

HON'BLE SRI JUSTICE S. V. BHATT

Writ Petition No.18774 of 2017

ORDER:

Heard Sri G.V. Ramana Murthy, for petitioners.

2. The petitioners seek *mandamus* declaring the minutes of the Executive Council, LCM 484 dated 06.03.2017 proposing formation of Palnadu Field as separate Synod by 3<sup>rd</sup> respondent, as illegal, erroneous and violative of Constitution Rules, bye-laws of Andhra Evangelical Lutheran Church (for short 'AELC') and also unconstitutional.

3. The petitioners, through instant writ prayer call in question a resolution passed by AELC proposing to form Palnadu Field as separate Synod. Learned counsel for the petitioners in support of his submission that a proposal in fact has been mooted, resolution was also passed for formation of separate Synod, draws attention of the court to Exs.P.1 and P.2. On the pointed query of maintainability of the writ petition under Article 226 of the Constitution of India, to challenge a resolution passed by AELC, Guntur, he draws attention of the court to the Constitution of AELC and submits that as the constitution of society is violated, the writ petition is maintainable.

4. Learned counsel for the petitioners, on the question of maintainability of the writ petition, relies upon the decision reported in '*Sardar Sarup Singh & others vs. State of Punjab & others*<sup>1</sup>' and contends that once the properties of a religious body are illegally administered or there is misappropriation, this court has jurisdiction under Article 226 of the Constitution.

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<sup>1</sup> AIR 1959 SC 860

5. I have perused the decision relied upon by petitioners. The decision relied upon by petitioners is not an authoritative pronouncement on the maintainability of writ petition vis-à-vis AELC. The paragraphs relied upon by learned counsel do not lay down that the writ remedy is available against the resolution of a society or AELC.

6. Therefore, the writ petition is dismissed as not maintainable. As the prayer is rejected as not maintainable under Article 226 of the Constitution of India, it is open to petitioners to avail the remedies by initiating proceedings in accordance with law.

7. Except on the maintainability of the writ petition, vis-à-vis resolution dated 06.03.2017 this court has not gone in to merits of the case. The rejection of writ petition by this court shall not be an expression on merits the petitioners can raise against the resolution. Further, the petitioners, if are members of AELC and there is deviation from the directives contained in the Constitution of AELC, remedy of petitioners against such deviation is by filing a petition before competent court having jurisdiction on these matters, but not the remedy under Article 226 of the Constitution of India. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

Date: 12.06.2017  
BSS

S.V. BHATT, J

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