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

CNR No. DLHC010413172026

+ **O.M.P.(I) 12/2026 & I.A. 24077/2026**

GOPAL SHARAN GARG

.....Petitioner

Through: Mr. Gaurav Rathor, Adv. along
with Petitioner in person.

versus

AKHIL BHARTIYA AGRAWAL SAMMELAN & ANR.

.....Respondents

Through: Ms. Rashi Bansal and Ms.
Deepti Thapa, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

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03.09.2026

1. The present Section 9 petition has been filed seeking the following reliefs:

“a) pass ex-parte ad-interim order/direction in favour of the Petitioner and against the Respondents thereby staying the operation and effect of alleged amendment carried out in the constitution of the Respondent No.1 Society in the meeting of the National Management Committee and the National Executive Committee of the Respondent No.1 Society shown to be held on 25.07.2026 and 26.07.2026 at Jamshedpur, Jharkhand;

b) pass ex-parte ad-interim order/direction in favour of the Petitioner and against the Respondents thereby staying the decision to suspend the primary membership of the Petitioner taken in the meeting of the National Management Committee and the National Executive Committee of the Respondent No.1 Society shown to be held on 25.07.2026 and 26.07.2026 at Jamshedpur, Jharkhand;

c) pass ex-parte ad-interim order/direction in favour of the Petitioner restraining the Respondent No.1 from terminating the primary membership of the Petitioner of the Respondent No.1



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Society;

d) *pass ex-parte ad-interim order/direction in favour of the Petitioner and against the Respondents thereby staying the Show Cause Notice dated 17.08.2026 issued by the alleged three-member Disciplinary Committee headed by the Respondent No.2 and also the further proceedings in pursuance thereof;*

e) *pass such other relief(s) and further relief(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case in favour of the Petitioner and against the Respondent."*

2. The facts of the matter in brief are that the Respondent No.1 Society, registered under the Societies Registration Act, 1860, conducted elections for its national office bearers for the term 2026-31 on 25.04.2026, in which the Petitioner, the outgoing National President, was unsuccessful and, by virtue of Rules 18, 19 and 20 of the Society's constitution, claims to have automatically assumed the position of National Chairman as the Immediate Past President.

3. The Petitioner alleges that thereafter meetings of the National Management Committee/National Executive Committee held on 29.04.2026, 18.05.2026 and 25-26.07.2026 were convened without requisite notice to him and, in violation of the Constitution.

4. It is alleged that decisions were taken to suspend his primary membership, and disciplinary proceedings were initiated against him. Additionally, the respondents amended the Constitution so as to disentitle an outgoing President who unsuccessfully contested the election from becoming National Chairman.

5. Learned Counsel appearing for the Petitioner challenges the



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constitution of the Disciplinary Committee and the Show Cause Notice dated 17.08.2026 issued by it, *inter alia*, on the ground that the Committee was not validly constituted by the competent body, and comprised allegedly interested and biased members.

6. It is further submitted that the Petitioner was not afforded an adequate opportunity to respond.

7. It is contended that the impugned constitutional amendment is also without authority, contrary to Rules 13 and 40, and incapable of retrospectively divesting rights already vested in him upon declaration of the election results on 26.04.2026.

8. According to learned Counsel for the Petitioner, the notice published in July 2026 issue of “Aggarwal Sammelan” was allegedly published only on or around 10.07.2026, whereas Rule 16(4) requires thirty days’ advance notice for a meeting of the National Executive Committee. The validity of the suspension is, therefore, seriously disputable and requires adjudication in arbitration.

9. It is submitted that the constitution of the Disciplinary Committee was neither discussed nor approved by the National Executive Committee at its meeting dated 26.07.2026 and that the Committee was instead constituted by the National General Secretary, who, according to the Petitioner, had no independent authority under the Constitution to constitute such a body.

10. The Petitioner relies upon Rules 13(7)(d), 13(4) and 40 of the



Constitution to contend that substantive amendments to the Constitution fall within the jurisdiction of the General Body and in the case of important amendments, require recommendation of the Constitution Committee and approval by 3/5th of the members present at a duly convened General Body meeting.

11. Learned Counsel for the Petitioner further relies on Rule 43 of the Constitution, which provides for arbitration of disputes concerning membership and affairs of the Society. The same is reproduced hereinbelow:

“43. Arbitration

Disputes between the members and the sammelan or between the members or arising out of the activities of the sammelan, such as membership or any other dispute of any nature, shall be settled through arbitration under the Arbitration and Conciliation Act, 1996.”

12. Thus, in these circumstances, the Petitioner has invoked Section 9 of the Arbitration and Conciliation Act, 1996¹ seeking interim protection against the operation of the impugned suspension and constitutional amendment.

13. After a *prima facie* perusal of the Constitution, following points are deduced -

- i. Mandatory notice prescribed under Rule 16(4) was not given to the Petitioner while suspending him.
- ii. Under Rules 18, 19 and 20, Petitioner was entitled to

¹ “the Act”, hereinafter



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participate in the relevant governing bodies, yet decisions adverse to him were taken in his absence.

- iii. Rule 13(7)(d) specifically vests the power to amend the Constitution in the General Body of Respondent No.1-Society, while Rule 13(4) mandates thirty days' advance notice for convening a meeting of the General Body.
- iv. Rule 40, provides that an important amendment to the Constitution can become effective only upon the recommendations of the duly constituted Constitution Committee being approved by at least 3/5th of the members present in a meeting of the General Body.

14. Thus, it is *prima facie* made out that the impugned amendment materially alters the constitutional structure and affects the entitlement attached to the office of Immediate Past President/National Chairman and, therefore, cannot reasonably be treated as a mere minor or administrative amendment.

15. Needless to state, the jurisdiction under Section 9 of the Arbitration and Conciliation Act, 1996 is essentially protective and preservative in nature and is intended to safeguard the subject matter of arbitration and preserve the efficacy of the arbitral remedy pending constitution of the Arbitral Tribunal.

16. In these circumstances, if impugned actions of the Respondents are permitted to attain finality before constitution of the Arbitral



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Tribunal, it may cause irreversible prejudice to the Petitioner's membership rights and claimed status as Immediate Past President/National Chairman.

17. The balance of convenience also lies in preserving the existing position for a limited period, since such protection would not prevent the Respondents from administering the affairs of the Society or from placing their case before the Arbitral Tribunal, whereas denial of interim protection may render the arbitral remedy ineffective if the Petitioner is expelled or deprived of his claimed status.

18. In these circumstances, suspension of the Petitioner's membership be kept in abeyance and Respondents are restrained from taking any final or irreversible action pursuant to the impugned disciplinary proceedings or the disputed constitutional amendment.

19. At this stage, Ms. Rashi Bansal, learned Counsel appears on behalf of Respondent No.1 on advance notice and submits that she has no objection for the appointment of Arbitrator.

20. Accordingly, there is no dispute with regard to the existence of a valid arbitration clause between the parties.

21. Further, petitioner and Respondent No.1 are *ad idem* that the present dispute can be referred to arbitration for adjudication of the disputes.

22. Accordingly, Mr. Sharath Sampath, Advocate-On-Record,



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Supreme Court, (Mob. No.9818903313) is appointed as a learned Sole Arbitrator to adjudicate the disputes arisen between the parties. The learned Sole Arbitrator shall enter upon the reference within two weeks from today.

23. The learned Sole Arbitrator will proceed to the arbitration proceedings subject to furnishing requisite disclosures as required under Section 12(2) of the Act within two weeks of entering reference.

24. The arbitration shall be carried under the rules and aegis of Delhi International Arbitration Centre (“DIAC”). The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

25. It shall be open to the parties to raise all pleas, including objection as to arbitrability and jurisdiction, before the learned Sole Arbitrator who shall decide the same in accordance with law.

26. The learned Sole Arbitrator shall adjudicate the disputes independently and on their own merits, uninfluenced by any observations contained in the present order.

27. The Registry is directed to send a receipt of this order to Mr. Sharath Sampath, learned Arbitrator through all permissible modes including email.

28. Upon constitution of the Arbitral Tribunal, the present petition



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shall be treated as an application under Section 17 of the Act and shall be placed before the learned Sole Arbitrator for consideration in accordance with law.

29. The learned Arbitrator is requested to decide the Section 17 application within two weeks upon entering reference.

30. The interim arrangement directed by this Court *vide* this order shall continue until the learned sole arbitrator considers the matter and passes appropriate orders thereon.

31. It shall be open to the learned Arbitrator, upon consideration of the matter on its own merits, to continue, modify, vary or vacate the aforesaid interim arrangement.

32. All rights and contentions of the parties are left open and nothing contained in this order shall be construed as an expression of opinion on the merits of the disputes.

33. The petition is disposed of in the aforesaid terms. Pending application(s), if any, also stand disposed of.

OM PRAKASH SHUKLA, J

SEPTEMBER 3, 2026/gunn