

1993

IN THE SUPREME COURT OF MAURITIUS
(COMMERCIAL /BANKRUPTCY DIVISION)
BEFORE THE HONORABLE M J LAU YUK POON, JUDGE
COURT NO 15
MONDAY 25 NOVEMBER 2024

IN THE MATTER OF:

SC/COM/MOT/000859/2024

CLOUD INNOVATION LTD

APPLICANT

V/S

AFRICAN NETWORK INFORMATION CENTRE (AfriNic) LTD.

RESPONDENT

AND IN THE MATTER OF

EX PARTE

CLOUD INNOVATION LTD

APPLICANT

MR R GULBUL , OF COUNSEL, APPEARS FOR THE APPLICANT ,
INSTRUCTED BY MR ATTORNEY, D RAMDHUR

MR VIRASMI VASOODEVEN, OFFICIAL RECEIVER IS IN ATTENDANCE.

MR R GULBUL:

May I file first of all the service of to appear and go today on the official receiver. It's
duly done by the registered usher.

COURT

Yes, it's already been uploaded and Mr. Virasami is present in Court.

MR VIRASMI :

Yes, Your Ladyship.

MR R GULBUL:

Yes, I'm grateful that Mr. Virasami is in attendance , My Lady. We have already filed a brief, all documents, the motion paper, the affidavit and all related documents are annexed. And Mr. Virasami has taken cognizance of them.

COURT

Yes.

MR R GULBUL:

Let me say, first of all, we had your judgment, which we included in our bundle.

COURT

Yes.

MR R GULBUL:

Following that judgment, there was an appeal. The appeal was done by one Mr. Ehsan. We took several issues on his representation and the board, the legal representations. Then, we had the judgment of the Court of Civil Appeal. The judgment of Civil Appeal is annex 3. You will have, I'm sure Your Ladyship has read it, everything your judgment is maintained except on the delay for holding the election.

COURT

Yes.

MR R GULBUL:

Now, the purpose of calling the receiver here today is because he was appointed by this Court to do a specific duty and this is clearly set out in the judgment that you gave and which has been maintained on all scores except for the delay on appeal. Now, he was appointed for a specific purpose. That's why we call him the Administrative Receiver, to hold the ring. To hold the ring meaning that he takes over the company yes he takes over the company as it is because there is no board there's no directors, there's no CEO he maintained the status quo and then he has to discharge

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his duties certain information has reached us which is why we have sent notices on the official receiver. All these are included in Annex 5 and go on but we haven't had any

COURT

Reply.

MR R GULBUL:

Answer, which is why we are before your ladyship since he is answerable to this Court and we are the party who ask that he be put into receivership. We are asking that he comes for this court and answer some of the queries that we have. May I, with Your Ladyship's permission, go through them and see whether this has been complied so far.

COURT

Mr. Virasami, if you can enlighten the court as to, you have been served with all those notices.

MR. VIRASAMI:

Yes, Your Ladyship.

COURT

And you have deemed it fit not to reply

MR. VIRASAMI:

I have received one notice, I don't have it with me.

MR R GULBUL:

What is the date of the notice you received?

MR. VIRASAMI:

This, you can guide me a bit

MR R GULBUL:

This annexure 4.

COURT

Let's go to the motion paper directly.

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MR R GULBUL:

Alright let's go to the motion paper.

COURT

Because this is the motive behind of the entering of the motion paper and affidavit but s let's deal with the prayers as per motion.

MR. VIRASAMI:

I have taken cognizance of the motion paper.

MR R GULBUL:

Yes you've seen the motion paper we have asked you first to file a report, a first report, within in accordance with section 198 of the Insolvency Act.

COURT

Let's do one by one Mr Gulbul.

MR R GULBUL:

All right.

COURT

Item one, from the start, yes.

MR R GULBUL:

Let's start from iii(a).

COURT

you won't deal with (i) and (ii).

MR R GULBUL:

I'm sorry yes. We have the motion paper and the affidavit. You have taken cognizance of the affidavit.

MR. VIRASAMI:

Yes.

MR R GULBUL:

You know exactly what we have set out, you agree with the background and everything.

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MR. VIRASAMI:

Yes, I agree.

MR R GULBUL:

You agree with it and you agree that pursuant to that judgment you were ordered to hold the rim and ensuring the status quo of the assets of AfriNic reserve.

MR. VIRASAMI:

Yes

MR R GULBUL:

Have you done so?

MR. VIRASAMI:

Yes I have. First of all, first thing I have done called HR and Account officer to my officer because at that particular time 15th of October the officer was under reparation and no one was there. So, I give them certain specific directives.

COURT

You confirm that you have taken over following the judgment of the Court of Civil Appeal.

MR. VIRASAMI:

Can I explain?

COURT

Yes.

MR. VIRASAMI:

I have, the bank accounts the signatories have been changed for all the bank account. So, I am in control of all the bank account and I gave directive to the HR that no IP address be allowed, be issued without my permission. But to my (.....) and on 22nd of November, one Mr James, he informed the HR that from 15th to 31st October, seven IP addresses have been issued without my permission.

COURT

You confirm this?

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MR. VIRASAMI:

Yes.

COURT

Without your permission?

MR. VIRASAMI:

Without my permission. I did not

COURT

Consent to that.

MR. VIRASAMI:

Consent to that. even though I gave them I gave the instructions. Now, I gave him I asked HR to give him a letter personally sign the letter so that I can use it for whatever purpose.

MR R GULBUL:

Let's get one thing clear.

MR. VIRASAMI:

Yes.

MR R GULBUL:

Mr. Virasami.

MR. VIRASAMI:

Yes.

MR R GULBUL:

Did you give strict instructions to them not to issue any.

MR. VIRASAMI:

I gave instruction to the HR. let me put the scenario.

MR R GULBUL:

Now who is Mr. James.

MR. VIRASAMI:

Wait , one minute , with your permission , Your Ladyship.

MR R GULBUL:

Ok.

MR. VIRASAMI:

Let me put the scenario, how is it. There's no board and now with whom I have to converse, is that only the HR and the Account Officer and there is an assistant to the CEO. She is not an Assistant CEO, she is an assistant to the CEO. So it is as if the manager is the HR manager only person that I can. Then as from last week called the particular, Mr. James to my office I told him personally that he should not issue any any IP addresses without my permission and I give instruction when he receive them what to do, the KYC, who are the end beneficiaries and all this has not been done.

COURT

All this is being done in writing Mr. Virasami the instructions and all this.

MR. VIRASAMI:

It is in the minutes in my office and let me inform you, Your Ladyship, that he has given me a list of all IP, all members who are in good standing and who are not in good standing and he also gave me a list of IP addresses who have been allowed, I used the word 'allowed' since 19 September 2023 till 15 October 2024.

MR R GULBUL:

Mr. Virasamy, you realize since the 23rd of September, not the 23rd, the 19th of September last year, 2023, there is no board.

MR. VIRASAMI:

Yes.

MR R GULBUL:

And no IP address could validly be given.

MR. VIRASAMI:

I agree with counsel , Your Ladyship

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MR R GULBUL:

Have you ascertained how many IP addresses have been given since then?

MR. VIRASAMI:

I have a list. Approximately it is 175, 10% of the whole.

COURT

Are being assigned without the board.

MR. VIRASAMI:

Are being assigned without the board.

COURT

At any rate, this will have to be taken at the level of the election as to what matter, to what extent are they really considered as members of AFRINIC.

MR R GULBUL:

Mr. Virasami, you realize, because you are the one who will conduct the election process, that these people have no voting rights, and to ensure that they do not vote at the election.

MR. VIRASAMI:

Your Ladyship, an application will be made to the Court regarding this issue.

Whether the 175 members can have their voting right for the upcoming election. .

COURT

You're going to enter a case to the court to seek what? To seek guidance under which law? This is as per your Constitution and as per the judgment.

MR R GULBUL:

He's the receiver.

COURT :

Yes, it's not for the court to... It's for you to ensure this. And if they are flouting your order, then you'll have to take remedial actions before a court of law that in spite of the orders given by you, as the official receiver, the one in charge now since.

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MR. VIRASAMI:

Initially when I was appointed I gave the same instruction

COURT

They are not following your instructions.

MR. VIRASAMI:

The instruction was given but there is an appeal

COURT

Yes

MR. VIRASAMI:

So during the appeal he has allowed the 175.

MR R GULBUL:

Alright let's get it clear, My Lady, there was an appeal and there was a stay

So, far we agree. But then there is a judgment of the Court of Appeal, which maintained what you decided, that there was no board, there was no CEO, and nothing could be done.

So, his power is to hold the ring since that date. Not the date of the judgment of the Court of Appeal, but since the date of your judgment. You have made sure there are 175 in your first report. You can list the names of those individuals or bodies.

MR. VIRASAMI:

Yes,. I have it in my report, who are these members?

MR R GULBUL:

No, we need to see your first report.

MR. VIRASAMI:

Yes.

MR R GULBUL:

Secondly, you were appointed and you are the sole master on board.

MR. VIRASAMI:

Yes.

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MR R GULBUL:

You agree with this because you are the official receiver appointed by this Court with specific powers and powers under the Insolvency Act.

MR. VIRASAMI:

No, in the Companies Act and Insolvency Act.

MR R GULBUL:

And Insolvency Act. You are the one to make sure when you conduct the elections these people cannot vote. And you are the one to make sure that only those people who were fully entitled and compliant as at the 19th of September 2023, who can vote. Are you prepared to do that?

MR. VIRASAMI:

I can give the Court, my undertaking today, that I will put in the site of AFRINIC that members allocated from this day till today will not have voting rights.

MR R GULBUL:

But then, My Lady, I think for the sake of clarity, you put a list of members with voting rights and a list of those who don't have voting rights.

MR. VIRASAMI:

Yes.

MR R GULBUL:

Can we have this? Then we are clear. When the election process is going on.

MR. VIRASAMI:

In my preliminary report, I will...

MR R GULBUL:

But this is at June 2022.

COURT

Because the election process is to be conducted by the official receiver. It cannot become a subject matter before this court for me to regulate.

MR R GULBUL:

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Yes he's the master on board.

COURT

Yes.

MR R GULBUL:

No but this is at June 2022

MR. VIRASAMI:

No, September 2023.

MR R GULBUL:

Since, June 2022 there is no board read the judgment, you will find.

MR. VIRASAMI:

With your correction, Her Ladyship, my appointment is from 19 September 2023.

MR R GULBUL:

All right, you ensure that only those compliant members, you will give the list and the list of those who are disqualified from voting.

MR. VIRASAMI:

So let me...

MR R GULBUL:

We are clear on this, I think.

MR. VIRASAMI:

As from 19 September to 2023, till today, all those who have been given members, the condition is that they will not have a voting right.

And if I can...

COURT

And they are not members also because your consent was not sought for them to become members of AfriNic.

MR. VIRASAMI:

From 19 September...

COURT

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2023. All those who have been given membership as from 19 September 2023 and as at to date, cannot be so because they should have had to seek your consent which they failed to do. So neither are they considered as members. If they are not considered as members, they cannot have voting rights also. Or are they considered as members?

MR. VIRASAMI:

Till today I have not given my consent

COURT

Yes so not members.

MR R GULBUL:

But he should state clearly they are not considered as members.

MR. VIRASAMI:

I will put it...

COURT

In the report, on the website.

MR. VIRASAMI:

On the website of the company AFRINIC so that whole Africa and Indian Ocean can read it.

COURT

Are you being assisted by by ICANN members or.

MR R GULBUL:

Well let's see one thing. I have one specific question.

You know ICANN. We all know about ICANN.

MR. VIRASAMI:

We all know about ICANN.

MR R GULBUL:

Has ICANN ask you to issue the IP address?

MR. VIRASAMI:

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Yes. ICANN, through its counsel, has sent a mail to me offering his assistant to me. And I have not answered it yet. I don't think that I will use the word 'assisted'.

ICANN cannot assist me. Assist means, the meaning of assist in real world is to do the job together with me. I don't want ICANN to do the job together with me, if prefer id

ICANN can be an observer and due respect to the organization because it is non profitable organization who has an eye on all the, as AFRINIC , we have six in the world so he's having an eye on all the six organisation.

MR R GULBUL:

That is very commendable of him that no one can direct him in what he has been appointed to do by the court. Even ICANN cannot do so. For him to be an observer is something else. But I want to know, have they advised you to issue IP addresses?

MR. VIRASAMI:

Actually, I had last week one Mr.

MR R GULBUL:

Check your notes.

MR. VIRASAMI:

Yes. I am not being assisted by ICANN.

I have been offered by ICANN for its support. I have not yet answered.

MR R GULBUL:

That's what you have answered. Have they issued new IP addresses?

MR. VIRASAMI:

ICANN have sent its Vice President and Chief Technology Officer to Mauritius and and Mr. John Crane who is the Chief Technical Technology officer and Vice President of ICANN he was in Mauritius last week. He's being made available by ICANN as a neutral expert observer and ICANN had only on its own expenses and I think that being before my appointment, I don't know anything about the role of AFRINIC and through ICANN and doing a research, still I doing research on the by laws and the Constitution and what are the processes to be used for the election. So,

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Your Ladyship, let me point out, with your permission also, my career in Mauritius as a public officer, I have been Commissioner of Electoral Office in Mauritius for the past 30 years. I have been a returning officer in many elections and recently I was a deputy returning officer for Constituency No 13. I have done my job without fear and favour. My reputation is there and I will give my word today to the Court that I will do my job as being directed by the Court..

MR R GULBUL:

Alright, we have no doubt about this, you will discharge your duty.

COURT

Because at any rate, Cloud chose Mr. Virasami to take the ring.

MR R GULBUL:

Yes, that's why we asked you to be appointed. But you are telling the court you will not issue any new IP address.

MR. VIRASAMI:

I will not issue. I'll give the court.

MR R GULBUL:

You'll give that undertaking.

MR. VIRASAMI:

I give the guarantee.

COURT

But in fact, what he has said, that he has never, all those who have become members have done so behind his back.

MR. VIRASAMI:

Yes.

COURT

Without your consent. Because the status quo must remain, Mr. Virasami.

MR. VIRASAMI:

ICANN is of the view , Your Ladyship, that IP addresses should continue to be distributed.

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MR R GULBUL:

And you don't share that view.

MR. VIRASAMI:

I don't share.

MR R GULBUL:

And you will not issue.

MR. VIRASAMI:

Yes.

MR R GULBUL:

So we are clear on this. You don't share the view of ICANN to issue new IP addresses, nor will you do so. Let's stop here. Let's go with the motion paper one by one now, My Lady. And this will be... The first one on the motion paper, you have it in front of you. Ordering and directing the official receiver in his capacity as the Court At least we maintain that decorum we also need to these are matters which are gradually fading is appearing I am sad to say so but we counsel we have to maintain this decorum.

Yes, I go back to where I started with the motion paper :

Ordering and directing the Official Receiver in his capacity as a court appointed receiver of the respondent, to comply with the judgement dated 12 September 2023. Which is this judgment.

Bearing reference to Cloud Innovation Limited against African Network Information Centre, AFRINIC Ltd, , SC/COM/-MOT-000156-2023, as confirmed with amended time frame for compliance by virtue of the judgment dated 15 October 2024, bearing reference African Network Information Centre (AFRINIC) Limited against Cloud Innovation Limited and anor, judgment 2024, Supreme Court judgment 473. You are in order to comply with that judgment.

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MR. VIRASAMI:

Yes, I will comply.

MR R GULBUL:

The second one is an order, again directing you, Mr. Official Receiver, in your capacity as the court appointed receiver of the respondent to file his first report in accordance with section 198 of the Insolvency Act with the Court within three working days from the date of service of the present order upon it and communicate a copy to the applicant to Cloud Innovation including but not limited to the steps undertaken to date namely. Now first of all can you file the report within three working days?

MR. VIRASAMI:

Your Ladyship I will file a preliminary report, I mentioned earlier for you, but in three working days. It's difficult.

MR R GULBUL:

Yes, how long would you take? You tell your time frame.

MR. VIRASAMI:

15 days.

COURT

15 days, as from today?

MR. VIRASAMI:

Yes I have to tell you that, my brother is very sick.

MR R GULBUL:

Yes, if you need 15 days, we will give you 15 days.

MR. VIRASAMI:

If ever there is anything, I will communicate.

MR R GULBUL:

All right, you can inform us as well, please. So as it is, it's 15 working days, and then we go on to (a):

to ensure that the status quo of the assets of AFRINIC is preserved and the value of the business is maintained.

You agree with this?

MR. VIRASAMI:

Yes, Your Ladyship

MR R GULBUL:

To see to it that the election process, as per the Constitution of AfriNic Limited, be carried out so that a proper board could be constituted and also for the appointment of the chief executive officer.

MR. VIRASAMI:

I will do so , Your Ladyship.

MR R GULBUL:

You will do so within your mandate.

Thirdly, again, it's directing you, Mr. Official Receiver, in your capacity as the court-appointed receiver of the respondent, that your first report should contain the following particulars.

Let's go by one. One and you tell us whether you agreeable.

(a). Whether you have been able to obtain access to all information and record of Africa.

MR. VIRASAMI:

I have. Your Ladyship I have asked for all information. As there is no chief executive, I am asking the HR as I have mentioned earlier and the assistant to the

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CEO. They are constantly providing me all information that I need to have a better understanding of the By laws and the constitution.

MR R GULBUL:

But you understand of course you need to obtain access to all information and records.

MR. VIRASAMI:

Yes.

MR R GULBUL:

You understand that?

MR. VIRASAMI:

Only information I have not been able is the password of the company to the electronic, the servers. These password are kept with an employee of AFRINIC

COURT

But do you need this for the purpose of the election?

MR. VIRASAMI:

No, I don't think I need it.

And if need be, I'll make an application.

MR R GULBUL:

All right. You reserve, of course, a right. If you need it, you will make an application.

MR. VIRASAMI:

An application, proper application. If they are misusing it, if I doubt certain things in my capacity as receiver, if there is any doubt, I'll make a proper application.

MR R GULBUL:

But at least they know that you are the one who has been appointed.

MR. VIRASAMI:

Yes.

MR R GULBUL:

Hold the ring, maintain the status quo, and to ensure election is done properly. And not to do anything that will be untoward.

MR. VIRASAMI:

Initially, Your Ladyship, certain employees there, on my first appointment, they were a bit aggressive. Even now, there is one Mr. Ehsan.

MR R GULBUL:

Ehsan? But he's no longer there. Court of Appeals said he is.

MR. VIRASAMI:

Benjamin.

MR R GULBUL:

Benjamin, yes.

MR. VIRASAMI:

I don't know from where he got my email address. He's sending me all types of allegations against me and I didn't reply. Again, he said he actually, I sent it to the junk . So in my junk , I've seen that he is continued to put all types of allegations.

COURT

I think you're the master of AfriNic as at now. And you're to ensure that the election process is carried out so that then the board is constituted, then they can...

MR. VIRASAMI:

I have to inform... I have to inform you. I have come with a clean hand. That whoever send me a mail, I don't want to answer them.

COURT

Yes.

MR. VIRASAMI:

So I will not answer them.

MR R GULBUL:

I think that is very proper of you to do so. Because the Court of Appeal specifically said, on page 13 of the judgment, Mr. Eshan did not have the status of a director. Since his directorship expired on the 18th of September 2023, Mr. Eshan cannot therefore be considered as the director of AfriNic, who was still in office on the 28th of September. Nor has he retained residual power.

MR. VIRASAMI:

I'll give an assurance to the court today that the HR of the company AfriNic has asked the secretary to do the needful towards the Registrar Of Companies.

MR R GULBUL:

To update it.

MR. VIRASAMI:

To update it. If they have not done it, personally, I will write to the Registrar Of Companies as a receiver of AfriNic, that Mr. Eshan, there is no board.

MR R GULBUL:

So please do so and show that it is updated. And if it is not, you do so.

MR. VIRASAMI:

Yes.

MR R GULBUL:

Good.

All right.

MR. VIRASAMI:

And Your Ladyship, if there was a latency before that appeal, and same thing has been done, a letter was sent, and it was not updated.

MR R GULBUL:

But you want an order from the Court to the Registrar?

MR. VIRASAMI:

Yes, if the court can give an order to the Registrar of Companies,

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But it's not in the judgment.

MR R GULBUL:

I think you have the judgment of the Court of Appeal.

MR. VIRASAMI:

Yes, Your Ladyship, I already filed the copy of the judgment with the Registrar.

MR R GULBUL:

No, no, there's one thing to filing the judgment. There's one thing to draw the attention to a particular paragraph of it . I have told you at page 13 where the Court of Appeal said, 13 of the judgment of the Court of Appeal.

COURT

It is not for us to go into all this?

MR R GULBUL:

No, he has all this. Inform them, okay. Let's move on.

COURT

Let's move to your prayers as per your motion.

MR R GULBUL:

Now, (iii) b, whether statement of affairs have been submitted to you..

MR. VIRASAMI:

Your Ladyship no statement of affairs have been submitted to me as there is no CEO and there is no director.

MR R GULBUL:

Ok.

Whether you have been able to ascertain all the assets of AfriNic and you are able to list them.

MR. VIRASAMI:

I have asked for a list of assets to the HR and the finance section. They have agreed , this morning they were coming to my office and they agreed to gibe

COURT

To provide you.

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MR R GULBUL:

So you will be able to draw up that.

(d) , whether you have taken steps to ensure that the status quo of the assets of AfriNic is preserved and that the value of the business is maintained.

MR. VIRASAMI:

I will do so Your Ladyship.

COURT

I think you have answered part of it and to take steps on IPs that have already been issued without your consent.

(e) whether you have taken steps to ensure that no new membership is created in AfriNic until this board is reconstituted.

MR. VIRASAMI:

This I have already mentioned.

MR R GULBUL:

You have already, and you give your undertaking.

MR. VIRASAMI:

No new members will be given.

MR R GULBUL:

Now, (f), what are the steps you have taken to prevent the allocation of IP resources pending resolution, reconstitution of the board? You have stated earlier, and you have also given your undertaking that no new IP resources will be allocated.

MR. VIRASAMI:

Yes, Your Ladyship.

MR R GULBUL:

Right.

MR. VIRASAMI:

And (g) I have already answered.

MR R GULBUL:

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(g) is how many IP resources you have answered that question okay and have you have also said they will not have any voting rights.

COURT

No how many IP resources you have approved.

MR. VIRASAMI:

I have not approved.

COURT

You have not anything he has not approved it yes.

MR R GULBUL:

Nor will you approve anything because your mandate doesn't allow you to so.

(h) what steps you have taken to see to it that the board of AfriNic is reconstituted as per its constitution and whether you are constantly being assisted by ICANN you have given details earlier on.

MR. VIRASAMI:

Your Ladyship to conduct the election for AfriNic and its company it's not just like a simple company you have to go through the by-laws , constitution, you have to appoint the nomination committee , the election committee and all these are in the by laws and I have to follows the by laws of the company.

MR R GULBUL:

Ok.

So let me come then to (i) to I whether you will be able to reconstitute the board of AfriNic by the 14th of December which is the delay imposed by the Court of Appeal.

MR. VIRASAMI:

It is sad to say that two months according to me is not enough and when I go through all the paper and the paperwork, you have to establish a connection will all the members and it is not

MR R GULBUL:

It is not possible.

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MR. VIRASAMI:

It will take more than five months. Alright tell us your time frame because you are the one who will conduct it.

MR. VIRASAMI:

I would like to have more than five months.

MR R GULBUL:

Shall we say six months?

MR. VIRASAMI:

Yes. If six months it will suit me.

COURT

Six months as from now you mean?

MR. VIRASAMI:

As from today.

MR R GULBUL:

Which means you will be able to gather

MR. VIRASAMI:

Your Ladyship, if I finish it earlier it will be good.

MR R GULBUL:

Let us have it end of June will that be convenient.

MR. VIRASAMI:

Yes, end of June.

MR R GULBUL:

So that we, our main purpose is to have proper elections taking place My Lady.

COURT

So in fact you're moving for an extension of time to comply with the order for you to constitute the board.

MR. VIRASAMI:

Yes, Your Ladyship.

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COURT

Up to end of June 2025.

MR R GULBUL:

In fact all elections at AfriNic has been done end of June. So let's have it end of June. And then we'll... end of June the 30th of June.

COURT

Of course if you are able to do it earlier, so much the better. Because it's better for the...

MR. VIRASAMI:

It's different this type of election. I've done general election, I've done village election, municipal election but this type and company election, this type of election it is the first I hand it.

MR R GULBUL:

But it's adding to your CV Mr. Virasami. That's good. So you have to reconstitute an elections by let us say 30th of June, 2025. You are moving for that?

MR. VIRASAMI:

Yes, Your Ladyship.

MR R GULBUL:

So that we can have, My Lady, we can have this extended in view of what you have just explained, to justify the extension. Any other particular that are relevant in the circumstances, I think you have addressed everything. So that, My Lady, now that we have gone through them and we have the assurance of the official receiver in person before this Court that he will conduct it according to law, he will not issue new IP addresses, he will see to it that only those who are proper members, compliant members, will be able to vote, otherwise no other person will do so. I think the purpose of this motion has been served and in the light of what we hear, all the answers on the report, I move that this be withdrawn.

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COURT

Withdrawn, yes. Motion is allowed for you to follow up.

MR R GULBUL:

And with the order, subject to the order for extension of time.

COURT

Yes.

And your interim report by mid-December, you said?

MR. VIRASAMI:

Yes.

COURT

Mid-December.

MR R GULBUL:

So we don't withdraw it simply like this.

COURT

No, with the order and in the light of which. So in the light of your statement and the motion paper, the Court orders the respondent to file the report by Mid-December and also to conduct the election process as per your request within a delay up to the end of June 2025 because the two-months delay as set up by the Court of Civil Appeal cannot be met. And we also record all your undertakings as per the motion paper.

MR. VIRASAMI:

Yes, Your Ladyship.

COURT

Especially as regards the membership that it will remain the status quo and any member, who are, any entity who has become a member of AfriNic without your consent.

MR. VIRASAMI:

From 19 September till today will not have the voting right.

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COURT

Yes.

MR. VIRASAMI:

And if you may allow, Your Ladyship, I have received invoices so I have not approved them from C&A Law.

COURT

Yes.

MR. VIRASAMI:

So, it is useful for me to inform the Court that I have not approved it.

MR R GULBUL:

But that will be a matter for the board.

COURT

Yes. It's for the board.

MR. VIRASAMI:

I have not approved them.

MR R GULBUL:

No, We'll leave it to the board.

COURT

So, the motion paper is otherwise set aside.

MR R GULBUL:

Subject to the amendments to your judgment for election and the undertaking. Yes.

COURT

I have already given this order.

MR R GULBUL:

Thank you.

COURT

The order as regards to the interim report be filed by Mid-December 2024., for that the election process cannot be completed within a delay of two months as from the date of the Court of Civil Appeal Judgment, and this is extended up to end of June

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2025 now and also subject in the order that Mr. Virasami will maintain the status quo as far as the asset and membership is concerned, and any member who has become a member as from, which date did you say?

MR. VIRASAMI:

19 September 2023

COURT

19 September 2023 and up to now, will not be considered as members and having voting rights because they have done so without your consent.

MR R GULBUL:

And all your undertakings have been recorded.

Thank you, My Lady.

COURT

Thank you.

A true copy of transcription,

Transcribed by me,



A. Burctoolla

*vetted & filed on 10/01/25 - Mr. Wapaul
Recher*

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