

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.111 OF 2022

ALONG WITH

INTERIM APPLICATION NO.624 OF 2022

ALONG WITH

INTERIM APPLICATION NO.623 OF 2022

ALONG WITH

INTERIM APPLICATION NO.625 OF 2022

ALONG WITH

INTERIM APPLICATION NO.631 OF 2022

ALONG WITH

INTERIM APPLICATION NO.621 OF 2022

ALONG WITH

INTERIM APPLICATION NO.629 OF 2022

ALONG WITH

INTERIM APPLICATION NO.622 OF 2022

ALONG WITH

INTERIM APPLICATION NO.628 OF 2022

ALONG WITH

INTERIM APPLICATION NO.627 OF 2022

ALONG WITH

APPEAL FROM ORDER (STAMP) NO.104 OF 2021

ALONG WITH

INTERIM APPLICATION (STAMP) NO.2887 OF 2021

ALONG WITH

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**INTERIM APPLICATION (STAMP) NO.108 OF 2021
ALONG WITH
INTERIM APPLICATION (STAMP) NO.13867 OF 2021
ALONG WITH
INTERIM APPLICATION (STAMP) NO.3769 OF 2021**

The Computer Society of India] ... Appellant

Vs.

Gautam Mahapatra, President of]
Computer Society of India.] ... Respondent

...
Mr. Shriram S. Kulkarni with Ms. Minal Chavan for the appellants.

Mr. Ramesh D. Soni with Ms. Savita N. Malkampate i/b Usha S. Agarwal for respondent No.1.

Mr. Siddha Pamecha with Ms. Rukshin Ghira and Ms. Zenia Irani i/b M. Mulla Associates for respondent No.2.

Ms. Fereshte Sethna with Mr. Aniket Nimbalkar and Ms. Aboli Mandlik i/b DMD Advocates for the applicant in Interim Application (St.) No.3769 of 2021 and Interim Application No.631 of 2022.

Mr. Namrata Maru i/b Mohammed Najmi for the applicant in Interim Application Nos.622 of 2022, 623 of 2022, 624 of 2022, 628 of 2022 and 629 of 2022.

Mr. K.C. Prusty for respondent No.3.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 22ND APRIL, 2022.

P.C. :-

1. The present appeals are filed by the Computer Society of India (for short, "CSI"), a Society registered under the Public Societies Registration Act and established for the purpose of the scientific and educational advancement of all aspects of the theory, design and practice of the Information Technology, including Computer Science, Computer Engineering and Technology and related Arts and Sciences.

2. The long drawn differences in it's working resulted in the Society initiating action against it's Vice President cum President elect. At one point of time, being aggrieved by an attempt to hold it's election or interfere with it's functioning, a suit came to be filed by the Society being Suit No.2174 of 2018 against the contesting defendant, Mr. Gautam Mahapatra.

Between the interregnum, the Ad-hoc Nomination Committee elected the Vice President and other Body in the year 2018, the tenure of which has come to an end.

Much water has flown in the subsequent years, over the affairs of the company, when the doors of this court were knocked from time to time and various reliefs came to be granted. The

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events took a turn, when it is the allegation of the Society that the persons representing it, joined hands with Mr. Gautam Mahapatra and continued with the illegalities and irregularities.

3. S.C. Suit No.755 of 2019 came to be filed by Mr. Gautam Mahapatra against the Society and I am concerned with an order passed by the City Civil Court at Dindoshi, Mumbai on a notice of motion taken out in the said suit for interim relief, restraining the defendants from conducting CSI Elections for the year 2021-2022/2023 and from conducting subsequent years elections. The notice of motion being made absolute on 18/12/2020, has resulted in the CSI filing the present appeal.

4. The longish sequence of events narrated before me, leads me to a conclusion that there are two factions working in the CSI and the differences between them are deepening.

An attempt on part of my learned predecessor (Justice Prithviraj K. Chavan), directing the Master & Assistant Prothonotary (Admn.) to be appointed as Administrator to preside over the Annual General Meeting to be held on 31/01/2021 for the purpose of deciding the election strategy and defuse the situation, did not yield much result. This court directed the Master and Assistant Prothonotary (Admn.) to conduct the meeting, after ensuring that all the members have been duly served with the notices and he was also directed to constitute an Executive Committee and a Nomination Committee thereafter for the year

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2021 to 2023.

In furtherance of the said direction, the authorized officer of the Court abided by the order and constituted the Nomination Committee and also elected the President, Secretary, Treasurer and Vice President in the very same meeting held on 31/01/2021 at Hyderabad.

5. The said report is placed before me and I have perused the said report in which it is recorded that the registered members were issued notices of AGM and this included 7569 members and by the members present raising their hands to cast their vote in favour of the proposed members, the elections to the four posts were concluded.

6. I need not go into the niceties of the reports and its correctness, as the parties have advanced diametrically opposite arguments to canvass about the manner in which the meeting has been conducted. Despite their strong disagreement, both the factions i.e. the appellant and the respondent agree that the CSI is governed by its Constitution framed in the year 2013 and by its Bye-laws authorizedly framed, which set out the manner in which the meetings of the CSI shall be conducted so also, the elections. A copy of the Constitution and the Bye-laws is placed before me and Article 5 of the same sets out the criteria for Nominations and Elections and the manner in which the said proceedings shall be adopted.

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7. Pertinent to note that as per the Bye-laws of the CSI, the management shall comprise of the General Body, the National Council, the Executive Committee, the Corporate Officers, and the Think Tank. The Think Tank shall comprise of all past Presidents, fellows of CSI Executive Committee Members, Executive Director, Executive Secretary and Special Invitees by the President. As per the Constitution, the CSI Think Tank is an Advisory Forum.

8. On running through the sequence of events for the last five years commencing from the institution of suit in the year 2018 till date, I cannot just ignore an important aspect, being that the Society has gone through distinct turmoils and what can be seen is, that a Society formed with a laudable object, comprising of high intellectuals are required to spend their time and energy upon squabbling amongst themselves and litigating, instead of focussing on it's objectives.

Noting that the term of earlier Body has come to an end in March, 2021, it is high time that the election to the posts of the various Committees should be held, but strictly in accordance with the Constitution and Bye-laws. The elections conducted in a democratic process as contemplated by the Constitution and the Bye-laws of the Society will appease all the contenders, whether together or at rivals, and the unrest within the Society will be a matter of past.

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9. Article 5 of the Constitution of the Society contemplates Nominations and Elections to be conducted through the Nomination Committee constituted in accordance with the Bye-laws by submitting a list of nominees to the Executive Committee for such offices as may be specified in the Bye-laws, to be elected by voting members or groups of them. Article 5.4 of the Constitution contemplates that the Nomination Committee shall supervise the conduct of the Elections, the counting of the ballots and communicate the results to the Executive Committee for declaring the results as given in the Bye-laws.

10. Bye-law No.5 provides for Nominations and Elections and contemplate the elections to be conducted through various agencies like the National Security Depository Limited (NSDL) or Central Depository (India) Limited (CDSL).

11. On perusal of the Constitution and Bye-laws of the CSI, I am of the firm view that the elections to various posts of the Committee deserve to be conducted strictly in accordance with the Constitution and Bye-laws. However, it has become necessary to have a co-ordinating team in existence, to overlook the conduct of the elections and, therefore, I had asked the respective counsel to give names of three persons of high stature and integrity and mindful of the welfare of the CSI, who shall be included in the Three-Member Committee, which shall hold the election for

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remaining period of odd years 2021-2022/2023 and for even year 2022-2023/2024 for various posts. I have also obtained the details about the posts for which the elections are required to be conducted.

12. The following order is, therefore, passed so as to deflate the existing turmoil in the working of the Society on account of the elections being alleged to have been conducted without authority, as per the Society. The following order shall bind all the parties.

ORDER

(1) A three-member Committee comprising of following members of The Computer Society of India is hereby appointed to remaining period of odd year 2021-2022/2023 and for even year 2022-2023/2024 and to steer CSI until conclusion of elections:

- (i) Mr. N. Anand Rao - Member suggested by the Appellants.
- (ii) Mr. Abraham Koshy – Member suggested by respondent No.1.
- (iii) Mr. S. Mahalingam, Ex-CFO of TCS, - Member suggested by the intervenor.

(2) The three-member Committee will hold the Election for the remainder period as mentioned above from the head Quarters of CSI at Mumbai, for the following posts:

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Sr. No.	Post	No. of Posts	Tenure (years)
1.	President	1	(2022-31/03/2023)= 1
2.	Vice-President (President Elect)	1	(2022- 31/03/2023) = 1
3.	Nomination Committee	3	(2022- 31/03/2023) = 1
4.	Treasurer	1	(2022- 31/03/2023) = 1
5.	Secretary	1	(2022- 31/03/2024) = 2
6.	Regional Vice-President-1 (Odd Year)	1	(2021- 31/03/2023) = 1
7.	Regional Vice-President-3 (Odd Year)	1	(2021- 31/03/2023) = 1
8.	Regional Vice-President- 5 (Odd Year)	1	(2021- 31/03/2023) = 1
9.	Regional Vice-President- 7 (Odd Year)	1	(2022- 31/03/2023) = 1
10.	Regional Vice-President-2 (Even Year)	1	(2022- 31/03/2024) = 2
11.	Regional Vice-President-4 (Even Year)	1	(2022- 31/03/2024) = 2
12.	Regional Vice-President-6 (Even Year)	1	(2022- 31/03/2024) = 2
13.	Regional Vice-President-8 (Even Year)	1	(2022- 31/03/2024) = 2
14.	Divisional Chairperson (Div. 1) (Odd Year)	1	(2022- 31/03/2023) = 1
15.	Divisional Chairperson (Div. 3) (Odd Year)	1	(2022- 31/03/2023) = 1
16.	Divisional Chairperson (Div. 5) (Odd Year)	1	(2022- 31/03/2023) = 1
17.	Divisional Chairperson (Div. 2) (Even Year)	1	(2022- 31/03/2024) = 2
18.	Divisional Chairperson (Div. 4) (Even Year)	1	(2022- 31/03/2024) = 2

- (3) The Three-Member Committee shall be strictly adhering to the Constitution and Bye-laws of CSI in the conduct of the elections right from the stage of notifying the election programme till the declaration of the results. The Committee shall seek the data-base of the voters from the appellant, the respondents and the intervenor and the

Committee shall then verify the entire data and upload the list of eligible voters on the official web-site of the CSI.

- (4) The CSI Constitution and Bye-laws envisage the following election process:

Sr. No.	Bye law	Mechanism as per CSI Bye-laws	Timeline prescribed in CSI Bye-laws	Estimated Timeline
1.	5.1.1.	Nominations Committee ¹ shall invite the names of Voting Members, for considering them for the various elective offices of the Executive Committee and Nominations Committee.	Not later than October 15	Day Zero
2.	5.1.4, 5.1.5	Nominations Committee shall scrutinize nominations and finalise the election slate	-	Day 30
3.	5.2	Nominations Committee shall communicate to Executive Committee the names of nominees together with their bio-data, statement of intent and an undertaking from the candidate that he will attend at least 3 meetings in a year.	Not later than November 22	Day 37
4.	5.3	Executive Committee shall consult each of the nominees and if he so requests, in writing, his name shall be withdrawn.	-	Day 44
5.	5.4	Publication of slate by Executive Committee through a publication that is distributed to the entire membership.	Not later than December 15	Day 60

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In view of no valid Executive Committee or Nominations Committee, functions may be discharged by the Three-member committee.

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Sr. No.	Bye law	Mechanism as per CSI Bye-laws	Timeline prescribed in CSI Bye-laws	Estimated Timeline
6.	5.5	Nominations Committee shall prepare election ballots. Final slate that contains the reference to the location of bio-data and statement of intent of the nominees for each of the elective offices shall be published on CSI website	Not later than December 15	Day 60
7.	5.5	Electronic Balloting will take place. The balloting will start on January 1 and end no later than January 31.	1 January to 31 January, not less than 30 days	Day 107
8.	5.6	Balloting Report shall be checked under the supervision of the Nominations Committee.	Not later than 5 th working day from receipt of ballots	Day 112
9.	5.7	Nominations Committee shall communicate the Election Report to the Executive Committee. Nominee for each office for which the election has been held receiving the greatest number of qualified votes shall be declared elected. In the event of a tie vote, the Executive Committee shall select between the nominees involved.	At the earliest following receipt of the Balloting Report	Day 112
10.	5.8	Executive Committee shall communicate the results of the election to all the nominees in the Election Report.	Not later than February 5	Day 112
11.	5.8	Executive Committee shall announce results to the membership through a publication distributed to the entire membership.	-	-

- (5) The implementation of the above clause shall be in the following manner:

Sr. No.	Mechanism	Proposed Timeline
1.	Three-member Committee shall notify the election programme by all possible modes, including its publication on the web-site and simultaneously invite the names of the votings members for considering them for various elective offices of the Executive Committee and Nominations Committee, etc. The Committee shall grant a period of three weeks for completing the aforesaid formalities and for commencement of the actual election programme.	9 May 2022
2.	Three-member Committee shall scrutinize nominations and finalise the election slate	9 June 2022
3.	Three-member Committee shall communicate to General Body the names of nominees together with their bio-data, statement of intent and an undertaking from the candidate that he will attend at least 3 meetings in a year.	16 June 2022
4.	Three-member Committee shall consult each of the nominees and if he so requests, in writing, his name shall be withdrawn.	23 June 2022
5.	Publication of final slate by three-member Committee through a publication that is distributed to the entire membership.	08 July 2022
6.	Three-member Committee shall prepare election ballots. Final slate that contains the reference to the location of bio-data and statement of intent of the nominees for each of the elective offices shall be published on the CSI website.	08 July 2022
7.	Electronic Balloting will take place	24 August 2022
8.	Balloting Report shall be checked under the supervision of the three-member Committee. Nominee for each office for which the election has been held receiving the greatest number of qualified votes shall be declared elected. In the event of a tie vote, the three-member Committee shall select between the nominees involved.	29 August 2022
9.	Three-member Committee shall communicate the results of the election to all the nominees in the Election Report.	29 August 2022

Sr. No.	Mechanism	Proposed Timeline
10.	Three-member Committee shall announce results to the membership through a publication distributed to the entire membership.	29 August 2022

- (6) The Three-member Committee will enter into a contract with National Securities Depository Limited (NSDL) or Central Depository Service (India) Limited (CDSL) (Agency), to hold the Elections through electronic ballot.
- (7) The Three-Member Committee shall restrict its functioning to conduct all the elections and shall not indulge itself in any activity unconnected with the conduct of the election. This direction is however, subject to the two following situations, where the Committee shall render its assistance.
- (a) Order dated 18th December 2020 passed by the Hon'ble City Civil Court at Dindoshi freezing the following bank accounts of the society in Notice of Motion No. 2783 of 2019 is hereby set aside and the same are activated to enable the three-member Committee to make payments, in terms of this order:

Sr No.	Bank Name	Bank A/C No.	IFSC Code	Branch Name	City
1.	SBI	10865762697	SBIN0007074	MIDC, Industrial Area	Mumbai
2.	SBI	10865762700	SBIN0007074	MIDC, Industrial Area	Mumbai

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3.	SBI	10792463745	SBIN0013361	SME, Branch Adyar	Chennai
4.	AXIS	082010100395144	UTIB0000082	Shastri Nagar, Adyar	Chennai
5.	AXIS	060010100082439	UTIB0000060	Worli Branch	Mumbai

(b) The Committee will make the following payments on priority, by joint operation and unanimous consent of the three members, till the term of new elected office-bearers comes into force:

- (i) Salary to Employees of CSI
- (ii) Contribution to CSI Employees Provident Fund
- (iii) Payment to the Agency contracted for conducting electronic balloting for the year 2022-2023/2024
- (iv) Day-to-day administrative expenses subject to approval of the Committee.

While effecting the payment of salary to the employees, both the factions are permitted to submit the list of the employees to the Committee, which shall verify whether they are in service and are eligible for payment of salary, before it release the salary in favour of the employees.

- (8) The order dated 18th December, 2020, passed by the trial court of freezing official web portal of CSI viz. <http://www.csi-india.org> and official mail server as well as Publication of CSI Communication through G.P. offset, is set aside and the same are activated with a view to enable the three-member Committee to hold the elections.
- (9) The non-official web portal viz. <http://www.csi-india.org.in> shall not be put to use for the purpose of conduct of elections.
- (10) The Committee shall notify the official website and the e-mail address, on which the correspondence can be entertained by the Committee. All decisions of the Three-Member Committee shall be unanimous.
- (11) It is open for the parties as well as for the three-member Committee appointed by this Hon'ble Court to apply to this Hon'ble Court in case of any difficulty arises for implementation of the present directions.

13. In the wake of the above direction, the report dated 09/02/2020 filed by the Master & Assistant Prothonotary (Admn.), which is not accepted, shall not bind the parties.

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14. On completion of the election schedule within the period prescribed i.e. 112 days, the Committee shall submit its report to this court.

15. Re-notify on 05/09/2022.

[SMT. BHARATI DANGRE, J.]

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Esg / 04 / 2022
Section Officer
High Court, Appellate Side
Bombay

