



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.12.2018

CORAM:
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD) No.25251 of 2018
and

W.M.P. (MD) Nos.22856 & 22888 of 2018

R.Jayakumar Thomas Jayaraj

... Petitioner

Vs.

1.The Regional Director,
Southern Region Chennai,
Ministry of Corporation Affairs,
Shastri Bhavan, Block I,
5th Floor, 26, Haddows Road,
Chennai - 600 006.

2.The Registrar of Companies,
Ministry of Corporate Affairs,
Block No.6, B Wing,
2nd Floor, Shastri Bhavan,
D.No.26, Haddows Road,
Chennai - 600 006.

3.Tirunelveli Diocesan Trust Association,
Diocesan Office,
No.5, Punithavathiyar Street,
Palayamkottai,
Tirunelveli - 627 002.

4.Amos Henry Lawrence Billy,
11.Guru Street,
Murugankuruchi,
Palayamkottai,
Tirunelveli-627 002.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Hearing Notice in F.No.02/M-63/2018-19, dated 03.12.2018, issued by the first respondent, quash the same and further direct the first respondent to issue Hearing Notice to the petitioner to participate in the enquiry to be conducted by the first respondent, on 21.12.2018, in the light of the order passed by this Court in W.A.(MD)No.805 of 2018, dated 14.06.2018.

For Petitioner : Mr.T.Lajapathi Roy

For R1 and R2 : Mrs.S.Ragaventhre

Central Government Standing Counsel



For R4

: Mr.S.Chellapandian

ORDER

Mrs.S.Ragaventhre, learned Central Government Standing Counsel takes notice for the respondents 1 and 2. Mr.J.Bharathan, learned counsel takes notice for the third respondent. Mr.S.Chellapandian, learned counsel takes notice for the fourth respondent.

2.By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to quash the impugned Hearing Notice in F.No.02/M-63/2018-19, dated 03.12.2018, issued by the first respondent and further, to direct the first respondent to issue Hearing Notice to the petitioner to participate in the enquiry to be conducted by the first respondent on 21.12.2018, in the light of the order passed by this Court in W.A.(MD)No.805 of 2018, dated 14.06.2018.

4.The case of the petitioner is that the third respondent is a Company incorporated under the provisions of the Companies Act with the first respondent. The said Company is constituted for the purpose of holding the properties of Diocese of Tirunelveli in trust for the members of the Tirunelveli Diocese. The said Tirunelveli Diocese has conducted election to the membership and officers of the various bodies at Tirunelveli Diocese, which will be conducted once in four years in accordance with its constitution. The third respondent is governed by the Articles and Memorandum of Association and the elected Members of the Executive Committee will become the Members of the third respondent Association. They would further constitute a Management Committee of the third respondent, comprising of not less than three and not more than eight members. The Articles of Association provides the Bishop of the Tirunelveli Diocese and the Treasurer of the Diocese Council would automatically become the ex-officio members of the third respondent Association.

5.However, when the representation was sent by the fourth respondent, the names of Directors were deleted and new names including the fourth respondent were added. The second respondent, later, found that it was done without notice to the Directors and deleted the correction and restored the original names. But, the fourth respondent again had submitted a representation dated 30.01.2018 to the second respondent against such deletion and to restore his name in the third respondent Company master data.

6.Thereafter, W.P.(MD)No.11781 of 2018 was filed by the fourth respondent seeking a direction to delete the names and include his name in the Company master data. This Court, by order dated 31.05.2018, without issuing notice to anyone including the

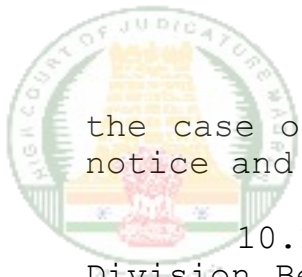


second respondent, passed a positive direction, directing the second respondent to act in a particular manner to delete the names and include the name of the fourth respondent, against which, one Gunasingh Chelladurai, has filed an appeal in W.A.(MD)No.805 of 2018. On coming to know about the said writ appeal, the petitioner herein has also filed an application in C.M.P.(MD)No.5007 of 2018 in W.A.(MD)No.805 of 2018, for impleading. The Division Bench of this Court, by judgment dated 14.06.2018, has set aside the order passed in the writ petition and directed the second respondent to pass orders on the representation of the fourth respondent and other interested parties.

7. Thereafter, the petitioner has sent a representation to the second respondent on 15.06.2018, intimating the order of this Court. On receipt of the same, the second respondent, by his communication dated 13.07.2018, directed the petitioner to appear before him for enquiry on 26.07.2018. Accordingly, the petitioner appeared and sought time and thereafter, on another hearing, the petitioner submitted his written reply. Thereafter, all of a sudden, the second respondent referred the matter to the first respondent and already notices were sent to some persons for enquiry. However, no notice was sent to the petitioner and he came to know about the same only on 06.12.2018 from one of the parties and immediately, on the very same day, the petitioner has sent a letter requesting the first respondent to inform him about any meetings in order to make his presence. However, till date, the petitioner has not received any notice from the first respondent. Any enquiry without notice to him and without hearing his objections will cause prejudice to him. The petitioner submits that the appellant in the Writ Appeal viz., Gunasingh Chelladurai has already filed a Writ Petition in W.P.(MD) No.23790 of 2018 before this Court and this Court, by its order dated 30.11.2018, permitted him to participate in the enquiry and the petitioner was placed with a Hearing Notice by the other parties in F.No.02/M-63/2018-19, dated 03.12.2018. In the said notice, it is informed that all the noticees to appear for final hearing on 21.12.2018 at 10.00 a.m. before the first respondent. Hence, the petitioner has come forward with this Writ Petition challenging the above said Hearing Notice.

8. I have heard the learned counsel appearing for the parties.

9. This Court, on an earlier occasion, i.e., on 30.11.2018, disposed of W.P.(MD)No.23790 of 2018 filed by one Gunasingh Chelladurai, seeking to quash the impugned Hearing Notice dated 15.11.2018 issued by the first respondent and further to direct the first respondent to issue hearing notice to him to participate in the enquiry to be conducted by the first respondent on 03.12.2018 in the light of the order passed by the Division Bench of this Court in W.A.(MD)No.805 of 2018 and directed the respondent concerned to give some further time of 15 days to the petitioner therein to put forth his defence. Accordingly, the same was adjourned to 21.12.2018 and notice was also issued to the necessary parties concerned. Now,



the case of the petitioner is that he has not been served with any notice and he is trying to stall the said enquiry.

10. It could be seen from the typed set of papers that the Division Bench of this Court in W.A.(MD)No.805 of 2018, by judgment dated 14.06.2018, has directed the second respondent to consider the representation of the first respondent therein dated 30.01.2018 and pass orders on the same on merits and in accordance with law, after hearing all the necessary parties. Accordingly, the second respondent, by his communication dated 13.07.2018 directed the petitioner and others to appear before him on 26.07.2018 at 11.00 a.m. Pursuant to the same, the petitioner has appeared and sought time and thereafter, on another day of hearing, he submitted his written reply, which has been admitted by the petitioner in the affidavit filed by him in support of this Writ Petition.

11. Now, the present Writ Petition has been filed as if the petitioner has not been served with any notice by the first respondent. In the earlier Writ Petition *i.e.*, W.P.(MD)No.23790 of 2018, this Court directed the petitioner therein and the respondents to co-operate with the enquiry and resolve the matter amicably. The third respondent has handed over the copy of the report of the second respondent on that day across the table. As it is a time bound enquiry as per the order of the Division Bench of this Court, the first respondent shall consider the case and pass orders, in accordance with law.

12. Hence, the petitioner herein is directed to participate in the enquiry. The first respondent is directed to hold enquiry and allow the petitioner to participate in the enquiry. It is left open to the petitioner to seek his remedy before the appropriate authority and he cannot seek any injunction or stay of the further proceedings. It is made clear that this order is passed only to give quietus to this issue, which has been prolonged for a long time. Accordingly, the writ petitioner is directed to appear before the authorities today and seek his remedy. The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/
Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar(CS-IV)

To

1. The Regional Director,
Southern Region Chennai,
Ministry of Corporation Affairs,
Shastri Bhavan, Block I,
5th Floor, 26, Haddows Road,
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2.The Registrar of Companies,
Ministry of Corporate Affairs,
Block No.6, B Wing,
2nd Floor, Shastri Bhavan,
D.No.26, Haddows Road,
Chennai - 600 006.

+1cc to Mr.T.Lajapathi Roy, Advocate, SR.No.101567
+1cc to Mr.T.R.JEYAPALAM, Advocate, SR.No.101706
+1cc to Mr.S.CHELLAPANDIAN, Advocate, SR.No.101580

W.P. (MD) No.25251 of 2018

SMN2
KK/RSK/SAR-4/21.12.2018/5P-6C