



W.P(MD)No.18289 of 2026

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2026

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.18289 of 2026

and

W.M.P(MD)No.13531 of 2026

J.Josephin Shaji

... Petitioner

Vs

1.The Registrar,
The Registrar of Companies,
Block No.6B, Wing 2nd Floor,
Shastri Bhawan,
26, Haddows Road,
Chennai - 600 034.

2.The Bishop,
Kanyakumari Diocese, C.S.I. Diocesan Office,
71-A, Dennis Street, Nagercoil,
Kanyakumari District.

3.The Church Pastor,
Uthiramcode C.S.I. Church,
Vilavancode Taluk,
Kanyakumari District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings bearing B/0987/2021 dated 19.08.2021 on the file of the second respondent and the same was confirmed by the third respondent and to quash the same and consequently direct the respondent to allow the petitioner to contest in any election in church and in diocese within a time frame that may be fixed by this Court.

For Petitioner : Mr.Aayiram K.Selvakumar

For Respondents : Ms.S.Mahalakshmi (R1)
Standing Counsel

: Mr.S.Meenakshi Sundaram (R2 & R3)
Senior Counsel
for Mr.F.Deepak

ORDER

The present Writ Petition has been filed challenging the proceedings dated 19.08.2021 issued by the second respondent, as confirmed by the third respondent, and seeking a consequential direction directing the respondents to permit the petitioner to contest the elections to the Church and the Diocese.



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2.The learned counsel appearing for the petitioner submitted that the petitioner is a member of the third respondent Church and that his parents are also members of the said Church. The petitioner was born in the year 1981, was baptized at the C.S.I. Church, Uthiramcode, in the year 1982, and received the Sacrament of Confirmation in the same Church in the year 1997. He married J.Nihal Nila on 29.09.2014 at the C.S.I. Church, Poonthoopu. Subsequently, matrimonial disputes arose between them and, by a decree of divorce passed on mutual consent in D.O.P. No.306 of 2016, dated 24.07.2017, on the file of the Principal District Court, Kanyakumari at Nagercoil, the marriage stood dissolved.

3.Thereafter, the petitioner married Monica Dorothy, a divorcee whose earlier marriage had been dissolved by a decree dated 04.07.2015 passed in I.D.O.P. No.226 of 2014 on the file of the Principal District Court, Kanchipuram at Chengalpattu. Their marriage was solemnized in the year 2018 at the Tamil Evangelical Lutheran Church, Kilpauk, Chennai, and they have been blessed with two daughters. Both the children were baptized at the



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C.S.I. Church, Uthiramcode, in the year 2022. According to the petitioner, he has continued to be a member of the third respondent Church.

4.The learned counsel further submitted that, with a view to regularizing his second marriage under the Constitution of the Church, the petitioner submitted an application before the third respondent along with all the relevant documents and remitted a sum of Rs.11,000/- on 16.08.2021. The third respondent forwarded the petitioner's request to the second respondent by communication dated 18.08.2021. Thereafter, by the impugned proceedings dated 19.08.2021, the second respondent regularized the petitioner's marriage with Monica Dorothy. However, while granting such regularization, the second respondent imposed a condition that the petitioner would not be entitled to contest the elections of the Church. Aggrieved by the said condition, the present Writ Petition has been filed.

5.The learned counsel for the petitioner further submitted that the issue involved in the present Writ Petition is no longer res integra in



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view of the judgment of this Court in ***W.P.(MD) No.4367 of 2024, dated 18.03.2024 [D.David Vs. the Registrar and others]***. It is, therefore, submitted that the ratio laid down therein squarely governs the present case and that the Writ Petition deserves to be allowed.

6.Per contra, the learned Senior Counsel appearing for the respondents 2 and 3 submitted that the facts of the present case are clearly distinguishable from those involved in W.P(MD)No.4367 of 2024. According to the learned Senior Counsel, in the case relied upon by the petitioner, the marriage had been solemnized in the very same Church to which the parties belonged and, therefore, this Court held that the member could not subsequently be disqualified from contesting the election. In the present case, however, though the petitioner is a member of the third respondent Church, his second marriage was solemnized in the Tamil Evangelical Lutheran Church, Kilpauk, Chennai, which is an independent denomination having no connection with the Constitution or administration of the Kanyakumari Diocese of the Church of South India. It is further



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submitted that the petitioner in the earlier case was a Pastor and, therefore, the factual matrix was entirely different. On the above grounds, the learned Senior Counsel prayed for dismissal of the Writ Petition.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.The facts are not in dispute. It is an admitted position that, after the dissolution of his marriage with his first wife by a decree of divorce, the petitioner married Monica Dorothy in the year 2018 at the Tamil Evangelical Lutheran Church, Kilpauk, Chennai. Out of the said wedlock, they have been blessed with two daughters, who were subsequently baptized at the C.S.I. Church, Uthiramcode. It is also not in dispute that the petitioner continues to be a member of the third respondent Church.

9.The records further reveal that the petitioner sought regularization of his second marriage before the competent ecclesiastical



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authorities. Pursuant thereto, the second respondent, by the impugned proceedings dated 19.08.2021, regularized the petitioner's marriage and recognized his continuance as a member of the third respondent Church. However, while granting such regularization, the second respondent imposed a condition disentitling the petitioner from exercising his voting rights and contesting the elections of the Church.

10.The very same issue came up for consideration before this Court in ***W.P.(MD) No.4367 of 2024 [D. David v. The Registrar and others]***, decided on 18.03.2024, wherein this Court held as follows:

"13.The Constitution of the CSI Kanyakumari Diocese was framed in the year 1960. Of course, amendments were made from time to time. Clause 7 dealing with discipline of civil marriage states as follows:-

"All those who conduct marriages outside the provisions made in this Constitution shall be outside the fellowship of the Church until such time they have the marriage rite done according to the Church rules."



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In other words, the disqualification of being excluded from the fellowship of the Church will cease the moment the marriage rite is done as per the Church Rules. This is the position even if the marriage was earlier solemnized outside the provisions made in the Constitution. A similar approach deserves to be adopted in the case of Clause 8 also. The expression “widow” will not apply to a person who has remarried. Likewise, the tag of divorcee will not attach to a person who has remarried. Only if the divorcee continues to remain single, the disqualification can hold good. Even in Hindu Shastras, a person can perform Yagna only if he is accompanied by his wife. In Ramayana, after the great war was over, when Lord Rama performed Ashwamedha Yagna, he sat before the ritual fire accompanied by a golden statue of Sita. I can understand the importance attached to the institution of marriage in theology. But the case on hand pertains to elections. Right to found family and getting married is a human right. Right to divorce is a statutory right. The procedure to obtain divorce is statutorily regulated. Divorce can be obtained among Christians and Hindus either by mutual consent or by establishing marital misconduct. One cannot incur disqualification for exercising one's statutory right. If the aforesaid provision in the CSI Constitution is literally applied, it will lead to monstrous results. That is why, I hold that the aforesaid rule will not apply in the case of a person whose marriage has been solemnized under the Constitution of the CSI Kanyakumari Diocese after the first divorce. In other words, once the



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very same church had solemnized the remarriage, the disqualification rule can no longer operate. I therefore hold that the impugned communication issued by the second respondent is not in consonance with the Constitution of the C.S.I. Kanyakumari Diocese.

14.I of course refrain from invoking the principle of desuetude. The said concept is applied when a provision loses its force even without express repeal. That is on account of disuse. Probably, that was why, the provision was not invoked against the petitioner on earlier occasions. The Rev. Bishop appears to have suddenly remembered it. The Indian Divorce Act underwent drastic amendments right from 2001 onwards. Section 10-A was introduced on 03.10.2001 providing for dissolution of marriage by mutual consent. Grounds that were earlier unavailable were also introduced in the statute. In these circumstances, the aforesaid disqualification provision has become utterly obsolescent. The Constitution itself was framed several decades ago and it is time, the aforesaid disqualification clause is revisited in the light of the subsequent statutory amendments made to the marriages laws. The bylaws of a body must be in consonance with the overall legal framework of the society. I make this observation more in passing and it does not constitute the central reasoning of this order."



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11.The distinction sought to be drawn by the learned Senior Counsel appearing for the respondents 2 and 3 does not persuade this Court. The mere fact that the petitioner's second marriage was solemnized in the Tamil Evangelical Lutheran Church, Kilpauk, Chennai, and not in the third respondent Church, would not, by itself, render the ratio laid down in the aforesaid decision inapplicable. The material circumstance is that the competent authority under the Constitution governing the respondents has regularized the petitioner's marriage by the impugned proceedings dated 19.08.2021 and has also recognized his continuance as a member of the third respondent Church. Once such regularization has been granted, the place where the marriage was solemnized loses its relevance for determining the petitioner's eligibility to exercise his rights as a member, unless the Constitution, Rules, or Regulations governing the Church specifically prescribe otherwise.

12.Admittedly, the respondents have not placed before this Court any provision of the Constitution, Rules, or Regulations governing the

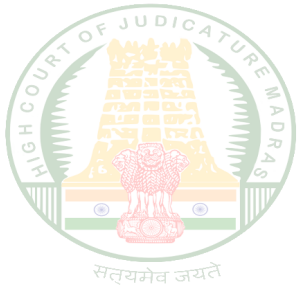


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Church or the Diocese which authorizes the imposition of a disqualification from voting or contesting elections solely on the ground that the petitioner's second marriage was solemnized in another Christian denomination. The distinction sought to be made by the respondents is, therefore, one of fact and not of principle. The ratio laid down by this Court in W.P.(MD) No.4367 of 2024 is that, once the competent Church authority has regularized the marriage and recognized the membership of the individual, the member cannot thereafter be deprived of his electoral rights in the absence of a specific provision authorizing such disqualification. The said principle squarely applies to the facts of the present case.

13.In such view of the matter, this Court is of the considered opinion that the impugned proceedings dated 19.08.2021, insofar as they disentitle the petitioner from exercising his voting rights and contesting the elections of the respondents 2 and 3, are unsustainable in law and are accordingly set aside.



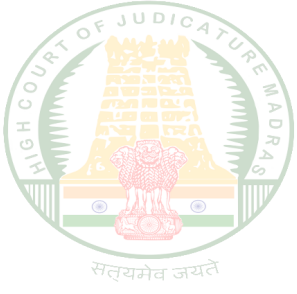
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14. Accordingly, the Writ Petition stands allowed. The respondents are directed to recognize the petitioner's membership in the third respondent Church with all attendant rights, including the right to vote and to contest the elections of the respondents 2 and 3, subject to the petitioner satisfying the other eligibility criteria prescribed under the Constitution, Rules, and Regulations governing the Church and the Diocese. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes / No
Index : Yes / No
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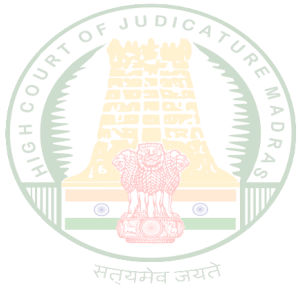
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To

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M.DHANDAPANI, J.

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