

ITEM NO.8

COURT NO.11

SECTION XI-A

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (C) No(s). 15842/2021

(Arising out of impugned final judgment and order dated 13-09-2021 in FAO No. 43/2021 passed by the High Court of Kerala at Ernakulam)

IQBAL COLLEGE TRUST &amp; ORS.

Petitioner(s)

VERSUS

SHAJAHAN &amp; ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.128167/2021-EXEMPTION FROM FILING O.T. )

WITH

SLP(C) No. 16417/2021 (XI-A)  
 (FOR ADMISSION and I.R.)

Date : 16-11-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HEMANT GUPTA  
 HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Mr. V. Giri, Sr. Adv.  
 Mr. K. Rajeev, AOR

Mr. P. K. Manohar, AOR

For Respondent(s) Mr. V. Chitambresh, Sr. Adv.  
 Mr. Jayant Muthraj, Sr. Adv.  
 Mr. Roy Abraham, Adv.  
 Ms. Reena Roy, Adv.  
 Mr. Himinder Lal, AOR

UPON hearing the counsel the Court made the following  
 O R D E R

1. The challenge in the present petitions is to an order passed by the High Court of Kerala on 13.09.2021 whereby the District Judge was directed to consider the validity of the induction of about 862 persons into the membership of a public charitable Trust afresh based upon the observations contained in the order.

2. The contention of Mr. V. Giri, learned senior counsel for the petitioners is that the induction of new members during the period when the order of status quo was in force, is not only illegal but also contemptuous and that the beneficiaries of such action cannot be allowed to retain the fruits of the same. The learned senior counsel also contended that the Board of Trustees had already passed a resolution on 12.09.2017 for the removal of the newly inducted members and that therefore the question of issuing membership cards to them would not arise.

3. However, it is pointed out by Mr. V. Chiambresh, learned senior Advocate for respondent Nos.1 to 3 that the resolution dated 12.09.2017 was not acted upon and that no notices or orders of cancellation of membership have been issued and that the admission fee of about Rs.35,00,000/- collected from those members have also not been refunded.

4. From the rival contentions, it is clear that the induction of about 862 members was assailed both on the ground: (i) that the same was in violation of the orders of this Court and (ii) that it was also in contravention of the bye-laws and the procedure for admission.

5. Admittedly, the District Court focused its attention only on the question of violation of the order of status quo, but the view taken by the District Court was reversed by the High Court in this regard. Since the second aspect relating to contravention of the bye-laws and the procedure prescribed, was not examined by the District Court, the High Court remanded the matter back to the District Court.

6. The main contention of the petitioners is that the interpretation given by the High Court, to the interim order of status quo and the final order passed by this Court in the previous round, is clearly erroneous.

7. But a careful look at the background facts leading to the interim order of status quo and the final Order dated 23.02.2017 passed by this Court would show that the issue before this Court at that time was confined only to the question whether the removal of the Secretary and Treasurer was valid or not. Therefore, the interim order of status quo has to be understood in the context in which the same was passed. The order of status quo passed on a controversy relating to the removal of the Secretary and Treasurer cannot be understood to be a freeze on all the other affairs of the Trust.

8. In the final order passed by this Court on 23.02.2017, this Court merely prohibited the newly inducted members from voting in the elections scheduled to be held in May-2017. Despite the filing of a contempt petition, this Court neither recorded a finding that the induction of members was wrong nor disqualified them from exercising their rights of membership for all times to come. Therefore, the view taken by the High Court on the first issue namely whether or not the induction of new members was in violation of the order of status quo, cannot be assailed.

9. The other question which requires to be examined, is the legality and validity of the admission of the members, in the light of the scheme decree, the bye-laws and the procedure prescribed therein. The High Court has directed

the District Judge to examine the same.

10. Therefore we are of the view that this question should be decided by the District Court after taking into consideration of questions of law and facts raised by the parties, uninfluenced by any finding recorded by the High Court hinging on the aforesaid aspect.

11. With the said observations and directions the special leave petitions stand disposed of.

(SWETA BALODI)  
COURT MASTER (SH)

(RENU BALA GAMBHIR)  
COURT MASTER (NSH)