



WP Nos.8675, 11738 and 14707 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.07.2022

PRONOUNCED ON : 12.08.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. Nos.8675, 11738 and 14707 of 2022

and

**WMP Nos.13910, 15881, 15882, 15885, 8588, 13912,
13913, 15889, 8587, 15887, 11199, 17055 of 2022**

Anita Gaur ... Petitioner in W.P. No.8675 of 2022
Krishna Devanandan ...Petitioner in W.P. No.11738 of 2022
Hemant Lamba ...Petitioner in W.P. No.14707 of 2022

Vs.

The Auroville Foundation,
Auroville Foundation Bhavan,
Auroville – 605 101.

Rep. by its Under Secretary Respondent in W.P. Nos.8675 of 2022
&
11738 of 2022 and
1st respondent in W.P.
No.14707 of 2022

2.Anuradha Legrand
3.Parthasarathy Krishnan
4.Arun Selvam
5.Srimoyi Rossegger ... Respondents 2 to 5 in
W.P. No.14707 of 2022

Prayer in W.P. No.8675 of 2022: Writ Petition is filed under Article
226 of the Constitution of India to issue a Writ of Certiorari, calling for



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the records and quashing the impugned Office Order dated 09.02.2022, bearing No.AF/Misc/31, passed by the respondent.

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Prayer in W.P. No.11738 of 2022: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records and quashing the impugned order No.491 also bearing No.AF/M/63/dated 15.07.2021 passed by the respondent.

Prayer in W.P. No.14707 of 2022: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records and to quash the communication dated 6.5.2022 issued by the 1st respondent and consequentially forbear respondents 1-5 from interfering with the working of the Residents' Assembly, and their lawfully constituted Working Committee under Section 20 of the Auroville Foundation Act, 1988.

For Petitioner in W.P. No.14707 of 2022 : Mr. Sriram Panchu,
for Mr.Suchindran B.N.

For Petitioner in W.P. Nos.8675 and
11738 of 2022 : Mr.HS Hredai,
for Mr.M.V.Swaroop

For Respondents in
W.P. Nos.8675 of 2022 &
W.P. Nos.11738 of 2022
and 1st respondent in
W.P. No.14707 of 2022 : Mr.Vijay Narayan,
Senior Advocate
for M/s.Rajan

For R2 to R5 in W.P. No.14707 of 2022 : Mr.Nithyaesh Natraj



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COMMON ORDER

The World knows “Auroville” is an haven of unity and peace. But however, of late, it is disheartening to know that the sweat, blood and tears of its founders namely “Sir Aurobindo” and “The Mother” are getting shattered due to the infighting between some of the groups in Auroville. The philosophy of an Aurovillian is based on “peace of humanity” and “unity in diversity”. During the Auroville inauguration by the Mother in the year 1968, youth from 124 different nations and 23 Indian states, deposited a handful of their native soil into the Urn, a marble clad structure in the form of a symbolic lotus bud, located in the centre of the Amphitheatre. The Auroville charter was handwritten by the Mother in French and rests along with the soil, sealed in the Urn, as a powerful message and promise for the Aurovillian Society and the entire world at large.

2. These writ petitions arise out of a dispute between some of the residents of Auroville and the Governing Body, a statutory body under the Auroville Foundation Act, 1988.



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WEB COPY 3. The issues that arise for consideration in these writ petitions are

as follows :-

a) Whether the Governing Board of the Auroville Foundation can restrict the functioning of the Residents' Assembly on account of the alleged non updation of the Register of Residents and on account of the alleged ongoing activities of the Residents' Assembly, which according to the Governing Board as seen from the impugned communication dated 06.05.2022 has resulted in disfunctional state of affairs and has let to a complete policy paralysis. The subject matter of this issue is W.P. No.14707 of 2022.

b) Whether the impugned office order dated 09.02.2022 passed by the Governing Board of the Auroville Foundation appointing official spokespersons as Executives of “Auroville Outreach Media” with immediate effect replacing the current Executive Ms.Fabienne Marechal without the consent of the Residents' Assembly is valid. The subject matter of this issue is W.P. No.8675 of 2022.

c) Whether the impugned office order dated 15.07.2021 reconstituting the Auroville Town Development Council by inducting



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new Members by the Governing Board is an excess of the Governing Board's jurisdiction under the Auroville Foundation Act, 1988 and its Rules and the Standing order No.6 of 2011, dated 01.05.2011. The subject matter of this issue is W.P. No.11738 of 2022.

d) Whether the respective petitioners have got the locus standi to file the respective writ petitions.

4. Since all the writ petitions are connected to one another and all pertain to the functioning of Auroville Foundation, they are disposed of by way of a common order.

5. According to the Secretary of Auroville Foundation, the Register of Residents was last updated only in the year 2005. Auroville residents aged 18 years and above who are permanent residents of Auroville can become Members of the Residents Committee. However, according to the petitioners in the respective writ petitions, the register for Auroville residents was last updated in 2019. According to them, the right to terminate an admitted resident of Auroville is the exclusive function of the Residents' Assembly under Section 19(2)(a) of the Auroville



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Foundation Act and not the Governing Board. According to the

respective petitioners, the Foundation represented by its Secretary has decided to intimidate and browbeat the Residents' Assembly into submission to the illegal orders of the Auroville Foundation. The Foundation has used this as an excuse to suspend the Residents' assembly and de-recognise their Working Committee. According to them, the 1st respondent's Secretary has illegally removed the Members of the several committees, who were appointed by the Residents' Assembly and in their place appoint a small coterie of Members, who have been rejected by the Residents' Assembly. According to the respective petitioners, office orders relating to the Auroville Town Development Council and Funds and Assets Management Committee have not been published or communicated to the residents of Auroville.

6. The respective petitioners also submit that the additional counter statement and written submissions dated 11.07.2022 makes scurrilous and baseless allegations against the petitioners. According to the respective petitioners, they as Aurovillians are part of the Residents' Assembly and entitled to vote on behalf of the Residents' committee.



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WEB COPY 7. According to the respective petitioners, the access of the petitioners and their colleagues to the Auroville Financial Services account was illegally blocked on 17.06.2022, at the instance of Ms.Tine claiming to be a Member of the Working Committee of the Residents Assembly along with respondents 2 to 5.

8. W.P. No.14707 of 2022 has been filed, since the foundation has chosen to recognise the Working Committee consisting of respondents 2 to 5 therein and the Members co-opted by them. It is submitted that the members who have unilaterally co-opted cannot continue as the Working Committee of the Residents' Assembly, since their mandate was expressly withdrawn by the Residents' Assembly. According to the petitioners, the first respondent foundation illegally suspended the working of the Residents Assembly and illegally recognised the Respondents 2-5 as the Working committee. Further, the first respondent is not endowed with the powers of the Civil Court to suspend the working of a coordinate statutory body that is expressly created by a Statute. Further, it submits that neither can the Governing Board nor the



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first respondent infer nor delegate a non-existent power to any other official that is not found within the four corners of the Auroville Foundation Act. In fact, the Governing Board minutes relied upon by the first respondent clearly shows that the Governing Board only wanted updated Register of Residents of the Foundation. There is no mention of suspension or direction to "pause" the Residents' Assembly or their Working Committee.

9. According to the petitioners in W.P.No.14707 of 2022, this has been done at the instance of the Office on Special duty presumably on instructions of the first respondent without any authority under law. According to the petitioner, the Governing Board does not act, and is not concerned itself with the daily activities and initiatives taken by the residents of Auroville vis-a-vis the community since the commencement of the Act. According to the petitioner in W.P.No.14707 of 2022, no Governing Board or Secretary since the inception of the Auroville Foundation Act has sought to "pause" or suspend the Residents Assembly or challenge their right to elect the members of their working committee created by the Auroville Foundation Act or of the Funds and Assets



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Management Committee of the Residents Assembly under the Auroville
Foundation Rules.

10. The petitioner in W.P.No.8675 of 2022 has challenged the office order dated 09.02.2022 of the Auroville Foundation under which, the respondent Foundation has appointed two executives to Auroville Outreach Media, a news outlet media replacing the current executive Ms.Fabienne Marechal. According to the petitioner, "Auroville Outreach Media" (hereinafter referred to as "outreach media") was created by the residents of the Auroville for both the community and as a reservoir of information for any individual /media outlet interested in the activities taking place at Auroville. "Outreach Media" worked individually whilst also aiding the respondent Foundation as the media office for the same. According to the petitioner, the "Outreach Media" has worked with Governing Board on various activities where its assistance was required. However, according to the petitioner, historically speaking, "Outreach Media" has only ever been accountable to the Residents' Assembly of the Auroville Foundation.



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WEB COPY 11. According to the petitioner in W.P.No.8675 of 2022, a new secretary to the Auroville Foundation was appointed on 05.07.2021. According to her, this new secretary sought to undertake certain controversial activities pertaining to certain development plans of Auroville. Therefore according to her, provocative nature of the new secretary's decision created a lot of media attention for the activities undertaken. According to the petitioner, the "Outreach Media" even issued a press release dated 06.12.2021 to the residents of Auroville, requesting the Auroville individuals not to speak to any media outlet about the incidents that are taking place within the township. Further it is contended that the new secretary issued an email dated 07.12.2021 unilaterally appointed two new official spokespersons for the "Outreach Media". The said Email dated 07.12.2021 also categorically restrained the "Outreach Media" from issuing any statements until further notice.

12. According to the petitioner in W.P.No.8675 of 2022, the new secretary vide E.Mail dated 20.01.2022 demanded the "Outreach Media" to handover its movable/immovable and tangible/intangible assets to the



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respondent Foundation by 22.01.2022 on the ground that the assets were

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13. According to the petitioner in W.P.No.8675 of 2022, the impugned office order dated 09.02.2022 appointing official spokespersons as executors of “Auroville outreach media” with immediate effect replacing the current executive Ms.Fabienne Marechal



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is without the consent of the Residents' Assembly, is incomplete and is in contravention of the procedure established by law and passed in excess of the respondent's jurisdiction as prescribed under the Auroville Foundation Act.

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14. According to the petitioner in W.P.No.8675 of 2022, after the impugned office order dated 09.02.2022 came to be passed, the outreach media under its new executives who were appointed by the Respondent Foundation vide their Impugned Order, has been issuing a publication titled “Auroville Tomorrow”. According to the petitioner, the Respondent Foundation, by issuing the Impugned Order, seeks to use “Outreach Media” as a propaganda machine that seeks to put out a one-sided, foundation favouring narrative regarding the incidents occurring in the Auroville Township. According to the petitioner, the Outreach media, under its newly appointed executives, is prohibiting its residents from filming a documentary on the premises of Auroville as evidenced by the email dated 13.06.2022 and is also seeking to launch a new TV Channel as evidenced by the email dated 03.07.2022.



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15. According to the petitioner in W.P.No.8675 of 2022, the impugned office order has been issued unilaterally by the Under Secretary thereby completely contradicting the procedure contemplated under the standing order No.10 (revised). As per this standing order, the FAMC is required to pass a resolution for the purpose of appointing executives to outreach media. However, according to the petitioner, no such resolution was passed by the FAMC, prior to the passing of the impugned office order for appointing the official spokespersons as executives of Auroville outreach media with immediate effect replacing the executive Ms.Fabienne Marechal.

16. W.P.No.11738 of 2022 has been filed by a resident of Auroville challenging the office order No.491 dated 15.07.2021 issued by the Auroville Foundation reconstituting the Auroville Town Development Council (herein after referred to as ATDC) by inducting new members by the Governing Board. According to the petitioner in W.P.No.11738 of 2022, the reconstitution of ATDC by the Governing Board is in excess of the Governing Board's jurisdiction under the Auroville Foundation Act 1988 and its rules and the standing order no.6 of 2011 dated 01.05.2011.



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17. According to the petitioner in W.P.No.11738 of 2022, as per

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section 16(1) read with 17(e) of the Act and rule 5(1)(b) of the rules, the Governing Board can constitute committees for the preparation of the Master plans of Auroville. However according to the petitioner, as evidenced by the wording of section 17(e) and section 19(2)(c) of the Act, any such Master Plan must be formulated in consultation with the Residents' Assembly. According to the petitioner, the Master Plan was approved by the Department of Higher Education of the Ministry of Human Resource Development, Government of India vide Letter No.F.27-3/2000-UU dated 12.04.2001 and was notified in the Gazette of India on 16.08.2010 by the Governing Board of the Respondent Foundation. According to the petitioner, this Master Plan prescribes the "Town Development Council" as the body for planning as well as implementing and monitoring the development of Auroville with reference to the Master Plan.

18. According to the petitioner in W.P.No.11738 of 2022, under the impugned office order dated 15.07.2021, the Under Secretary of the Respondent Foundation seeks to unilaterally reconstitute the ATDC.



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According to the petitioner, the ATDC constitution is determined by Standing Order No.6 of 2011 dated 01.05.2011. According to the petitioner, as per point No.1 in the said standing order, the ATDC shall consist of a maximum of 15 members, out of which, 13 members have to be nominated by the Residents' Assembly. Meanwhile it is seen that the Governing Board and Working Committee have to nominate one member each. According to the petitioner, point No.1 in the standing order (2011) makes it clear that the Governing Board shall only approve and notify the names that are recommended by the Residents' Assembly through the Working Committee.

19. It is also contended by the petitioner in W.P.No.11738 of 2022 that point No.3 of the Standing Order (2011) prescribes the term of office of a member to be four years from the date of nomination. According to the petitioner, point No.5 of the Standing Order (2011) titled Nominations and Vacancies, reiterates the fact that the members of the ATDC shall be appointed by the Governing Board in consultation with the Residents' Assembly through the Working Committee. According to the petitioner, point No.5 also mentions that in case of a casual vacancy,



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the Governing Board in consultation with the Working Committee may appoint a member for the vacancy for the remaining period of the term.

Therefore according to the petitioner, it is clear that the Governing Board is merely given the power to notify the appointments made by the Residents' Assembly through the Working Committee.

20. According to the petitioner in W.P.No.11738 of 2022, the Working Committee by its email dated 25.05.2021 wrote to the Under Secretary of the respondent Foundation, stating that there were five members in the ATDC. The Working Committee also highlighted the fact that two of the five members were selected on 03.05.2019 and that their terms will be expiring on 03.05.2023. Furthermore, the email also stated that the remaining three members who were appointed vide a fast track process, are interim members whose term would be expiring on 01.12.2021. According to the petitioner, in this context, the Working Committee requested the Under Secretary to issue an Office Order with the above mentioned details.

21. According to the petitioner in W.P.No.11738 of 2022, vide



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letter dated 14.07.2021, the Working Committee wrote to the Secretary of

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the Respondent Foundation putting forth its recommendation for a

nominee to the ATDC and also highlighting the fact that the terms of the current office members have been notified to the Under Secretary.

According to the petitioner, despite the above mentioned representations

of the Working Committee, the Under Secretary of the Respondent

Foundation passed the impugned office order dated 15.07.2021

unilaterally extending the terms of the present five members of the ATDC

till July 2023. According to the petitioner, it is pertinent to note that the

the impugned office order cites the letter from the Working Committee to

the Secretary dated 14.07.2022 as the Residents' Assembly's

recommendation (through the Working Committee) of names to the

ATDC.

22. According to the petitioner in W.P.No.11738 of 2022, the Working Committee issued another letter dated 21.07.2021 to the Under Secretary highlighting that the impugned office order dated 15.07.2021 which has unilaterally extended the term of all the members of the ATDC, does not make the distinction between permanent and temporary



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members and is not in accordance with the recommendations made by the Residents' Assembly through the Working Committee.

23. The contentions of the respondent Foundation (Auroville foundation) insofar as W.P.No.14707 of 2022 is concerned, are as follows:

(a) The writ petition is misconceived and untenable. The impugned communication dated 06.05.2022 merely sets out the statutory mandate in terms of Section 18 of the Auroville Foundation Act, 1988 and therefore, the argument that the impugned communication is interfering with the working of the Residents' Assembly is incorrect.

(b) Register of Residents (RoR) of Auroville has not been updated since 2005 and it is only in the best interests of the foundation that the RoR is updated because only then, will there be a proper Resident Assembly in accordance with section 18(1) of the Auroville Foundation Act, 1988.

(c) Insofar as E-mail produced by the petitioner in W.P.No.14707 of 2022 dated April 2021 from the Foundation office to the Working Committee from one Mr.Tiwari and Subsequently, in June 2021 from



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Mr.Karthik, with an attached "Original RoR for Working Committee" is

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concerned, it is submitted that this list was not sent with the approval of the Competent Authority i.e., the Secretary, and therefore, it cannot be admissible or seen as proof as if the RoR was periodically maintained. Further a bare perusal of this list shows that basic data, such as passport numbers and validity and in certain cases, demise had not been updated since years. However, the foundation needs this data to be updated for the issuance of visas and address proof when required. Therefore, no fault can be found with the impugned communication.

(d) The minutes of 57th and 58th meeting of the Governing Board which was attended by the Chairman of the Foundation clearly reveals that the RoR had not been updated for the past 15 years and therefore, had not been maintained in accordance with the statute. It has also been noted in the Governing Board meeting that there is proliferation of groups and discussion forums and decision paralysis or inability to put decisions into practice. Therefore, the impugned communication requires no interference and a few stray entries made from time to time without the approval of the Secretary would not mean that the updated list as on April 2021 was in existence.



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(e) The impugned communication merely asks for the Residents'

Assembly's decisions to be put on hold until the updation of the Register as only registered residents are entitled to participate in decision making as per the Act. The petitioner conveniently fails to bring attention to the fact that the order mentions a clear deadline for this task, subject to the cooperation of the residents, and was not meant to be an open-ended exercise that indefinitely sought to pause the Residents' Assembly's decision and activities.

(f) The writ petitioner in W.P.No.14707 of 2022 is not a person aggrieved by the impugned communication. The affidavit filed in support of W.P.No.14707 of 2022 seems to focus to a large extent on the alleged removal of the petitioner in W.P.No.14707 of 2022 from the Working Committee by the respondents 2 to 5 dated 27.04.2022. The impugned communication issued by the first respondent has nothing to do with the removal of the respondents 2 to 5. In any event, the removal of the petitioner by the respondents 2 to 5 has not been challenged.

(g) The petitioner has surreptitiously tried to create a smokescreen by trying to find fault with the communication dated 06.05.2022 purely to invoke the writ jurisdiction of this court. Therefore, the only remedy



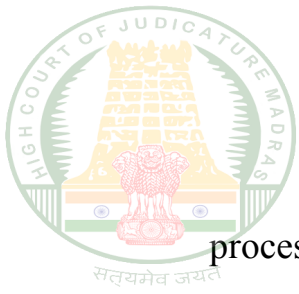
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available to the petitioner is to file a civil suit against the respondents 2 to 5 challenging his removal.

(h) The impugned communication passes the test of reasonableness and suffers from no jurisdictional defects warranting the interference by this Court. It is settled law that the judicial interference with administrative action is very limited. It is further settled that it is never the endeavour for this Court to substitute its views with that of the authority.

(i) The petitioner in W.P.No.14707 of 2022 has sought to raise her contention that the communication issued by the OSD is non-est in law. As per the minutes of 59th meeting of the Governing Board dated 12.04.2022, it has been specifically mentioned that Mr.G.Seetharaman had been appointed by the Governing Board to function as an OSD of Auroville Foundation. Thus it is abundantly clear that the appointment of OSD has been approved by the Governing Board and it is not for the petitioner in W.P.No.14707 of 2022 to contend that the OSD is not authorised by law.

(j) Even as per document annexed by the petitioner in W.P.No.14707 of 2022, namely Residents' Assembly decision making



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process, it is stated specifically that only confirmed Aurovillians can participate in the decision making and only those persons whose names have been entered in the Register of Residents maintained by the Secretary's office can be announced as confirmed Aurovillians. Therefore, till the Register of Residents is updated which process will anyway be completed at the earliest, there cannot be any confirmed Register of Residents which constitute the Residents' Assembly to take any decision as a Residents' Assembly of the foundation.

(k) There is no infringement of Article 14 or Article 21 of the Constitution of India, since the impugned communication dated 06.05.2022 is neither arbitrary nor does it deprive any person of his life or personal liberty. It is only reaffirmation of section 18(1) of the Act that there must be a Register of Residents which has to be maintained.

(l) There is no pleading of malafide against the first respondent Foundation. The petitioner in W.P.No.14707 of 2022 has without any basis raised the issue of malafides against the first respondent Foundation. However, there are no specific pleadings as required under law as to how the impugned communication is in anyway malafide. Bald pleadings without sufficient basis will have to be expressly rejected by



this Court



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WEB COPY (m) The petitioner in W.P.No.14707 of 2022 has filed this writ petition only with malafide and vindictive motive to wreak vengeance against the first respondent Foundation and this is more so evident from a bare perusal of various interim reliefs which have been sought in the petition which purely deal with the private disputes between the petitioner in W.P.No.14707 of 2022 and the respondents 2 to 5.

(n) The impugned communication will work itself out and does not require any interference from this Court. The impugned communication has merely asked the Register of Residents to be updated on or before 10.06.2022. However, because of the present litigation and lack of cooperation of a section of belligerent residents, the process has been delayed. In any event, this process will be completed by 31.08.2022 subject to further time extensions, if any. Thus the order will work itself out and updating the Register of Residents will only be in the larger interest of Auroville, since the Residents' Assembly will properly function and no person can be prejudiced by such an action.

(o) There is no proper database as on date with identity proofs, visa status, passport data, residential permits, address proof and there is



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no proper updated Register of Residents with complete and updated data fields. Therefore, for the purpose of maintaining an upto date database with proper documentation, the impugned communication is relevant, significant and necessary.

(p) The impugned communication will only encourage transparency and accountability in the foundation which was the vision of the mother.

(q) The very word "maintain" mentioned under section 18(2) of the Auroville Foundation Act, 1988 is read and understood as a continuous process of updation and since the last update has happened wayback in the year 2005, there is no necessity for the impugned communication to be interfered with.

(r) The petitioner in W.P.No.14707 of 2022 has been continuously indulging in anti-Aurovillian activities by opposing every action of the Governing Board and acting against the interest of the residents of the Auroville and the Mother's charter. Development works at Auroville have been sought to be thwarted by the petitioner in W.P.No.14707 of 2022.

(s) The petitioner in W.P.No.14707 of 2022 has gone to an extent of criminal offences and has disturbed public functionaries from



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performing their legal duties and an FIR has been registered against him

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in Crime No.134 of 2022 dated 173.05.2022 under Sections 147, 452, 341, 353, 465 & 506(i) IPC read with sections 66(c) & 66(d) of the Information Technology Act, 2000. The petitioner in W.P.No.14707 of 2022 lacks bonafide and should not be allowed to invoke the extraordinary jurisdiction of this Court.

(t) The Governing Board is the Supreme authority under the Auroville Foundation Act, 1988. In terms of section 7(1)(a) of the Act, the general superintendence, direction, control and management of the affairs of the undertakings and the right, title and interest thereon vest with the Foundation.

(u) Though under section 10(3) of the Auroville Foundation Act, 1988, the Foundation consists of three authorities namely the Governing Board, Residents' Assembly and Auroville International Advisory Council, in terms of Section 11(3) of the Act, the general superintendence, direction and management shall vest with the Governing Board. Thus all powers of Foundation which includes the Residents Assembly is exercisable by the Governing Board and the Governing Board has complete control and management of the affairs of



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all undertakings and the right, title and interest thereon of Auroville.

WEB COPY (v) In terms of section 17 of the Act, it is the power and function of

the Governing Board to do the following namely:

(i) Promote the ideals of Auroville

(ii) Reveal the basic policies of Auroville and give necessary directions for the future development of Auroville.

(iii) To accord approval to the programs the resident assembly.

(iv) To monitor and review the activities of Auroville and to secure proper management of the properties vested in the Foundation.

(v) Prepare a master plan of Auroville and ensure development of the Auroville so planned.

(vi) To authorize and coordinate fund raising for Auroville and authorize for receipts and disbursement of funds for Auroville.

(w) In terms of section 19(1) of the Act, the function of the Residents Assembly is to only advise the Governing Board in respect of all activities relating to the residents of Auroville.

(x) In terms of section 20(4) of the Act, the Working Committee of the Residents Assembly can create further organization, provided the Working Committee is satisfied that such organizations have declared



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that they shall act in conformity with the decision of the Governing Board and their main objective is to promote ideals laid down in the charter of the Auroville proclaimed by the Mother. Therefore, it can never be the case of the petitioner in W.P.No.14707 of 2022 that the sub groups of the Working Committee will have to act in conformity with the decisions of the Governing Board, but the alleged members of the Working Committee itself will act on a war path with the Governing Board. Further in terms of section 32 of the Act, the power to make regulations also vests only with the Governing Board.

(y) Rule 4 of the Auroville Foundation Rules, 1997 have further expanded the power of the Governing Board. Therefore, it is abundantly clear that it is only the Governing Board which has the sole exclusive power as per the Act to decide on matters with relation to the Foundation and the Residents' Assembly at best can only be called as an advisory body to the Governing Board.

(z) The idea of Auroville was that of the divine mother, wherein she envisaged a spiritual and a cultural township for nearly 50,000 people from different parts of the world, coming together and living as a single community, in the 3000 acres of land. However, people like the



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petitioner in W.P.No.14707 of 2022 want to ensure that they use

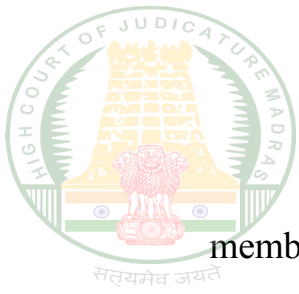
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Auroville as their own private fiefdom which actions are purely against the vision of the Mother. People like the petitioner in W.P.No.14707 of 2022 want Auroville to be made into their own elite club by restricting entry to freshers and by squatting and claiming title over lands belonging to the Auroville Foundation (government as per the statue). The Government of India also provides grants of close to 30 crores (earlier 20 crores) every year for hardly 2500-3000 people living in Auroville.

24. The respondents 2 to 5 in W.P.No.14707 of 2022 contended as follows:

(a) The writ petition is not maintainable as reliefs are sought against private persons who are not amenable to writ jurisdiction of this Court. The writ petitioner is a former member of the Working Committee of the Residents Assembly. The respondents 2 to 5 were chosen by the Residents Assembly to be the part of the Working Committee.

(b) In terms of the participatory working groups and selection process which has been approved by the Residents Assembly in December 2020, it is clearly mentioned about the process of removal of



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members during the term. The same provides as follows:

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"Removal of members during term:

To be a member of working group implies effective participation, conscientious presence and team work. Members who are not executing their work as assigned by the group and/or turn out to be ill matched with the team can-after all attempts of integration have failed- be asked by the working group to step out."

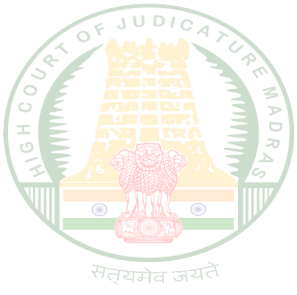
(c) In terms of the above provision, the respondents 2 to 5 who are the majority have removed the petitioner in W.P.No.14707 of 2022 and two others who are the minority by virtue of the communication dated 27.04.2022. Respondents 2 to 5 have specifically pointed out that:

(i) There was a failure of the petitioner to assist the Governing Board.

(ii) There was a failure of the petitioner to assist the Resident Assembly.

(iii) There was a failure of the petitioner to work as a team.

(iv) There was a failure of the petitioner to interact with Auroville Town Development Council



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(v) There was a failure of the petitioner to attempt

to work, since the petitioner was absent without any direct communication from 19.01.2022.

(vi) The petitioner has been polarizing and has made grossly misleading statement in the press about the Auroville Foundation.

Therefore as seen from the above, the respondents 2 to 5 who made all attempts of integration which ended in failures, have exercised their power in terms of the provisions of the participatory working group and have asked the petitioner in W.P.No.14707 of 2022 to step down.

(d)The said action cannot be interfered with by the petitioner in W.P.No.14707 of 2022 before this court and if aggrieved, his only remedy is to file a civil suit.

(e) Paragraph 22 of the affidavit filed in support of this writ petition clearly reveals that the oblique motive of the petitioner in W.P.No.14707 of 2022 is to seek relief against the respondents 2 to 5 and the impugned communication is only an entry gate for the petitioner in W.P.No.14707 of 2022 to achieve indirectly what he cannot achieve directly.



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(f) The prayer of the petitioner in W.P.No.14707 of 2022 is sought

against the respondents 2 to 5 and is made further explicit through a perusal of the interim applications which have been moved by the petitioner which basically calls for protecting the petitioner's claim to be a member of the Working Committee.

(g) The petitioner in W.P.No.14707 of 2022 cannot seek any relief to forbear the respondents 2 to 5, since the respondents 2 to 5 have exercised their powers only in terms of provisions of the participatory working groups approved by the Residents' Assembly.

(h) The petitioner in W.P.No.14707 of 2022 has assailed the impugned communication and sought for relief against the respondents 2 to 5. However, the impugned communication makes no reference to the communication dated 27.04.2022 of the respondents 2 to 5 and on this score, the present writ petition is not maintainable. Consequential relief prayed for in the writ petition has no relevance to the main relief which has been sought for and the petitioner in W.P.No.14707 of 2022 has attempted to combine two distinctive relief into one, purely for the purpose of filing the writ petition.



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WEB COPY (i) The petitioner in W.P.No.14707 of 2022 cannot be aggrieved by the impugned communication in any manner whatsoever because all that the impugned communication is asking for is updating of the Register of Residents and to pause any decisions taken by the Residents Assembly till such time. The petitioner in W.P.No.14707 of 2022 cannot be aggrieved by either since in any event he has been removed by the respondents 2 to 5 by virtue of the communication dated 27.04.2022 which has not been challenged.

25. Insofar as W.P.No.8675 of 2022 is concerned, the contentions of the respondent Foundation are as follows:

(a) The writ petitioner is not a person aggrieved and has no locus standi to file the writ petition. From a bare perusal of the impugned office order dated 09.02.2022, it can be seen that the said order appoints two new executives to the Auroville Outreach Media (herein after referred to as Outreach Media") replacing the then executive. one Ms.Fabienne Marechal. The petitioner in W.P.No.8675 of 2022 is not affected by the impugned office order in any manner and since it is clear



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that she is not a person aggrieved, the challenge to the impugned office order has to necessarily fail.

(b) The petitioner in W.P.No.14707 of 2022 was never part of the “Outreach Media”. By no stretch of imagination, the petitioner can agitate the right of Ms.Fabienne Marechal who was replaced with two other executives in the impugned office order. There is no pleading in the affidavit filed in support of this writ petition as to how the petitioner in W.P.No.14707 of 2022 would be a person aggrieved by the impugned office order. Bald pleading has been made without any specificity as to how the petitioner in W.P.No.14707 of 2022 is personally aggrieved.

(c) Since the petition is not styled as a Public Interest Litigation, the writ petition has to show a personal interest and in the absence of the same, the writ petition deserves to be dismissed in-limine.

(d) The prayer sought for in the writ petition is untenable as there is no illegality in the office order dated 09.02.2022 as the Secretary of the respondent Foundation has merely replaced the executive of the outreach media namely Ms.Fabienne Marechal with new executives.

(e) The petitioner's grievance is that the office order is in violation of the standing order No.10 dated 15.04.2015. As per paragraph 4 of the



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said standing order, it is clear that the standing order will be applicable

only for creation of new units and activities under the Trust. The petitioner in W.P.No.8675 of 2022 has not been able to point out in any manner whatsoever as to how the outreach media is a unit under the trust. The details of the trust of the Auroville Foundation is appended to the Auroville Foundation Act. Further the word "trust" or "body" has been defined under section 2(1) of the Auroville Foundation Act, 1988 to mean the trust or a body specified under the Schedule.

(f) The standing order also makes reference to section 7(1)(a) which refers to the undertakings of the Central Government under section 3 of the Act. The word "undertaking" has been defined under section 2(m) which means the undertakings of the society, trust or body which are vested in the Central Government under section 3. Therefore, the "Outreach Media" which is merely a Department in the Foundation office cannot now be equated to a unit under the Trust. The other members of the outreach media have not been impleaded and therefore, the writ petition deserves to be dismissed for non-joinder of necessary parties.



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(g) The Charter of Auroville makes it clear that it belongs to

nobody in particular and it belongs to humanity as a whole. But to live in Auroville, one must be a willing servitor of the divine consciousness.

(h) As per the above charter which is recognised in preamble to the Act and which is what the Act seeks to achieve, no person who wants to be a true Aurovillian should fight for positions and assets. However, the very petition of the petitioner in W.P.No.8675 of 2022 seems to smack of arrogance, since the petitioner wants a certain set of persons to continuously hold positions in the foundation. This action is directly opposite to the Charter of Auroville.

(i) Ms.Fabienne Marechal whose cause the petitioner has espoused in the writ petition does not have a clean track record. It can be seen that the Foundation has given complaints against Ms.Fabienne Marechal for usurping public property and stealing the equipments belonging to the Foundation which have been purchased through public funds and public money. Therefore, the petitioner in W.P.No.8675 of 2022 lacks bonafide and should not be allowed to invoke the extraordinary jurisdiction of this Court.



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(j) The idea of Auroville was that of the divine Mother, wherein

she envisaged a spiritual and a cultural township for nearly 50,000 people from different parts of the world, coming together and living as a single community in the 3000 acres of land. However, people like the petitioner want to ensure that they use Auroville as their own private fiefdom which actions are purely against the vision of the Mother.

(k) The people like the petitioner want Auroville to be made into their own elite club by restricting entry to freshers and by squatting and claiming title over lands belonging to the Auroville Foundation (government as per the statute). The Government of India also provides grants of closer to 30 crores (earlier 20 crores) for hardly 2500-3000 people living in Auroville.

26. Insofar as W.P.No.11738 of 2022 is concerned, the contentions of the respondent Foundation are as follows:

(a) The prayer in the writ petition is misconceived and untenable. The impugned order dated 15.07.2021 refers to reconstruction of ATDC. The main ground of challenge in the writ petition is that this impugned office order dated 15.07.2021 is not in accordance with standing order



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No.6 of 2011 dated 01.05.2011.

WEB COPY (b) The standing order No.6 of 2011 is found under the heading

"council membership" and the said council shall consist of members nominated by the Residents' Assembly through Working Committee.

(c) The impugned office order dated 15.07.2021 very clearly reads that the Residents' Assembly through its Working Committee had recommended the names of the Residents of Auroville vide letter dated 14.07.2021 for the purpose of constituting ATDC. Therefore, there can be no fault found with the impugned office order, because the impugned office order has acted on the recommendation of Working Committee of the Residents' Assembly.

(d) The writ petitioner is not a person aggrieved and has no locus standi. It is pertinent to mention that the petitioner in W.P.No.11738 of 2022 has nothing to do with the ATDC and has never been part of the Auroville Town Development Council at any given point of time. The petitioner in W.P.No.8675 of 2022 was not a person who has been removed from the Town Development Council and cannot be aggrieved by the order of the Respondent foundation reconstituting the Auroville Town Development Council.



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(e) There is no pleading in the affidavit filed in support of this writ

petition as to how the petitioner in W.P.No.8675 of 2022 is a person aggrieved by the impugned office order. There is a bald assertion at paragraph 31 of the affidavit filed in support of W.P.No.8675 of 2022 that the petitioner is aggrieved by the impugned office order, but is bereft of any particulars or specific pleading. Since the petition is not styled as a Public Interest Litigation, the writ petitioner has to show a personal interest and in the absence of the same, the writ petition deserves to be dismissed in-limine.

(f) The writ petition has become infructuous and this aspect has been suppressed by the writ petitioner. The standing order No.1 of 2022 has been issued by the respondent Foundation on 1.6.2022 which came into immediate effect. This standing order was mentioned in the website of Auroville (Auronet) within a few days after the order. In terms of the Auroville Foundation Standing Orders, 2011, the Secretary has the power to notify the Standing Order under her hand and seal in terms of Rule 2(c). Therefore, the Standing Order came into force immediately and subsequently came to be notified by the Foundation on 15.7.2022. By virtue of this standing order, the ATDC is to be appointed by the



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Governing Board. The Governing Board has also authorized the Secretary of the Foundation to appoint the council members on its behalf.

In terms of the same, the Secretary to the Foundation has already reconstituted the ATDC vide office order dated 1.6.2022. The office order dated 1.6.2022 has not been challenged before this Court. The persons who have been appointed as members in the ATDC have not been impleaded in the present writ petition, even though they are necessary parties and therefore the writ petition has to fail on that ground as well.

(g) The petitioner in W.P.No.11738 of 2022 lacks bonafide and should not be allowed to invoke the extraordinary jurisdiction of this Court. The Charter of Auroville makes it clear that it belongs to nobody in particular and it belongs to humanity as a whole. But to live in Auroville, one must be a willing servitor of the divine consciousness. Therefore, as per the above charter which is recognised in preamble to the Act and which is what the act seeks to achieve, no person who wants to be a true Aurovillian should fight for positions and assets. However, the very petition of the petitioner in W.P.No.11738 of 2022 seems to smack of arrogance, since the petitioner wants a certain set of persons to



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continuously hold positions in the foundation. This action is directly opposite to the Charter of Auroville.

(h) The petitioner has been continuously indulging in anti-aurovillian activities by opposing every action of the Governing Board and acting against the interest of the residents of the Auroville and the Mother's charter. Development work at Auroville have been sought to be thwarted by the petitioner in W.P.No.11738 of 2022.

(i) The petitioner in W.P.No.11738 of 2022 has no locus to claim Interim Reliefs on behalf of one Elodie and Txuma who are not before this Court. The petitioner in W.P.No.11738 of 2022 is more interested in seeking interim reliefs rather than focussing on main writ petition as would be evident from the mischievous interlocutory application which has been moved by the petitioner in the present writ petition seeking for interim injunction restraining the demolition of toilets under the use of two individuals namely Elodie and Txuma.

(j) Auroville as an idea and as a concept, are being destroyed by people like the petitioner in W.P.No.11738 of 2022. The idea of Auroville was that of the divine Mother, wherein she envisaged a spiritual and a cultural township for nearly 50,000 people from different parts of the



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world, coming together and living as a single community in the 3000

acres of land. Miscreants like the writ petitioner in W.P.No.11738 of 202

who do not believe in the spiritual guidance of the divine Mother, are

disturbing the peaceful humanity, co-existence and selfless life style, and

thus, the present writ petition ought not to be entertained by this Court.

(k) The Government of India is providing free lands, subsidised infrastructure, food, energy, electricity and providing full income tax exemption to Auroville and its people only for this divine purpose and for the realisation of Charter of Auroville. This cannot be abused by meddlesome interlopers like the petitioner in W.P.No.11738 of 2022 who seemed to have a "my way or highway attitude".

DISCUSSION:

27. Before delving into the matter, this Court at the outset expresses its deep sense of anguish for the present infighting that is happening between the various groups in Auroville thereby shattering the Noble ideals of its founder "The Mother". Auroville was founded by "The Mother", the spiritual collaborator of Sri Aurobindo. The task of giving a concrete form to Sri Aurobindo's vision was entrusted to the Mother.



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WEB COPY 28. The Auroville Foundation is a spiritual institution founded by

"Sri Aurobindo" and the "Mother" and its charter reads as follows :

1. Auroville belongs to nobody in particular. Auroville belongs to humanity as a whole. But to live in Auroville, one must be the willing servitor of the Divine Consciousness.

2. Auroville will be the place of an unending education, of constant progress, and a youth that never ages.

3. Auroville wants to be the bridge between the past and the future. Taking advantage of all discoveries from without and from within, Auroville will boldly spring towards future realizations.

4. Auroville will be a site of material and spiritual researches for a living embodiment of an actual human unity.

29. The Central Government took over the Auroville by the enactment of the Auroville Foundation Act, 1988. The said Act has been so designed to implement the charter of Auroville which are the noble wishes of "Sri Aurobindo" and "The Mother".

30. Under the Auroville Foundation Act, there are three statutory authorities who jointly administer and manage the Foundation and they



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are a) Governing Body, b) International Advisory Council and c)

Residents Assembly and all the three are having well defined powers and one cannot override the power of the other.

31. The nature of the enactment shows that there is no place for egoistic thinking as all the three authorities will have to jointly work for the achievement of “The Mother's” Charter. The relationship between the three authorities is of mutuality. In this world, as Sri Aurobindo says, there are always three terms of existence: the individual, the group in which he lives, and largest group which is humanity as a whole. And nobody can get rid of these three terms. The world cannot get rid of groups and the individuals, individual cannot give up group or their largest group, and no group can exist without a membership of individuals and the largest group around. The three are inter related. There is a spiritual unity between the three namely the individual, groups and the largest group. Therefore, if you are really spiritually governed, you will see mutuality of the three. Sri Aurobindo says "by no mechanical law can you attain to this mutuality". It is only when you develop true brotherhood and you exercise true brotherhood that this



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mutuality can be experienced and can be realised.

WEB COPY 32. The Auroville Foundation Act has been enacted to fulfil the noble and divine ideals of "Sri Aurobindo" and "The Mother" and to develop brotherhood. The enactment prescribes brotherhood and is of such a nature that you are bound, even if you want to throw away brotherhood, you are bound to have it, it's like a spiritual compulsion.

33. Under the Auroville Foundation Act, Auroville will be administered by the people of Auroville. Secondly, as long as the people of Auroville want to develop Auroville in accordance with the Charter of Auroville, they have full freedom to do so. Even the Governing Board of the Auroville Foundation cannot infringe upon the Residents of Auroville as long as they follow the Auroville charter. However, the Governing Board, of course, has the power of control and supervision and to see that everything is run smoothly and, particularly, that it is bound to promote the ideals of Auroville.

34. Under the Auroville Foundation Act, 1988, the Auroville Foundation was created which is a separate legal entity with three authorities under its belt viz., a) Governing Board, b) International



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Advisory Council and c) Residents' assembly.

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a) The Governing Board has overall responsibility for the ongoing development of Auroville in keeping with its aims and ideals. It is composed of a number of eminent individuals, mostly Indian nationals, as well as ex-officio Indian Government Offices.

b) The International Advisory Council has the function of advising the Governing Board on matters relating to management and development of the township. It is normally composed of five outstanding individuals of high international repute, usually from different nations.

c) The Residents' Assembly comprises all Residents of Auroville on the Master List over the age of 18. This body monitors the various activities of Auroville, decides on the terms of its membership, and is responsible for evolving and implementing a Master Plan for Auroville's future development in consultation with the Governing Board. It selects a Working Committee as an interface with the Governing Board, the Secretary, and the other groups of collective service to Auroville.

35. There is also a Secretary to the Foundation, appointed by the



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Government of India, who resides and has an office with supporting staff
in Auroville.

Structure of the units of the Auroville Foundation

36. The Auroville Foundation consists of research, educational, service and commercial units dedicated to the promotion of the ideals of Auroville and of units dedicated to the uplifting of the population living in the villages surrounding Auroville.

37. The Auroville Foundation has separated the three activities. All commercial activities are carried out in business trusts. The service units are integral parts of the Auroville Foundation. The units dedicated to village work are also organised in separate trusts. These trusts are recognised as non-governmental organisations. Auroville's Residents' Assembly consists of all the Residents of Auroville aged eighteen years and above. The powers of the Residents' Assembly are to advise the Governing Board and to make proposals for approval by the Governing Board. It also has the power to grant and terminate the right of a resident in Auroville. The Act prescribes that a Working Committee of the



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Residents' Assembly shall assist the Residents' Assembly and the Governing Board in discharging their duties under the Act.

38. Section 11 of the Act deals with the formation of the Governing Board and as to who are its members. Section 17 of the Act deals with the powers and functions of the Governing Board, which is extracted hereunder:

“17. Powers and functions of the Governing Board.—

The powers and functions of the Governing Board shall be— (a) to promote the ideals of Auroville and to coordinate activities and services of Auroville in consultation with the Residents' Assembly for the purposes of cohesion and integration of Auroville;

(b) to review the basic policies and the programmes of Auroville and give necessary directions for the future development of Auroville;

(c) to accord approval to the programmes of Auroville drawn up by the Residents' Assembly;

(d) to monitor and review the activities of Auroville and to secure proper management of the properties vested in the Foundation under section 6 and other properties relatable to Auroville;

(e) to prepare a master-plan of Auroville in



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consultation with the Residents" Assembly and to ensure development of Auroville as so planned;

(f) to authorise and coordinate fund-raising for Auroville and to secure proper arrangements for receipts and disbursement of funds for Auroville.”

39. Section 17 (a) of the Act makes it clear that the Governing Board shall promote the ideals of Auroville and coordinate the activities and services of Auroville in consultation with the Residents' Assembly for the purposes of cohesion and integration of Auroville. Therefore, only after consultation with the Residents' Assembly, the Governing Board shall take any decision to promote the ideals of Auroville and to coordinate activities and services of Auroville; Under Section 17 (c) of the Act, the Governing Board accords approval to the programmes of Auroville drawn up by the Residents' Assembly; Under Section 17 (d) of the Act, Governing Board monitors and reviews the activities of Auroville in order to secure proper management of the properties vested with the Foundation under Section 6 and other properties relatable to Auroville; Under 17 (e) of the Act, the Governing Board is empowered to prepare the Master-plan of Auroville in consultation with the Residents' Assembly and to ensure development of Auroville. Therefore,



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before taking any policy decision for the Auroville Foundation, consultation between the Governing Board and the Residents' Assembly is mandatory.

40. Section 18 of the Act deals with the Residents' Assembly and section 19 deals with its functions and powers and they are extracted hereunder:

18. Residents' Assembly.—(1) The Residents' Assembly shall consist of all the residents of Auroville who are for the time being entered in the register of residents maintained under this section.

(2) The Secretary to the Governing Board shall maintain the register of residents in such manner as may be prescribed and all the persons who are residents of Auroville and who are of the age of eighteen years and above are entitled to have their names entered in the register on an application made to the Secretary in such form as may be prescribed.

(3) All the names of residents, which have been



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included in the register maintained by the Administrator appointed under section 5 of the Auroville (Emergency Provisions) Act, 1980 (59 of 1980) immediately before the appointed day, shall be deemed to have been included in the register maintained under this section.

19. Functions of Residents' Assembly.—(1) *The Resident's Assembly shall perform such functions as are required by this Act and shall advise the Governing Board in respect of all activities relating to the residents of Auroville.*

(2) *In particular, and without prejudice to the foregoing powers, the Residents' Assembly may— (a) allow the admission or cause the termination of persons in the register of residents in accordance with the regulations made under section 32; (b) organise various activities relating to Auroville; (c) formulate the master plan of Auroville and make necessary recommendations for the recognition of organisations*



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engaged in activities relatable to Auroville for the approval of the Governing Board; (d) recommend proposals for raising funds for Auroville for the approval of the Governing Board.

(3) For the purpose of carrying of its functions, the Residents" Assembly may establish such committees as it may consider necessary which shall represent it in relation to the functions to be performed by the Governing Board."

41. As per Section 18 (1) of the Auroville Foundation Act, the Residents' Assembly shall consist of all the Residents of Auroville, who are for the time being entered in the Register of Residents maintained under the Section. As per Section 18 (2) of the Act, the Secretary to the Governing Board shall maintain the register of the residents in such manner as may be prescribed and all the persons who are the residents of Auroville and who are of the age of eighteen years and above are entitled to have their names entered in the register on an application made to the Secretary in such Form as may be prescribed.



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WEB COPY 42. As seen from Section 19 (1), the Residents' Assembly shall perform such functions as are required by the Statute and shall advise the Governing Board in respect of all activities relating to the residents of Auroville. As per Section 19 (2)(a), the Residents' Assembly may allow the admission or cause the termination of persons in the register of residents in accordance with the regulations made under section 32; (b) organise various activities relating to Auroville; (c) formulate the Master plan of Auroville and make necessary recommendations for the recognition of organisations engaged in activities relatable to Auroville for the approval of the Governing Board; (d) recommend proposals for raising funds for Auroville for the approval of the Governing Board. Under Section 19 (3) of the Act, the Residents' Assembly for the purpose of carrying out its functions is also empowered to establish such committees as it may consider necessary which shall represent it in relation to the functions to be performed by the Governing Board.

43. Section 20 of the Act deals with the Working Committee of Residents' Assembly, which is extracted hereunder:



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“20. Working Committee of Residents' Assembly.- (1) There shall be a Working Committee of the Residents' Assembly which shall assist the Residents' Assembly or, as the case may be, the Governing Board, in discharging its duties under this Act.

(2) The Working committee shall consist of not more than seven members to be chosen by the Residents' Assembly from among themselves.

(3) The manner of choosing the members of the Working Committee and their term of office shall be such as may be decided by the Residents' Assembly.

(4) The Working Committee may, with the approval of the Governing Board, create or constitute the organisations, trusts, societies or association relatable to Auroville if the Working Committee is satisfied that such organisations, trusts, societies or associations have--

(a) their headquarters at Auroville;

(b) declare that in all matters relating to Auroville they shall act in conformity with the decisions of the Governing



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Board and that their main object is to promote the ideals

WEB COPY *laid down in the Charter of Auroville proclaimed by the*

'Mother' on the 28th day of February, 1968."

44. As seen from Section 20(1) of the Act, the Working Committee acts as an interface between the Residents' Assembly and the Governing Board in discharging the duties of the Governing Board under the Act. As seen from Section 20(2) of the Act, the members of the Working committee are to be chosen only by the Residents' Assembly from among themselves and shall consist of not more than seven members.

45. It is also made clear in Section 20 (3) of the Act that the manner of choosing the members of the Working Committee and their term of office shall be such as may be decided by the Residents' Assembly. Therefore, the Working Committee is chosen only by the Residents' Assembly and its term of Office is also decided by the Residents' Assembly. Section 20 (4) of the Act, also makes it clear that the Working Committee with the approval of the Governing Board, is empowered to create or constitute organisations, trusts, societies or



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associations relatable to Auroville. If the Working Committee is satisfied

with such organisations, trusts, societies or associations have- (a) their headquarters at Auroville; (b) declare that in all matters relating to Auroville they shall act in conformity with the decisions of the Governing Board and that their main object is to promote the ideals laid down in the Charter of Auroville proclaimed by the 'Mother' on the 28th day of February, 1968.

46. As seen from Section 20 of the Act, even the Working Committee cannot take a decision on its own, it must be a collective decision approved by the Governing Board. It is also made clear under Section 20 (4) of the Act that the main object for any policy decision for the Foundation should be to promote the ideals laid down in the Charter of Auroville proclaimed by the Mother on 28.02.1968. The said Charter is based on the philosophy of “unity in diversity and peace of humanity”.

47. Section 21 deals with the Advisory council. Section 21 of the Act is extracted hereunder:

“21.Advisory Council- (1) The Auroville International



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Advisory Council shall consist of not more than five members nominated by the Central Government.

(2) The Central Government may nominate the members of the Council from amongst persons who in its opinion are devoted to the ideals of human unity, peace and progress.

(3) The Council may, on its own motion or on a reference made to it by the Governing Board, advise the Governing Board on any matter relating to the development and management of Auroville.

(4) In tendering any advice to the Governing Board, the Council shall endeavour to secure that--

(a) the ideals for which Auroville has been established are encouraged, and

(b) the residents of Auroville are allowed freedom to grow and develop activities and institutions for the fulfilment of the aspirations and programmes envisaged in the said Charter of Auroville.

(5) There shall be a Chairman of the Council who shall be elected by the members of the Council from among



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themselves.

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(6) The term of office of, the method of filling casual vacancies among, and the allowances and other remuneration, if any, payable to, the members of the Council, shall be such as may be determined by the Central Government.

(7) The Council shall have power to regulate its own procedure.”

48. As seen from Section 21 (2), the Central Government may nominate the members of the Advisory Council from amongst persons who in its opinion are devoted to the ideals of human unity, peace and progress. Once again, human unity, peace and progress is stressed, which has always been the philosophy of “The Mother”. As seen from Sections 17 to 21, any policy decision for the Foundation will have to be taken collectively by the Governing Board, Residents' Assembly and Working Committee of the Residents' Assembly. But, the Governing Board has to accord its final approval. The Foundation has been primarily established for the welfare of the residents of Auroville, who are followers of the Charter of Auroville, whose primary teachings are human unity, peace



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and progress. The establishment of Auroville by the Mother, whose

residents are nationalities from various countries including India would go to show the Mother's desire that Auroville should act as a shining example for human unity, peace and progress despite its diversity.

49. The Auroville Foundation has been established by the Mother to benefit its residents who abide by the Auroville Charter. Therefore, any decision concerning the Foundation will have to necessarily get the concurrence of the residents. The members of the Governing Board need not be the residents of Auroville. Whereas the members of the Residents' Assembly will necessarily have to be the residents of Auroville. Similarly, the members of the Advisory Council, the other statutory body of the Foundation need not be the residents of Auroville. When the Foundation was established only to benefit its residents, who follow the Charter of Auroville laid down by the Mother, any policy decision of the Foundation can be taken by the Governing Board only in consultation with the Residents' Assembly.

50. Section 15 of the Act deals with the Secretary and other Offices of the Foundation, which is extracted hereunder:-



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15. Secretary and other Offices of the Foundation.-(1)

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The Central Government shall appoint a Secretary to the Foundation to exercise such powers and perform such duties under the Chairman of the Governing Board as may be prescribed or as may be delegated to him by the Chairman.

(2) The Secretary shall be entitled to such salary and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.

(3) Subject to such control, restrictions and conditions as may be prescribed, the Governing Board may appoint such other Offices and employees as may be necessary for the efficient performance of its functions.

(4) The Chairman, Secretary and other Offices and employees of the Foundation shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.



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51. As per Section 15, the Secretary is an employee of the

Foundation and shall exercise such powers and perform such duties under the Chairman of the Governing Board. The Secretary need not be a resident of Auroville. As per Section 18 (2) of the Act, the Secretary to the Governing Board shall maintain the Register of residents in such a manner as may be prescribed and all the persons who are residents of Auroville and who are of the age of 18 years and above are entitled to have their names entered in the Register on an application made to the Secretary, in such Form as may be prescribed. Therefore, it is the responsibility of the Secretary to maintain the Register of residents for Auroville Foundation.

52. In the counter affidavits filed by the Foundation in these writ petitions, the Secretary of the Foundation has stated that the Register of residents for Auroville was last updated only in 2005. Even after the lapse of 17 years, till date, the register of the residents has not been updated. However, the same is disputed by the respective petitioners who claim that the Register of Residents was updated in the year 2019. From 2005 up to this date, many residents of Auroville may have left Auroville



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and some of them may have also died. Similarly, there may be new residents as well. Further, the persons who were less than 18 years in the year 2005 would have now become eligible to be residents of Auroville on attaining 18 years. The Foundation was founded for the benefit of the residents of Auroville, who adhere to the Mother's Charter. Without updating the register of residents, any policy decision taken by the Foundation may not be in accordance with the Act as it may not be to the wishes of the majority of the residents who are entitled to be registered in the Register of Residents. There is also a possibility that the current number of residents who are entitled to be registered but not registered in the Register of Residents may far out number the persons who are registered upto the year 2005, when it was last updated according to the Secretary.

53. Under the impugned order dated 06.05.2022, which is the subject matter of WP.No.14707 of 2022, Governing Board of the Auroville foundation has restricted the functioning of the Residents' Assembly on account of the alleged non updation of the Register of the Residents and on account of the alleged ongoing activities in the



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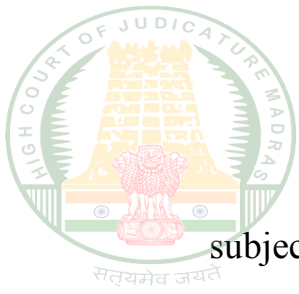
Residents' Assembly, which according to the Governing Board has

resulted in disfunctional state of affairs and has led to complete policy paralysis. The Governing Board has not consulted the full compliment of the Residents' Assembly, which is mandatory as per Section 17 of the Act. The Governing Board under the Auroville Foundation Act, cannot take a unilateral decision on its own and restrict the functioning of the Residents' Assembly as the functions of the Residents' Assembly is a statutory function as prescribed under Section 19 of the Act. No resolution was passed by the Residents' Assembly comprising of all the residents who are entitled to be registered as members of the Residents' Assembly authorising the Governing Board to pass the impugned order, which is the subject matter of WP.No.14707 of 2022. When there is no such resolution passed by the Residents' Assembly, the question of restricting the functioning of the Residents' Assembly on account of the alleged non updation of the Register of Residents and on account of the alleged ongoing activities of the Residents' Assembly, is not permissible as per the Statue, as the Governing Board cannot act unilaterally without consultating the Residents' Assembly, though the Governing Board is the authority under the Statute to accord final approval.



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WEB COPY 54. The Working Committee of the Residents' Assembly acts as an interface between the Residents' Assembly and the Governing Board. The Working Committee of the Residents' Assembly shall consist of not more than 7 members and it has to be chosen only by the Residents' Assembly from among themselves. The Working Committee Members should also be the residents of Auroville, who follow the Auroville Charter laid down by "The Mother". The Governing Board has passed the impugned order in WP.No.14707 of 2022 without consulting the Residents' Assembly as well as the duly elected Working Committee of the Residents' Assembly, which is mandatory as per Section 17(a) of the Act. Therefore, the first issue that arises for consideration in these Writ Petitions as to whether the Governing Board of the Auroville Foundation can restrict the functioning of the Residents' Assembly on account of the alleged non updation of the Register and on account of the alleged ongoing activities of the Residents' Assembly, which according to the Governing Board has resulted in dysfunctional state of affairs and has led to a complete policy paralysis has to be answered in the negative. Therefore, the impugned order dated 06.05.2022 passed, which is the



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subject matter of WP.No.14707 of 2022 has to be quashed.

WEB COPY 55. Coming to the second issue, which is the subject matter of WP.No.8675 of 2022, wherein the petitioner has challenged the Office Order dated 09.02.2022 of the Foundation, under which the Executive of the Outreach Media, viz., Ms.Fabienne Marechal was replaced with new Executives. According to the petitioner, the said Office Order is in violation of the Standing Order No.10 dated 15.04.2015. The Standing Order No.10, dated 15.04.2015 which was issued by the Foundation and the relevant portion reads as follows:

“Whereas the Secretary to Auroville Foundation, appointed u/s 15(1) of the Auroville Foundation Act, 1988, in exercise of the powers conferred u/s 7(1)(a) of the said Act has been issuing Office Orders since May 14, 1992 for the creation of new Units and appointing executives for the said undertakings to carry on for and on behalf of the Governing Board of the Auroville Foundation, the management of the said undertakings in keeping with the aims, objectives and voluntary nature of the said undertakings.



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Whereas the Governing Board of Auroville Foundation, during the 45th Governing Board Meeting held on August 3, 2014, approved the agreement between Trust and Unit.

Whereas the Funds and Assets Management committee (FAMC) of the Residents Assembly of Auroville Foundation, constituted under the Auroville Foundation Rules, 1997 accepted and adopted the agreement between Trust and Unit for implementation.

Now therefore, the Office of the Secretary to the Auroville Foundation discontinues the issue of Office Orders for creation of new units and activities under the Trusts created by Auroville Foundation. The FAMC is authorised to undertake the following in the lieu of the Office Orders:

1) New unit under the Trusts of the Auroville Foundation will be created through:

a) Resolution by the Board of Trustees of the Trust under which the Unit is created, and

b) Resolution by the FAMC,

2) Appointment of Executives will be effected through

a) Resolution by the FAMC.



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3) Closure of a unit will be effected through

a) Resolution by the FAMC.

All the orders issued by the FAMC as above will be informed to the Working Committee and the FAMC may amend, from time to time, any or all of the provisions of this Standing Order.

The Standing Order issued hereby shall come into force with immediate effect.”

56. From a perusal of the above, it is clear that this Standing Order, will be applicable only for creation of new units and activities under the Trust. The impugned Office Order has not created any new unit under the Trust. The details of the Trust of the Auroville Foundations is appended to the Auroville Foundation Act. The word Trust or Body has been defined under Section 2(l) of the Auroville Foundation Act to mean the Trust or Body specified under the Schedule. The Standing Order No.10 dated 15.04.2015 also makes reference to Section 7(1)(a), which refers to the undertakings of the Central Government under Section 3. The word “undertaking” has been defined under Section 2(m), which means the undertakings of the Society, Trust or Body which was vested in the Central Government under Section 3. Therefore, the Outreach Media



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which is a department in the Foundation office cannot now be equated to an Unit or a Trust. The Office Order dated 09.02.2022 has mainly replaced the Executive of the Outreach Media with new Executives. Outreach Media is also not a unit or a Trust mentioned in appendix to the Auroville Foundation Act. The Outreach Media is mainly a Department of the Foundation and cannot now be equated to a unit under the Trust.

57. Ms.Fabienne Marechal, the Executive, who has been replaced under the Office Order of the Foundation dated 09.02.2022, which is the subject matter of WP.No.8675 of 2022 has not challenged her expulsion. The said Office Order has been challenged only by a third party by name Anita Gaur, who claims to be a resident of Auroville. The removal of Ms.Fabienne Marechal and the Office Order dated 09.02.2022 by the Foundation is a person centric issue. Therefore, only Ms.Fabienne Marechal if aggrieved is entitled to challenge the said order. Further, even if it is challenged, a Writ Petition is not maintainable. If at all Ms.Fabienne Marechal is having a remedy against the Foundation with regard to her removal as an Executive of Outreach Media, she has to approach only the Civil Court. The removal of Ms.Fabienne Marechal as



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an Executive of Outreach Media under the Office Order dated

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09.02.2022 is not a statutory power exercised by the Foundation. The Office Order of P.R.Srinivasamurthy, Under Secretary is only an administrative decision. The members of the Outreach Media have also not been impleaded as party respondents in the said Writ Petition namely W.P.No.8675 of 2022.

58. The Charter of Auroville as laid down by “The Mother” which is the basis for the preamble to the Auroville Foundation Act seeks to achieve that no person who wants to be a true Aurovillean should fight for positions and assets. However, the petitioner in W.P.No.8675 of 2022 is desirous of only certain class of persons to hold positions in the Foundation. This action is directly opposite to the Charter of Auroville which emphasises “contentment of the soul”. Ms.Fabienne Marechal, whose cause the petitioner has espoused in the Writ Petition does not have a clean track record according to the respondents. The respondent Foundation has given complaints against Ms.Fabienne Marechal for usurping public property and stealing the equipments belonging to the Foundation which have been purchased through public funds and public



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money and the said allegation if at all can be rebutted only by

Ms.Fabienne Marechal and no one else. The petitioner lacks bonafide

and does not have locus standi to file WP.No.8675 of 2022 challenging

the Office Order dated 09.20.2022 as Ms.Fabienne Marechal, who has

been replaced from Outreach Media, has not challenged the said Office

Order. Therefore, the second issue which is the subject matter of

WP.No.8675 of 2022 does not deserve any merit and it has to be rejected.

Therefore, the second issue viz., whether the impugned Office Order

dated 09.02.2022 passed by the Governing Board of the Auroville

Foundation appointing official spokespersons as Executives of Auroville

Outreach Media with immediate effect replacing the current Executive

Ms.Fabienne Marechal without the consent of the Residents' Assembly is

answered in favour of the Foundation in view of the fact that the

petitioner does not have any locus standi to challenge the said Office

Order. The said Office Order has been issued only against the Executive

Ms.Fabienne Marechal and further it is not a policy decision, which

requires the approval of the Residents' Assembly, but it is only an

administrative decision replacing the Executive of Outreach Media,

which is not a Trust/Body mentioned in the appendix to the Auroville



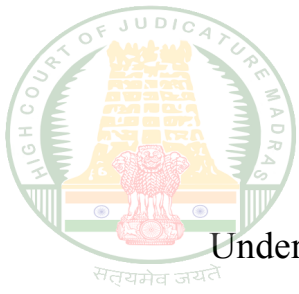
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Foundation Act.

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59 The third issue that arises for consideration is whether the impugned Office Order dated 15.07.2021 reconstituting the Auroville Town Development Council by inducting new Members by the Governing Board is in excess of the Governing Board's jurisdiction under the Auroville Foundation Act, 1988 and its Rules and the Standing order No.6 of 2011, dated 01.05.2011. The said issue is the subject matter of W.P. No.11738 of 2022.

60. Under the impugned Office Order dated 15.07.2021, the Under Secretary of the Auroville Foundation, P.R.Srinivasamurthy, has inducted new members for the Auroville Town Development Council and has reconstituted the said Council under Section 16(1) read with Section 17(e) of the Act, and Rule 5(1)(b) of the Rules. The Governing Board can constitute committees for the preparation of the Master Plan of Auroville. Section 17(e) and Section 19(2)(c) of the Act makes it clear that any such Master Plan must be formulated in consultation with the Residents' Assembly. Under the impugned Office Order dated 15.07.2021, the



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Under Secretary of the respondent Foundation seeks to unilaterally

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reconstitute the Auroville Town Development Council. Under the Standing Order No.6 of 2011, dated 01.05.2011, the Governing Board in consultation with the Residents' Assembly as per section 16(1) read together with 17(e) and Sub section 5(1)(b) of the Auroville Foundation Rules, 1997 constituted the Auroville Town Development Council for the purpose of implementation of the master plan which includes but it is not limited to (a) planning, developing and building of the township; (b) socio-economic planning and development (c) implementing and monitoring development plans and (d) mobilizing resources and funding the planning and development of the township. Section 16 (1) read together with Section 17 (e) of the Act makes it clear that only in consultation with the Residents' Assembly any change of Master Plan for Auroville can be made.

61. The reconstitution of members for the Auroville Town Development Council under the Office Order dated 15.07.2021 definitely requires the consent of the Residents' Assembly as only in the interest of the residents, any Master Plan is prepared. The Standing order No.6 of



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2011, dated 01.05.2011 with regard to the constitution of Auroville Town

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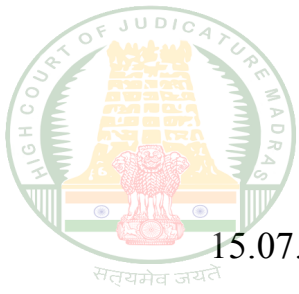
Development Council makes it clear that the Governing Board is empowered to constitute committees for efficient discharge of its duties and performance of its functions and also prepares Master Plan only in consultation with the Residents' Assembly. The Standing Orders 01/2019 dated 04.06.2019 as well as the Standing Order 01/2022 dated 01.06.2022, with regard to the constitution of Auroville Town Development Council (ATDC) also makes it clear that only after consultation with the Residents' Assembly, the Governing Board is empowered to prepare the Master Plan for the International Cultural Township of Auroville. However, the respondent Foundation has not produced any proof to show that the Residents' Assembly was consulted before passing of Office Order dated 15.07.2021 reconstituting the Auroville Town Development Council. The Master Plan for Auroville will have to be prepared keeping in mind the best interest of its residents and that is the reason why the Act stipulates that the consultation by the Governing Board with the Residents' Assembly is mandatory before preparation of the Master Plan.



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62. The Auroville Town Development Council being the body, which is entrusted with the task of preparing the Master Plan for Auroville, cannot unilaterally appoint members without consultation of the Residents' Assembly. If that is allowed to happen, the interest of the residents of Auroville may get defeated. The Auroville Foundation is meant for the residents, who follow the noble and divine ideals of the Mother's Charter. Therefore, this Court is of the considered view that the reconstitution of the Auroville Town Development Council under the impugned Office Order dated 15.07.2021 issued by the Under Secretary of the Foundation unilaterally is violative of Section 16(1) read with Section 17(e) of the Auroville Foundation Act as well as the Standing Orders issued from time to time by the Foundation. Hence, the Office Order dated 15.07.2021 issued by the Under Secretary of the respondent Foundation, which is the subject matter of WP.No.11738 of 2022 has to be necessarily quashed and the Writ Petition will have to be allowed. The petitioner in WP.No.11738 of 2022 is admittedly a resident and a member of the Residents' Assembly. Therefore, the impugned Office Order dated

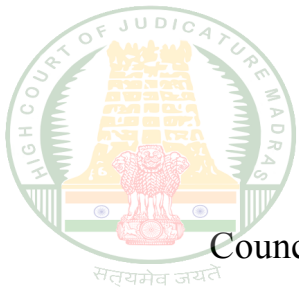


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15.07.2021 is detrimental to his interest as well as the interest of Residents' Assembly and therefore he has got locus standi to file the writ petition W.P.No.11738 of 2022.

63. Ms.Chali Grinnell, who sent a letter dated 14.07.2021 on behalf of the working committee of the Residents' Assembly which is reflected in the Office Order No.491 dated 15.07.2021 which is challenged in W.P.No.11738 of 2022 does not indicate the date of the resolution passed by the Residents' Assembly recommending new names for the reconstitution of the Auroville Town Development Council (ATDC). Ms.Chali Grinnell is said to represent the working committee of the Residents' Assembly. As per the letter dated 14.07.2021, only one person namely Elaine Catherine has been recommended by Ms.Chali Grinnell representing the working committee, but in the impugned office order No.491 dated 15.07.2021 apart from Elaine Catherine Phillips the Governing Board has reconstituted the Auroville Town Development Council by inducting many other new members as well.

64. Any reconstitution of the Auroville Town Development



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Council can be done only after consultation with the Residents' Assembly

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that too, by a proper resolution passed by the Residents' Assembly.

Therefore, office order No.491 dated 15.07.2021 having been issued without proper consultation with the Residents' Assembly and a proper resolution, the said office order is not in accordance with section 16(1) read with Section 17(e) of the Act. Hence the impugned office order dated 15.07.2022 which is the subject matter of the writ petition W.P.No.11738 of 2022 has to be necessarily quashed.

65. As seen from their respective affidavits, all the parties to these writ petitions are only interested in the implementation of “The Mother's” charter which prescribes the philosophy of “Unity in Diversity” and “Peace of the entire Humanity”, but the procedure as contemplated under the Act for achieving that objective has not been followed. This Court is not making any adverse remarks against any of the parties at this stage, but is interfering only due to the fact that the procedure followed for issuing the impugned communication dated 06.05.2022 and for passing the impugned order dated 15.07.2021 which are the subject matter of W.P.Nos.14707 & 11738 of 2022 is not in



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accordance with the provisions of the Auroville Foundation Act.

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66. To put a quietus to the dispute and for achieving the noble ideals of the Mother, the only way out is to update the Register of Residents after giving wide publicity to enable the eligible residents of Auroville to get themselves registered as the member of the Residents' Assembly in terms of the Act and its Rules. This court is of the considered view that only after the Register of Residents is updated and all eligible residents are registered as members of the Residents' Assembly, the democratic set up of the foundation can be achieved.

67. The Secretary of the Auroville Foundation, who is having the responsibility of maintaining the Register of Residents' Assembly under the Act will have to give wide publicity calling upon the residents of Auroville who are eligible to be made members of the Residents Assembly to Register themselves as the members of the Residents Assembly on or before a stipulated date by following the procedure contemplated under the Act and its Rules. Only when the Register of residents is updated, the foundation which has been created for fulfilment



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of the noble ideals of the Mother's charter will be successful as the foundation will have to run through the collective decisions of the Governing Board, Residents' Assembly and the International Advisory Council.

68. Since the Register of Residents has not been updated for a long time and the Act requires consultation of the Residents' Assembly for any policy decision, this Court is of the considered view that no policy decision can be taken by either of the three statutory authorities namely (a) Governing Board, (b) Residents Assembly and (c) International Advisory Council, till the Register of Residents is updated by the Secretary of the foundation after giving wide publicity.

69. For the foregoing reasons, the impugned communication dated 06.05.2022 which is the subject of W.P.No.14707 of 2022 and the impugned office order No.491 dated 15.07.2022 which is the subject matter of W.P.No.11738 of 2022 are hereby quashed and the writ petitions are allowed with the following directions:

“ The Secretary of the Auroville foundation is



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directed to give wide publicity through whatever way she deems fit in the interest of the foundation for its effective administration for updation of the Register of the Residents Assembly. Till the Register of Residents Assembly is updated, the four statutory bodies namely (a) Governing Board, (b) Residents' Assembly, (c) Working Group of Residents' Assembly and (d) International Advisory Council shall not take any policy decision which alters the existing structure and working of the Auroville Foundation. Once the Register of Residents Assembly is updated by the Secretary of the Auroville foundation, all the four statutory authorities referred to supra shall act in accordance with the Auroville Foundation Act and its rules.”

70. Insofar as W.P.No.8675 of 2022 is concerned since the petitioner does not have any locus standi to challenge the appointment of new executives for outreach Media in place of Ms.Fabienne Marechal, the said writ petition is dismissed. No costs. Consequently, connected



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miscellaneous petition is closed.

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71. Before parting with this case, this court reminds all the parties to this dispute about the motto “United we stand, divided we fall”. If all the four statutory authorities under the Auroville Foundation Act work together having the Mother's Charter in mind, the noble and lofty ideals of Sir Aurobindo and The Mother will certainly be achieved and there will be peace and prosperity for the Residents of Auroville. This Court is confident that all the parties to the dispute will forget the recent unpleasant incidents and work together in terms of the Mother's Charter in future.

12.08.2022

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2/nl/pvs

To

The Under Secretary
The Auroville Foundation,
Auroville Foundation Bhavan,
Auroville – 605 101.



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WP Nos.8675, 11738 and 14707 of 2022

ABDUL QUDDHOSE, J.

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Pre-Delivery Order in
W.P. Nos.8675, 11738 and
14707 of 2022

12.08.2022