2023 INSC 156

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1392 OF 2023
(ARISING OUT OF SLP(CIVIL) NO. 11237 OF 2022)

THIRU K. PALANISWAMY ….APPELLANT(S)

VERSUS

M. SHANMUGAM & ORS. ….RESPONDENT(S)

WITH

CIVIL APPEAL NO. 1393 OF 2023
(ARISING OUT OF SLP(CIVIL) NO. 11579 OF 2022)

CIVIL APPEAL NO. 1394 OF 2023
(ARISING OUT OF SLP(CIVIL) NO. 11578 OF 2022)

CIVIL APPEAL NO. 1395 OF 2023
(ARISING OUT OF SLP(CIVIL) NO. 15753 OF 2022)

CIVIL APPEAL NOS. 1396-1397 OF 2023
(ARISING OUT OF SLP(CIVIL) NOS. 15705-15706 OF 2022)

JUDGMENT

DINESH MAHESHWARI, J.

Leave granted.

2. These appeals involving inter-related issues and same set of contesting parties, have been considered together and are taken up for disposal by this common judgment.

3. Before embarking upon the requisite details, a few preliminary comments and brief outline shall be apposite.

3.1. The matters in issue essentially relate to the internal management of a political party, All India Anna Dravida Munnetra Kazhagam[1], which is registered with the Election Commission of India. This political party, said to be having the primary cadre consisting of more than 1.5 crore members, has its own byelaws, which have been amended from time to time. The two upper levels of party structure include the Central Executive Committee[2] and the General Council of the Central Organization[3]. Though, in the scheme of byelaws, the topmost position in the party was earlier assigned to the General Secretary but, after the demise of the then General Secretary on 05.12.2016, the party organisation went through a sea of changes and ultimately, a system of joint leadership, by Co-ordinator and Joint Co-ordinator, was established by way of amendment of byelaws on 12.09.2017. However, the propositions for further amendments have met with divergent views of different factions within the party and have led to these litigations in as many as at least five civil suits. The prayers for temporary injunction during the pendency of these civil suits have led to different orders at different stages by the High Court of Judicature at Madras on the Original side and on the Appellate side as also by this Court.

3.2. For introductory purposes, we may indicate that in the first three civil suits, being CS Nos. 102 of 2022, 106 of 2022 and 111 of 2022, various applications seeking interim reliefs were dealt with by an order dated 22.06.2022 whereby, the learned Single Judge of the High Court declined

[1] 'AIADMK', for short; hereinafter also referred to as 'the party' or 'the political party'.
[2] Hereinafter referred to as 'the Executive Committee'.
[3] Hereinafter referred to as 'the General Council'.

to grant any injunction against the meeting of the General Council scheduled to be held on 23.06.2022. This order was challenged by one of the plaintiffs in an intra-court appeal, OSA No. 160 of 2022; and therein, by an order dated 23.06.2022, as passed after an early morning hearing, the Division Bench of the High Court, though allowed the said scheduled meeting of the General Council but, placed fetters on its scope by providing that no decision shall be taken on any other matter except 23 items of draft resolution. The said order dated 23.06.2022 came to be challenged in this Court in the three appeals arising out of Special Leave Petition (C) Nos. 11237 of 2022, 11578 of 2022 and 11579 of 2022 in this batch of matters. By way of an interim order dated 06.07.2022, this Court stayed the operation and effect of the said order dated 23.06.2022 and further to that, the next proposed meeting of the General Council slated to be held on 11.07.2022 was also permitted but while leaving it open to the parties to seek any other interim relief before the learned Single Judge dealing with the civil suits. Before the aforesaid order dated 06.07.2022 by this Court, two more civil suits, being CS Nos. 118 of 2022 and 119 of 2022, came to be filed before the High Court against the said proposed meeting dated 11.07.2022. Therein again, a learned Single Judge of the High Court conducted early morning hearing on 11.07.2022 and declined the interim relief. The said meeting dated 11.07.2022 was, accordingly, held at the scheduled time and various resolutions were adopted therein but, the said order dated 11.07.2022 was subjected to challenge in this Court and, by an order dated 27.09.2022, this Court remanded the matter for

reconsideration. Thereafter, the interim relief applications in the said newly filed civil suits were decided by a learned Single Judge of the High Court on 17.08.2022 granting certain interim reliefs and providing, *inter alia*, that *status quo ante*, as existing on 23.06.2022, shall be maintained and there would be no Executive Council or General Council meeting without joint consent of the Co-ordinator and Joint Co-ordinator. The said order dated 17.08.2022 was questioned in intra-court appeals, being OSA Nos. 227 of 2022, 231 of 2022 and 232 of 2022. These three appeals were allowed by the Division Bench of the High Court by its order dated 02.09.2022, which is under challenge in the appeals arising out of Special Leave Petition (C) Nos. 15753 of 2022 and 15705-15706 of 2022.

4. The aforesaid outline would make it clear that though the issue relating to the meetings of the General Council of the party-AIADMK has gone into serious questions with different parties having different propositions to make and different reliefs to seek but, the position obtaining as at present is that the said meeting dated 11.07.2022 has taken place and the said civil suits remain pending at different stages. The two principal orders in challenge before us, i.e., the one dated 23.06.2022 and another one dated 02.09.2022 essentially relate to the question of grant of temporary injunction during the pendency of the respective civil suits. In this regard too, it is to be noticed that insofar as the order dated 23.06.2022 is concerned, the operation and effect whereof was stayed by this Court on 06.07.2022, has practically lost its relevance because of the supervening and subsequent events. The position where the contesting parties stand at

present is that on one hand, the plaintiff-appellants challenging the order dated 02.09.2022 would submit that the said order is required to be set aside and that of the learned Single Judge dated 17.08.2022 is required to be restored, whereby interim relief was granted to them whereas, the parties opposing would support the order dated 02.09.2022 as being just and proper, requiring no interference.

5. We have drawn the foregoing outline essentially to indicate that though there are multiple parties representing different positions before us but the matters in essence relate to the question of grant of temporary injunction in the civil suits concerning the affairs of the political party and the disputes *inter se* the members and the factions within the party; and then, the civil suits giving rise to the orders impugned remain pending and ought to be tried in accordance with law. Thus, even when the learned counsel for the contesting parties have made elaborate submissions on a variety of factors and facets, we would confine this judgment and our consideration to the question of grant of temporary injunction in the civil suits; and to the extent adjudication is requisite by this Court in that regard. Hence, we may not delve into the questions which are not germane to the present adjudication.

6. With the foregoing preliminary comments, observations, and outline, we may take note of the relevant factual aspects, in brief, as follows:

6.1. A few of the basic facts which admit of no controversy are that the party-AIADMK was founded in the year 1972 and is duly recognised and

registered with the Election Commission of India. The party, said to be having primary cadre consisting of more than 1.5 crore members, is governed by its own byelaws. As noticed, the upper levels of party structure include the Executive Committee and the General Council. The byelaws of the party have been amended from time to time, including the amendments in the years 2011 and 2017. The propositions for further amendments are at the root of controversy in the present matters. Before taking up the questions in controversy, it may be noticed that in the scheme of the byelaws as originally framed and continued for a long time, the topmost position in the party was assigned to its General Secretary, who was to be directly elected by the primary cadre. Earlier, Dr. J. Jayalalitha was holding the said position of the General Secretary but, after her demise on 05.12.2016, the party drifted into a state of uncertainty as regards leadership.

6.2. On 29.12.2016, in a General Council meeting convened after the demise of Dr. J. Jayalalitha, Ms. V.K. Sasikala was nominated as the interim General Secretary. However, on 14.02.2017, the said interim General Secretary came to be incarcerated in view of a judgment of this Court. Ultimately, on 28.08.2017, a notice was issued for a General Council meeting on 12.09.2017. At that stage, one of the groups in the party had staked its claim before the Election Commission of India as being in-charge of the affairs of the party. All these features of intra-party dispute at that stage are not of much implication in relation to the issues at hand. The relevant aspect has been that in the meeting of the General Council held

on 12.09.2017, a unique system was put in place by amendment of the byelaws. By way of this amendment, the said late Dr. J. Jayalalitha was assigned the status of "Eternal General Secretary" of the party while providing that the said post of General Secretary would as such be abolished; and in place of the said post of General Secretary, two high level posts of Co-ordinator and Joint Co-ordinator were created.

6.3. At this juncture, it may also be noticed that the disputes in the civil suits leading to the interim orders in question essentially relate to the two persons who were respectively elected as Co-ordinator and Joint Co-ordinator after such amendment of the byelaws; they being the appellant of the appeal arising out of SLP(C) No. 15753 of 2022, Thiru. O. Panneerselvam[4], who was elected as the Co-ordinator and the respondent No. 1 of that appeal, Thiru. E.K. Palaniswamy[5], who was elected as the Joint Co-ordinator.

6.4. In the amendment of the byelaws carried out on 12.09.2017, the Co-ordinator and the Joint Co-ordinator were assigned the powers and role that were previously entrusted to the General Secretary. Tersely put, it established a system of joint leadership in the party whereby all decisions were to be taken jointly by the said two office-holders of the party. As per the amended byelaws, the tenure of Co-ordinator and Joint Co-ordinator was fixed for a period of five years. From the date of the said decision dated

[4] At several places and even during the course of submissions, Thiru. O. Panneerselvam has been referred to with the initials 'OPS'. For continuity, the same initials have been assigned in his reference in this judgment.

[5] At several places and even during the course of submissions, Thiru. E.K. Palaniswamy has been referred to with the initials 'EPS'. For continuity, the same initials have been assigned in his reference in this judgment.

12.09.2017 and until the month of May 2021, this political party-AIADMK remained in power, forming the government in the State of Tamil Nadu.

6.5. However, on 01.12.2021, the Executive Committee of the party passed a special resolution for amending Rules 20-A(ii), 43 and 45 of the byelaws. These amendments empowered the primary membership of the party to directly elect the persons to the said post of Co-ordinator and Joint Co-ordinator and it was also provided that even when the General Council could amend the rules of the party constitution and even when the Co-ordinator and the Joint Co-ordinator could relax or make alterations in the rules and regulations of the party, the provision for direct election of Co-ordinator and Joint Co-ordinator only by primary members of the party cannot be changed. The Executive Committee's resolution dated 01.12.2021 also provided that the said amendments would come immediately into effect but shall be approved by the General Council.

6.5.1. On 02.12.2021, the party election for the said posts of Co-ordinator and Joint Co-ordinator was notified. On 06.12.2021, OPS and EPS jointly contested for the post of Co-ordinator and Joint Co-ordinator; they were elected unanimously and unopposed; the necessary certificates were issued to both of them; and the election results were notified to the Election Commission of India. It appears that further elections for the posts of office bearers of the party at different levels of the organization were conducted in terms of Rules 6 to 14 of the byelaws in different phases commencing from 13.12.2021 and continuing until 28.04.2022, when the office bearers of the Chief Committee of Kazhagam were appointed and then, on

29.04.2022, members of the Central Executive Committee were appointed by OPS and EPS functioning jointly as Co-ordinator and Joint Co-ordinator. In the month of May, 2022, Form AA and Form BB were communicated by the party in relation to the election of Tamil Nadu Legislative Council. These forms were also signed by OPS and EPS, functioning jointly as Co-ordinator and Joint Co-ordinator.

6.6. Until the processes aforesaid, the Co-ordinator and the Joint Co-ordinator appear to have continued to function in tandem and in the spirit of joint leadership envisioned by the amended byelaws. Continuing as such, they issued a joint notice convening the meeting of General Council on 23.06.2022. This notice did not have any agenda or proposed resolutions. However, with the issuance of this notice, a subtle simmering appears to have started within the party for return to the system of single leadership and this had been the trigger to the present litigation. It appears that on 19.06.2022, OPS sent a letter to EPS asking for adjournment of the General Council meeting scheduled to be held on 23.06.2022, which was replied in the negative by EPS. There had been a petition filed in Madras High Court for police protection at the meeting dated 23.06.2022. It is the case of EPS that OPS received the final version of resolution to be placed before the members of General Council by the Party Headquarters and he conveyed the consent for the same. As noticed hereinbefore, the proposed meeting dated 23.06.2022 led to the said three civil suits, being CS Nos. 102 of 2022, 106 of 2022 and 111 of 2022. In CS No. 111 of 2022, the plaintiff, Mr. M. Shanmugam sought the reliefs of prohibitory injunction

against the party as also against the General Council, the Executive Committee, the Co-ordinator, and the Joint Co-ordinator**,** that they may not convene the General Council meeting proposed to be held on 23.06.2022. Two applications, OA Nos. 327 of 2022 and 328 of 2022, were also filed seeking temporary injunction so as to restrain the defendants from placing any agenda in the General Council meeting to be held on 23.06.2022. Other OAs were also filed in the other civil suits but, for the sake of brevity, we are not expanding on them because the subject-matter essentially remains the same.

6.7. The aforesaid applications with the prayer for interim order and direction were considered by a learned Single Judge of the High Court on 22.06.2022. The learned Single Judge declined to pass any interim order or to issue any interim direction; and the General Council meeting slated for 23.06.2022 was allowed to go on. The learned Single Judge observed, *inter alia*, as under: -

> "13. This Court, upon hearing the learned respective counsel and on-going through the entire record, finds that all the parties have reported no objection for conducting the General Council meeting to be held on 23.06.2022, however, the learned counsel appearing for the plaintiffs and 3rd defendant/Co-ordinator would strongly oppose to passing of any resolutions on the floor of the Meeting regarding amendment of the Rules and Regulations of the 1st Defendant/Party, mainly, abolishing the posts of Co-ordinator and Joint Co-ordinator as it would cause great prejudice to them. None of the parties have made any prima facie case for grant of interim orders. In fact, the plaintiffs have come forward with the applications seeking interim directions based upon their apprehension that resolutions may be passed in respect of amendment of the Rules and Regulations of the 1st Defendant/Party. This Court, cannot imagine what would be going to take place during the General Council meeting held on 23.06.2022 and issued interim orders/directions in advance. In fact, it is well settled that in matter of internal issues of an association/Party, the Courts normally do not interfere, leaving it open to the association/party and its

> members to pass resolutions and frame a particular bye-law, rule or regulation for better administration of the Party since any decision comes forth among the Members of the General Council, it is well within their collective wisdom and this Court cannot insist the Members to act upon in a particular manner. It is for the General Council and its members to decide and pass resolutions and this Court cannot interfere with the process of conducting the General Council meeting. Therefore, this Court is not inclined to pass any interim orders/directions, except making it clear that the General Council meeting which is scheduled to be held on 23.06.2022 shall go on.
>
> Issue Notice to the respondents returnable by 11.07.2022. Private notice is also permitted.
>
> List the matters on 11.07.2022."

6.8. The aforesaid order dated 22.06.2022 was questioned by the plaintiff of CS No. 111 of 2022 before the Division Bench of the High Court in OSA No. 160 of 2022. Taking note of the case of the plaintiff-appellant in the said intra-court appeal, the Division Bench of the High Court issued directions in the manner that the General Council meeting slated on 23.06.2022 could go on but no decision would be taken on any item other than 23 items mentioned in the draft resolution. While issuing notice, the Division Bench observed and directed in its order dated 23.06.2022 as under: -

> "11. Since the draft resolution approved by the respondents 4 and 5 does not contain an item with regard to the amendment of the Rule- 20A 1 to 13, 45 and 45 (*sic*), we are of the view that the appellant has made out a prima facie case for the grant of an order of interim injunction. In the event of not granting any interim order in the above petition, the appellant and the 4th respondent would be greatly prejudiced. Further, if an order of injunction is not granted, the prayer sought for in the suit will become infructuous. We are also of the view that the interim injunction sought for by the petitioner to prohibit the respondents from conducting the General Council Meeting cannot be granted. However, the General Council can discuss and take decisions only with regard to 23 items mentioned in the draft resolution, which has been approved by the respondents 4 and 5. The respondents shall not take any decision apart from the 23 items mentioned in the draft resolution. The General Council are at liberty to discuss any other matter apart from

the 23 items mentioned in the draft resolution, however, no decision shall be taken in the General Council meeting with regard to the same.

12. In the result, we permit the respondents 4 and 5 to convene the General Council meeting at 10.00 a.m. on 23.06.2022 and we also permit the General Council to discuss and take any decision as per the Rules and Bye-Laws with regard to 23 items mentioned in the draft resolution and we make it clear that the respondents shall not take any decision other than the 23 items mentioned in the draft resolution. The members of the General Council are at liberty to discuss any other matter, however, no decision should be taken in the General Council with regard to the same.

Notice to the respondents 1 to 3 returnable by 19.07.2022."

7. What transpired after the aforesaid order dated 23.06.2022 and in the meeting of the General Council that followed, has given rise to several disputed questions and issues. According to OPS and the persons standing on his side, in the said meeting dated 23.06.2022, a resolution was proposed to appoint Mr. A. Tamizh Magan Hussain as permanent Presidium Chairman and he conferred upon himself such post of Chairman; and thereafter, during the meeting, one of the members of the General Council approached the stage and screamed out that all the 23 resolutions that were to be voted upon, stood rejected. Then, around 2000 General Council members went on to hand over a few documents in the form of alleged affidavits/requisition signed by them to the Chairman of the meeting and simultaneously made a requisition to convene the next meeting of General Council on the date of his choice. It is alleged that the said Mr. A. Tamizh Magan Hussain announced the next date of General Council meeting as 11.07.2022 in breach of the byelaws of the party. It is the case of OPS that resolution No. 1 as tabled in the said meeting was materially different from the one which was approved by him in the email. On the other

hand, it is the case of EPS and the persons standing with him that in the said meeting dated 23.06.2022, the requisition given by 2190 members was read over and handed to the Presidium Chairman, who announced in the same meeting, in the presence of OPS and all the members of General Council, that the next General Council meeting based on the requisition, to discuss and decide on the single leadership, would be held at the same venue on 11.07.2022 at 9:15 a.m. A report of this meeting dated 23.06.2022 was sent to the Election Commission of India alongwith the report of Presidium Chairman on 28.06.2022.

7.1. After the aforesaid meeting/proceedings dated 23.06.2022, a notice dated 01.07.2022 came to be issued by "Party Headquarter's Bearers" for the General Council meeting to be held on 11.07.2022. OPS and the persons standing with him have serious questions as regards the legality and validity of the said notice dated 01.07.2022, essentially for two reasons; one that the power to convene such meeting of General Council was with Co-ordinator and Joint Co-ordinator acting jointly and with none other; and second, that this notice was sent only ten days before the scheduled meeting even though the byelaws require minimum 15 days' notice.

7.2. In the wake of the said notice dated 01.07.2022, the said Mr. M. Shanmugam (plaintiff of CS No. 111 of 2022) moved applications before the Division Bench of the High Court alleging breach of its order dated 23.06.2022. In regard to these applications, the Division Bench of the High Court made it clear, in its order dated 04.07.2022, that the interim order

dated 23.06.2022 was pertaining only to the meeting scheduled to be held on 23.06.2022 and the same could not be extended for an indefinite period. The Division Bench also made it clear that they were not expressing any opinion for the meeting scheduled to be held on 11.07.2022.

8. Thus, when in the order dated 04.07.2022, the High Court declined to intervene in relation to the meeting dated 11.07.2022, on the next day i.e., on 05.07.2022, two other civil suits came to be filed, one by OPS and another by Mr. P. Vairamuthu. Before adverting to the prayers made in the said civil suits as also the interim relief applications therein, for maintaining continuity and sequence of events, we may take note of an order passed by this Court on 06.07.2022.

8.1. While the aforesaid new civil suits and the interim relief applications were to be taken up by the High Court, the three petitions seeking special leave to appeal led by SLP(C) No. 11237 of 2022, filed in challenge to the aforesaid order dated 23.06.2022 in OSA No. 160 of 2022, came up for consideration before this Court on 06.07.2022. After taking note of the submissions made and the events that had taken place as also the scheduled meeting dated 11.07.2022, this Court, while issuing notice, stayed the operation and effect of the impugned order dated 23.06.2022 and made it clear that the meeting slated for 11.07.2022 could proceed in accordance with law while also leaving it open for the learned Single Judge dealing with the said civil suits to examine the prayer for any other interim relief and/or to pass any other order, as may be required in the facts and

circumstances of the case. The order dated 06.07.2022 as passed by this Court reads as under: -

> "Permission to file Special Leave Petitions in Dy. No. 19425 of 2022 and Dy. No. 19419 of 2022 is granted.
>
> I.A. No. 89644 of 2022 stands rejected for applicant being not a party to the civil suit(s) relating to these petitions.
>
> Heard learned senior counsel for the petitioners and the learned senior counsel appearing for the respective respondents in caveat.
>
> The matters require consideration.
>
> Issue notice, returnable in two weeks.
>
> Mr. Pai Amit and Mr. Goutham Shivshankar accepts notice on behalf of respondent Nos. 1 and 2.
>
> Notices, therefore, be issued to the unrepresented respondents, returnable in two weeks.
>
> Dasti service in addition to ordinary process is permitted.
>
> Having regard to the facts and circumstances of the case and the subject-matter of the litigation as also the contents of the order dated 22.06.2022 as passed by the learned Single Judge on the Original Side and the order dated 23.06.2022 as passed by the Division Bench of the High Court dealing with the intra Court appeals, it is considered appropriate and hence ordered and observed as under: -
>
> a. Operation and effect of the impugned order dated 23.06.2022 shall remain stayed.
>
> It may be clarified that though the meeting dated 23.06.2022 (forming the subject-matter of the orders aforesaid), has already been taken place but, in view of the further steps/proceedings taken up or likely to be taken up pursuant to the impugned order and pursuant to the observations/directions made therein, and looking to the questions raised in these petitions, it appears necessary and expedient that the operation of the impugned order should remain stayed until further orders of this Court.
>
> b. So far as the Meeting of the General Council of the respondent No. 3, slated to be held on 11.07.2022 is concerned, the same may proceed in accordance with law and in that relation, the other aspects of any interim relief ought to be projected and presented before the learned Single Judge dealing with civil suit(s) on the Original Side.
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> c. We do not consider it necessary to pass any other order of interim nature and all other aspects are to be examined at the appropriate stage.

d. It is made clear that pendency of these petitions in this Court shall not be of any impediment for the learned Single Judge dealing with the civil suit(s) to examine the prayer for any other interim relief and/or to pass any other necessary order, as may be required in the facts and circumstances of the case.

The respondents may file counter affidavit within two weeks.

List these matters after two weeks."

9. We may now revert to the subject-matter of, and the proceedings in, the said two civil suits, being CS No. 118 of 2022 and CS No. 119 of 2022.

9.1. Thiru. O. Panneerselvam filed CS No. 118 of 2022 with OA No. 368 of 2022 for interim relief while questioning the convening of General Council meeting on 11.07.2022. The main prayers in CS No. 118 of 2022 read as follows: -

"a) For a Declaration that convening the General Council Meeting on 11.07.2022 or on any other date, without the joint authorization of both Co-Ordinator and Joint Co-Ordinator is illegal, and in contravention to the bye laws of the 1st Defendant Party, more particularly rule 20A(iv) and 20A(v) of the rules and regulations of AIADMK Party.

b) For a Permanent Injunction restraining the Defendants from convening the General Council Meeting on 11.07.2022 or on any other date without the express authorization of both the Co-Ordinator and Joint Co-Ordinator."

9.2. The prayer in OA No. 368 of 2022 filed with the said CS No. 118 of 2022 had been as follows: -

"Pass an order of ad-interim injunction restraining the Respondents from convening the alleged General Council meeting on 11.07.2022 or any other date without the express authorization of both the coordinator and joint coordinator pending disposal of the suit and pass such further or other orders as this Hon'ble Court may deem fit and proper in the interest of justice."

9.3. CS No. 119 of 2022 was filed by Mr. P. Vairamuthu along with application for injunctive relief (OA No. 370 of 2022). The main prayers in CS No. 119 of 2022 are as follows: -

> "a) For a Permanent Injunction restraining the Defendants from convening the General Council Meeting on 11.07.2022 or on any other date without the express authorization of both the Co-Ordinator and Joint Co-Ordinator.
>
> b) For a permanent injunction restraining the Defendants or any other office bearer of the party to convene the General Council meeting on 11.07.2022 or any other dated without giving its members, a 15 days' notice in advance as contemplated in the rules of the 1st Defendant party."

9.4. In OA No. 370 of 2022, filed with the said CS No. 119 of 2022, the prayer for interim relief had been in the following terms: -

> "A. Pass an order of ad-interim injunction restraining the Respondents from convening the alleged General Council meeting of the 1st Respondent party which is scheduled to be held on 11.07.2022 based on an unsigned notice dated 01.07.2022 issued without giving 15 days notice in advance of the date of meeting and in violation of the bye-laws of the party pending disposal of the suit and pass such further or other orders as this Hon'ble Court may deem fit and proper in the interest of justice."

9.5. Further to the foregoing, it is also relevant to notice that on 07.07.2022, another interim relief application, being OA No. 379 of 2022, was filed in CS No. 119 of 2022, seeking additional interim relief in the following terms: -

> "A. pass an order of ad-interim injunction restraining the Respondents from passing any resolution relating to the abolition of the post of Co-Ordinator and Joint Coordinator as they were elected by the primary members of the party for the term of 5 years as per the by-law 20(A)ii, 20 A(iii) and consequentially direct the Respondents from not implementing the resolutions/decisions relating to item 3,4,5,6,7 mentioned in the notice dated 01.07.2022 in the alleged General Council meeting, which is to be held on 11.07.2022 pending disposal of the suit and pass such further or other orders as this Hon'ble Court may deem fit and proper in the interest of justice."

10. The aforesaid interim relief applications filed in relation to the said two subsequent suits were considered and decided by the learned Single Judge of the High Court on 11.07.2022 at 09:00 a.m., a few minutes before the scheduled time of the meeting of the General Council. Learned Single Judge took note of the background aspects as also the orders passed by this Court and proceeded to dismiss the applications.

10.1. Thereafter, the meeting of General Council was held on 11.07.2022, wherein certain resolutions were adopted which are the bone of contention between the parties. A summary of the resolutions adopted in the said meeting, being questioned by the plaintiffs of CS Nos. 118 of 2022 and 119 of 2022, could be usefully extracted from the written note filed on their behalf (while omitting paper book page numbers) as follows:

> "The General Council meeting was held immediately after the said Order was delivered, and various illegal resolutions were passed at the meeting for the conversion of the leadership structure of the AIADMK from a system of joint leadership under the Coordinator and Joint Coordinator to single leadership under the post of General Secretary. Illegal resolutions were also passed at the meeting expelling the OPS and other primary members from the primary membership of the Party and removing OPS from the post of Treasurer of the Party.
>
> - Expulsion of OPS as primary member and relieving him from position of Coordinator in the Party
> - Expulsion of 3 other senior leaders including 2 MLAs
> - Reverting to Single Leadership and amendments to corresponding byelaws: **Resolution 3**
> - Creation of post of Interim General Secretary: **Resolution 4**
> - Election of EPS as Interim General Secretary: **Resolution 5**
> - Notification of elections to post of General Secretary: **Resolution 6**
> - Summary of Amendments to Byelaws approved
>   - Amendments to Rule 2 of Byelaws imposing very high threshold conditions introduced for a person to contest for elections to General Secretary. Previously, any member of the Party could contest for the post."

11. Even though the said meeting had taken place on 11.07.2022, the plaintiffs of the aforesaid CS Nos. 118 of 2022 and 119 of 2022 questioned the order dated 11.07.2022 passed by the Single Judge of the High Court, declining to interfere with the meeting of the given date, in this Court by way of SLP(C) Nos. 12784-12785 of 2022 and SLP(C) No. 12782 of 2022. While considering the said petitions, this Court noticed that the High Court did not adjudicate on the reliefs sought for, essentially with reference to the order dated 06.07.2022 of this Court; and formed the view that the said applications of interim reliefs ought to be reconsidered by the High Court, particularly when in the order dated 06.07.2022, there had been no restriction on powers of discretion of the High Court. The said petitions were decided on 29.07.2022 and while remanding the matter, this Court also provided that *status quo* as existing on the date shall be maintained by the parties until hearing of the matter by the High Court but, while making it clear that *status quo* order was not to be construed as any expression of opinion by this Court on the merits of the case. The said order dated 29.07.2022 reads as under: -

> "1. Exemption applications are allowed.
>
> 2. Heard learned Senior Advocates for the parties at considerable length.
>
> 3. From the record, it appears that some of the parties to the underlying dispute pending before the High Court of Madras, filed Special Leave Petitions, being Special Leave Petition (C) No. 11237 of 2022, Special Leave Petition (C) No.11578 of 2022 and Special Leave Petition (C) No. 11579 of 2022, before this Court. These petitions were listed before this Court on 06.07.2022, when this Court passed certain directions, inter alia, relating to the meeting of the General Council of respondent no. 1 to be conducted on 11.07.2022.

4. The petitioners presently before this Court filed civil suits challenging, inter alia, holding of the meeting of the General Council of respondent no. 1 dated 11.07.2022 and sought interim reliefs in the pending suits. However, vide the impugned order, rather than adjudicating on the interim reliefs, it appears that the learned Single Judge of the High Court of Madras has not adjudicated upon the reliefs sought. Rather, the learned Single Judge held as follows:

> "11. Having heard the learned counsel for parties, this Court finds considerable force in the contentions put forth by the learned Senior counsel for the respondent/defendant. At the outset, it is pertinent to note that the Hon'ble Supreme Court has in unequivocal terms, observed that the Meeting of the General Council of the respondent No.3 slated to be held on 11.07.2022 is concerned, the same may proceed in accordance with law. Therefore, having regard to the direction of the Hon'ble Supreme Court, this Court cannot take a contrary decision by interpreting the same as technically projected by the learned Senior counsel for the applicants, stating that if the applicants make out a prima facie case that the General Council meeting is not in accordance with law, this Court can very well interfere and override the direction of the Hon'ble Supreme Court and pass orders injuncting the respondents/defendants from convening the meeting. This Court is unable to fortify the contention put forth by the learned Senior counsel for the applicants rather amazed, for more than one reason, firstly, in the order, the Hon'ble Supreme Court observed that the learned single Judge can decide the issue regarding the convening of the General Council meeting on 11.07.2022 without bearing in mind the direction already given by the Hon'ble Supreme Court; secondly, no other interim relief has been sought for before this Court by the applicants apart from not to convene the meeting, to examine and pass necessary orders by this Court; thirdly, since the order has been passed permitting the respondents/defendants to convene the meeting, if at all, the same is not proceeded in accordance with law as projected by the learned Senior counsel for the applicants, being custodian of the order, it is for the Hon'ble Supreme Court to consider this aspect of the matter and not by this Court; fourthly, all the grounds which were vehemently raised before this Court on behalf of the applicants regarding the subject meeting is not going to be proceeded in accordance with law, were in fact, very well available at the time of passing of the order by the Hon'ble Supreme Court and this Court fails to understand as to why the applicants have not brought the same to the notice of the Hon'ble Supreme Court by way

of review and seek modification of the order instead calling upon this Court to sit over and interpret the order of the Hon'ble Supreme Court, which, being inferior and abiding by law of precedent, this Court is not inclined to venture upon such course and pass contrary orders."

5. From the above, it is clear that the learned single judge has taken the view that, by virtue of the earlier order dated 06.07.2022 passed by this Court, he is unable to properly adjudicate the matters. However, a perusal of the order dated 06.07.2022 indicates no such restriction on the power or discretion of the High Court.

6. Taking into consideration the above, we are of the considered view that it would be appropriate to remand this issue to the High Court for reconsideration, without being influenced by any of the orders passed by this Court either in the present Special Leave Petitions or in Special Leave Petition (C) No. 11237 of 2022, Special Leave Petition (C) No.11578 of 2022 and Special Leave Petition (C) No. 11579 of 2022 respectively.

7. We request the High Court to dispose of the said matters, pending adjudication before it, expeditiously and preferably within a period of two weeks reckoned from the date of communication of a copy of this order.

8. Till the High Court hears the matters, status-quo as it exists today shall be maintained by the parties.

9. Before parting with these matters, we make it clear that we have not expressed any opinion on the merits of the case. It is further clarified that the status-quo order being granted today, shall not be construed as an expression of any opinion by this Court on the merits of the case. The High Court shall deal with, and decide, the matters on their own merits in accordance with law.

10. The Special Leave Petitions and all the pending applications are disposed of on the above terms."

12. Thereafter, the learned Single Judge of the High Court took up for consideration the said interim relief applications in CS Nos. 118 of 2022 and 119 of 2022 and proceeded to decide the same by his order dated 17.08.2022. Therein, the learned Single Judge formulated the points for determination in the following words: -

"*(1) Whether the plaintiff have locus to maintain the suit?*

(2) Whether the General Council Meeting dated 11.07.2022 was convened by the person authorised to convene the Meeting?

(3) In whose favour the prima facie case and balance of convenience lie?"

12.1. The learned Single Judge examined the facts of the case, byelaws of the party as also a Division Bench decision of the High Court concerning the same political party in ***S. Thirunavukkarasu and Anr. v. Selvi J. Jayalalitha and Anr.*: 1997 (III) CTC 229** and observed, *inter alia*, that if anything was done contrary to the party constitution and was likely to cause injury to the rights of the members, there was no bar to seek redressal from the Civil Court. The learned Single Judge also observed that the principle of indoor management would apply only in respect of deliberations in the meeting convened in accordance with byelaws and if the process of convening the meeting itself was faulty and contrary to law, there was no bar under Section 9 of the Code of Civil Procedure, 1908 to approach the Civil Court. Thus, the first point for determination was answered in the affirmative while holding that the plaintiffs had locus to maintain the suit as framed.

12.2. After taking note of the rival submissions and after having surveyed through the byelaws of the party, the learned Single Judge recorded his conclusion on the second point for determination in the following terms: -

"75. To put it in a nutshell: -

(i). The General Council meeting dated 11/07/2022 was not convened by person competent to convene the General Council meeting.

(ii). The said meeting was not convened providing 15 days advance notice.

(iii). The contention that the post of Co-ordinator and Joint Co-ordinator lapsed after 23.06.2022 is borne out of imagination. The reason to claim these post fall vacant after 23/06/2022 is baseless. Invented to suit the convenience and cover up the violation of the Party Constitution.

(iv). Rule-20(A)(vii) of the Party Constitution is a provision which deals with exigencies when the post of Co-ordinator and Joint Co-ordinator becomes vacant before the expiry of the nominated Central Executive Committee office bearers tenure. This provision will no way give right to the temporary Presidium Chairman to convene the General Council Meeting.

(v). The Sub-Rule(viii) of Rule 20-A vest with the Co-ordinator and the Joint Co-ordinator, the powers and responsibility to convene the Executive Committee and General Council Meeting, to implement policies and programmes of a Party and to conduct Elections and bye-Elections for the party organ. In case, if they refuse to convene the meeting, the General Council members should resort to the 2nd limb of Rule 19(vii) of the Party Constitution. If a valid request is made by 1/5th of the total members, the Co-ordinator and Joint Co-ordinator are bound to convene the meeting within 30 days of the Notice. The date of the meeting should be informed in writing, 15 days in advance. Thus, the General Council Meeting dated 11.07.2022 not convened by person authorised, also suffers short of 15 days notice in advance."

12.3. Thereafter, the learned Single Judge dealt with the question of *prima facie* case and balance of convenience and held as under: -

"76. The final submission made by the Learned Senior Counsel for the respondents/defendants is that the balance of convenience is in favour of the respondents, who commands the support of more than 95% of the General Council Members, who were elected by the primary members. Which, in other words means that, more than 95% of the primary members are behind Thiru. Edappadi K.Palaniswami, who has now been elected as temporary General Secretary of the Party in the General Council meeting held on 11.07.2022. In that meeting, it is resolved to conduct the General Secretary Election and Election Officer already nominated for the said purpose. However, in view of the interim order of the Hon'ble Supreme Court, which has directed parties to maintain *status quo*, the election process for the post of General Secretary not proceeded any further. The balance of convenience is in favour of the respondents/defendants, who want to run the party

democratically and face the primary members to be elected as the Party General Secretary. If the prayer of the injunction acceded, it will cause irreparable loss to the respondents.

77. This Court, while considering the prayer for injunction, bound to apply the triple test, namely, *prima facie case*, balance of convenience and irreparable injury. Undoubtedly, if injunction is not granted, Thiru.Edappadi K.Palaniswami, who convened the General Council meeting contrary to the written provisions of the Party Constitution will be in a more convenient position, since after the impugned meeting, the plaintiffs/applicants and few others are removed from the Party Primary Membership. They cannot even participate/contest in the proposed General Secretary Election.

78. The balance of convenience in the given contest must be tested from the arm chair of the Primary Members who are the foundation of the Party and not from the Leaders point of view. The plea made by the respondents/defendants that the majority of the primary members in the Party feel that dual leadership causes inconvenience in the administration of the Party and they cry for Single Leadership is not based on any quantifiable data. Particularly, when the very same dual leadership were able to run the Government as Chief Minister and the Deputy Chief Minister for nearly 4½ years successfully amist (*sic*) various speculation and administering the Party as Joint Co-ordinator and Co-ordinator for nearly 5 years. During this period they together decided the electoral alliance, they jointly selected candidates for Elections held at all levels and fought several elections. While so, how suddenly between 20.06.2022 and 01.07.2022, the Party with more than 1 ½ crores of cadre strength decided for change the existing dispensation through 2500 old General Council Members and whether, the views of abext (*sic*) 2500 members really reflects the view of 1½ crores primary members are questions need to be examined and be tested. As per the party Constitution, amendments can be made, but it should be by alone following due process. It is for the members of the Party to decide about Leadership and the Court cannot interfere in their decision, but if there is patent violation of the process, there is no bar to seek remedy through Court.

79. This Court has no doubt in its mind that notice dated 01.07.2022 calling for General Council meeting for on 11.07.2022 by a person who is not authorised to call for meeting is *void ab initio*. If the consequence of the void meeting allowed to sustain, it will cause inconvenience to the Party cadres, who will be uncertain about their Leadership. From the typed set of documents, this Court take notice

of the fact that due to the dispute between these two Leaders, in the local body election held recently, the party men at the grass root those who contested the election were not able to get the recognised Election Symbol 'two leaves'. Since, they both failed to make request to the Election Commission jointly for allocation of reserved symbol to their Party candidates, the Election Commission declined to allot reserved symbol. This is an irreparable injury as far as the partymen are concerned."

12.4. In view of the above, the learned Single Judge disposed of the interim relief applications in the following terms: -

"80. For the above said reasons, the **Original Application Nos.368, 370 and 379 of 2022 are disposed of**, with the following directions:-

(i) There shall be an order of *status quo ante* as on 23.06.2022.

(ii) There shall be no Executive Council meeting or General Council meeting without joint consent of the Co-ordinator Thiru.O.Panneerselvam and Joint Co-ordinator Thiru.Edappadi K.Palaniswami.

(iii) There shall be no impediment for the Co-ordinator and the Joint Co-ordinator on their own to convene the General Council Meeting jointly to decide the affairs of the party including amendment of the party constitution restoring Single leadership.

(iv) If a proper representation from not less than 1/5th members of the total members of the General Council is received, the Co-ordinator and the Joint Co-ordinator shall not refuse to convene the General Council meeting.

(v) The General Council meeting, on such requisition shall be convened within 30 days from the date of receipt of the requisition and it shall be held after 15 days advance Notice given in writing.

(vi) In case, the Co-ordinator and the Joint Co-ordinator are of the opinion that, for any reason further direction is required for conducting the General Council meeting or need assistance of Commissioner for conducting the meeting, it is open for them to approach this Court and seek necessary relief.

81. With the above directions, these **Original Applications are disposed of**. There shall be no order as to costs."

13. The aforesaid order dated 17.08.2022 came to be questioned in three intra-court appeals filed by EPS, being OSA Nos. 227 of 2022, 231 of 2022 and 232 of 2022. These three intra-court appeals have been considered and allowed by the Division Bench of the High Court by its impugned order dated 02.09.2022. The relevant passages in this order dated 02.09.2022 could be usefully reproduced as under: -

> "28. So far as the contention with regard to the convening of the General Council Meeting is concerned, the General Council Meeting was convened by the appellant and the 1st respondent (in O.S.A.No.227 of 2022) on 23.06.2022. The appellant and the 1st respondent were also very much present in the General Council Meeting on 23.06.2022. By order dated 23.06.2022 made in C.M.P.No. 9962 of 2022 in O.S.A.No.160 of 2022, this Court permitted the General Council to decide 23 Draft Resolutions and also permitted the Members to discuss other matters, however, restrained them from taking any final decision apart from 23 Draft Resolutions. In the said meeting, 2190 members gave written request to conduct General Council Meeting. Based on the said letter, it was announced in the General Council Meeting itself that the next General Council Meeting would be conducted on 11.07.2022. It is pertinent to note that the 1st respondent was very much present at the time of such announcement. As per Rule 19(vii) of the Bye-Law of the Party, the General Council Meeting should be convened every year or as and when the Co-Ordinator and the Joint Co-Ordinator consider it necessary by giving 15 days notice in advance of the meeting. The quoram for the meeting shall be 1/5th of the total number of Members of the General Council. If 1/5th of the members of the General Council requests the Co-ordinator and Joint Co-ordinator to convene the Special General Council Meeting, they should do so within 30 days on receipt of such representation. It would be appropriate to extract 19(vii) of the Bye-Law both in Tamil and English version.
> Rule 19(vii) reads as follows: -
>
> > Part vii: - The General Council Meeting shall be convened once in a year or whenever it is considered necessary by the Co-ordinator and Joint Co-ordinator by giving 15 days notice in advance of the date of meeting.
>
> The quoram for the meeting shall be one-fifth of the total number of members of the General Council. If one-fifth of the members of the General Council request the Co-ordinator and Joint Co-ordinator to

convene the Special Meeting of the General Council, the Co-ordinator and Joint Co-ordinator should do so within 30 days of the receipt of such a requisition.

On a reading of Rule 19(vii), it could be seen that the first part deals with the regular General Council Meeting which should be convened once in a year and in respect of the General Council Meeting convened at the instance of the Co-Ordinator and the Joint Co-Ordinator. For conducting such meeting, the first part of Rule 19(vii) stipulates giving 15 days notice in advance of the date of meeting. Rule 19(vii) does not provide for any written notice for convening a meeting. The second part of Rule 19(vii) deals with the quoram for the meeting, which shall be 1/5th of the total number of members of the General Council. For convening the Special General Council Meeting at the request of 1/5th of the Members of the General Council, the same should be convened within 30 days of the receipt of such a requisition by the Co-ordinator and Joint Co-ordinator. The second part does not provide for giving any notice to the members of the General Council. For a requisitioner's meeting of the General Council, Rule 19(vii) does not provide for any notice unlike the regular General Council Meeting, which requires 15 days of advance notice. The Tamil version of the Bye-Laws clearly demarcates the difference between a regular General Council Meeting and a Special General Council Meeting based on requisition of members. The Tamil Version of the Bye-Law refers to the regular meeting and states "Merpadi Kuttathirku 15 Natkkal Mun Arivippu Kudukka Vendum", while there is no such stipulation for the Special Meeting called by the requisitioners. For both the Meetings, the Bye-Laws does not contemplate written notice to be issued. The notice mentioned in Rule 19(vii) is that of the meeting and not a notice to each member. It is clear that the notice can be by way of publication, affixing at notice board, announcement, etc. In the case on hand, notice of Special General Council Meeting was by announcement in the 23.06.2022 meeting. Therefore, the notice given by announcement on 23.06.2022 was a due notice for convening the Special General Council Meeting on 11.07.2022. When the notice for General Council Meeting on 12.09.2017 was issued by the Headquarters office Bearers on 28.08.2017, the announcement made at the floor of the General Council Meeting on 23.06.2022 for convening Special General Council Meeting on 11.07.2022 can be construed as a proper notice. The word "notice", denotes merely an intimation to the party concerned of a particular fact. It cannot be limited to "notice in writing" and only to a letter. A notice may take several forms. Even assuming that the notice suffers from procedural irregularity, it is always open to the members of the General Council to ratify, as long as there is a substantive right/function underlying in the notice. This ratio has been laid down by the Hon'ble Supreme Court in the judgment reported in **AIR 1962 SC 666 (cited supra)**.

29. Had the Framers of the Bye-Laws thought of giving 15 days notice even for the convening of the Special General Council

Meeting at the request of 1/5th of the General Council members, they would have incorporated giving 15 days notice at the end of the second part of Rule 19(vii). The mentioning of giving 15 days notice in the first part would establish the intention of the framers of the Bye-Laws was to give notice to the members of the General Council only in respect of the regular Annual General Council Meeting and for the General Council Meeting convened at the instance of the Co-Ordinator and the Joint Co-Ordinator. Since the Special General Council Meeting are being convened at the request of the members of the General Council, there will not be any necessity for giving another notice to the members again for convening the Special General Council Meeting. If 15 days notice is again given even for convening Special General Council Meeting at the request of 1/5th of the members of the General Council, it leads to a situation where the meeting can be convened only between 16th and 30th day.

30. Admittedly, the Agenda for the meeting was issued on 01.07.2022. On 23.06.2022 itself a decision has been taken to convene a meeting on 11.07.2022. The requisition for convening a Special General Council Meeting signed by 2190 General Council members was addressed to the Presidium Chairman, Co-Ordinator and Joint Co-Ordinator and the same was given to the Presidium Chairman. It cannot be disputed that for convening the General Council Meeting on 23.06.2022 necessarily there should be a Presidium Chairman. In the absence of Presidium Chairman, a meeting cannot be convened. Therefore, 2190 members gave a requisition for convening a Special General Council Meeting to the Presidium Chairman for the reason that there was a rift between the Co-Ordinator and the Joint Co-Ordinator. As already stated, the announcement with regard to the next General Council Meeting on 11.07.2022 was made in the presence of the 1st respondent and also in the presence of about 2500 members. It is not the case of the 1st respondent that they did not know about the announcement made in the floor of the General Council Meeting on 23.06.2022. Though Rule 19(vii) says that the Co-Ordinator and the Joint Co-Ordinator should convene the Special General Council Meeting within 30 days from the date of receipt of the requisition by its 1/5th General Council members, since the Co-Ordinator and the Joint Co-Ordinator are at loggerheads, they were not in a position to convene the Special General Council Meeting jointly. Since the Co-Ordinator and the Joint Co-Ordinator are at loggerheads one cannot expect them to jointly convene the Special General Council Meeting and if the 2nd part of rule 19(vii) of the Bye-Law is strictly applied then it would result in a deadlock situation. If either the Co-Ordinator or the Joint Co-Ordinator is not co-operating for convening the General Council Meeting, it would lead to a situation where no General Council Meeting could be convened.

31. In the judgment reported in **(1997) 3 CTC 229 (cited supra)** the expelled member from the AIADMK Party viz., Mr. S.Thirunavukkarasu called for a General Council Meeting, parallel

meeting to the meeting called by the then General Secretary Selvi J.Jayalalithaa. The General Secretary approached this Court seeking for an order of interim injunction against the convening of parallel meeting and the same was granted in her favour. Therefore, the facts surrounding the said judgment is completely different to the facts of the present case. In the case on hand, there was no parallel meeting called for by any of the Members. The ratio laid down by the Hon'ble Division Bench of this Court reported in **(1997) 3 CTC 229 (cited supra)** cannot be applied to the facts and circumstances of the present case. It cannot be said as a general rule that the requisitioners have no option but to go to Court if the leaders do not call for a meeting. Such a statement would be undemocratic and illegal. When the Interim General Secretary could not act in the year 2017, the Office Bearers stepped in to convene the meeting on 12.09.2018 (*sic*) based on a requisition received.

32. It is not in dispute that the General Secretary was given power to convene the General Council Meeting. After the death of Selvi J.Jayalalithaa, Mrs.V.K.Sasikala was appointed as the Interim General Secretary and she could not perform as Interim General Secretary in the year 2017 because of her incarceration in a criminal case. Therefore, the Office Bearers convened the meeting on 12.09.2017 based on the requisition made by the Members. A similar situation has arisen now, (i.e.) since the Co-Ordinator and the Joint Co-Ordinator are in loggerheads, the calling for the meeting by the Presidium Chairman on 23.06.2022 at the floor of the General Council Meeting cannot be termed as illegal.

33. Admittedly, there is a functional deadlock in the Party due to the stand taken by the appellant and the 1st respondent (in O.S.A.No.227 of 2022). Rules 5, 19(i) and 19(viii) are absolutely clear that the General Council is the Supreme body of the Party. As per the By-laws of the Party, the Executive Council has not been given power either to amend the Rules or to take any important decision. If such decision is taken, the same should be approved by the General Council of the Party. Even if the Leaders take any decision or action apart from what has been specifically provided to them under the Rules and Regulations, they have to be ratified at the General Council. The supremacy of the General Council is because it is elected ultimately by the Primary Members in terms of Rules 6 to 14 of the Bye-Laws.

34. As already stated, the General Council consists of 2665 members, who were elected through the Organizational Elections under Rules 6 to 14 of the By-laws. The elected General Council Members represent the Primary Members of the Party. It cannot be disputed that the General Council is the Supreme Body in the party. As per Rules 19(i) and 19(viii) of the Bye-Laws, the General Council was given authority to decide on the policy matters. As per Rule 43 of the Bye-Laws, the General Council was given power to amend the Bye-Laws. The General Council held on 11.07.2022 was a requisitioners' special meeting under Rule 19(vii) of the Bye-Laws. As already stated, 2190 members have made the requisition for

convening a special General Council Meeting. The requisition given at the General Council Meeting on 23.06.2022 was announced at the floor of the meeting, informing the members that a General Council Meeting would be convened on 11.07.2022. The requisition made by 2190 members was followed by an agenda, which was signed by 2432 members. The meeting was conducted on 11.07.2022 and a total of 2460 members were present in the meeting. Thereafter, 2539 members, supporting the resolutions passed in the General Council Meetings, filed affidavits before the Election Commission of India.

35. The Co-ordinator and Joint Co-ordinator could not act on the requisition since there was a dead lock in the decision making in the Party. According to the appellant, the posts of Co-ordinator and Joint Co-ordinator had lapsed on 23.06.2022 for want of ratification. It is pertinent to note that the elections of the other members of the General Council shall not lapse since their elections were not based on any amended Bye-Law. The present situation, is identical to the situation that was prevailing in 2017. When the Co-ordinator and Joint Co-ordinator were not in a position to call for the meeting, the members cannot be forced to approach the Court every time, therefore, the power vested on the office-bearers under Rule 20 A (vii) should be exercised for this purpose as exercised for the meeting held on 12.09.2017.

36. For easy reference, the Bye-Laws of the Political Party is annexed with this judgement.

37. The amendments to the Bye-Laws can happen only at the General Council under Rule 43 of the Bye-Laws.

38. The General Council Meeting was convened on 11.07.2022 pursuant to the order passed by the learned Single Judge in O.A. Nos. 368, 370 and 379 of 2022 and thereafter, by order dated 06.07.2022 the Hon'ble Supreme Court in S.L.P. (C) No. 11237 of 2022 has observed as follows: -

> "…….b. So far as the Meeting of the General Council of the respondent No. 3, slated to be held on 11.07.2022 is concerned, the same may proceed in accordance with law and in that relation, the other aspects of any interim relief ought to be projected and presented before the learned Single Judge dealing with civil suit(s) on the Original Side…."

39. The appellant-Co-Ordinator sent a letter dated 28.06.2022 to the Election Commission of India stating that the posts of Co-Ordinator and the Joint Co-Ordinator had lapsed for the reason that the election in the Executive Council Meeting dated 01.12.2021 was not ratified in the General Council Meeting held on 23.06.2022. From the said letter, it is clear that the appellant-Joint Co-Ordinator has given up his right to continue as Joint Co-Ordinator. Therefore, there is no Joint-Co-Ordinator in the Party after the said letter. The appellant cannot be compelled to continue as Joint Co-Ordinator

forever. When the appellant has given up his right to continue as Joint-Co-Ordinator, the appellant and the 1st respondent in O.S.A. No. 227 of 2022 cannot jointly conduct the General Council Meeting. The common sense approach was followed on 12.09.2017, wherein the General Council Meeting was announced at the instance of the Office Bearers Party Headquarters. The strict compliance of Rule 19(vii) would lead to absurdity. In these circumstances, the General Council Meeting called for by the Presidium Chairman on 23.06.2022 to convene the Special General Council Meeting on 11.07.2022 is proper.

40. The requisition for the meeting was made by 2190 members out of the 2665 members of the General Council. This amounts to more than 80% of the General Council members. The requisition was to be made by the members for deciding the issue of the Single Leadership. The requisition was readout to all the members who were present and with their approval, it was handed over to the Chairman of the meeting on the stage in front of the requisitioners. The requisition was followed with an Agenda being signed and requested by 2432 General Council Members. Thereafter, the meeting on 11.07.2022 was attended by 2460 members and 2539 members have filed affidavits before the Election Commission of India affirming their support to the resolution passed at the General Council Meeting on 11.07.2022.

41. The learned Single Judge, while disposing of the Original Applications observed that since there is interpolation, it can only be a manufactured document. It is pertinent to note that none of the members, who signed the requisition or the agenda or attended the meeting, have come before this Court, claiming that they did not do so. That apart, the 1st respondent-plaintiffs has not made out any assertion in the plaint that there was no requisition that was placed at the meeting. Absolutely, there is no averment in the pleadings that the requisition letter is a fabricated document or not genuine. In the absence of any pleading or averment, the contention of the 1st respondent (in O.S.A. No. 227 of 2022) that the requisition letter given by 2190 members is not genuine cannot be accepted. When none of the 2190 members, who have signed the requisition letter to convene the Special General Council Meeting, disputed their signature or contents of the document, a third party to the said letter cannot question the same. The person who can dispute the signature can only be that particular person and not a third party. In the absence of any challenge made by the signatories to the requisition letter, the said letter cannot be held as fabricated or not genuine document. Even assuming that the Resolutions passed on 23.06.2022 and on 11.07.2022 are found to be illegal or against the Bye-Laws of the Parties, it is always open to 1/5th members of the General Council to convene a Special General Council Meeting and reverse the resolution passed in those two meetings. In the case on hand, no such meeting was called for at the instance of 1/5th of the General Council members to reverse the decision. This would

establish that no irreparable injury has been caused to the 1st respondent (in O.S.A.No.227 of 2022).

42. The members of the General Council are representing the Primary Members of the Party and when the majority of the members of the General Council have given requisition for convening the Special General Council Meeting on 11.07.2022 and also supported the Resolutions on 23.06.2022 and 11.07.2022, the balance of convenience cannot be held in favour of the 1st respondent. On the contrary, the balance of convenience can only be in favour of the appellant.

43. With regard to the *prima facie* case is concerned, **(2012) 6 SCC 792 (cited supra)** the Hon'ble Supreme Court held that even where *prima facie* case is in favour of the 1st respondent-plaintiff, the Court will refuse temporary injunction if the injury suffered by the 1st respondent on account of refusal of temporary injunction was not irreparable. In the judgement reported in **(1992) 1 SCC 719 (cited supra)** the Apex Court held that while granting or refusing to grant interim injunction, the Court should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus the Court has to exercise its sound judicial discretion in granting or refusing the relief of interim injunction pending the suit.

44. By giving a direction that there shall be no Executive Council Meeting or General Council Meeting without joint consent of the Co-Ordinator and the Joint Co-Ordinator, a situation has arisen where the party, as a whole, will undergo irreparable hardship, since there is no possibility of the appellant and the 1st respondent (in O.S.A.No.227 of 2022) acting jointly to convene a meeting, much less a General Council Meeting to discuss Single Leadership. The direction only furthers the "functional deadlock" that was already in existence in the Party.

45. As per Rule 20A(ix), the Co-Ordinator and Joint Co-ordinator are empowered to take such actions as he may deem fit on important political events, policies and programmes of urgent nature which cannot brook delay and await the meeting of either Executive Committee or General Council of the Party. Such decisions and actions have to be ratified by the General Council in its next meeting. However, it is open to the Co-Ordinator and Joint Co-ordinator to obtain the views of the General Council Members on such urgent matters by post when the Council is not in session. Therefore, even if the Co-Ordinator and Joint Co-Ordinator take any decision/action, the same is to be ratified at the General Council Meeting.

46. When the applications have been filed challenging the Special General Council Meeting held on 11.07.2022 and when the learned Single Judge, by order dated 11.07.2022 permitted the convening of the Special General Council Meeting on 11.07.2022, which was challenged before the Hon'ble Supreme Court, the Apex Court, by order dated 29.07.2022, while remanding the matter back to the learned Single Judge for fresh consideration, directed the parties to maintain status quo as on the date of 29.07.2022. It is pertinent to note that the Apex Court has not directed the parties to maintain status quo as on 11.07.2022 or on 23.06.2022. Therefore, it is clear that the Resolutions passed on 23.06.2022 and 11.07.2022 were not disturbed till the pronouncement of the order by the learned Single Judge in O.A. Nos. 368, 370 and 379 of 2022 on 17.08.2022.

47. When the Presidium Chairman had announced the date of next Special General Council Meeting based on the requisition made by 2190 members of the General Council on 23.06.2022 the 1st respondent-plaintiff should have challenged the decision taken on 23.06.2022 to convene a Special General Council Meeting on 11.07.2022. In the case on hand, the 1st respondent has filed the suit challenging only the Special General Council Meeting held on 11.07.2022. When the 1st respondent did not challenge the Resolutions passed in the General Council Meeting held on 23.06.2022, an order of status quo ante as on 23.06.2022 cannot be granted.

48. So far as the direction to the appellant and the 1st respondent (in O.S.A.No.227 of 2022) to conduct the Executive Council Meeting or General Council Meeting jointly is not workable, as the appellant and the 1st respondent have not been able to act together and there has been a deadlock, which has resulted in the impossibility to perform the functions, which is the very premise based on which the General Council of the Party was held on 12.09.2017, wherein the posts of Co-Ordinator and the Joint Co-Ordinator were created and the appellant and the 1st respondent came to be elected to the said posts.

49. Since the appellant-Joint Co-Ordinator, by his letter dated 28.06.2022 to the Election Commission of India, has stated that his post along with the post of Co-Ordinator had lapsed, as already stated, he cannot be compelled to continue in the said post. That apart, the 1st respondent (in O.S.A.No.227 of 2022) alone cannot take any decision independently. In these circumstances, we are not giving any finding with regard to the stand taken by the appellant that the posts of Co-Ordinator and Joint Co-Ordinator had lapsed for want of ratification on 23.06.2022. The said issue can be decided in the pending suit.

50. The ratio laid down in the Judgments relied upon by the learned Senior Counsels appearing for the appellant squarely applies to the facts and circumstances of the present case. The ratio laid down by the Gauhati High Court in an unreported judgement made in ***CRP***

No.22(AP) of 2015 [cited supra] applies to the case of the 1st respondent.

51. Though there is no dispute with regard to the ratio laid down by the Hon'ble Supreme Court in the judgment reported in **1990 Supp (1) SCC 727 (cited supra)** relied upon by the learned Senior Counsel appearing for the 1st respondent, since the facts and circumstances of the present case differs, the said ratio is not applicable to the present case.

52. For the reasons stated above, the order passed by the learned Single Judge in the Original Application in O.A. No. 368 of 2022 in C.S. No.118 of 2022 and the Original Applications in O.A. Nos. 370 and 379 of 2022 in C.S.No. 119 of 2022 are set aside. Consequently, the Original Applications in O.A.Nos.368, 370 and 379 of 2022 are dismissed. The above Original Side Appeals are allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed."

14. The aforesaid order dated 02.09.2022 has been challenged in the appeal arising out of SLP (C) No. 15753 of 2022 by the plaintiff OPS and in the appeal arising out of SLP (C) No. 15705-15706 of 2022 by the said other plaintiff P. Vairamuthu. These two petitions were entertained by this Court on 30.09.2022 and on that date, the learned counsel appearing on behalf of EPS stated at the Bar that until hearing of these matters, there shall not be any election of the General Secretary. This Court recorded the statement so made and directed the respondents accordingly. The order dated 30.09.2022 reads as under:

"Issue notice.

The respective learned counsel accepts notice on behalf of the respective respondents, therefore, the respondents need not be served now. Notice be made returnable on 21.11.2022.

To be notified with SLP (C) No. 11237 of 2022.

In the meantime, all the parties are directed to complete the pleadings.

Shri C. Aryama Sundaram, learned Senior Advocate appearing on behalf of respondent No. 1 has stated at the Bar that till the present matters are heard, there shall not be any election of the General Secretary held. We record the statement and direct the respondents accordingly."

15. In the above backdrop, the appeals preferred in challenge to the said order dated 02.09.2022 as also the previous order dated 23.06.2022, as passed by the Division Bench of the High Court, have been taken up by this Court for analogous hearing. However, it may be usefully reiterated that so far as the order dated 23.06.2022 is concerned, it has practically lost its relevance because of the subsequent events of holding of meeting dated 11.07.2022 and passing of other orders by the High Court and by this Court. The principal part of the matter, therefore, relates to the legality and validity of the order dated 02.09.2022. In this position and as agreed to by the learned counsel for the parties, we have heard the respective submissions principally in relation to the order dated 02.09.2022. Though as indicated hereinbefore, a wide variety of contentions have been urged by the learned counsel for the parties but, having regard to the fact that the appeals herein essentially relate to the matter of grant of temporary injunction, only the relevant submissions in that regard need to be dealt with in this judgment.

16. We have heard the detailed and elaborate submissions of the learned senior counsel Mr. Ranjit Kumar and Mr. Guru Krishna Kumar appearing for the respective appellants on one hand and those of the learned senior counsel Mr. C. Aryama Sundaram, Mr. C. S. Vaidyanathan, Mr. Mukul Rohtagi and Mr. Atul Chitale appearing for the respective contesting respondents.

16.1. Before proceeding further, it may be indicated that while the detailed arguments were concluded on 11.01.2023 and judgment was

reserved, the matters were taken up again on board in view of mention made on behalf of the respondent No. 1 of SLP (C) Nos. 15705-15706 of 2022 and thereafter, this Court passed an order on 03.02.2023 for the limited purpose of making arrangements for the party, in relation to the upcoming bye-election of 98-Erode (East) Assembly Constituency. Therein, we provided for choosing of the candidate of the party by the General Council and it was also provided that expulsion of the appellant OPS and other persons would not operate for that limited purpose of decision-making by the General Council; and that the choice of the candidate shall be conveyed to the Election Commission of India by the Presidium Chairman. The said order was passed in the peculiar circumstances and looking to the requirements of urgency as also in the larger interest of democracy but, while making it clear that such arrangement shall be without prejudice to the rights of the parties and without conferring any additional right in any of the parties.[6]

[6] The said order dated 03.02.2023 reads as under:

> "In continuity with and as per the permission granted in the order dated 30.01.2023, we have heard learned counsel for the parties for the limited purpose in relation to the bye-election of 98-Erode (East) Assembly Constituency.
>
> We have taken note of the respective stand of the contesting parties as also the Election Commission of India in these matters.
>
> As the judgment remains reserved, we do not wish to elaborate on any of the contentious issues involved in the matters. However, having taken note of the fact that bye-election for 98-Erode (East) Assembly Constituency has already been announced where the last date for filing nominations is 07.02.2023, in our view, a workable solution/interim arrangement appears to be in the interest of the political party concerned as also in the larger interest of democracy with participation of the party's candidate in the forthcoming bye-election.
>
> Hence, after taking note of the submissions and counter-submissions of the learned counsel appearing for the contesting parties as also the propositions of the learned counsel appearing for the Election Commission of India, we deem it appropriate to make the interim arrangement only in relation to the forthcoming bye-election and only for the purpose of participation of a candidate of the party concerned.

17. The relevant contentions urged on behalf of the appellants in challenge to the impugned order dated 02.09.2022 could be summarised as follows:

17.1. Learned senior counsel for the appellants have submitted that the Division Bench of the High Court could not have interfered with the order dated 17.08.2022 as passed by the learned Single Judge of the High Court without recording a finding to the effect that the order as passed was

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In regard to the above, without prejudice to the rights of any of the parties and without conferring any additional right in any of the parties, it is considered appropriate and hence provided thus :

(1) The proposal as regards choosing the candidate of the party shall be placed for consideration and for final decision by the General Council of the party.

(2) As regards the decision-making process of the General Council for choosing the candidate and looking to the time constrains, it is also provided that this process may be taken up by placing the necessary resolution for consideration by way of circulation.

(3) In this process of decision-making by the General Council for arriving at the name of a candidate to be put up by the party in the forthcoming bye-election of 98-Erode (East) Assembly Constituency, the persons who had allegedly been expelled from the party [namely S/Shri O. Panneerselvam (appellant), R. Vaithilingam, J.C.D. Prabakar and P.H. Manoj Pandian] and whose expulsion is also a matter of contentions, it is provided that such expulsion shall not operate so far as the present purpose is concerned, i.e., for the purpose of decision by the General Council to choose the candidate for the forthcoming bye-election of 98-Erode (East) Assembly Constituency. In other words, the aforesaid four persons shall be entitled to put forward their votes in the circulation process for this limited purpose of selection of the candidate of the party for the said bye-election.

(4) The ultimate decision of the General Council, as regards choice of the candidate shall be conveyed to the Election Commission of India by the Presidium Chairperson, Dr. A. Tamizh Magan Hussain; and such communication of the decision of General Council shall be accepted by the Election Commission of India as being the authorization on behalf of the party for the limited purpose of putting up its candidate in the forthcoming bye-election and the returning officer shall take necessary steps accordingly.

We again make it clear that the judgment in the main matters remains reserved and this interim arrangement shall otherwise not be of conferring any additional right in any of the parties nor of taking away any of the rights of the parties. The interim arrangement in terms of this order shall remain confined to the process of bye-election of 98-Erode (East) Assembly Constituency and not beyond.

Copy of this order be provided to all the parties as also to the Election Commission of India.

Having regard to the overall circumstances and the nature of order passed hereinabove, we do not find any necessity of impleadment as such of the Election Commission of India in these proceedings nor any other order appears requisite. Therefore, both the applications (for impleadment and directions) stand disposed of.

Judgment remains reserved."

arbitrary, capricious, perverse or contrary to the settled principles of law regulating grant of injunctions. Highlighting the contours of an Appellate Court's jurisdiction in such appeals, they have placed reliance on the decision of this Court in ***Wander Ltd. and Anr. v. Antox India (P) Ltd.*: 1990 Supp SCC 727** to submit that the Appellate Court could interfere with the exercise of discretion by the Court of first instance only when the discretion is shown to have been exercised arbitrarily, or capriciously or perversely or where the Court has ignored the settled principles of law regulating the grant or refusal of interlocutory injunction. No such case having been made out in the appeals before the Division Bench of the High Court, interference with and reversal of the well-considered order of the learned Single Judge deserves to be disapproved.

17.2. It has been strenuously argued that the very convening of the meeting of General Council, to be held on 11.07.2022, had been illegal and *non est*; the said meeting remains unauthorised; and no resolution taken therein could be said to be permissible in law for two main reasons.

First that, from a reading of the Rules 19(vii) and 20-A(viii), it is but clear that the authority to convene the General Council meeting is vested only with the Co-ordinator and the Joint Co-ordinator, acting jointly. Therefore, the Presidium Chairman neither had the power to make any announcement on 23.06.2022 about convening of the General Council meeting on 11.07.2022 nor he could have convened any such meeting. Further, the written notice dated 01.07.2022, not signed by OPS and sent to the General Council members by an unspecified body (Head Quarters'

Office Bearers) to call for the meeting on 11.07.2022, is void for having been issued by the persons without having authority to do so under the byelaws of the party. It has also been submitted that in regard to such questions arising in the past, the High Court has held in the case of ***S. Thirunavukkarasu*** (supra), that the scheme of byelaws does not envisage the requisitionists to convene the General Council meeting; and if the General Secretary does not act on the requisition with sufficient dispatch, the only option in such a scenario is to approach the Court. On the same principles and analogy, if at all the Co-ordinator and the Joint Co-ordinator would fail to convene the meeting, the only option is to seek intervention of the Court but a meeting cannot be convened by the persons not authorised to do so.

Secondly, the notice dated 01.07.2022 did not comply with the requirement of 15 days period as stipulated under Rule 19(vii) of the byelaws of the party; and there is a long-standing practice of AIADMK party to issue written invitations to the members of the General Council for the meetings. It is further submitted that the announcement made by the Presidium Chairman at the meeting was lacking in material particulars such as venue, etc. which is contrary to settled principles of law as laid out in the authoritative book "Shackleton on the Law and Practice of Meetings"[7].

17.3. Learned counsel for the appellants have further contended that the balance of convenience in the present matters has been in favour of grant of injunction as prayed for. It is submitted that the so-called will of a

[7] Edited by Madeleine Cordes, John Pugh-Smith, 13th ed., Thomson Reuters at p. 41.

purported majority in the General Council does not reflect the will of the entire primary membership of the party; and no data has been submitted by the respondents to suggest that the primary members of the party want to revert to the regime of single leadership. It is further submitted that the issue of balance of convenience is to be considered in light of the nature of *prima facie* case set up by the plaintiffs in the suit; and not *de hors* such issue, as has been done by the Division Bench of the High Court in the order impugned. Reliance has been placed on one passage in the decision of this Court in ***State of Karnataka v. State of A.P. and Ors.*: (2000) 9 SCC 572** and on another decision of this Court in ***Surya Nath Singh and Ors. v. Khedu Singh (Dead) by LRS and Ors.*: 1994 Supp (3) SCC 561** to submit that balance of convenience while granting interim injunction is to be seen from the standpoint of the '*justice of the situation*'.

17.4. It has also been argued that if the interim injunction is not granted as prayed for, irreparable injury would be caused to the appellant OPS and the persons on his side or similarly situated, who have been purportedly expelled as primary members of the party as a consequence of the resolutions passed in the General Council meeting held on 11.07.2022. This expulsion coupled with other substantial changes made in the leadership structure of the party would, in effect, exclude OPS from participating in the affairs of the party and by the time of final adjudication of the suit, the changes made to the composition of the party would be irreversible in the absence of protective interim order.

17.5. Furthermore, on the issue of grant of interim injunction as a discretionary measure, balance of convenience and *prima facie* case, the learned counsel for the appellants have relied upon the decisions of this Court in ***Assistant Collector of Central Excise, Chandan Nagar, West Bengal v. Dunlop India Ltd. and Ors.*: (1985) 1 SCC 260**, ***Dalpat Kumar and Anr. v. Prahlad Singh and Ors.*: (1992) 1 SCC 719** and ***American Express Bank Ltd. v. Calcutta Steel Co. and Ors.*: (1993) 2 SCC 199**.

18. The contra contentions urged on behalf of the respondents in support of the said order dated 02.09.2022 could also be usefully summarised as follows:

18.1. Learned senior counsel for the respondents have submitted that the decision as to acceptance or rejection of an interim injunction is a matter of discretion, which does not require interference under Article 136 of the Constitution of India. It has also been argued that the reliefs claimed in the applications in question had been against holding of the General Council meeting dated 11.07.2022, which has already been concluded and hence, the reliefs have practically become infructuous. The decisions of this Court in ***Seema Arshad Zaheer and Ors. v. Municipal Corpn. of Greater Mumbai and Ors.*: (2006) 5 SCC 282** and ***Skyline Education Institute (India) Private Limited v. S.L. Vaswani and Anr.*: (2010) 2 SCC 142** have been relied upon to submit that in the matter of grant or refusal of injunction, interference by the Supreme Court under Article 136 of the Constitution of India could only be considered when the discretion exercised by the High Court is vitiated by an error apparent or perversity or

manifest injustice. It is submitted that the impugned order dated 02.09.2022 does not suffer from any such infirmity and hence, calls for no interference.

18.2. It has further been argued that the General Council is the supreme authority in the party as is evident from Rules 5, 5(vii), 19(i), 19(viii) and 43. The General Council, therefore, has unfettered powers to amend, add or delete the byelaws; including the powers that are not specifically placed in the byelaws; and it is for this supremacy that as a condition of membership into the party, one has to abide by the decision of the General Council. Relying on the decision of this Court in ***K. Rajendran and Ors. v. State of Tamil Nadu and Ors.*****: (1982) 2 SCC 273** it has been submitted that the General Council has the power even to create, abolish and replace the post.

18.3. It has been contended, particularly with reference to Rule 19(vii) of the byelaws, that the notice sent on 01.07.2022 would qualify to be a proper notice for, the byelaws only speak about notice of the meeting and not notice to the members; the byelaws do not require service of written notice for convening of meeting; the dictionary meaning of the word 'notice' is intimation and does not necessarily mean notice in writing; and 15 days' notice is to be given only for the regular meeting of the General Council and not for the special meeting. Further, it has been submitted that in the Tamil version of byelaws, the expression 'aforesaid' in the first part of Rule 19(vii) has been clearly used to denote that 15 days' notice is required to be given for the regular meeting and not for the special or requisitioned meeting. It has also been submitted that the formality of notice cannot

vitiate the action when parties had intimation of the event, as announced by Presidium Chairman on 23.06.2022. These contentions have been supported by relying on a decision of this Court in ***Nilkantha Sidramappa Ningashetti v. Kashinath Somanna Ningashetti and Ors.*****: AIR 1962 SC 666**.

18.4. As to the functional deadlock, due to the divergent and discordant views of the Co-ordinator and Joint Co-ordinator leading to non-functioning of party, the learned counsel for the respondents have relied on the decision in the case of ***B.N. Viswanathan and Anr. v. Tiffin's Barytes, Asbestos and Paints Ltd.*****: (1953) 66 LW 124**, wherein it was held that the General Body of shareholders had the power to carry out the functions of the board, when it was impossible for the board to perform its functions. It has been submitted that if there is a vacuum and something is done within the framework, such an action is valid unless it is impermissible within the framework. It has also been submitted that having regard to the position obtaining in the present case, the said decision in ***S. Thirunavukkarasu*** (supra) is of no application because therein an expelled member of AIADMK attempted to convene a General Council meeting, parallel to the meeting called by the then General Secretary whereas, in the present case no parallel meeting of General Council has been convened by anyone.

18.5. It has further been submitted, relying on the decision of this Court in ***T.P. Daver v. Lodge Victoria No. 363 S.C. Belgaum and Ors.*****: (1964) 1 SCR 1**, that in the matters pertaining to internal affairs or management of an association, the Court would ordinarily be slow in interfering; and the

impugned order of the Division Bench of the High Court, standing in conformity with these principles, calls for no interference.

19. In rejoinder submissions, learned senior counsel for the appellants have submitted that until 23.06.2022, there was not even a whisper of reverting to the system of single leadership amongst the party members; the functions of the party were being carried out smoothly; and even during the Panchayat elections, by both the Co-ordinator and the Joint Co-ordinator jointly. Hence, the argument of "functional deadlock" is disingenuous and incorrect.

19.1. It has been further submitted that the General Council is not superior to the Co-ordinator and Joint Co-ordinator of the party as pursuant to the amendments made to the byelaws on 01.12.2021, the Co-ordinator and Joint Co-ordinator are to be elected directly through vote by an electorate consisting of entire primary membership of the party. Further, Rule 45 of the byelaws authorizes them to relax or make alterations to any of the rules and regulations of the party. Therefore, the logic that a party organ is supreme because its members are ultimately elected by the primary membership of the party applies even more to the posts of Co-ordinator and Joint Co-ordinator.

19.2. Learned counsel for the appellants would submit that if it be assumed that the posts of Co-ordinator and Joint Co-ordinator lapsed because of non-ratification of the amendments of 01.12.2021 by the General Council, the elections of other office-bearers held after the amendments of 01.12.2021 would also stand annulled and in any case,

even according to Rule 20-A(vii) of the byelaws, the other office-bearers as mentioned therein do not have the power to convene the General Council meeting.

20. We have given anxious consideration to the rival submissions and have examined the record of the case with reference to the law applicable.

20.1. Before proceeding further, a few comments on the width and limits of the consideration in these appeals appear necessary. Having regard to the subject-matter of the civil suits leading to the order dated 17.08.2022 by the learned Single Judge and the impugned order dated 02.09.2022 by the Division Bench of the High Court and the totality of circumstances, it may at once be observed in relation to the submissions made by either of the parties concerning the contents of the resolution taken in the questioned meeting on 11.07.2022, that no challenge thereto as such has been laid in the suits as filed or by way of any amendment of pleadings; and entering into any aspect relating to the substance, contents and merits of the decisions said to have been taken in the said meeting dated 11.07.2022 would be practically traversing even beyond the scope of the subject civil suits. In other words, the real question to be determined in these appeals against the order dated 02.09.2022 would only be as regards the prayer for temporary injunction against convening of the meeting dated 11.07.2022. Within this framework and boundaries, we may examine the rival contentions to determine the question as to whether the impugned order dated 02.09.2022 calls for any interference.

21. While dealing with the relevant contentions, we may usefully take note of a few decisions cited in these appeals so as to define the parameters and contours of the discussion forthcoming.

21.1. The case of ***S. Thirunavukkarasu*** (supra) has been referred to by the learned counsel for the appellants in order to submit that therein, a Division Bench of the High Court extensively interpreted the scheme of the byelaws of the party-AIADMK and held that the scheme of byelaws does not envisage the requisitionists to convene the General Council meeting; and if the General Secretary (now replaced by the Co-ordinator and the Joint Co-ordinator jointly) fail to convene the meeting, the only option is to seek intervention of the Court but a meeting cannot be convened by the persons not authorised to do so. The relevant paragraphs of the said decision read as under: -

> "69. As per rule 20(v) of the party, the General Secretary of the party is competent to convene the general council meeting. Rule 19(viii) does not authorise anyone else to convene the special general council meeting of the party. On facts, the learned single judge having held that the letter of requisition was not posted, has also held that even otherwise the plaintiff had convened the meeting of the general council as per Rule 19(viii). We have no good reason to differ from the finding recorded by the learned single judge that the letter of requisition was not given to the plaintiff. Once we take the view that the letter of requisition was not given to the plaintiff, the defendant had no authority to convene the meeting of the general council. Even otherwise Rule 19(viii) has not made any provision for convening the meeting of the general council by the requisitioning members in case the plaintiff as the general secretary failed to convene the meeting.
>
> 70. In this regard, the learned senior counsel for the defendant and the learned counsel for the impleading applicants relied on the order of the learned single Judge of this Court *in* ***Karuppasamy Pandian & 6 others v. All India Anna Dravida Munnetra Kazhagam and two others,*** (Application No.119 of 1988 disposed of on 20.1.1988 is C.S.No.28 of 1988). In our view it is not an authority for the proposition that in case the General Secretary fails to convene the meeting under Rule 19(viii), the requisitioning members can

convene a meeting. In the said order the Court refused to convene a meeting by appointment of a Commissioner. But an observation was made that if the General Secretary refused to convene a meeting, it is always open to any member of the party's general council to convene a meeting and take any decision after they establish their majority. In our view the order governs the facts of that case in the given circumstances. Even otherwise we do not agree that the requisitioning members may convene a meeting in case the general secretary fails to convene a meeting in terms of Rule 19(viii).

71. Rule 20 (v) specifically states that the general secretary of the party shall have the powers and responsibilities to convene the executive and general council meeting. Rule 19(viii) also obliges the General Secretary to convene special meeting of the general council on requisition within 30 days of the receipt of such requisition. Rule 19(viii) has made a specific provision to preside over the general council meeting, that in the absence of Chairman, one of the members of the general council elected by the body shall preside over the meeting. Again Rule 23(ii) states that in the absence of the chairman, one of the members present will preside over and conduct the meeting of the central executive committee and general council. In the very party rules, when provisions are made for presiding over meetings in the absence of chairman, a similar provision could have been made in case of Rule 19(viii) in the matter of convening a meeting.

72. The argument of the learned senior counsel for the defendant is that Rule 19(viii) may be harmoniously construed so as to serve the purpose of the rule; if the general secretary does not convene the meeting, the requisitioning members cannot be made helpless, and in the normal course, having given the requisition, they were entitled to have a meeting, and if not convened by the general secretary within the given time, they could themselves convene such a meeting. He also added that even if the general secretary convenes a meeting within 30 days from the date of receipt of the requisition fixing the date of the meeting after several years, it will create an anomalous situation. In that regard the learned counsel submitted that convening a meeting must be taken as holding a meeting. As already noticed above, general council meeting has to be called atleast once in six months. In case the general secretary convenes a meeting within the time given but scheduling to hold the meeting after few years, in such a situation it can always be challenged as unreasonable and stating that the very object of the rule is defeated or on such other grounds available. It is equally open to the members of the party to amend the rule if so desired so as to make a specific provision in this regard.

73. Rule 19(vii) says that meeting of the general council shall be held once in six months by giving 15 days notice in advance of the date of the meeting. But in Rule 19(viii) of the same rules, it is stated that if a requisition is made the general secretary has *to convene*

special meeting within 30 days from the date of receipt of such requisition. Even when the rules were framed a clear difference and distinction between holding a meeting and convening a meeting was kept in view. The learned single Judge in paragraphs 38 to 41 of the order under appeal, referring to various decisions, has taken the view that convening a meeting is to call for a meeting. We agree with the same. As already noticed above, even otherwise the plaintiff herself had convened the meeting. The defendant having been expelled on 19.5.1997 from the primary membership of the party, *prima facie*, he had no *locus standi* to convene the meeting of the general council.

74. Nothing prevented even the requisitioning members participating in the meeting convened by the plaintiff to ventilate their grievances, even though such a meeting was not called on requisition, as according to the plaintiff there was no requisition to call for such a meeting. Under the circumstances when the requisition was not at all received by the plaintiff to convene a general council meeting, the defendant has been expelled from the primary membership of the party on 19.5.1997 itself and who had no locus-standi to convene a meeting, and the general secretary alone was competent to convene a meeting, prima-facie, we have no hesitation to agree with the finding of the learned single Judge that the action of the defendant in convening of the meeting of the general council which was held on 3.6.1997 was unauthorised and against the rules of the party."

21.2. In ***Wander Ltd.*** (supra), a decision strongly relied upon by the learned counsel for the appellants, this Court explained the principle that ordinarily, the Appellate Court would not be interfering with the exercise of discretion by the Court of first instance and substitute its own discretion except in the cases where discretion was shown to have been exercised arbitrarily, capriciously or perversely or against the settled principles of law. This Court observed and held as under: -

"9. Usually, the prayer for grant of an interlocutory injunction is at a stage when the existence of the legal right asserted by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. The court, at this stage, acts on certain well settled principles of administration of this form of interlocutory remedy which is both temporary and discretionary. The object of the interlocutory injunction, it is stated

"...is to protect the plaintiff against injury by violation of his rights for which he could not adequately be compensated in

> damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection must be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The court must weigh one need against another and determine where the 'balance of convenience' lies."
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> The interlocutory remedy is intended to preserve in status quo, the rights of parties which may appear on a prima facie case. The court also, in restraining a defendant from exercising what he considers his legal right but what the plaintiff would like to be prevented, puts into the scales, as a relevant consideration whether the defendant has yet to commence his enterprise or whether he has already been doing so in which latter case considerations somewhat different from those that apply to a case where the defendant is yet to commence his enterprise, are attracted.
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> ***** ***** *****
>
> 14. ….. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in *Printers (Mysore) Private Ltd. v. Pothan Joseph* (1960) 3 SCR 713: (SCR 721)
>
> > "... These principles are well established, but as has been observed by Viscount Simon in *Charles Osenton & Co. v. Jhanaton*: 1942 AC 130 '...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case'."
>
> The appellate judgment does not seem to defer to this principle."

21.3. The case of ***State of Karnataka*** (supra) essentially related to a suit involving inter-State water disputes and in the referred passage, it was

indicated that even when balance of convenience or inconvenience is another requirement but no fixed rules or notions ought to be had in the matter of grant of injunction; and the relief would depend on facts and circumstances of each case with justice of the situation being the guiding factor, in the following terms: -

> "168. ….Generally speaking, however, be it noted that the issue of grant of injunction is to be looked at from the point of view as to whether on refusal of the injunction, the plaintiff would suffer irreparable loss of injury keeping in view the strength of the parties' case. Balance of convenience or inconvenience is also another requirement but no fixed rules or notions ought to be had in the matter of grant of injunction and the relief being always flexible depending upon the facts and circumstances of each case. The justice of the situation ought to be the guiding factor ….."

21.4. In ***Surya Nath Singh*** (supra), this Court held that though the grant of injunction was a matter of discretion, the same must be on settled principles of law to advance the cause of justice; and it is subject to correction by the Appellate Court. This Court said: -

> "2. …..Though the grant of injunction is discretionary, the same must be exercised on settled principles of law to advance the cause of justice. It is subject to correction by the appellate court…."

21.5. In the case of ***Dunlop India Ltd.*** (supra), though expositing in relation to the matters of public revenue, this Court explained the requirements of due consideration of the questions relating to balance of convenience and irreparable injury in the following terms: -

> "5. We repeat and deprecate the practice of granting interim order which practically give the principal relief sought in the petition for no better reason than that a prima facie case has been made out, without being concerned about the balance of convenience, the public interest and a host of other relevant considerations. ……..There are, of course, cases which demand that interim orders should be made in the interests of justice. Where gross violations of the law and injustices are perpetrated or are about to be perpetrated, it is the bounden duty of the court to intervene and

give appropriate interim relief. In cases where denial of interim relief may lead to public mischief, grave irreparable private injury or shake a citizen's faith in the impartiality of public administration, a court may well be justified in granting interim relief against public authority. But since the law presumes that public authorities function properly and bona fide with due regard to the public interest, a court must be circumspect in granting interim orders of far-reaching dimensions or orders causing administrative, burdensome inconvenience or orders preventing collection of public revenue for no better reason than that the parties have come to the court alleging prejudice, inconvenience or harm and that a prima facie case has been shown. There can be and there are no hard and fast rules. But prudence, discretion and circumspection are called for. There are several other vital considerations apart from the existence of a prima facie case. There is the question of balance of convenience. There is the question of irreparable injury. There is the question of the public interest. There are many such factors worthy of consideration…."

21.6. In the case of ***Dalpat Kumar*** (supra), this Court explained the principles for exercise of judicial discretion in granting or refusing the relief of injunction in the following terms: -

> "4. Order 39 Rule 1(c) provides that temporary injunction may be granted where, in any suit, it is proved by the affidavit or otherwise, that the defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, the court may by order grant a temporary injunction to restrain such act or make such other order for the purpose of staying and preventing … or dispossession of the plaintiff or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the court thinks fit until the disposal of the suit or until further orders…... Injunction is a judicial process by which a party is required to do or to refrain from doing any particular act. It is in the nature of preventive relief to a litigant to prevent future possible injury. In other words, the court, on exercise of the power of granting ad interim injunction, is to preserve the subject matter of the suit in the status quo for the time being. It is settled law that the grant of injunction is a discretionary relief. The exercise thereof is subject to the court satisfying that (1) there is a serious disputed question to be tried in the suit and that an act, on the facts before the court, there is probability of his being entitled to the relief asked for by the plaintiff/defendant; (2) the court's interference is necessary to protect the party from the species of injury. In other words, irreparable injury or damage would ensue before the legal right would be established at trial; and (3) that the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it.

> 5. Therefore, the burden is on the plaintiff by evidence aliunde by affidavit or otherwise that there is "a prima facie case" in his favour which needs adjudication at the trial. The existence of the prima facie right and infraction of the enjoyment of his property or the right is a condition for the grant of temporary injunction. Prima facie case is not to be confused with prima facie title which has to be established, on evidence at the trial. Only prima facie case is a substantial question raised, bona fide, which needs investigation and a decision on merits. Satisfaction that there is a prima facie case by itself is not sufficient to grant injunction. The Court further has to satisfy that non-interference by the Court would result in "irreparable injury" to the party seeking relief and that there is no other remedy available to the party except one to grant injunction and he needs protection from the consequences of apprehended injury or dispossession. Irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one, namely one that cannot be adequately compensated by way of damages. The third condition also is that "the balance of convenience" must be in favour of granting injunction. The Court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the Court considers that pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus the Court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit."

21.7. In the case of ***American Express Bank Ltd.*** (supra), on the discretion of the Court in grant of declaration and injunction, this Court observed and held in the referred paragraph as under: -

> "22. Undoubtedly declaration of the rights or status is one of discretion of the court under Section 34 of the Specific Relief Act, 1963. Equally the grant or refusal of the relief of declaration and injunction under the provision of that Act is discretionary. The plaintiff cannot claim the relief as of right. It has to be granted according to sound principles of law and ex debito justitiae. The court cannot convert itself into an instrument of injustice or vehicle of oppression. While exercising its discretionary power, the court must keep in its mind the well-settled principles of justice and fair play and the discretion would be exercised keeping in view the ends of justice since justice is the hallmark and it cannot be administered in vacuum. Grant of declaration and injunction relating to commercial transactions tend to aid dishonesty and perfidy. Conversely, refusal to grant relief generally encourages candour in

> business behaviour, facilitates free flow of capital, prompt compliance with covenants, sustained growth of commerce and above all inculcates respect for the efficacy of judicial adjudication. Before granting or refusing to grant relief of declaration or injunction or both the court must weigh pros and cons in each case, consider the facts and circumstances in their proper perspective and exercise discretion with circumspection to further the ends of justice. From the backdrop fact-situation we have no hesitation to hold that the relief of declaration granted is unjust and illegal. It tended to impede free flow of capital, thwarted the growth of mercantile business and deflected the course of justice."

21.8. In the case of ***Seema Arshad Zaheer*** (supra), this Court reiterated that the matter of grant or refusal of injunction was that of discretion and not ordinarily calling for interference under Article 136 of the Constitution unless the discretion had been exercised arbitrarily, capriciously, or perversely or where the impugned order had been passed while ignoring the settled principles of law. In the said case, this Court held that the Appellate Court was justified in interfering with the matter and vacating the injunction of the Trial Court while observing as under: -

> "29. This Court also observed that this Court in exercise of jurisdiction under Article 136, would not ordinarily interfere with the exercise of discretion in the matter of grant of temporary injunction by the High Court and the trial court and substitute its own discretion therefor, except where the discretion has been shown to have been exercised arbitrarily, capriciously or perversely or where the order of the Court under scrutiny ignores settled principles of law.
>
> 30. The discretion of the court is exercised to grant a temporary injunction only when the following requirements are made out by the plaintiff : (i) existence of a prima facie case as pleaded, necessitating protection of the plaintiff's rights by issue of a temporary injunction; (ii) when the need for protection of the plaintiff's rights is compared with or weighed against the need for protection of the defendant's rights or likely infringement of the defendant's rights, the balance of convenience tilting in favour of the plaintiff; and (iii) clear possibility of irreparable injury being caused to the plaintiff if the temporary injunction is not granted. In addition, temporary injunction being an equitable relief, the discretion to grant such relief will be exercised only when the plaintiff's conduct is free from blame and he approaches the court with clean hands.
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> ***** ***** *****

32. Where the lower court acts arbitrarily, capriciously or perversely in the exercise of its discretion, the appellate court will interfere. Exercise of discretion by granting a temporary injunction when there is "no material", or refusing to grant a temporary injunction by ignoring the relevant documents produced, are instances of action which are termed as arbitrary, capricious or perverse. When we refer to acting on "no material" (similar to "no evidence"), we refer not only to cases where there is total dearth of material, but also to cases where there is no relevant material or where the material, taken as a whole, is not reasonably capable of supporting the exercise of discretion. In this case, there was "no material" to make out a prima facie case and therefore, the High Court in its appellate jurisdiction, was justified in interfering in the matter and vacating the temporary injunction granted by the trial court.

33. We find no reason to interfere with the order of the High Court in the seven appeals. We accordingly dismiss these SLPs as having no merit. The petitioners are granted 15 days time to make alternative arrangements. Parties to bear their respective costs."

21.9. In ***Skyline Education Institute*** (supra), a 3-Judge Bench of this Court again explained that in the matter of injunction, interference under Article 136 of the Constitution would not ordinarily be made while observing as under: -

"19. We have thoughtfully considered the entire matter. Before pronouncing upon the tenability or otherwise of the appellant's prayer for restraining the respondents from using the word "Skyline" for the Institute of Engineering and Technology established by them, we consider it necessary to observe that as the suit filed by the appellant is pending trial and issues raised by the parties are yet to be decided, the High Court rightly considered and decided the appellant's prayer for temporary injunction only on the basis of the undisputed facts and the material placed before the learned Single Judge and unless this Court comes to the conclusion that the discretion exercised by the High Court in refusing to entertain the appellant's prayer for temporary injunction is vitiated by an error apparent or perversity and manifest injustice has been done to it, there will be no warrant for exercise of power under Article 136 of the Constitution.

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22. The ratio of the abovenoted judgments is that once the court of first instance exercises its discretion to grant or refuse to grant relief of temporary injunction and the said exercise of discretion is based upon objective consideration of the material placed before the court and is supported by cogent reasons, the appellate court will be loath to interfere simply because on a de novo consideration of the matter it is possible for the appellate court to form a different opinion on the

issues of prima facie case, balance of convenience, irreparable injury and equity."

21.10. In the case of ***Nilkantha Sidramappa Ningashetti*** (supra), this Court held that formality of notice cannot invalidate the action when the parties had intimation of the event; and that the term notice does not necessarily mean communication in writing. This Court observed and held, *inter alia*, as under: -

> "8. Sub-Section (1) of Section 14 of the Arbitration Act, 1940 (Act 10 of 1940) requires the arbitrators or umpire to give notice in writing to the parties of the making and signing of the award. Sub-section (2) of that section requires the Court, after the filing of the award, to give notice to the parties of the filing of the award. The difference in the provisions of the two sub-sections with respect to the giving of notice is significant and indicates clearly that the notice which the court is to give to the parties of the filing of the award need not be a notice in writing. The notice can be given orally. No question of the service of the notice in the formal way of delivering the notice or tendering it to the party can arise in the case of a notice given orally. The communication of the information that an award has been filed is sufficient compliance with the requirements of sub-section, (2) of Section 14 with respect to the giving of the notice to the parties concerned about the filing of the award. "Notice" does not necessarily mean "communication in writing". "Notice", according to the Oxford Concise Dictionary, means "intimation, intelligence, warning" and has this meaning in expressions like "give notice, have notice" and it also means "formal intimation of something, or instructions to do something" and has such a meaning in expressions like "notice to quit, till further notice". We are of opinion that the expression "give notice" in sub-section (2) of Section 14, simply means giving intimation of the filing of the award, which certainly was given to the parties through their pleaders on 21-2-1948. Notice to the pleader is notice to the party, in view of Rule 5 of Order 3 of the Civil Procedure Code, which provides that any process served on the pleader of any party shall be presumed to be duly communicated and made known to the party whom the pleader represents and, unless the court otherwise directs, shall be as effectual for all purposes as if the same had been given to or served on the party in person.
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> ***** ***** *****
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> 10. We see no ground to construe the expression "date of service of notice" in column 3 of Article 158 of the Limitation Act to mean only a notice in writing served in a formal manner. When the legislature used the word "notice" it must be presumed to have borne in mind that it means not only a formal intimation but also an

> informal one. Similarly, it must be deemed to have in mind the fact that service of a notice would include constructive or informal notice. If its intention were to exclude the latter sense of the words "notice" and "service" it would have said so explicitly. It has not done so here. Moreover, to construe the expression as meaning only a written notice served formally on the party to be affected, will leave the door open to that party, eventhough with full knowledge of the filing of the award he has taken part in the subsequent proceedings, to challenge the decree based upon the award at any time upon the ground that for want of a proper notice his right to object to the filing of the award had not even accrued. Such a result would stultify the whole object which underlies the process of arbitration — the speedy decision of a dispute by a tribunal chosen by the parties."

21.11. In the case of ***T.P. Daver*** (supra), a 3-Judge Bench of this Court held that in the matters relating to internal management of an association, the Courts generally do not interfere while observing as under: -

> "8. The following principles may be gathered from the above discussion. (1) A member of a masonic lodge is bound to abide by the rules of the lodge; and if the rules provide for expulsion, he shall be expelled only in the manner provided by the rules. (2) The lodge is bound to act strictly according to the rules whether a particular rule is mandatory or directory falls to be decided in each case, having regard to the well settled rules of construction in that regard. (3) The jurisdiction of a civil court is rather limited; it cannot obviously sit as a court of appeal from decisions of such a body; it can set aside the order of such a body, if the said body acts without jurisdiction or does not act in good faith or acts in violation of the principles of natural justice as explained in the decisions cited supra."

22. Apart from the above, we may also take note of the principles in relation to the matters concerning grant of interim relief, which have been stated and re-emphasised by this Court in the case of ***Union of India and Ors. v. M/s. Raj Grow Impex LLP and Ors.*****: 2021 SCC OnLine SC 429** as follows: -

> "**194.** In addition to the general principles for exercise of discretion, as discussed hereinbefore, a few features specific to the matters of interim relief need special mention. It is rather elementary that in the matters of grant of interim relief, satisfaction of the Court only about existence of *prima facie* case in favour of the suitor is not enough.

The other elements i.e., balance of convenience and likelihood of irreparable injury, are not of empty formality and carry their own relevance; and while exercising its discretion in the matter of interim relief and adopting a particular course, the Court needs to weigh the risk of injustice, if ultimately the decision of main matter runs counter to the course being adopted at the time of granting or refusing the interim relief. We may usefully refer to the relevant principle stated in the decision of Chancery Division in *Films Rover International Ltd.* v. *Cannon Film Sales Ltd.* : (1986) 3 All ER 772 as under:—

> "….The principal dilemma about the grant of interlocutory injunctions, whether prohibitory or mandatory, is that there is by definition a risk that the court may make the "wrong" decision, in the sense of granting an injunction to a party who fails to establish his right at the trial (or would fail if there was a trial) or alternatively, in failing to grant an injunction to a party who succeeds (or would succeed) at trial. **A fundamental principle is therefore that the court should take whichever course appears to carry the lower risk of injustice if it should turn out to have been "wrong**" in the sense I have described. The guidelines for the grant of both kinds of interlocutory injunctions are derived from this principle."
>
> (emphasis in bold supplied)

195. While referring to various expositions in the said decision, this Court, in the case of *Dorab Cawasji Warden* v. *Coomi Sorab Warden* : (1990) 2 SCC 117 observed as under:—

> "16. The relief of interlocutory mandatory injunctions are thus granted generally to preserve or restore the status quo of the last non-contested status which preceded the pending controversy until the final hearing when full relief may be granted or to compel the undoing of those acts that have been illegally done or the restoration of that which was wrongfully taken from the party complaining. **But since the granting of such an injunction to a party who fails or would fail to establish his right at the trial may cause great injustice or irreparable harm to the party against whom it was granted or alternatively not granting of it to a party who succeeds or would succeed may equally cause great injustice or irreparable harm, courts have evolved certain guidelines**. Generally stated these guidelines are:
>
> (1) The plaintiff has a strong case for trial. That is, it shall be of a higher standard than a prima facie case that is normally required for a prohibitory injunction.
>
> (2) It is necessary to prevent irreparable or serious injury which normally cannot be compensated in terms of money.
>
> (3) The balance of convenience is in favour of the one seeking such relief.

> 17. Being essentially an equitable relief the grant or refusal of an interlocutory mandatory injunction shall ultimately rest in the sound judicial discretion of the court to be exercised in the light of the facts and circumstances in each case. Though the above guidelines are neither exhaustive nor complete or absolute rules, and there may be exceptional circumstances needing action, applying them as prerequisite for the grant or refusal of such injunctions would be a sound exercise of a judicial discretion."
>
> (emphasis in bold supplied)
>
> **196.** In keeping with the principles aforesaid, one of the simple questions to be adverted to at the threshold stage in the present cases was, as to whether the importers (writ petitioners) were likely to suffer irreparable injury in case the interim relief was denied and they were to ultimately succeed in the writ petitions. A direct answer to this question would have made it clear that their injury, if at all, would have been of some amount of loss of profit, which could always be measured in monetary terms and, usually, cannot be regarded as an irreparable one. Another simple but pertinent question would have been concerning the element of balance of convenience; and a simple answer to the same would have further shown that the inconvenience which the importers were going to suffer because of the notifications in question was far lesser than the inconvenience which the appellants were going to suffer (with ultimate impact on national interest) in case operation of the notifications was stayed and thereby, the markets of India were allowed to be flooded with excessive quantity of the said imported peas/pulses."

23. A few of the referred provisions in the byelaws of the party, as existing before the questioned meeting dated 11.07.2022 and even before the amendment dated 01.12.2021, could be usefully extracted as under: -

> "RULE - 5: MEMBERSHIP
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> *** *** ***
>
> vii) Members shall have no right to resort to Court proceedings regarding Party matters. If any member of the party resorts to any Court proceedings against the Party Co-Ordinator's and joint co-ordinator's decision he/she shall cease to be a primary member of the party.
>
> The decision of the General Council shall be final with regard to party matters and only those who abide by this condition are eligible to admission for Membership.
>
> All those who have become Members of the KAZHAGAM are bound by the decision of the General Council.
>
> *** *** ***
>
> RULE-18: FUNCTIONS AND RESPONSIBILITIES

i) The responsibility and functions of the above mentioned Office bearers of the Party units at different levels will be as follows:

ii) CHAIRMAN:
He will preside over and conduct the General Body and the Executive Committee Meetings. In his absence, the meeting shall be presided over and conducted by one of the members.

iii) SECRETARY:

The Secretary of the Party unit will be responsible for the administration and execute the decisions of the respective Executive Committee. In case of emergency, where the Secretary is not in a position to convene the Executive Committee Meeting, he should get the decisions taken by him ratified within fifteen days by the Executive Committee. He should submit any file required by the Audit Committee for scrutiny.

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vi) Should a contingency of absence or void of Office Bearers in a Party unit arise, the person elected by the Executive Committee members will exercise the functions on adhoc basis till regular Office bearers of the set-up are elected within one month.

RULE-19: GENERAL COUNCIL OF THE CENTRAL ORGANISATION

i) The General Council of the AIADMK shall consist of the Chairman, Co-ordinator and Joint Co-ordinator, Deputy Co-ordinators, Treasurer, Headquarters Secretaries of the Party, the members of the Central Executive Committee, the members of the General Council elected from the Districts and other States, the Members of the Audit Committee, Property Protection Committee, and the Parliamentary Board. The General Council shall be the Supreme body of the Party with all powers of the Kazhagam.

ii) The Secretaries of Union Kazhagams, the Secretaries of the Municipal Town Kazhagams and Township Kazhagams, the District Secretaries, the Chairman, Assistant Secretary and Treasurer of the District Kazhagam etc. in Tamil Nadu as well as the Secretaries of State Kazhagams and the Chairman, Assistant Secretary, Treasurer of the State Kazhagams of other States shall be the members of the General Council by virtue of their offices.

iii) The General Council members shall be elected from each District Kazhagam in such numbers equivalent to the total number of Assembly Constituencies in the respective district. In respect of other, State including Pondicherry, the number of the

General Council members will be determined by the Co-ordinator and Joint Co-ordinator with reference to the total number of members registered in the respective State Kazhagams.

iv) The Co-ordinator and Joint Co-ordinator of the Party jointly can nominate not exceeding 100 Members to the General Council of the Central Organisation from among the members of the Party.

v) The General Council of the Central Organisation (Headquarters) shall meet and elect the Chairman of the Central Organisation.

vi) The meeting of the General Council of the Central Organisation shall be presided over by the Chairman. In his absence, one of the members of the General Council may be temporarily nominated to preside over the meeting of the General Council.

vii) The General Council Meeting shall be convened once in a year or whenever it is considered necessary by the Co-ordinator and Joint Co-ordinator by giving 15 days notice in advance of the date of meeting.
The quorum for the meeting shall be one-fifth of the total number of members of the General Council. If one-fifth of the members of the General Council request the Co-ordinator and Joint Co-ordinator to convene the Special Meeting of the General Council, the Co-ordinator and Joint Co-ordinator should do so within 30 days of the receipt of such a requisition.

viii) The General Council will be the supreme authority to frame policies and programmes of the Party and for their implementation. The decision of the General Council is final and binding on all the members of the Party.

ix) A General Council will have five years tenure. However, the tenure shall get extended till the new General Council Meeting is convened.

RULE-20: GENERAL SECRETARY

As per wishes of the members of the party and the party cadre, PURATCHI THALAIVI Dr.J.JAYALALITHA shall be the eternal General Secretary of the party and no person shall be elected/ appointed/nominated to that post. The Post of General Secretary stands abolished.

RULE 20-A: CO-ORDINATOR AND JOINT CO-ORDINATOR

i) The Co-ordinator and Joint Co-ordinator shall be primary members of the party for a continuous period of five years.

ii) The Co-ordinator and Joint Co-ordinator shall be elected by the members of the General Council.

iii) The Co-ordinator and Joint Co-ordinator elected as per sub rule (ii) shall hold the post for a period of 5 years.

iv)The Co-ordinator and Joint Co-ordinator shall discharge/perform their duties, obligations and functions and shall exercise their powers as per the Rules and regulations jointly.

v) The Co-Ordinator and Joint Co-ordinator of the Party will be responsible for the entire administration of the Party.

vi) The Co-Ordinator and Joint Co-ordinator will constitute the Executive Committee of the Central Organisation consisting of the Co-Ordinator and Joint Co-ordinator, Chairman, Treasurer, Headquarters Secretaries, District Secretaries and the nominated members.

vii) The members of the Central Executive Committee, Treasurer and the Headquarters Secretaries nominated by the Co-Ordinator and Joint Co-ordinator will hold the office during the tenure of the office of the Co-Ordinator and Joint Co-ordinator.

If for any reason the post of the Co-Ordinator and Joint Co-ordinator becomes vacant before the expiry of the tenure the office bearers who were nominated by the previous Co-Ordinator and Joint Co-ordinator will hold office and continue to function till the new The Co-Ordinator and Joint Co-ordinator are elected and assume office.

viii) The Co-Ordinator and Joint Co-ordinator of the Party shall have the powers and responsibilities to convene the Executive and the General Council Meetings, to implement policies and programmes of the Party as decided by the General and Executive Councils, to conduct elections and bye elections for Party Organisations, to examine the accounts of all the Party units through the Audit Committee, to manage by self and through the Treasurer the income and expenditure of the Party organizations at all levels, to manage the Party Office, movable and immovable properties of the Party, to represent the Party in the legal proceedings that may arise in respect of Party properties and to take necessary legal steps on behalf of the Party to protect them.

The Co-Ordinator and Joint Co-ordinator will preside over the Party conferences take all kinds of disciplinary proceedings in accordance with the Party rules against the Party units and its office bearers who violate the Party rules, regulations or act against the Party interest, party discipline, policies and programmes, including immediate suspension of any Party unit or office bearer. The Co-Ordinator and Joint Co-ordinator shall be the supreme authority to take a final decision on the

disciplinary proceedings recommended by the Party units and shall have over all powers to take all steps to promote and preserve the Party policies and programmes and to develop and protect the Party organizations.

ix) The Co-Ordinator and Joint Co-ordinator are empowered to take such actions as he may deem fit on important political events, policies and programmes of urgent nature which cannot brook delay/and await the meeting of either Executive Committee or General Council of the Party. Such decisions and actions have to be ratified by the General Council in its next meeting. However, it is open to the Co-Ordinator and Joint Co-ordinator to obtain the views of the General Council Members on such urgent matters by post when the Council is not in session.

x) The Co-Ordinator and Joint Co-ordinator are empowered to deposit the funds of the AIADMK in any of the legally constituted Banks or Financial Institutions either in Current Accounts or Fixed Deposits; to withdraw such funds and to operate the accounts on behalf of the Party. The Co-Ordinator and Joint Co-ordinator are also empowered to obtain loans for the Party purposes from the above mentioned institutions on the security of the assets of the Party and to do all that is necessary in this regard for and on behalf of the Party.

xi) The Co-Ordinator and Joint Co-ordinator are vested with powers to authorize the Treasure of the Party to operate on his behalf the Bank Accounts namely to deposit or to withdraw funds, and also in respect of duties mentioned in sub-rule (x) of this Rule.

xii) The Authorisation Forms addressed to the Election Officers for the allotment of the Two Leaves Symbol to the candidates contesting on behalf of the AIADMK shall be signed only by the Co-Ordinator and Joint Co-ordinator.

xiii) The Co-Ordinator and Joint Co-ordinator are vested with the right to nominate Joint Secretaries or Deputy Secretaries, in case of need to Branch units, Union, Town, Township and District Units and other state units, besides elected functionaries. Moreover, the Co-Ordinator and Joint Co-ordinator are also vested with the Powers to nominate women in the posts, to compensate and give due representation to women if in any of the party units at any level, women do not elected represent one third of the posts.

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Rule-23: CHAIRMAN

i) The Members of the General Council will elect the Chairman of the Central Organisation of the Party.

ii) The Chairman will preside over and conduct the proceedings of the Central Executive Committee and the General Council Meetings. In the absence of the Chairman, one of the Members present will temporarily preside over and conduct the meetings.

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RULE-25: CENTRAL EXECUTIVE COMMITTEE

*** *** ***

ii) Unless it could not be convened for valid reasons, the Central Executive Committee shall meet once in six months. If found necessary, the AIADMK Co-ordinator and Joint Co-ordinator an convene the meeting at any time.

iii) Fourteen days notice should be given for ordinary meetings and seven days notice for urgent meetings of the Central Executive Committee.

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RULE-42: TENURE

If the Co-ordinator and Joint Co-ordinator feels that there are genuine reasons according to changing situations, the Co-ordinator and Joint Co-ordinator is vested with the power to exempt from the above mentioned Rules and Regulations.

RULE-43: AMENDMENTS

The General Council will have powers to frame, amend or delete any of the Rules of the Party Constitution.

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RULE-45: Authorisation to Co-ordinator and Joint Co-ordinator.

The Co-ordinator and Joint Co-ordinator are fully authorized to relax or make alterations to any of the aforesaid Rules and Regulations of the Party."

23.1. Some of these provisions were amended by the Executive Committee on 01.12.2021. These provisions, as existing before and after the said amendment dated 01.12.2021, could be noticed in comparative terms as follows: -

Byelaws before 01.12.2021 amendment	**Byelaws after 01.12.2021 amendment**
Rule 20(A) - Coordinator and Joint Coordinator Sub-rule (ii)	**Rule 20(A) - Coordinator and Joint Coordinator Sub-rule (ii)**

The Co-ordinator and Joint Co-ordinator shall be elected by the members of the General Council.	The Co-ordinator and Joint Co-ordinator shall be elected by the Primary Members of the Party. Further, both the Co-ordinator and Joint Co-ordinator shall be jointly elected by the Primary Members of the Party by way of a Single Vote.
Rule 43 - Amendments The General Council will have powers to frame, amend or delete any of the Rules of the Party Constitution.	**Rule 43 - Amendments** The General Council will have powers to frame, amend or delete any of the Rules of the Party Constitution. But the Rule that the Coordinator and Joint Coordinator should be elected only by all the Primary members of the Party cannot be changed or amended since it forms the basic structure of the Party.
Rule 45 - Authorisation to Coordinator and Joint Coordinator The Co-ordinator and Joint Co-ordinator are fully authorized to relax or make alterations to any of the aforesaid Rules and Regulations of the Party.	**Rule 45 - Authorisation to Coordinator and Joint Coordinator** The Co-ordinator and Joint Co-ordinator are fully authorized to relax or make alterations to any of the aforesaid Rules and Regulations of the Party. But the rule that the Coordinator and Joint Coordinator should be elected only by all the Primary members of the Party cannot be relaxed or altered since it forms the basic structure of the Party.

24. A quick recapitulation of the past events shall be apposite. Though, in the scheme of byelaws, the topmost position in the party was earlier assigned to the General Secretary but, after the demise of the then General Secretary on 05.12.2016, the party organisation went through various changes and ultimately, a system of joint leadership, by Co-ordinator and Joint Co-ordinator, was established by way of amendment of the byelaws

on 12.09.2017. The principal contesting parties - OPS and EPS - were jointly, and unanimously, elected to the said positions of Co-ordinator and Joint Co-ordinator respectively and acted jointly for a long time, until before convening of the meeting dated 23.06.2022. However, when the proposition for further amendments of the byelaws – essentially to revert to the system of single leadership at the apex level – was likely to come up in the meeting of the General Council dated 23.06.2022, it led to the litigation. Initially, in the first three civil suits, being CS Nos. 102 of 2022, 106 of 2022 and 111 of 2022, the prayers for interim injunction against holding of the meeting dated 23.06.2022 were declined by a learned Single Judge of the High Court by an order dated 22.06.2022 with reference to the settled principles of law that in matter of internal issues of an association/party, the Courts normally do not interfere while leaving it open to the association/party and its members to pass the necessary resolutions and to frame a particular byelaw, rule or regulation for better administration of the party; and that it were a matter well within their collective wisdom and the Court cannot insist upon the members to act in a particular manner for, it was for the General Council and its members to decide and pass resolutions and the Court cannot interfere with the process of conducting the General Council meeting. This order was challenged in an intra-court appeal, OSA No. 160 of 2022 wherein, by an order dated 23.06.2022, the Division Bench of the High Court, though allowed the said scheduled meeting of the General Council to go on but, placed fetters by providing that no decision shall be taken on any other matter except 23 items of draft

resolution. It is the case of the respondents that in the said meeting, the proposed agenda items could not be taken up and hence, the proposal for continuance of Co-ordinator and Joint Co-ordinator lapsed. The appellant would submit various reasons for which the said meeting dated 23.06.2022 was nothing but faux pas and in any case, the Presidium Chairman of that meeting had no authority to convene another meeting of the General Council. On 06.07.2022, while examining the challenge to the said order dated 23.06.2022 as passed by the Division Bench of the High Court, this Court took note of the events that had taken place as also the fact that next meeting of the General Council was scheduled to be held on 11.07.2022 and hence, while issuing notice, stayed the operation and effect of the impugned order dated 23.06.2022 and made it clear that the meeting slated for 11.07.2022 could proceed in accordance with law while also leaving it open for the learned Single Judge dealing with the civil suits to examine the prayer for any other interim relief and/or to pass any other order, as may be required on the facts and in the circumstances of the case. Then, the prayers made in the freshly instituted civil suits, being CS Nos. 118 of 2022 and 119 of 2022, for preventing the meeting dated 11.07.2022 were declined by a learned Single Judge of the High Court on 11.07.2022, in the order passed just before the scheduled time of the meeting. The said meeting dated 11.07.2022 was, accordingly, held at the scheduled time and various resolutions were adopted therein but, the said order dated 11.07.2022 as passed by the learned Single Judge was found to have been passed on wrong notion about the purport of the order of this Court dated

06.07.2022 and hence, by an order dated 27.09.2022, this Court remanded the matter for reconsideration. Thereafter, the interim relief applications in the said newly filed civil suits were decided by a learned Single Judge of the High Court on 17.08.2022 granting certain interim reliefs and providing, *inter alia*, that *status quo ante* as existing on 23.06.2022 shall be maintained and there would be no Executive Council or General Council meeting without joint consent of the Co-ordinator and Joint Co-ordinator. The said order dated 17.08.2022 was, however, set aside by the Division Bench of the High Court by its impugned order dated 02.09.2022. The question is as to whether the order so passed by the Division Bench of the High Court calls for interference by this Court.

25. It is apparent from a close look at the order dated 17.08.2022 that grant of temporary injunction in these matters by the learned Single Judge was premised essentially on three factors: first and the foremost being that as per the byelaws of the party, the General Council meeting could have been convened only by the Co-ordinator and Joint Co-ordinator and they having not done so, the meeting dated 11.07.2022 was wholly unauthorised. Additionally, the said meeting dated 11.07.2022 was not convened by providing 15 days' advance notice, as required by Rule 19(vii) of the byelaws. Secondly, the learned Single Judge was of the view that by not granting injunction, EPS, who convened the General Council meeting contrary to the provisions of the byelaws, would be in a more convenient position for having allegedly removed the plaintiff OPS and few others from the party membership and they could not have even participated in the

proposed General Secretary elections. According to the learned Single Judge, balance of convenience and irreparable injury in the given context were required to be visualised with reference to the viewpoints of the primary members of the party. Thirdly, the learned Single Judge was of the view that when OPS and EPS had successfully functioned jointly as Co-ordinator and Joint Co-ordinator, how the party, with more than 1.5 crore cadre strength, suddenly decided to change the existing dispensation. The ultimate injunction issued by the learned Single Judge had been that of restoring *status quo ante* as on 23.06.2022 and further to that, it was ordained that the Co-ordinator and Joint Co-ordinator have to function jointly, meetings have to be called with their joint consent and on being properly requisitioned, they would not refuse to convene the General Council meeting, and that they could approach the Court for necessary directions for conducting the General Council meeting.

26. On the other hand, while dealing with the intra-court appeals against the order so passed by the learned Single Judge, the Division Bench of the High Court, in the first place, took note of the events that transpired on 23.06.2022 in the General Council meeting and noted the fact that the requisition was given by 2190 members and also the fact that the plaintiff OPS was very much present in the said meeting dated 23.06.2022 wherein, it was announced that the next meeting would be conducted on 11.07.2022. The Division Bench of the High Court, after examining the record and particularly Rule 19(vii) in its Tamil and English versions, took note of its frame whereby the requirement of 15 days' notice

appears to be referable to the regular meeting of the General Council to be convened once in a year or whenever considered necessary but not in relation to the meeting requisitioned by 1/5th members of the General Council where the only requirement is for the Co-ordinator and Joint Co-ordinator to convene the meeting within 30 days of receipt of the requisition. The High Court observed that it had not been the case of the plaintiff OPS that they were not knowing about announcement made on the floor of the General Council meeting on 23.06.2022. The Division Bench also referred to an undeniable fact situation that the Co-ordinator and Joint Co-ordinator were at loggerheads and any strict application of Rule 19(vii) was likely to result in a deadlock. The Division Bench further referred to the past event when the interim General Secretary could not perform the functions because of her incarceration in a criminal case and, therefore, the office bearers convened the meeting on 12.09.2017 based on the requisition made by the members. The Division Bench also took note of the apex position assigned to the General Council in the byelaws to take all the decisions. Yet further, the Division Bench took note of the stance of the Joint Co-ordinator – EPS – who had sent a communication to the Election Commission of India stating that the post of Co-ordinator and Joint Co-ordinator had lapsed for the reason that the election in the Executive Committee meeting dated 01.12.2021 was not ratified in the General Council meeting held on 23.06.2022. The Division Bench observed that when the Joint Co-ordinator had given up his position to continue as such, there was no Joint Co-ordinator in the party.

26.1. As regards the views of the learned Single Judge doubting the requisition as a manufactured document, the Division Bench pointed out that none of the members who signed the requisition or attended the meeting came forward with any such claim. That apart, the plaintiffs did not make any assertion in the plaint that there was no requisition placed in the meeting nor there was any averment that the requisition letter was a fabricated document. The Division Bench went on to observe that even if the resolutions passed on 23.06.2022 and on 11.07.2022 were found to be illegal or against the byelaws, it was always open to 1/5th members of the General Council to convene a special meeting and reverse the resolutions passed in these two meetings but no such requisition was given by 1/5th of the General Council members and this factor operated against the claim of irreparable injury.

26.2. The Division Bench also referred to the principles governing the grant or refusal of temporary injunction and pointed out that the directions given by the learned Single Judge for convening the meeting only with the joint consent of Co-ordinator and Joint Co-ordinator was leading to a situation where the party as a whole would undergo irreparable hardship because there was no possibility of the appellant and the respondent No. 1 – OPS and EPS – acting jointly to convene the meeting. The Division Bench pointed out that the directions of the learned Single Judge would only further the “functional deadlock” already existing in the party.

26.3. We are not elaborating on all other comments and observations made by the Division Bench of the High Court in the relevant passages

quoted *in extenso* hereinbefore. Suffice it to observe for the present purpose that the Division Bench of the High Court, while passing the order dated 02.09.2022, has amply and clearly pointed out as to how the order of temporary injunction as passed by the learned Single Judge was against the sound judicial principles and the discretion exercised by the learned Single Judge was suffering from arbitrariness as also perversity.

27. In our view, the logic and reasoning of the Division Bench of the High Court stand in accord with law as also the facts of the present case.

28. The main plank of submissions on the part of the appellants in challenge to the order dated 02.09.2022 has been that convening of the meeting dated 11.07.2022 suffered from illegalities inasmuch as the meeting was not convened by an authorised person and that 15 days' notice was not given. The same had been the reasoning adopted by the learned Single Judge while finding a *prima facie* case in favour of the plaintiffs. The said reasoning and similar arguments remain fallacious and cannot be accepted.

28.1. The facts of the case make it abundantly clear that so far as convening of the meeting dated 23.06.2022 is concerned, the same had never been in doubt or in any dispute. The said meeting was indeed convened by the Co-ordinator and Joint Co-ordinator jointly. They had been working in tandem until that stage. However, they seem to have fallen apart immediately thereafter, particularly when a proposition for amendment of the byelaws and reverting to the system of single leadership was in the offing. In any case, the meeting dated 23.06.2022 was duly

convened and the efforts to prevent the same did not meet with success in the Court. Even if the slated business was not transacted in the meeting dated 23.06.2022, all that had happened in that meeting could not have been ignored. It remains undeniable that the plaintiff OPS and the persons standing with him were also very much present in the said meeting. The General Council is said to be consisting of 2665 members. If 2190 members out of these 2665 gave a requisition on 23.06.2022 for convening the General Council meeting and the Presidium Chairman announced the date of this requisitioned meeting as 11.07.2022, in the given set of facts and circumstances, such announcement, at least at the present stage, cannot be dubbed as wholly redundant. At that point of time, when Co-ordinator and Joint Co-ordinator were shown to be not functioning jointly (for whatsoever reason), a functional deadlock came into existence for the party and a workable solution was required to be found. In the given scenario, the actions and steps taken by the requisitioning members as also by the Presidium Chairman cannot be declared as unwarranted or illegal at this stage. That being the position, convening of meeting dated 11.07.2022 could not have been taken as an act unauthorised. The learned Single Judge while passing the order dated 17.08.2022 seems to have fallen in serious error and said order was clearly suffering from perversity when convening of the meeting dated 11.07.2022 was taken as an act unauthorised. The Division Bench of the High Court, in our view, has rightly looked at the substance of the matter and realities of the situation.

28.2. The other alleged infirmity about want of clear 15 days' notice has also been rightly dealt with by the Division Bench of the High Court in the impugned order dated 02.09.2022. In our view, in such an internal matter of the party, approach of the Court and that too, while considering the prayer for interim relief, cannot be of finding technical faults and flaws detached from the substance of the matter. Even as regards technicalities, the Division Bench appears to have rightly analysed the frame of the said Rule 19(vii), where the requirement of 15 days' notice is referable to the regular meeting and not as such to a requisitioned or special meeting.

29. The considerations of the learned Single Judge as regards the question of *prima facie* case had been suffering from basic flaws, as noticed above; and interference by the Division Bench was but warranted looking to the subject-matter of the litigation and its implications. This apart, and even if it be assumed that the plaintiffs were able to project some arguable case before the Court and some elements of *prima facie* case, in our view, the approach of the learned Single Judge while examining the questions of balance of convenience and irreparable injury had been from an altogether wrong angle. As noticed, the learned Single Judge took the view that by not granting injunction, EPS would be in a more convenient position for having allegedly removed the plaintiff OPS and few others from the party membership and they could not have even participated in the proposed General Secretary elections. According to the learned Single Judge, balance of convenience and irreparable injury, in the given context, were required to be visualised from the vantage point of the primary

members. Such observations and considerations of the learned Single Judge, in our view, do not stand in conformity with sound judicial principles. The questions of balance of convenience and irreparable injury in relation to the applications under consideration could not have been examined with reference to the consequences or fallout of the meeting dated 11.07.2022. Moreover, the authority of the General Council to deal with the relevant matters could not have been brushed aside with reference to the strength of the primary membership of the party. It is but clear that the learned Single Judge has not kept in view the relevant tests as expounded in the decisions above-referred. In the present case concerning the internal management of the political party, and looking to the nature of claim made by the plaintiffs, the balance of convenience had not been in favour of granting any interim injunction on the applications under consideration.

30. Having examined the matter in its totality, we are constrained to observe that the learned Single Judge in the present matter did not examine the questions relating to balance of convenience and irreparable injury in the correct perspective and particularly failed to weigh the competing possibilities and risk of injustice if ultimately the decision of main matter would run counter to the course being adopted and suggested in the order granting temporary injunction in the manner and form it was being granted. It gets perforce reiterated that if the order as passed by the learned Single Judge was to remain in force until decision of the suits, it would have been drastically detrimental to the interest of political party in question, which is a recognised political party with the Election Commission of India.

In the matters of the present nature, the simple and precise view, as stated by the learned Single Judge at the initial stage on 22.06.2022 while declining the prayer for interim relief, had been on the correct statement of law that ordinarily the Court would not interfere in the internal issues of an association/party and would leave it open to the association/party and its members to take a particular decision for better administration; and that had been the correct approach towards the facts of the case. In the present case, when General Council is shown to be the apex body of the party, taking any exception to the meeting of the General Council could have neither been countenanced nor interfered with by way of temporary injunction. In the given set of facts and circumstances, the hyper-technical suggestions as sought to be made about the want of valid notice with reference to date, time and place of meeting i.e., with reference to Chapter 5 from Shackleton on the Law and Practice of Meetings (supra) do not further the cause of the appellants, particularly when it is noticed that the date, time and place of the meeting in question were duly declared in the meeting dated 23.06.2022.

31. The submission on behalf of the appellants based on the decision in ***S. Thirunavukkarasu*** (supra) that the scheme of byelaws does not envisage the requisitionists to convene the General Council meeting; and if the Co-ordinator and the Joint Co-ordinator jointly fail to convene the meeting, the only option is to seek intervention of the Court has its own shortcomings. As rightly noticed by the Division Bench in the order impugned, in the said case, an expelled member of the party called for a

General Council meeting, parallel to the meeting called by the then General Secretary. In the given fact situation, the Court granted interim injunction in favour of the General Secretary against convening of the parallel meeting. In the present matter, no parallel meeting of General Council has been called for or requisitioned by any of the Members. The Division Bench of the High Court has rightly observed that as a general rule, it cannot be laid down that the requisitionists have no option but only to go to the Court if the meeting is not convened. It has also been pointed out that in the past, when the interim General Secretary could not act in the year 2017, the Office Bearers stepped in and convened the meeting based on a requisition received. The present situation too, where the position as occupied earlier by the General Secretary was assigned to the Co-ordinator and the Joint Co-ordinator in their jointness and it remains beyond a shadow of doubt that Co-ordinator and the Joint Co-ordinator do not stand in jointness and cannot act jointly, is akin to the situation when the apex position holder was not in a position to act. Obviously, a workable solution was to be found; and when the solution as found and applied, does not otherwise appear offending the spirit of byelaws as also the norms of functioning of an association or a party, it cannot be said that declaration of the Presidium Chairman for the meeting of the General Council on 11.07.2022 and the follow-up notice by the Office Bearers at Party Headquarters had been wholly unauthorised.

32. Apart from the foregoing, the other considerations in the impugned order dated 17.08.2022 which had prevailed with the learned Single Judge

make it clear that the learned Single Judge has proceeded contrary to the sound and applicable judicial principles. It remains undeniable that law does not envisage performance of any impossibility nor any mandate could be issued by the Court for performance of a practical impossibility. The learned Single Judge expressed the view that when OPS and EPS had successfully functioned jointly as Co-ordinator and Joint Co-ordinator how the party, with more than 1.5 crore cadre strength, suddenly decided to change the existing dispensation. With respect, in our view, such a question was not even germane to the points for determination arising before the Court. As to how any compact, be it an association or be it a political party, would manage its affairs and what alterations its governing body would consider appropriate in its rules, regulations or byelaws, are all the matters squarely within the domain of that compact and its governing body. In any case, in the applications before the Court, the only relevant question was about the validity of convening the meeting dated 11.07.2022. The learned Single Judge appears to have traversed through such wide areas that ultimately the decision came to be based on entirely irrelevant considerations.

33. It is also noteworthy that the ultimate injunction issued by the learned Single Judge had been that of restoring *status quo ante* as on 23.06.2022 and further to that, the learned Single Judge directed that the Co-ordinator and Joint Co-ordinator would have to function jointly; meetings have to be called with their joint consent; and on being properly requisitioned, they would not refuse to convene the General Council

meeting and that they could approach the Court for necessary directions for conducting the General Council meeting. Apart from the fact that the injunction as issued by the learned Single Judge had been far away and beyond the scope of applications before him, the said injunction could have only perpetuated the functional deadlock in the party. The order passed by the learned Single Judge could not have been countenanced from any angle and thus, the Division Bench, in our view, has rightly interfered with the same.

34. In the passing, we may also observe that while filing the suit and seeking interim relief, the plaintiff OPS and even the other plaintiff, have arrayed the parties to the litigation in the manner that the political party-AIADMK, as also its General Council and its Central Executive Committee are said to be represented by “Co-ordinator and Joint Co-ordinator” in terms of assertions of these plaintiffs that the party and its governing/executing bodies are only to be represented by the Co-ordinator and the Joint Co-ordinator jointly. This effort on the part of the plaintiffs carries its own shortcomings when it remains undeniable that they i.e., OPS and EPS, the Co-ordinator and the Joint Co-ordinator respectively, do not stand in jointness or even togetherness so as to work cohesively as a unit. The effort on the part of the plaintiffs does not stand in conformity with the existing realities.

35. Before closing on these matters, we need to make it clear again that though several submissions have been made on behalf of the appellants assailing the validity and correctness of the resolutions said to have been

adopted in the meeting dated 11.07.2022 and in counter to that, the respondents have attempted to justify the said decisions/resolutions but we have chosen not to deal with any of those contentions. This is for the specific reason that the decisions taken in the meeting dated 11.07.2022 do not form the subject-matter of the applications for temporary injunction, which were restored for reconsideration by this Court and were ultimately decided by the learned Single Judge by the order dated 17.08.2022 and then the intra-court appeals against that order of the learned Single Judge were allowed by the Division Bench on 02.09.2022. In the interest of justice, we leave all the related aspects concerning the said resolutions open to be agitated, but strictly in accordance with law; and all the objections and rebuttals of the contesting parties are also kept open.

35.1. Having regard to the circumstances of the case and the scope of these appeals, we have not found it necessary to deal with any of the impleadment applications moved in these matters and we would leave it open for all such applicants also to take recourse to appropriate remedy in accordance with law, in case of any legal grievance existing with a right to seek relief in the appropriate forum.

36. For what has been discussed hereinabove, the appeals arising out of SLP(C) Nos. 15753 of 2022 and 15705-15706 of 2022 are required to be dismissed while affirming the impugned order dated 02.09.2022.

37. So far as the other appeals are concerned, therein, the aforesaid order dated 23.06.2022 is in challenge. The operation and effect of the said order was stayed by this Court on 06.07.2022. As noticed, the said order

dated 23.06.2022 has even otherwise lost its relevance. However, in order to put the records straight, we deem it appropriate to make the stay order dated 06.07.2022 absolute so as to dispose of the appeals filed in challenge to the said order dated 23.06.2022.

38. Before concluding, we also make it clear that none of the observations in this judgment shall have any bearing on the merit consideration of the pending civil suits relating to these appeals; and the said suits shall be proceeded with on their own merits and in accordance with law.

39. Accordingly, and in view of the above:

1. The appeals arising out of SLP (C) Nos. 15753 of 2022 and 15705-15706 of 2022 are dismissed and the order dated 02.09.2022, as passed by the Division Bench of the High Court in OSA Nos. 227 of 2022, 231 of 2022 and 232 of 2022 stands affirmed.
2. The appeals arising out of SLP (C) Nos. 11237 of 2022, 11579 of 2022 and 11578 of 2022 stand disposed of while making the interim order dated 06.07.2022 absolute.
3. The parties are left to bear their own costs of these appeals.
4. All the pending applications also stand disposed of.

……..…… J.
(DINESH MAHESHWARI)

……..…… J.
(HRISHIKESH ROY)

NEW DELHI;
FEBRUARY 23, 2023.