



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2018

CORAM:

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 24719 of 2018

and

W.M.P. (MD) No. 22410 of 2018

R.Vinoth

... Petitioner

Vs.

1. The Tamil Evangelical Lutheran Church,
Represented by its Administrator,
Hon'ble Justice Mr. K. Venkataraman,
Former Judge, High Court Madras,
L-Block-125, 17th Street,
East Anna Nagar,
Chennai-600 012.

2. The P.C. Chairman (Advisor Committee),
The Tamil Evangelical Lutheran Church,
TELC Anbunathur Church,
Mudukulathur,
Ramanathapuram District.

3. The Pastor (In-Charge),
The Tamil Evangelical Lutheran Church,
TELC Anbunathur Church,
Mudukulathur,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to consider the objection/representation dated 11.12.2018 preferred by the petitioner regarding the Synod Continuation Committee (SCC) 2019 and Special Synod 2019 election conducted in the third respondent church and consequentially to direct the first respondent not to approve the candidates elected in the third respondent church till the disposal of the objection within the period that may be stipulated by this Court.

For Petitioner

:Mr. Ajmal Khan
Senior Counsel

**ORDER**

The subject matter of this writ petition pertains to Synod Continuation Committee (SCC) 2019 and Special Synod 2019 Election.

2. The petitioner is a member of the third respondent Pastorate. As per the rules governing the said election, five delegates will have to be elected from the third respondent Pastorate. The Election was held on 09.12.2018. The grievance of the petitioner is that even without finalizing the voter's list, this was done and the specific allegation is that the approval of the first respondent was not obtained.

3. In this regard, the petitioner has already lodged his objection on 11.12.2018 before the first respondent. Clause 82 of the Tamil Evangelical Lutheran Church, reads as under.

"PROCEDURE FOR DEALING WITH OBJECTIONS AND CONFIRMING OF ELECTIONS

All such elections of members of PC etc., are subject to confirmation by the DE. The procedure for confirmation is as follows:

The names of those elected shall be announced in the next Sunday service in all main places of worship in the Pastorate. If there is no objection against this election, or against any of the members elected, within 8 days from the date of announcement, the PC Chairman shall then forward the names to the District Chairman and to the Church Council Secretary together with a certificate that the announcement has been made in all main places of worship in the Pastorate and that no objection has been received.

When there is no objection, the DE Office-Bearers on behalf of the DE may permit the Pastor to install the newly elected members and report to the Church Council for recording in its proceedings.

When a written objection is received, which shall be only on the election procedure, or on the decision of the P. Conference on an objection raised as per rules, the P.C. Chairman shall speak to the writer, and if he finds that the objections are reasonable, he may request the elected member concerned to withdraw. If that person refuses, he/she shall be given a copy of the objection, so that he/she may give a statement of explanation or defence. When the declaration of a member or his wife is refuted to be untrue, then the member concerned shall adduce proof for his/her declaration. People making baseless and defamatory statements in their petitions alone would be responsible for any damages or consequences that may arise therefrom. Further, they would be debarred by the Church Council for election or appointment for any post for a period of three years from the date of removal. Similarly, the names of those who have been proved to have given false declaration shall be removed from the voter's list. Their names would



however be re-included in the list, after the expiry of period of two years from the month in which they give the correct declaration. The PC Chairman shall then place the objection and the explanations before the P.C., get its opinion and send all the papers through the District Chairman to the CC.

The District Chairman, when forwarding the papers to the Church Council, may offer his own remarks. In such a case, a copy has to be sent to the Pastorate for submission within a week, of any explanation which the person concerned may choose to give.

On receipt of the papers, the Church Council may decide either to confirm the election or to invalidate it, and order re-election, taking such legal assistance as is available within the TELC, if considered necessary.

Should they find it necessary, the Church Council may refuse confirmation of those election, or election of any member, even without an objection petition:-

(1) If an election is not in order.

(2) If the elected member does not fulfil the qualification required by him.

(3) If in their opinion the member is not worthy or suitable to be a member of any of the administrative committees of the Church, or

(4) if the good Government of the Church requires it.

In any case, the Church Council is not bound to give any reason for refusing confirmation.

4. The objections of the petitioner are pending before the first respondent. This writ petition has been filed to direct the first respondent to consider the aforesaid representation dated 11.12.2018.

5. The learned Senior Counsel appearing for the writ petitioner submitted that he would be satisfied, if the first respondent acts in terms of the aforesaid clause 82 of the Tamil Evangelical Lutheran Church Rules.

6. I am of the view that the writ petition may not lie against the first respondent. The first respondent is not a "State" within the meaning of Article 12 of the Constitution. Of-course, even against a private person, a writ petition can lie under exceptional circumstances, but such circumstances are not present in this case. More than anything else, the Hon'ble Mr. Justice K. Venkataraman is a former Judge of this Court and was appointed as Administrator of TELC by none other than the Hon'ble Supreme Court. Therefore, keeping the said position in mind, I am of the view that no further order is required in this writ petition and the writ petition is



closed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD 1)

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/True Copy/

Sub Assistant Registrar(CS I)

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TO

The Hon'ble Justice Mr.K.Venkataraman,
Administrator,
Tamil Evangelical Lutheran Church,
Former Judge, High Court Madras,
L-Block-125, 17th Street,
East Anna Nagar, Chennai-600 012.

+ 1 CC TO M/s.AJMAL ASSOCIATES IN SR No.100354.

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