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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU : PART 23

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KRISHNENDU RUDRA,

Index No.  
617140/2019

Plaintiff,

-against-

INDIA ASSOCIATION OF LONG ISLAND, INC.  
LALIT AERY, HARGOVIND GUPTA, SHASHI  
MALIK AND RAJEEV CHAUDHARY.

Defendants  
----- X

12th of December, 2019  
Mineola, New York

B E F O R E : HONORABLE JACK L. LIBERT  
Justice.

A P P E A R A N C E S :

Plaintiff: GARY SCHOER, ESQ.  
6800 Jericho Turnpike  
Syosset NY 11791

Defendant: LALIT AERY  
12 Flag Lane  
Manhasset Hills, NY 11040  
Pro Se

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THE CLERK: Krishnendu Rudra against India Association of Long Island, Inc., Lalit Aery, et. al. Index number 617140/2019.

Counsel, your appearance for the record please.

MR. SCHOER: Good afternoon, your Honor, for the plaintiff Gary Schoer, 6800 Jericho, Turnpike Syossett.

THE CLERK: Could you please stand.

MR. AERY: Lalit Aery, 12 Flag Lane Manhasset, New York, 11040. That's my home dress. My office address 92 East Old Country Road, Hicksville, New York, 11801.

THE COURT: Now when you say your office address are you an attorney?

MR. AERY: That is our --

THE COURT: No -- you're not an attorney?

MR. AERY: No, I am not.

THE COURT: So we have to swear you in.

THE CLERK: Do you solemnly swear the evidence you shall give to the court in this case will be the truth, the whole truth and nothing but the truth, do you so swear or affirm?

THE WITNESS: I do.

THE CLERK: You may have a seat.

MR. AERY: Thank you.

THE COURT: All right. So as I understand it you're asking me to temporarily --

1 MR. SCHOER: I am.

2 THE COURT: You're representing --

3 MR. SCHOER: The plaintiff.

4 THE COURT: So let me hear your application first.

5 MR. SCHOER: Judge, just to clarify, I represent a  
6 member of an association, the India Association of Long  
7 Island, Inc. It's a long standing association. My client  
8 is here in the courtroom.

9 THE COURT: Is that a not-for-profit?

10 MR. SCHOER: Yes, a not-for-profit. Mr. Aery is  
11 the president of the association. The current president of  
12 the association. The action is brought against the  
13 association as a whole and all of the pending current  
14 officers of the association. And the other officers are  
15 here just to be fair.

16 THE COURT: -- you say current, the current and  
17 the slate of new officers or just the current?

18 MR. SCHOER: Just the current, the slate of new  
19 officers is different. We brought this action -- my client  
20 is a lifetime member of the association. And I know, your  
21 Honor, I have been before you before, so I know you have  
22 had an opportunity to read the papers and have done so  
23 thoroughly.

24 But just to reiterate, my client is a lifetime  
25 member. He's bringing this proceeding only because he

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1 wants to do what's right. He has no -- he's not -- didn't  
2 seek a nomination on the new slate of officers. And he's  
3 looking for no remuneration. He just wants to do what's  
4 right. And what his is right in this case is that the  
5 association has adopted certain provisions of the bylaws  
6 without following the process that the constitution and the  
7 bylaws require.

8 Without presenting it to the general membership  
9 and without having a discussion and without having a vote  
10 of a membership, the bylaws have been amended. And  
11 primarily and they have been amended with respect to the  
12 election process of new officers and members of the  
13 executive counsel.

14 Addition to amending the bylaws without amending  
15 the process from the year 2005, there has been a manual, an  
16 election manual, which was consistent with the constitution  
17 and the bylaws. In 2018 the executive counsel and a  
18 committee of these executive counsel, created a new manual  
19 and that new manual has effectively changed some of the  
20 rights that that the membership have as set forth in the  
21 constitution and the bylaws.

22 So this action, the underlying action, is to  
23 declare that those amendment to the bylaws are void because  
24 they weren't adopted correctly and to declare that the  
25 manual has effectively amended the constitution and the

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1 bylaws with respect to the election process.

2 The current election for 2020 has been conducted  
3 in the sense that nominations were taken pursuant to these  
4 new rules that were established by the amendment to the  
5 bylaws and the manual that changed the rights --

6 THE COURT: I have to stop you there for a minute  
7 to ask a question. The papers made reference to a  
8 nomination fee in the new rules. Who pays the nomination  
9 fee? The person making the nomination or the person who is  
10 nominated?

11 MR. SCHOER: The person, I believe the person who  
12 is nominated, had to go and get a petition with names of  
13 other members and in order to file that petition had to pay  
14 a fee.

15 THE COURT: A filing fee?

16 MR. SCHOER: Basically a filing fee.

17 THE COURT: And there is a nominal fee?

18 MR. SCHOER: I believe so it's not a significant  
19 number.

20 THE COURT: That struck me as very unusual, but  
21 not if there is -- if it's a nominal fee for processing or  
22 whatever it is. Still unusual, but nevertheless not as  
23 striking me as offensive as being as offensive. Okay.

24 MR. SCHOER: But our position is that that fee was  
25 not -- that fee impacts on the rights that are set forth in

1 the constitution which says that any member has equal right  
2 to run and to be nominated. So where we are in the process  
3 now as far as I understand is that nominations were taken  
4 and the course of those nominations, there were several  
5 additional people that wanted to run and that would have  
6 made the election contested, but after certain occurrences  
7 some of those -- all of those other additional people  
8 including the president, as far as I understand, have  
9 withdrawn their nominations. So that the slate of officers  
10 and executive committee members that are about to be  
11 declared the officers and committee members for the year  
12 2020 on Sunday, have been -- it's totally uncontested.

13 There is not going to be an election of the  
14 membership. This order to show cause is asking the court,  
15 first, to provide a temporary injunction staying and  
16 precluding the current officers from announcing to the  
17 membership on Sunday at this luncheon breakfast that that  
18 the slate has been accepted as uncontested. And then  
19 seeking a temporary injunction -- I'm sorry, a preliminary  
20 injunction, to with respect to the declaratory relief that  
21 we've asked for in summons and complaint.

22 THE COURT: Now were the officers or the slate of  
23 officers announced already as approved and this is just an  
24 installation dinner or is there -- breakfast I should say,  
25 or is there a vote still to take place procedurally where

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1 do we stand?

2 MR. SCHOER: I don't want to mislead the court  
3 because I think my papers I misunderstood. The  
4 installation -- there has been no announcement of the  
5 results of the election the uncontested election. That is  
6 going to occur on Sunday.

7 The officers will, in fact, be installed take  
8 their oath after January 1st. So I think I may have  
9 misunderstood in the papers. I said the installation was  
10 going to be this Sunday, but it's not the installation.  
11 It's the announcement to the community that this is the  
12 slate that has been elected. Not, in fact, the  
13 installation.

14 THE COURT: Which brings me to the nub of this  
15 issue which is given that fact since they will not take  
16 office until sometime in January what is the irreparable  
17 harm?

18 MR. SCHOER: I believe the irreparable harm is  
19 going to be we're not going to be able to resolve this  
20 before January 1st in any way. You know, I don't they  
21 don't have counsel. They don't have, you know, if we -- I  
22 don't know when the order to show cause is going to be  
23 returnable, but I imagine with the holiday coming up that  
24 it's going to be returnable after the first.

25 THE COURT: Well we can make it returnable -- that

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1 was my -- kind of where I was heading, we can make it  
2 returnable as early as next week.

3 MR. SCHOER: We still believe that the plaintiff  
4 still believes that making the announcement on Sunday that  
5 the election committee has accepted has certified -- let's  
6 put it that way, has certified that this is the results of  
7 the election. Make our -- create irreparable harm at this  
8 point. In that they shouldn't certify that these are the  
9 elected officers of the association on Sunday.

10 THE COURT: All right. All right. Let me hear  
11 from the defendant.

12 What is your position, sir?

13 MR. AERY: Your Honor, our position is this I  
14 consult my --

15 THE COURT: Slow down a little bit so the court  
16 can take it down.

17 MR. AERY: Mr. Hargovind the secretary. And  
18 Shashi Malik, her name is Shashi Malik, vice president and  
19 Mr. G. Singh he's our executive counsel member. We  
20 consulted this matter between us and our position is this  
21 like we are not going to contest whatever the complaint is.  
22 We, as he mentioned, this was 2005 election manual which,  
23 Mr. Krishnendu Rudra, who brought this complaint he wanted  
24 us to follow that following this election. We are ready to  
25 follow that. That, you know, we agree that we will follow

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1 that. So that and correct everything, whatever is he's  
2 mentioning along we done.

3 So we will take care of everything. We agree to  
4 take care of everything. So that we don't want -- we want  
5 to resolve this thing by saying that we are agreeing in  
6 front of you, sir, and we will do the election again.

7 THE COURT: You will redo the election?

8 MR. AERY: With that 2005 manual instead of 2018  
9 which was done recently. We will do with the correct 2005  
10 manual.

11 THE COURT: Mr. Schoer, is that satisfactory to  
12 you?

13 MR. SCHOER: It's more than just the manual. I  
14 think it's very satisfactory in the sense that they are  
15 agreeing with us, Judge. But it's more than just the  
16 manual. It's the additional changes to the bylaws. They  
17 have -- I would think they would have to agree that those  
18 are null and void and we should go back to the bylaws that  
19 existed before 2018.

20 MR. AERY: Yes, we will, whatever the bylaws and  
21 we will not violate any constitution which was originally  
22 our founders made it we will not violate it. We will  
23 follow that as a Mr. Krishnendu Rudra, our long time  
24 member. We respect the member of our association who  
25 brought this matter. So we will follow that. We will not

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1 go with the 2018. We will do election again. And we will  
2 take care of that.

3 MR. SCHOER: And based on that on Sunday there is  
4 not going to be any sort of certification or announcement  
5 of the fact that there was this.

6 MR. AERY: We will not announce, actually as you  
7 mentioned, new elected members which is was elected with  
8 the 2018. We will not be announcing because those are not  
9 because we consider not elected not valid. Not valid. So  
10 we will do the election again with the correct 2005  
11 election manual.

12 THE COURT: All right. So if I understand it, the  
13 parties have agreed that the previous election will be  
14 declared invalid and the association will conduct a new  
15 election in accordance with the bylaws and the election  
16 manual as existed prior to 2018.

17 MR. AERY: 2005 that is 2005.

18 THE COURT: As it existed from 2005 through 2018  
19 as well as the bylaws, is that your understanding?

20 MR. SCHOER: That's my understanding.

21 THE COURT: Is that your understanding?

22 MR. AERY: Yes, your Honor.

23 THE COURT: It is so stipulated and if you order a  
24 copy of the transcript, I will so order it. And this  
25 matter is concluded.

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MR. SCHOER: Okay. That will conclude underlying action as well.

THE COURT: Yes, but I want to do this this way. That if there is a problem either of you can come back without having to start all over again.

MR. SCHOER: Correct.

THE COURT: That's why I'm doing it this way with the transcript. You can order a copy. The cost should be shared for that. It's not a lot of money. And I will then so order it so both sides will have a court order to protect them. Okay.

Thank you very much. So ordered.

MR. AERY: Thank you.

MR. SCHOER: Thank you.

CERTIFIED TO BE TRUE AND CORRECT  
*M. Leon*  
MELINDA LEON, RPR  
SENIOR COURT REPORTER

SO: *Jack L. Libert*  
JUDGE JACK L. LIBERT, JSC

DATE: *12/17/19*

**ENTERED**  
DEC 26 2019  
NASSAU COUNTY  
COUNTY CLERK'S OFFICE

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