Union, said subject was taken up for consideration with the consent of President and the said subject was approved unanimously by thumping of hands. In that behalf minutes of the meeting was drawn by Secretary in terms of regulation, the President approved the same by affixing his signature. Though the regulation prescribes for approval by the President, as per the general practice prevailing, the members of CEC who participated in the meeting also affixed their signatures to the minutes of meeting held on that day. In terms of the same the membership of 2nd plaintiff is continued for a period of six months from 1.2.2011.

5. Subsequently, the next day i.e., on 4.12.2010 the President issued a circular contrary to the proceedings of meeting dated 3.12.2010 and by communication dated 6.12.2010 sent the proceedings of meeting contrary to what was recorded on 3.1.2.2010. Both the circular dated 4.12.2010 and communication dated 6.12.2010 were circulated among the members of CEC. In response to that about 47 members of CEC gave a representation to 1st defendant on 27.1.2011 stating that communication dated 6.12.2010 and circular dated 4.12.2010 are contrary to the decision taken by CEC with reference to extension of time to 2nd plaintiff and the confusion created by 1st defendant by issuance of the circular dated 4.12.2010 and communication dated 6.12.2010 are required to be clarified by calling for a special meeting of CEC immediately. The said letter was signed by 47 members of CEC.

6. Thereafter, without responding to the same 1st defendant President proceeded to issue two O. Ms dated 31.1.2011 stating that by virtue of superannuation of 2nd plaintiff he seized to be a member of 1st plaintiff Union from the noon of 31.1.2011, in view of the cessation of his membership he lost all his powers as General Secretary of the Union.

7. The communication in the form of circular dated 4.12.2010, recording of proceedings by 1st defendant through communication dated 6.12.2010 and also two O. Ms issued on 31.1.2011 are challenged by plaintiffs i.e., the Secretary M.G. Narayanaswamy in the capacity of General Secretary of 1st plaintiff Union and in his individual capacity as member of CEC of 1st plaintiff along with another 58 members of CEC as plaintiffs in both suits. Initially suit in GS. No. 1260/2011 was filed. In the said proceedings, there was already a caveat by President of 1st plaintiff Union. Subsequently, 2nd suit in OS. No. 1335/2011 was filed by another 28 members of CEC of Union. In both suits, defendants 1 and 2 are common. Local Committee (Central), Bangalore is 3rd defendant in first suit and 5th defendant in second suit. Whereas in the second suit there are two additional defendants i.e., the 1st and 2nd plaintiffs in first suit is 3rd and 4th defendants in second suit. In both suits I.A. No. I is filed seeking order of temporary injunction against 1st and 2nd defendants in both suits, who are respectively President and Joint Secretary of the 1st plaintiff Union.

8. So far as I.A. No. I filed in OS. No. 1260/2011 no interim order was granted. However, in OS. No. 1335/2011, which was filed subsequently, an order of status quo was ordered, Subsequent to appearance of contesting defendant Nos. 1 and 2 in both suits they filed objections to the said application in I.A. No. I. In addition to that, four applications came to be filed by them in the second suit, i.e.. I.A. No. II under Order 39 Rule 4, CPC for vacating the status quo, I.A. No. III u/s 11 of CPC and I.A. No. V u/s 151, CPC for keeping the ad-interim order passed on I.A. No. I in abeyance. The court below after hearing all the applications together passed a common order on IA. Nos. I, II and V only on 9.3.2011 wherein I.A. No. I in both the suits were dismissed. I.A. No. II filed in second suit under Order 39 Rule 4, CPC is allowed. So far as I.A. No. III is

concerned, the same was not pressed. So far as I.A. No. V is concerned, the same was dismissed in view of the orders passed on IA. Nos. I and II. The said common order does not speak about I.A. No. IV, which appears to have been disposed of.

9. The plaintiffs in both the suits are aggrieved by the aforesaid common order dated 9.3.2011 so far as it pertains to order on IA. Nos. I and II. Accordingly, these two appeals are filed by them challenging the same on the ground that there is an error on the part of court below in appreciating the facts so far as it pertains to supremacy of CEC and resolution passed by CEC in compliance of Rule 7(e) of the Rules and Regulations of Union. There is improper appreciation of pleadings so far as it refers to meeting dated 3.12.2010 regarding resolution recorded by General Secretary as contemplated under Rule 12(c)(iii) and subsequent circulars issued by 1st defendant regarding minutes of meeting by the President and his competence to Issue the same is not properly appreciated. The interpretation of recording in minutes book containing signatures of President and other members, the representation dated 27.1.2011 and contents thereof in holding the same as an acceptance on the part of 47 members of CEC and in accepting that there was commotion in the meeting resulting in the meeting coming to an abrupt end is contrary to material on record. The finding of the court below is contrary to law and Rules governing the procedure to be adopted and followed in meeting. The finding of court below so far as filing of two different suits by two different set of CEC members for common object being misinterpreted and leading to prejudicial view of the matter and in the bargain there is total rejection of pleadings so far as procedure and manner in which the meeting was held. The decision of majority members of CEC in accepting the additional resolution raised by organising Secretary, Nagaraj is ignored. Further, the rights of President as contemplated under rule 12(a) is interpreted contrary to the meaning it was intended to convey. There is also an error in not appreciating the lack of power on the part of President in issuing official memorandum under challenge and so also ignoring the material evidence available in the form of documents produced on behalf of plaintiffs and defendants in the original suit which throw light regarding the manner in which the meeting was conducted and resolution was passed, is ignored to come to an erroneous conclusion and contended the same is required to be set aside.

10. This Court on going through the grounds of appeal in both the appeal memos and also finding of court below in the impugned common order find that the following points arise for consideration in both the appeals:

- 1) Whether the impugned common, order on IA. Nos. I and II is just and proper and passed on prima facie appreciation of pleadings and material evidence available on record?
- 2) Whether the impugned common order calls for interference in these two appeals?

11. Heard the Counsel for appellants and respondents. On reappraisal of the pleadings and other material available on record in the light of grounds of appeal and finding of court below in the impugned common order with reference to IA. Nos. I and II this Court answer 1st point for consideration in the negative and 2nd point for consideration in the affirmative for the following:

REASONS

12. The plaintiffs in the court below, who are appellants herein are none other than members of CEC of KPTC Employees Union. In both the suits put together there are 58 Central Executive Committee members as plaintiffs along with Union which is represented by its General Secretary M.G. Narayana Swamy as he was on 3.12.2010 and the said M.G. Narayana Swamy is a member of Central Executive Committee. Admittedly, the entire issue revolving around in both the suits in court below and in these two appeals is extension of membership of aforesaid M.G. Narayanaswamy in the Union pursuant to Rule 7(e) of the Rules and Regulations of the Union. It is necessary to mention here that the Karnataka Power Transmission Corporation and also its other organisations carrying on generation, transmission and distribution throughout the State of Karnataka has only one Union i.e., 1st plaintiff Union, namely, Karnataka Power Transmission Corporation Employees Union (hereinafter referred in short as Union). The membership of the employees of aforesaid corporation with the said Union is governed by Section 7 of its Rules and Regulations. The said membership is co-extensive with the employment of the member in the aforesaid organisation and it will cease with his termination as contemplated under clause (f) of Rule 8. However, there is an exception to that under clauses (e) and (1) of Rule 7. Rule 7(e) deals with extension of membership of an employee for a period of six months from the date from which he is likely to retire from his employment. Said extension is subject to the recommendation of respective Local Committee for such extension and approval of the same by the CEC. The said provision viz., Rule 7(e) reads as under:-

7(e) A member may be retained as a member for six months from the date from which he becomes unemployed/ceases to be an employee provided that in specific cases the respective Local Committees may recommend for extension of the period to the General Secretary and allow the said member to retain his membership for the extended period, subject to the approval of the Central Executive Committee.

13. In the instant case M.G. Narayanaswamy was due to retire on 31.1.2011. Prior to his retirement by superannuation a meeting of CEC of the Union was called for by the General Secretary M.G. Narayanaswamy. The said meeting was called by him in exercise of his powers under Rule 12(c)(v) which authorises him to convene CEC meeting in consultation with President. In the instant case General Secretary called for a meeting of CEC to be held on 3.12.2010. The issuance of notice regarding meeting dated 22.11.2010 is not disputed by contesting defendants 1 and 2. In the said meeting the following five subjects

were stated as agenda for the said meeting which read as under;

- 1) confirmation of proceedings of previous meeting;
- 2) submission of the report of General Secretary;
- 3) Union and its discipline and action;
- 4) Submission of accounts; and
- 5) Discretion regarding and any other subject with the approval of chair.

14. Subsequent to issue of notice dated 22.11.2010 a recommendation is received by General Secretary of the Union from Local Committee (Central) communicating recommendation of Local Committee (Central) to CEC for continuation of membership of M.G. Narayanaswamy for further period of six months from the date of his superannuation i.e., 31.1.2011, which is not in dispute. Admittedly, CEC meeting commenced on 3.12.2010 within the premises of 1st plaintiff Union. The said meeting was attended in all by 86 members as could be seen from the minutes of meeting recorded by General Secretary of Union, which is affixed to a register maintained for the said purpose, wherein signatures of President and CEC members is taken for approval of the proceedings and the meeting dated 3.12.2010. The presence of 86 members of CEC is not disputed by defendants 1 and 2. However recording of said minutes and signatures referred to therein are disputed by contesting defendants 1 and 2 for two reasons. According to defendants 1 and 2, President and Joint Secretary of the Union, the CEC meeting was commenced on 3.12.2010 as scheduled. In the said meeting, after the notified subjects were discussed there was a move by one Sri. Nagaraj, organising Secretary of Kolar to take up the recommendation of Local Committee (Central) to extend the membership of Sri. M.G. Narayanaswamy, General Secretary to the Union for a period of six months from the date of his attaining superannuation on 31.1.2011. So far as aforesaid fact of subject being raised for discussion with the permission of Chair is accepted by both plaintiffs and as well as defendants 1 and 2. It is their case that 1st defendant, did not permit discussion on the said subject. Therefore, no decision was taken by the CEC in that behalf.

15. According to plaintiffs, said subject though was initially sought to be put off by 1st defendant on the ground that the same could be taken up in a meeting that could be conducted separately for the said purpose, subsequently, on the persuasion of majority members of CEC the same was taken up for discussion with the approval of President. Thereafter by thumping of hands said subject was approved, pursuant to which said resolution is also recorded in the minutes of meeting recorded by General Secretary. However this aspect of approval and recording of same in the meeting is disputed by President. According to him, he did not give permission for the said subject to be discussed. Thereafter certain commotion took place in the premises resulting in a scuffle between himself and treasurer, wherein treasurer snatched the minutes book from his hands and run

away from that place. Hence, a complaint was lodged by him with the High Grounds Police on the same day in the evening.

16. It is also seen that complaints are lodged by treasurer against the President and vis-a-vis. The subsequent events viz., issue of circular and communication by President on 4.12.2010 and 6.12.2010 denying acceptance of recommendation of Local Committee (Central) for extension of 2nd plaintiff by 6 months from the date of his superannuation and issue of 2 circulars on 31.1.2011 have led to the present suits by majority members of CEC. According to President, as per the Rules and Regulations of the Union it is the obligation on the part of General Secretary to record the minutes in terms of Rule 12(c)(iii). According to Rule 12(a)(i), the President is required to affix his signature. Rule 12(a)(i) and 12(c)(iii) read as follows:

12 (a) (i) The President when present shall preside over all the meetings of the Union, meetings of the Central Executive Committee and Conference of the General Council, preserve order and sign all minutes he shall have power to convene special/emergent meetings of the Central Executive Committee as well as Special Conference of the General Council.

12 (c) (iii) Recording the minutes of the Meetings of the Central Executive Committee and the Conference of the General Council

17. On going through the above said Rules it is clearly seen that the duty of recording of minutes is exclusively that of General Secretary. The President does not have any right to record the minutes of meeting on his own. Rule 12(a)(i) empowers him to sign all the minutes. A reading of Rule 12(a)(i) supra does not restrict that the minutes will have to be signed only by the President as contended by defendants 1 and 2. As could be seen from the register which is produced by appellants at the time of hearing of these appeals, the minutes book contain, minutes being drawn and the printed sheet of minutes generated through computer is affixed to the minutes book. The said minutes book has got resolutions attached to it for the several CEC meetings conducted earlier to 3.12.2010. After each of these meetings signature of the President on top and all the members who participated CEC meeting is taken in the said register as approving the proceedings of meetings. Similarly, the said book also contain minutes of 3.12.2010 being printed on letter head of the Union and affixed to said book. Thereafter, signatures of President and 86 members who attended the meeting being affixed to said book. Now the correctness or otherwise of that will have to be ascertained with reference to statement of CEC members who attended the said meeting.

18. Incidentally, out of 96 members attended the meeting on 3.12.2010, 58 members excluding M.G. Narayanaswamy are present before this Court in the capacity of plaintiffs. According to them, a decision was taken in the meeting dated 3.12.2010 with the permission of President to consider the extension of membership of M.G. Narayanaswamy, General Secretary for a period of six

months from the date of his superannuation i.e., 31.1.2011. To that effect, resolution is in place. The minutes book also contains signature. The allegation of President that minutes book was in his hands and the same was snatched from his hands as well as he has lodged complaint does not stand to reason because President is not the custodian of book as per the Rules and Regulations of the Union. The duty of maintaining minutes book and also making necessary recording therein is that of General Secretary. Therefore, submission of President that he was in possession of the minutes book on 3.12.2010, there was commotion and in the said commotion minutes book was snatched from his hands does not stand to reason.

19. The commotion in a meeting of Union or Association is not a strange event. Whenever there are meetings to discuss debatable points, there will always be differences and commotion leading to conflicts and contradictions between the parties. What has to be seen in the instant case is, whether such commotion has resulted in the treasurer snatching the book from the hands of President and running away from that place leading to abandonment of meeting as contended by President, 1st defendant. A reading of minutes book which was produced before this Court along with minutes being attached to it clearly discloses otherwise. The signature of President to the said book is not disputed by him. On the contrary, it is tried to be stated that signature affixed by him to said book is only with reference to attendance and it is not for the approval of minutes which was drawn on 3.12.2010. To verify the correctness or otherwise of the same this Court went through the recording of earlier minutes and its recording and approval by CEC. Invariably it is seen in all the earlier meetings also the same procedure is adopted.

20. Now coming to Rule 12(a)(i) which deals with right of President when he is present in any Union meeting of CEC and conference of General Council is required to preserve order and sign all minutes. The reading of said Rules does not say it is only President who has to sign the minutes. A reading of Rule 12(a) (i) and also perusal of minutes book clearly discloses that in addition to President affixing his signature to the minutes there is a practice in 1st plaintiff Union that all other members also affix their signature to the minutes regarding the decision taken in the said meeting by majority. Therefore, the contention of defendants 1 and 2 that on 3.12.2010 the subject which came up for extension of membership of M.G. Narayanaswamy was not taken up for discussion as the President did not give his approval for the same and that said subject was not discussed and approved, is far fetched from truth. The court below has not properly appreciated the aforesaid fact with reference to Rules governing the procedure being followed by Union with reference to conduct of meeting.

21. In addition, little more than 2/3rd of members who attended CEC meeting on that day being plaintiffs in these two suits also assert that President did give his consent for the meeting and that said subject was taken up for discussion and same was approved, cannot be disbelieved. With overwhelming majority view

being in support of the resolution being passed and further all the plaintiffs themselves being parties to said meeting and signatory to the minutes book, incidentally, the defendants 1 and 2 are not even in a position to mobilise atleast 1/3rd of members of CEC who were present in the meeting to say that minutes recorded by General Secretary on 3.12.2010 is incorrect and the meeting remained inconclusive as stated by President in his circulars dated 4.12.2010 and 6.12.2010 which were circulated among the members.

22. It is further seen that in the representation dated 27.1.2011 there is an attempt on the part of 47 members of Union i.e., nearly more than 50% of members, who attended the meeting in trying to request the President to come down from the retaliatory stand that he has taken against the General Secretary and others regarding the resolution passed in extension of membership of M.G. Narayanaswamy in CEC meeting dated 3.12.2010. A reading of the said letter reaffirms the pleadings and stand taken by 58 members of CEC and strangely though there is a request by mere than 50% of CEC members to call for emergent meeting of CEC to clarify the confusion which has arisen with reference to recording in the minutes dated 3.12.2010 recorded by the General Secretary and the circulars issued by President on 4.12.2010 and 6.12.2010, the President has not taken any steps though he has powers to call for such meeting under Rule 12(a)(i). This clearly indicates that President is trying to shy away from the truth, he was not prepared to call for the meeting and to face the members of CEC. It is also seen that there was an attempt on his part to strangle the majority request to clarify the confusion regarding the outcome of meeting dated 3.12.2010.

23. Assuming for a moment, the said subject was not taken up for discussion in the meeting on 3.12.2010, nothing prevented 1st defendant/President to call for emergent meeting of CEC as provided under Rule 12(a)(i) immediately and to clarify the same. Probably the fear that majority of members are not with him and with the fear of losing his stand in the said meeting he did not accede to the same. The court below has ignored all these aspects. However it has tried to concentrate much on two suits being filed by different set of CEC members presuming for itself that second suit may be for the reason of securing an ex parte order suppressing the earlier suit and second suit is filed only after denial of interim order, is all far fetched and totally extraneous to the merits of case. Such presumptions were not called for and the court below was expected to concentrate on the prima facie material available on record to decide the correctness or otherwise of the contentions raised by both the parties.

24. In support of their case the counsel for appellants relied upon the following decisions:

- 1) Deoraj Vs. State of Maharashtra and Others,
- 2) Indian Cable Co. Ltd., v. Sumitra Chakraborty, AIR 1958 CALCUTTA 248.
- 3) Jagmohan Dalmiya -vs- Board of Control for Cricket in India, AIR 2008 CLC

4) Heinz Italia and Another Vs. Dabur India Ltd.,

5) Nehru Yuva Kendra Sangathan Vs. Rajesh Mohan Shukla and Others,

25. In support of their case the counsel for respondents relied upon the following decisions:

1) Lakshminarasimhiah and others Vs. Yalakki Gowda-AIR 1965 Mys 310

2) Malla Suranna Vs. Kalla Somulu and others-MAIR 1969 AP 368

3) Mathew Phillips Vs. P.O. Koshy - AIR 1966 Mys 74

4) Pyarelalsa Vs. Garanchandsa and Others,

5) The Regional Transport Officer, Kozhikode Vs. N.V. Motor Service, Kozhikode and Others,

6) Himachal Steel Rerollers and Fabricators Vs. The Union of India and Others - AIR 1988 Alla 191

7) K. Gangulappa Naidu and Others Vs. K. Gangi Naidu,

8) Abdul Qadeer v. Moradabad Municipality - AIR 1955 Alla 414

9) Union of India V. Bakhshi Amrik Singh - AIR 1963 Pun 104

10) Krishnamurthy, J. Vs. Bangalore Turf Club and others - AIR 1975(2) KLJ 428

11) Gowrishankara Swamigalu Vs. Siddhaganga mutt and others - 1989(2) KLJ 548

12) State of Karnataka and Others Vs. S. Venkataraj - 1975(1) KLJ 142.

26. On going through the aforesaid two set of decisions in the light of facts and circumstances of these cases, it is seen that in the instant cases, plaintiffs who are appellants herein have demonstrated that there is a prima facie case to decide that the minutes drawn by General Secretary in respect of meeting dated 3.12.2010 being recorded by him pursuant to right conferred on him under Rule 12(c)(iii) is in order as supported by 58 members of CEC who are plaintiffs in the court below and appellants in these proceedings as against the defence taken by defendants 1 and 2. The contents of minutes and signature of defendants 1 and 2 and other plaintiffs clearly disclose the meeting being concluded as recorded in the said minutes and the decision taken in the CEC meeting is as stated in the said minutes which is approved not only by defendants 1 and 2 but also acknowledged by 59 plaintiffs in the court below clearly shows that there is a prima facie case made out by plaintiffs which the court below has failed to look in to.

27. When once prima facie the case is made out the balance of convenience always lie with the plaintiffs, who have come up in the suits trying to assert their

right. Therefore, the court below ought to have held that if interim order as prayed is not granted it will cause hardship to plaintiffs. In every Union or Association the relationship between office bearers and executive committee members should go on smoothly without there being any friction or conflicts. In the instant case defendants 1 and 2 seems to have taken extreme stand to detach themselves from entire CEC and by virtue of the post that they are holding are trying to assert themselves against the decision and opinion of CEC members which is opposed to the principles of democratic set up. Therefore, to accept the contention of President that he is supreme and he can deny the statement made by 58 responsible members of CEC is contrary to his submission supported by Joint Secretary cannot be believed by any stretch of imagination. Therefore, accepting the same would definitely cause irreparable injury and hardship to plaintiffs and also second plaintiff for another reason that the second plaintiff has a right provided to him under the Rules and Regulations to seek extension with the recommendation of Local Committee (Central) which is his right flowing from the Rules and Regulations of the Union which cannot be curtailed by whimsical and fanciful attitude of President.

28. It is further seen that decision of CEC is required to come in to effect from 1.2.20.1.1 and it shall be in force for a period of six months. As could be seen from the records the Triennial election of Union is round the corner Probably the rivalry between General Secretary and President may be to stall the legitimate right of General Secretary to continue with his membership in the Union and consequently, to continue as General Secretary until the next election, which is due in a short period. Therefore, by this attitude of President if the right of 2nd plaintiff to continue as member is denied, great hardship would be caused to him. After lapse of six months from 1.2.2011 it may not be possible for him to continue in such position even if suit is held in his favour. Therefore, the comparative hardship and balance of convenience also lies in his favour as could be seen from the interpretation of decisions referred to by both parties. In view of the above discussion, the appeals filed by plaintiffs are allowed. The impugned order dated 9.3.2011 passed on I.A. No. I in both suits, viz., O.S. Nos. 1260 and 1335/2011 are set aside. In view of I.A. No. 1, in O.S. No. 1335/2011 is allowed, the order passed on I.A. No. II in O.S. No. 1335/2011 has become infructuous