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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 414/2020 & I.A. 12483/2020 (by D-7 for direction) & I.A. 567/2021 (to place additional documents by plaintiff), I.A. 4577/2021 (pronounce judgment against defendants 1 to 6), I.A. 5934/2021 (condonation of delay in filing written statement), I.A. 7859/2022 (by D-2 for deletion of D-2), I.A. 1823/2023 (directions to D-3,4 and 5), I.A. 13013/2023 (by D-6 for directions), I.A. 13341/2023 (impleadment), I.A. 3870/2024 (impleadment), I.A. 4415/2024 (directions), I.A. 4416/2024 (impleadment/intervene), I.A. 45639/2024, I.A. 45640/2024 (impleadment), I.A. 45691/2024 (impleadment), I.A. 45692/2024 (directions), I.A. 46797/2024 (by D-8 for directions)

DR. P. V. VIJAYARAGHAVAN & ORS.

.....Plaintiffs

Through: Mr. Manish Kumar, Mr. Piyush Kaushik, Ms. Aparajita Jha and Ms. Harishmita Singh, Advocates

versus

**NITYAM SOFTWARE SOLUTION PVT. LTD.,
& ORS.**

.....Defendants

Through: Mr. Ripu Daman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Abhinav Bhardwaj, Advocates for Defendant/UOI.

Mr. Prashant Mehta, Advocate

Mr. Nipun Saxena, Mr. Mehreen Garg and Ms. Aadya Pandey, Advocates for D-5.

Mr. Siddhant Nath, Advocate for D-8.

Mr. Amit Sibal, Sr. Advocate with Mr. Naman Joshi, Ms. Pritika Vohra and Ms. Ambee Tickoo, Advocates for D-9.

Mr. Tanmaya Mehta, Mr. Atul



Sharma, Mr. Abhinav Mukhi and Mr. Abhishek Srivastav, Advocates for Dr. Ram Chaddha, applicant/proposed defendant.

Mr Akshay Chowdhary, Advocate for Ld. Administrator of IOA

**CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

ORDER
06.12.2024

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I.A. 47075/2024 (for stay)

1. The instant application under Section 151 of the Civil Procedure Code, 1908 (hereafter '*CPC*') has been filed by the plaintiffs seeking stay of the operation of order dated 27.11.2024, passed by the learned Administrator in this case.

2. The background in which the present application has been moved, is an order dated 20.11.2024 passed by this Court, which is central to the controversy, since it is contended by the learned counsel for the plaintiffs that the said order has been misinterpreted by the learned Administrator. The relevant portion of the order dated 20.11.2024 reads as under:

“5. In the meanwhile the parties are ad idem that the observations made by the learned Administrator in para 9 and para 15 of the Eighth Report to the effect that the Vice-President shall be officiating as the President in view of the disqualification of the President and President-Elect of the IOA be not given effect to till the next date of hearing. Ordered accordingly.

6. It is clarified that the learned Administrator will continue to hold the charge of IOA till the next date of hearing. For the purpose of holding the conference of IOACON, 2024 at Bangaluru, learned Administrator shall be at liberty to seek assistance of incumbent executive committee and any other



member(s) of IOA whom the learned Administrator deems appropriate.

3. Pursuant to the above order, the learned Administrator had passed an order dated 27.11.2024, which has been assailed by the applicants before this Court. The relevant portion of this order reads as under:

“...The Hon'ble Delhi High Court, vide Order dated 20th November, 2024, as ordered as under:-

"5. In the meanwhile the parties are ad idem that the observations made by the learned Administrator in para 9 and para 15 of the Eighth Report to the effect that the Vice-President shall be officiating as the President in view of the disqualification of the President and President-Elect of the IOA be not given effect to till the next date of hearing. Ordered accordingly.

2. In terms of the above order, the Eight Report of the undersigned is modified to the extent that Dr. Ram Chaddha shall officiate as President and Dr. Anup Aggarwal shall officiate as President-Elect of IOA till further Orders by the Hon'ble High Court.

3. Mr. Ramesh C. Pandey, CAO of IOA shall communicate this Order to all concerned...”

4. The learned counsel appearing for the plaintiffs states that the plaintiffs had agreed that the observations made by the learned Administrator in its Eighth Report in paragraph 9 and 15, whereby the Vice President elected in the Indian Orthopaedic Association ('IOA') Election, 2023 who was given charge of the officiating President, will not be given effect to, and taking note of the same, this Court was pleased to pass order dated 20.11.2024. Further, it was clarified in paragraph 6 of the said order that the learned Administrator will continue to hold the charge of the IOA,



till the next date of hearing. It is contended by the learned counsel for the plaintiffs that the learned Administrator has misconstrued the observations made in paragraph 5 and 6 of order dated 20.11.2024. It is argued that the consent of the plaintiffs was only in respect of Vice-President not being given the charge, and that the learned Administrator would continue to hold the charge of IOA till the next date of hearing and would not hand over the same to any other person. Thus, it is stated that the order dated 27.11.2024 passed by the learned Administrator is uncalled for and deserves to be set aside.

5. On the other hand, the learned counsel appearing for the defendants argue that the order of the learned Administrator was passed keeping in sight the order dated 20.11.2024 of this Court. It is submitted that the order passed by this Court, in very clear terms in paragraph 5 and 6 had made an observation recording the consent of both parties while passing the order. It is stated that the order of this Court mentions that the parties were *ad idem* with regard to the observations made in paragraph 9 and 15 of the Eighth Report of the learned Administrator, and the order of the learned administrator was passed keeping in view the abovesaid observations made by this Court. Thus, it is prayed that the present stay application be dismissed.

6. This Court has heard both the parties, and has perused the material on record.

7. The order dated 20.11.2024 passed by the Predecessor Bench, which has been argued to have been misconstrued by the learned Administrator, has already been extracted above.

8. This Court has carefully gone through the order dated 20.11.2024 and



notes that, as per paragraph 5 of the said order, notably, the parties were ‘*ad idem*’ when this order was passed, and the observations made in paragraph 5 were made in view of this fact. The Predecessor Bench has specifically ordered “that the order passed by the learned Administrator in paragraph 9 and 15 of the Eighth Report to the effect, that the Vice President shall be officiating as the President in view of the disqualification of the President and President-Elect of the IOA be not given effect to, till the next date of hearing. Ordered accordingly”. Notably, the Predecessor Bench, while concluding paragraph five of the order, has written ‘ordered accordingly’. The order is thus clear that with the consent of both the parties, it was decided that the observations of the learned Administrator in paragraphs 9 and 19 of the Eighth Report will not be given effect to. There is no confusion as to the interpretation of the order and the same has to be read as mentioned above.

9. The paragraph six of the order dated 20.11.2024 further clarifies, for the benefit of the parties, in unambiguous and unequivocal terms, that the learned Administrator will continue to hold the charge of the IOA till the next date of hearing, and specifically, for the purpose of holding the conference of IOACON, 2024 at Bangalore, he will be at liberty to seek assistance of incumbent ‘executive committee’ and any other member(s) of IOA whom he deems appropriate.

10. This Court has also perused another order passed by the learned Administrator dated 29.11.2024, which has been handed across to the Court by the parties present in the Court today. The learned Administrator has held as under:

“The Central Executive Committee of IOA is directed to



conduct the meeting of the Executive Committee on 03.12.2024.

In view of the Order dated 20th November, 2024 passed by the Hon'ble High Court that the Vice-President shall not officiate as the President of IOA, all decisions taken by the Executive Committee in its meeting dated 17th November, 2024, be placed for consideration before the Executive Committee on 3rd December, 2024.

All the decisions of the Central Executive Committee of IOA shall be subject to ratification by the undersigned and shall not be given effect to without the written approval of the undersigned.

Mr. Rakesh C. Pandey, CAO of IOA shall communicate this Order to all concerned..."

11. Though the learned Administrator in paragraph 2 of the order dated 27.11.2024 has mentioned that the "Eighth Report of the undersigned is modified to the extent that Dr. Ram Chaddha shall officiate as President and Dr. Anup Aggarwal shall officiate as President-Elect of IOA till further Orders by the Hon'ble High Court", the same does not convey that the Eighth Report stands modified, despite the same being pending before this Court for adjudication, under challenge. At the same time, the order dated 29.11.2024 further clarifies that it was not the intent of the learned Administrator to modify the Eighth Report without the consent of this Court, and order dated 25.11.2024 was only passed to ensure smooth functioning of the conference in question.

12. Since the Eighth Report is yet to be adjudicated upon by this Court, the Court in its order dated 20.11.2024 had clarified without any ambiguity in the same that the learned Administrator will continue to hold the charge of the IOA, till the next date of hearing. Therefore, the present application is not merited. It is again clarified that the learned Administrator will continue



to abide by the order dated 20.11.2024 passed by this Court.

13. In view of the above, this Court finds no ground to stay the operation of the order dated 27.11.2024 passed by the learned Administrator.

14. Accordingly, the application for grant of stay of the operation of order dated 27.11.2024, passed by the learned Administrator stands dismissed.

CS(OS) 414/2020 & I.A. 12483/2020 (by D-7 for direction) & I.A. 567/2021 (to place additional documents by plaintiff), I.A. 4577/2021 (pronounce judgment against defendants 1 to 6), I.A. 5934/2021 (condonation of delay in filing written statement), I.A. 7859/2022 (by D-2 for deletion of D-2), I.A. 1823/2023 (directions to D-3,4 and 5), I.A. 13013/2023 (by D-6 for directions), I.A. 13341/2023 (impleadment), I.A. 3870/2024 (impleadment), I.A. 4415/2024 (directions), I.A. 4416/2024 (impleadment/intervene), I.A. 45639/2024, I.A. 45640/2024 (impleadment), I.A. 45691/2024 (impleadment), I.A. 45692/2024 (directions), I.A. 46797/2024 (by D-8 for directions)

15. List on 21.02.2025.

16. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

DECEMBER 6, 2024

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Click here to check corrigendum, if any