

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

CIVIL REVISION PETITION No.4193 of 2015

Between:

The Executive Council of the Andhra Evangelical Lutheran Church
and another.

....Petitioners

and

Rev.Yelamati Adamu.

....Respondent

JUDGMENT PRONOUNCED ON : 04.01.2016

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether His Lordship wishes to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.4193 of 2015

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ORDER:

The petitioners herein are the respondents in S.O.P.No.394 of 2015 on the file of the learned District Judge, Guntur. The respondent herein filed the above petition under Section 23 of the Societies Registration Act, 2001 seeking a declaration that the election report of the 78th Annual Convention of the Central Guntur Synod held at A.L.College of Education, Guntur, on 13th – 14th April 2015 is valid and binding and it can only be interfered with by due course of law and for a consequential permanent injunction restraining the respondents from in

any way disturbing, disbanding, disapproving or interfering with the business of the 78th Annual Convention of the Central Guntur Synod, Guntur, held at A.L.College of Education, Guntur, on 13th – 14th April 2015. Along with the said petition, the petitioner therein filed I.A.No.1930 of 2015 seeking temporary injunction restraining the respondents therein from interfering with the business of the 78th Annual Convention of the Central Guntur Synod, Guntur, held at A.L.College of Education, Guntur, on 13th – 14th April 2015, pending disposal of the main petition, which was allowed on 06.08.2015. Challenging the same, the present Civil Revision Petition is filed.

The Andhra Evangelical Lutheran Church (AELC) had different Synods for East Godavari, West Godavari, East Guntur, Central Guntur and the West Guntur. In the present case, we are concerned with the Central Guntur Synod. The AELC as well as the Synods are governed by their respective Constitutions. The AELC is having its Memorandum of Association, Rules of Association (Constitution) and By-laws. The Synods have common by-laws.

The Memorandum of Association of AELC specifies the objects of the society, which include maintaining discipline among the members of the Church. Rules of Association (Constitution) contain the working of AELC. Article III deals with objects and duties. Article IV deals with membership, which is extended to the congregations, who applied for membership in the Church through the concerned Synods Executive Committee. Section 3 deals with Synods and it says that the Church shall be divided into administrative units called Synods. The Conventions are dealt with under Article V. The Officers of the Church are specified in Article VII. Article XI deals with the Executive Council. Section 4 thereof specifies the duties and functions of the Executive Council. Section 4(c)(4) gives the right to determine the time and place of the regular annual conventions of the Synods and sub-section (7)

thereof deals with appointment of an official representative of the AELC to each Synod Convention. Sub-section (8) deals with exercise of the right of review of all actions of the Synods in accordance with the provisions of the by-laws of AELC (Article VII Section 15). Article XIV deals with the Committees and it includes the Committee on Nominations and Credentials.

Article III of the Constitution for the Synods states that they possess the powers conferred upon them and accept the duties assigned to them by the AELC in its constitution, by-laws and enactments. The said constitution, by-laws and enactments are recognized as having governing force on the Synods. Article VI deals with Conventions. It states that a regular convention of each Synod shall be held annually at the time specified in the by-laws as determined by the Executive Council of the AELC. Article VII deals with the Officers, as per which, each of these Synods shall have a President, "honorary or full time", a Vice-President and, during meetings of the executive committee of the Synod and during Synod conventions, there shall be a Recording Secretary. There may also be a Treasurer of the Synod. The duties of the said office bearers are specified. There are separate by-laws for the Synods. Article II of the by-laws deals with Conventions. It says that the regular annual conventions of the Synods of the AELC shall be held ordinarily between January 1 and April 30 or at such times and places as shall be determined by the Executive Council of AELC. Section 5 of Article VII deals with Committee on Nominations and Credentials. The duties of the said Committee include conduct of elections by following the provisions of AELC by-laws Article IV. Article VIII deals with appeals. Section 4 thereof states that in case of appeals against actions of the boards or Synods, such appeals shall be referred to the Executive Council of the AELC whose decision shall be final. A further appeal is provided under Section 5 against the actions of the Executive Council. Section 6 says that any person who resorts to Courts or appeals to external authorities rather than making use of the

provision for appeal in the AELC and any person who does not abide by the decisions of the Field Church Council, Synod executive committee, the Executive Council of AELC or of the Commission of Adjudication, where their decisions are final, as the case may be, shall *ipso facto* forthwith be removed from any elective or appointive membership in the AELC, lose his eligibility for any elective or appointive membership in the AELC and be debarred from all voting rights.

The admitted facts are that the 78th Annual Convention of the Central Guntur Synod was called for and was convened on 13th – 14th April 2015 at 10:00 a.m. As per the report of the Nominations and Credentials Committee, Central Guntur Synod, 217 delegates were registered at the beginning of the Convention out of the permitted 226 delegates. The election of the Vice-President, Bishop and Executive Council was taken up apart from other elections. A report of the minutes of the 78th Annual Convention, Central Guntur Synod, was signed by the Chairman, Nominations and Credentials Committee, Recording Secretary, Bishop of Central Guntur Synod and the Official Observer, AELC.

The Official Observer also sent a separate report to the Executive Council. When those reports were under consideration, the respondent herein filed S.O.P.No.394 of 2015 before the learned District Judge, Guntur, seeking the above relief. Along with the said petition, he filed I.A.No.1930 of 2015 seeking temporary injunction as aforesaid, pending disposal of the main petition, which was allowed on 06.08.2015.

At this stage it is relevant to extract the relief sought for in the main petition, which reads as follows:

“The petitioner therefore prays that the Honourable Court may be pleased to pass a decree and judgment in his favour and against the respondents:

- a. That notice be sent to the Respondents;

- b. **For Declaration** that the Election Report of 78th Annual Convention of the Central Guntur Synod held at A.L.College of Education, Guntur on 13th – 14th April 2015 is valid and binding and it can only be interfered with by due course of law and for **Consequential Permanent Injunction** restraining the respondents, their men, bodies, associates, councils and council committees from in any way disturbing, disbanding, disapproving or interfering with the business of the 78th Annual Convention of the Central Guntur Synod, Guntur held at A.L.College of Education, Guntur on 13th -14th April 2015;
- c. For costs of the petition; And
- d. For such other reliefs as the Hon'ble Court deems fit and proper in the circumstances of the case"

A reading of the above relief makes it clear that the petitioner therein, while observing that the report can be interfered with by due course of law, asked for a consequential permanent injunction restraining interference with the business of the Convention, which is self-contradictory. The prayer indicates that the Executive Council of AELC can interfere with the decisions taken at the Annual Convention, but at the same time, asked it to restrain from interfering. The learned District Judge, Guntur, by his interim order allowed the functioning of the petitioner therein as Vice-President and restrained the Executive Council from interfering with his function, which is a relief granted beyond the prayer sought for in the main relief. The main relief is concerned with the election report of the 78th Annual Convention and its binding nature unless interfered with in accordance with law.

Now by virtue of the interim order, the Executive Council is disabled from reviewing the report and taking appropriate action. The perusal of the Constitution of the AELC and Synods makes it clear that a Synod is an administrative unit of the Church and the Executive Council

of the AELC is the supervisory body which can independently take the decisions.

There is a clear prohibition from approaching the third parties or the Courts for resolution of disputes without invoking the provision of appeal of AELC. Section 1(f) of Article VII of by-laws of AELC makes it clear that the Executive Council shall approve the reports of all the standing committees and the Committee of Nomination and Credentials is one of the standing committees. The Observer appointed by the Executive Council has submitted a separate report apart from the report submitted by the four persons, including the Official Observer. It is for the Executive Council to take a decision in the matter and the respondent herein also agrees it to take the decision by following due process of law. But, by virtue of the impugned order, the Court disabled the Executive Council from taking a decision.

A reading of the entire order of the lower Court shows that the learned Principal District Judge, Guntur, had not adverted to the binding constitutional provisions of the AELC or of the Synod. The decision of the court is based on the facts of the case without having regard to the binding provisions of the AELC and Synod. The respondent herein was elected for a period of two years from 2015-2017. It is premature to hold that the Executive Council will not ratify the action taken in the Annual Convention and it is a matter relating to the internal working of the AELC and Synod. The very petition filed by the respondent herein is premature without there being a decision of the Executive Council. Unless the Executive Council takes a decision, it cannot be said that, on the basis of the election held on 13th – 14th April 2015, the respondent herein can be allowed to function as Vice-President of the Central Guntur Synod.

With regard to the balance of convenience also, no finding was recorded as to the alleged interference of the petitioners herein in performing the duties of the respondent as Vice-President of the Central

Guntur Synod. Obviously that situation would not arise, as no decision was taken by the Executive Council at the time of filing the petition.

With regard to the irreparable loss and injury also the learned Principal District Judge should have seen that the Synod would not come to a standstill as the Vice President is one of the office bearers of Synod. He would be discharging his functions assigned to him under the by-laws. Section 4(c) of Article VII of the constitution for the Synods states that the Vice-President shall act for the President in his absence or at his request. So, no irreparable loss and injury would occur if no interim order is granted in the petition filed by the respondent herein.

The petition was filed on 22.04.2015 and for the last eight months, the Executive Council is disabled from taking any action by virtue of the interim order dated 06.08.2015. It is a cardinal principle of law that the interim order cannot travel beyond the main relief sought for in the petition. As stated above, the respondent himself accepted the authority of the Executive Council to act in accordance with law and hence the Executive Council shall not be disabled from acting in accordance with law. No decision has been taken by the Executive Council as on the date of filing of the petition on 22.04.2015.

In the circumstances, the impugned order dated 06.08.2015 passed in I.A.No.1930 of 2015 is set aside, and the learned Principal District Judge, Guntur, is directed to dispose of S.O.P.No.394 of 2015 on or before 30.04.2016.

The Civil Revision Petition is accordingly, allowed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

04.01.2016

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