



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2017
(Reserved on 27.04.2017)

WEB COPY

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP(PD) (MD) No.816 of 2017
and
CMP(MD) Nos. 4026 to 4028 and 4350 of 2017
and
CMP.SR(MD) No.19225 of 2017

1.The Diocese of Tirunelveli,
Represented by its Bishop,
No.5, Punithavathiyar Street,
Palayamkottai, Tirunelveli.
(For himself and on behalf of the
members of the Tirunelveli Diocese
under the representative capacity)
2.Rt.Rev.J.J.Christdoss,
Bishop, Diocese of Tirunelveli,
Bishop Stowe,
16, North High Ground Road,
Palayamkottai.

... Petitioners

vs.

1.P.Binekas Selvakumar Gnanaraj
2.V.John
3.E.Gabriel Jesudason
4.Tirunelveli Diocesan Trust Association
Represented by its Secretary & Treasurer,
having office at Punithavathiar Street,
Palayamkottai, Tirunelveli.
5.S.Dharmaraj,
Court Commissioner,
Tirunelveli.
6.Gnana Arul Kanagaraj
7.P.Victor John
8.Manuel Selvanayagam
(Respondents 5 to 8 are impleaded vide
Court order dated 12.04.2017, made in
CMP. (MD).Nos.3555 to 3558 of 2017
in CRP.SR.No.16079 of 2017 by GJJ)

... Respondents



dated 07.04.2017 passed in I.A.No.205 of 2011 in O.S.No.128 of 2011 on the file of the Additional Subordinate Judge, Tirunelveli.

For Petitioners : Mr.G.Prabhu Rajaduari
For R1 to R3 : Mr. K.Chellapandian, Senior Counsel for
Mr.N.Dilip Kumar
For R4 and R 5 : No appearance
For R6 to R8 : Mr.R.Vijaya Kumar
for Mr.C.Susi Kumar

For petitioner in CMP(MD)Nos.4026 to
4028 of 2017 : Mr.K.K.Senthilvelan for Mr.K.Rajeshwaran
For Petitioner in CMP(MD)No.4350 of 2017 and
CMP.SR(MD)No.19225 of 2017 : Ms.J.Anandhavalli

ORDER

This Court, after due consideration of the submissions made by the respective parties, by order dated 12.04.2017, disposed of the revision petition with the following directions:-

'(i) The fourth phase of the election shall be conducted afresh after making publication for the election on 13.04.2017. The filing of nomination shall be closed by 3.00 p.m., on 19.04.2017. The scrutiny of nomination shall be done on the same day by 4.00 p.m. The last date for withdrawal of nomination shall be on 20.04.2017 and if there is any contest, the election shall be conducted on 23.04.2017 from 11.00 a.m. to 03.00 p.m.

(ii) The prospective contestants shall collect the nomination papers from the Court Commissioner Mr.S.Dharmaraj.

(iii) The list of voters shall be made public by publishing it in the concerned Church by the Court Commissioner.

(iv) It is submitted by the learned counsel for the petitioner that by convention always election is to be conducted at Cathedral Church at Palayamkottai. The same convention may continue.

(v) Mr.H.Thayumanaswamy, learned counsel is requested to supervise the smooth conduct of the election process and he shall submit the report in this regard to this Court on 25.04.2017. Insofar as the post of Treasurer is concerned, the church committee constituted by Bishop shall give its proposal by 22.04.2017 to the Commissioner.

(vi) The remuneration for the commissioner is fixed at Rs.35,000/- and shall be paid to Mr.M.Thayumanaswamy, (9443694354), No.25, Law Chambers, Madurai Bench of Madras High Court, Madurai, by the revision petitioner. Since there is some apprehension expressed across the Bar that in the interregnum period, the parties may take certain major policy decisions, in order to avoid any multiplicity of dispute, it is directed that the parties who are the helm



of affairs at present shall not take any major policy decisions till 25.04.2017.''

2. Pursuant to the order passed by this Court on 12.04.2017, the Commissioner Mr.H.Thayumanaswamy, Advocate appointed to supervise the conduct of the election process, has submitted his report along with the details of the candidates elected in the 4th phase of election for the Diocesan Council of Tirunelveli Diocese.

3. One Pitchaiah David filed CMP(MD)Nos.4026 to 4028 of 2017, to implead himself in the revision; to remove the Commissioner and to appoint a new Commissioner and also to direct the Court Commissioner to conduct election after finalising proper and eligible voters, alleging that there was error in the voters list and violation of the Election Rules of the Diocese in publishing the voters list.

4. One Soundara Pandian also filed CMP(MD)No.4350 of 2017 seeking to implead himself in the revision petition, alleging that without considering his representation seeking to include him in the voters list, the Commissioner has conducted the 4th phase election for the Diocesan Council of Tirunelveli Diocese, without publishing the updated voters list before such election. In CMP.SR(MD)No.19225/17, he has also sought for a direction to the Commissioner not to publish the result of the 4th phase election.

5. It is represented by the counsel for the petitioner that the election was conducted despite pointing out inclusion of ineligible voters and exclusion of eligible voters.

6. The counsel for the respondents submits that the voters list was published as per the direction of this Court and the list was prepared pursuant to the earlier order of the Trial Court which has ordered for election in a phased manner. The petitioners in CMP(MD)Nos.4026 to 4028 and 4350 of 2017 are not parties aggrieved and have no locus to get themselves impleaded in this revision.

7. The copy of the Commissioner report has been served to the revision petitioner as well as the respondents herein.

8. The main contention in the revision petition was that without giving notice, in a hasty manner election was conducted on 10.04.2017 and therefore, the same has to be set aside and fresh election should be conducted after giving sufficient time for conducting election. In the said context, this Court on 12.04.2017, after hearing both sides and on a broad consensus passed order fixing schedule for election under the supervision of Mr.H.Thayumanaswamy, Advocate.

9. When the matter was taken up today, it was represented by the counsel appearing for the petitioner in CMP(MD)Nos.4026 to 4028 of 2017 that the petitioner/Pitchaiah David in these



miscellaneous petitions has to be impleaded in the revision petition to point out the commission and omission of the Advocate Commissioner in conducting the 4th phase election. In addition to that, there is also a prayer to remove the Court Commissioner and to appoint a new Commissioner to conduct election. So also, the counsel for the petitioner in CMP(MD)No.4350 of 2017 submits that the Commissioner without publishing the updated voters list, conducted the 4th phase of election, hence, the petitioner/Soundara Pandian in this miscellaneous petition is to be impleaded.

10.The 4th phase of election has been concluded under the supervision of the Advocate Commissioner appointed by this Court. It is submitted by the counsel for the respondents that result for the 4th phase election has already been published and the report of the Commissioner is also been served to the parties. So, nothing more survives in these civil miscellaneous petitions and therefore, there is no necessity to entertain CMP(MD)Nos.4026 to 4028 and 4350 of 2017 and CMP.SR(MD)No.19225 of 2017. Any grievance regarding the result of the 4th phase election, the aggrieved parties are at liberty to approach the Trial Court where the suit is pending and seek redressal.

With the above observation, this Civil Revision Petition is closed as no further order is required to be passed now. No costs. Consequently, CMP(MD)No.3649 of 2017 is closed and CMP(MD)Nos.4026 to 4028 and 4350 of 2017 and CRP.SR(MD)No.19225 of 2017 are dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Additional Subordinate Judge,
Tirunelveli.
- 2.Mr.S.Dharmaraj, Court Commissioner, Tirunelveli
- 3.Mr.M.Thayumanaswamy, Advocate,
Law Chamber No.25, Madurai Bench of Madras High Court,
Madurai-625 023 (9443694354),
+One cc to M/s.J.Anandhavalli, Advocate, SR.No.55296
+2 ccs to Mr.K.Rajeshwaran, Advocate, SR.Nos.55251 and 55312
+2 ccs to Mr.N.Dilipkumar, Advocate, SR.No.55289
+One cc to Mr.G.Prabhu Rajadurai, Advocate, SR.No.55309

nbi

RL/10C/4P/MR/SAR2/2.5.2017

Pre-Delivery order made in
CRP(PD) (MD)No.816 of 2017
28.04.2017