

क्र. 6754  
Adv. Ganesh Chavan  
9/11/10  
15/7/13  
60/- 15/11/13

Exh-32

CR No.ACC/Hosp/2092/11

1

**BEFORE THE DEPUTY CHARITY COMMISSIONER  
GREATER MUMBAI REGION, MUMBAI.**

**Change report No.ACC/Hosp/ 2092/11**

(Under Section 22 of the Maharashtra Public Trusts Act,1950).



In the matter of -  
The Indian Association of  
Physiotherapists  
**P.T.R. No. F-1335(M)**

Dr. Ali Irani

... **Reporting Trustee**

**-:Versus:-**

Dr. Sanjiv Kumar Jha

... **Opponent.**

- Appearance :** 1) Advocate Inamdar for the reporting Trustee.  
2) Advocate Sunil Nair, Advocate Ganesh Chavan and advocate Wadhwa for the Opponent.




**J U D G M E N T**  
**(Delivered on 04.07.2013)**

This is a change report filed by the reporting trustee regarding change occurred in view of appointment of *Ad-hoc* Committee for the tenure 2011-2013 of the Trust viz. "The

Indian Association of Physiotherapists" (hereinafter referred to as the 'Trust').


**02.** It is submitted by the reporting trustee that as the entire election procedure for the tenure 2011-2014 was based on wrong footing, he being the President of the Trust received so many complaints by regular as well senior members of the Trust. As the majority of Central Executive Committee members forwarded complaints to him praying to call special general body meeting, accordingly, it was called for. In view of requisitions received by the reporting trustee he has issued a notice dated 30.03.2011 calling a special general body meeting of the I.A.P on 17.04.2011. Said meeting was called for discussion of the elections of the Trust which were held in the year 2011. In pursuant to the said notice special general body meeting took place on 17.04.11 at K.E.M hospital, Mumbai. About 126 members of the Trust were present for aforesaid meeting. In the said meeting elections held for the period 2011-2014 were ruled out being null and void and seven members were elected as *Ad-hoc* Central Executive Committee. Thus, as the *Ad-hoc* committee





was formed following due procedure according to the reporting trustee he has prayed to allow the change.

**03.** Per contra, opponent, Dr. Sanjiv Jha strongly opposed the contentions of the reporting trustee. He submitted that the reporting trustee was having no locus standi to call for any special general body meeting as stated by him. The election results of the Central Executive Committee for the period 2011-2014 were declared on 27.03.2011 by the election officer. The reporting trustee, Dr.Ali Irani had contested the election for the post of President and lost in it. The election result was declared in the month of March, 2011. Due to defeat the reporting trustee has called alleged meeting unauthorisedly. The meeting was called without following norms and, therefore, any resolution passed in such meeting is not valid and binding on the Association. For the reasons above, the opponent has prayed to reject the change proposed by the reporting trustee.



**04.** Looking to the rival contentions of the parties the following points arise for my determination and I have

recorded my findings thereon for the reasons given in later part of Judgment.


<b>Sr. No.</b>	<b><u>Points</u></b>	<b><u>Findings</u></b>
01.	Whether the change report is legal and acceptable?	. . . In Negative.
02.	What order?	. . . As per final order

### **REASONS**

**05. As to Point No.1:** In support of its contention, the reporting trustee has filed his detailed affidavit below Ex.11. So also, notice calling special general body meeting dt.30.03.2011 is below Ex.2. Minutes of the meeting are below Ex.3 and attendance is below Ex.4.


**06.** Admittedly, the special general body meeting was held in pursuant to notice (Ex.2) dated 30.03.2011. As such, it is the starting point of the events which resulted into the formation of the *Ad-hoc* Committee. In this back ground, now it is necessary to go through the contents of the notice and its basis. Para 2 of the notice runs as under:





.... As the incumbent president of IAP, and in consultation with the Executive Committee (by majority), I hereby call a Special General Body Meeting as per the provisions in the IAP Constitution (section VII; Subsection d(i) of Memorandum of Association and Rules and Regulations of IAP, amended up to 2008) on 17<sup>th</sup> April 2011 at 11.30 a.m at MLT auditorium Seth G.S.Medical College-KEM Hospital Parel, Mumbai; to discuss IAP elections to Central Executive Committee.

**07.** Plain reading of the aforesaid notice of the meeting clearly shows that the reporting trustee while issuance of notice relied upon certain amendments to which he himself has opposed. Nonetheless, the said change report for amendment is also rejected. This fact cannot be over looked that the reporting trustee is relying on certain things on the either hand and at the same time he is opposing the same. When, the special general body meeting was called as per Section 7 d (i) of the Memorandum of Association and Rules and Regulations of I.A.P which were in fact not in force the starting point of the meeting itself results into invalidity.



**08.** This fact can also be not over looked that the notice was issued after the result of election for the tenure 2011-2014



was declared. Though, an attempt is made by the reporting trustee throughout the inquiry that he was not aware of his defeat, this itself cannot be relied looking to the conduct of the reporting trustee. Needless to say the present reporting trustee had worked as a President and member of Central Executive Committee and thus he is well aware of the functioning of the Trust and its affairs. When it was very well known to the reporting trustee that elections results are declared it was open for him to challenge the same before the appropriate authority. However, he has chose not to opt recourses available with him but to proceed to choose parallel committee for the management of the Trust. Had it been the case that soon after the completion of the previous tenure for the period 2008-2010 this kind of exercise would have been done, admittedly, second thought would have been given to the submissions of the reporting trustee that for proper management and in the better interest of the trust *Ad-hoc* committee is formed. However, the *Ad hoc* committee was formed after 2011 and that too after the elections results which certainly creates doubt.

09. As the starting point of the special general body meeting that is notice calling the meeting was based on wrong footing, to my mind said meeting and resolution passed in it are not at all legal and valid. For the reasons above, I answer point no.1 in negative and proceed to pass the following order.

### ORDER


Change report stands rejected.

**PLACE:** Mumbai  
**Dated:** 04.07.2013

  
( P.R.Ashturkar )  
**Deputy Charity Commissioner**  
**Greater Mumbai Region, Mumbai.**



*Certified to be a True Copy*

  
Superintendent (J)  
Public Trusts Registration Office  
Greater Mumbai Region, Mumbai

  
P.15/11/13