

Neutral Citation No. - 2023:AHC:232651

Court No. - 10

Case :- WRIT - C No. - 23743 of 2023

Petitioner :- Rev. Albert Benjamin

Respondent :- State Of U.P. And 16 Others

Counsel for Petitioner :- Akhilesh Kumar Pandey,Devendra Tiwari Deva

Counsel for Respondent :- C.S.C.,Anupam Kulshreshtha,Namit Srivastava

Hon'ble Kshitij Shailendra,J.

1. Heard Devendra Tiwari Deva, learned counsel for the petitioner, learned Standing Counsel for respondent nos.1 and 2 and Shri Anupam Kulshreshtha alongwith Shri Namit Srivastava, learned counsel for the respondent no.3.
2. In view of the order proposed to be passed, it is not necessary to issue notice to the remaining respondents.
3. This Court passed following order on 06.11.2023:-
 - "1. Case called out.
 2. Learned counsel for the petitioner is present. Nobody is present on behalf of the respondents.
 3. This Court by order dated 17.08.2023, while rendering two reliefs as infructuous, sought specific instructions from the other side regarding the action taken against anyone who was acting contrary to the interest of Church of India or otherwise involved in any malpractices including misappropriation of funds.
 4. The case was directed to be taken up in the first round, however, learned counsel for respondents are not present.
 5. **Put up this case as fresh on 23.11.2023 at 10:00 AM.**

6. The instructions sought in terms of the previous order shall be positively furnished, failing which, the Court may proceed to pass appropriate orders.

7. Learned counsel for the petitioner is directed to serve a copy of this order upon Shri Namit Srivastava and Shri Anupam Kulshreshtha, learned counsel for the respondents **within three days.** "

4. Pursuant to the aforesaid, Shri Anupam Kulshreshtha, learned counsel has referred to Clause 1209 of Chapter II contained in The Book of Discipline published by the Methodist Church In India and he submits that although this Court had rendered the prayer (A) as infructuous by order dated 17.08.2023, in view of the subsequent order passed, even if, certain grievance raised by the petitioner is still pending to be considered, this Court on original side, may not issue any directions, inasmuch as, under Chapter II of the said Book, composition and functions of Judicial Council have been elaborately described. For the purposes of the case, Clause 1209 has been referred to which reads as follows:-

"1209. Art. VIII. Functions.

The Council shall have appellate and original jurisdiction in matters pertaining to the Church, its members, officers, councils, commissions, boards, committees and institutions. A petition before the council shall be finally disposed of within a period of six months except in case where the delay may be due to any fault of the petitioner. The council shall not entertain any petition, a related matter of which is pending in any court of law."

5. It is contended by Shri Kulshreshtha that the petitioner who is moving applications before one or other Authorities can directly approach the Judicial Council for redressal of the grievances raised by means of the writ petition and, in case, it exercises its original jurisdiction, it can entertain the application and, in case any Authority

below Judicial Council can look into the objections raised, Council can refer the matter to the said Authority and against the decision of the said Authority, it can exercise its appellate power as mentioned under Clause 1209 itself.

6. Meeting the said arguments, learned counsel for the petitioner submits that prayer (A) of the writ petition mentions 'Para 61' of the same book which reads as follows:-

"61. Suspension, Termination and Dismissal.

Any member-Minister, deaconess, or lay person of the Methodist Church in India who is guilty of:

- violating the vows and conditions of membership
- wilfully causing dissensions in the church
- involving the church, its officers or organisations in litigation
- illegal occupation of church property
- direct or indirect embezzlement of funds through neglect of duty
- illegal sale/lease of church property
- misappropriation of funds

shall be liable for any one or more of the following:

- suspension
- termination
- dismissal
- debarring from holding any office in any church organisation
- legal action

as decided by the competent authority specified in the Book of Discipline."

7. Learned counsel for the petitioner submits that since the private respondents are guilty of misappropriation of the movable and

immovable property of the Methodist Church in India, disciplinary action under paragraph 61 of the Book is warranted.

8. Having heard learned counsel for the parties, this Court finds that disciplinary action has been described under 'paragraph 61' of the Book, however, so far as the competence of the Authority to take a decision is concerned, no Authority is provided under the said paragraph, rather it is mentioned that action shall be taken by the Competent Authority specified in the Book of Discipline. As observed, Judicial Council under Clause 1209 is competent to deal with the matters pertaining to the Church, its members, officers, councils, commissions, boards, committees and institutions and any petition, if moved, before the Council, is bound to be decided within a period of six months, except in case where delay is occurred on account of fault of the petitioner.

9. The Court notices that there is only one bar against entertainment of dispute by the Judicial Council i.e. no such petition shall be entertained in case a related dispute is pending in any court of law.

10. Learned counsel for parties submits that no such proceedings are pending before any court of law in relation to the allegations made in the writ petition.

11. Be that as it may, this petition is **disposed off** in the following terms:-

(a). The petitioner is permitted to file a petition along with a certified copy of this order before the Judicial Council of India under Clause 1209 raising all grievances which fall within the competence of the Council;

(b). In case appropriate petition with clear and specific allegations and proper array of parties is filed before the Judicial Council within a period of **four weeks from today**, the Council shall examine as to whether it can exercise the original jurisdiction as per Clause 1209 or can refer the matter to any Authority subordinate to it to deal with the allegations

contained in the petition as it also vests with the appellate power under the same provision;

(c). In case, the Judicial Council proceeds to exercise its original jurisdiction in petition, the decision shall be taken within a period of **six months** strictly, in accordance with law after providing full opportunity of hearing to the parties of petition and in case, reference is made to any sub-ordinate Authority, the said Authority shall also decide the petition within the **same period of time** from the date of receipt of Reference, but after providing full opportunity of hearing to the parties;

(d). The Council shall also examine as to whether the dispute raised by the petitioner is pending before any court of law in view of the provision contained under Clause 1209 and shall act accordingly.

Order Date :- 8.12.2023

Jyotsana