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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.11.2018
CORAM
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.23790 of 2018
and
WMP(MD)Nos.21542 & 21543 of 2018

Gunasingh Chelladurai ..Petitioner

Vs

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

2.The Registrar of Companies,
Ministry of Corporate Affairs,
Block 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,
Playamkottai,
Tirunelveli - 627 002.

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

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Hearing Notice in F.No.02/M-63/2018-19 dated 15.11.2018 issued by the 1st Respondent and quash the same and further direct the 1st Respondent to issue hearing notice to the Petitioner to participate in the enquiry to be conducted by the 1st Respondent on 03.12.2018 in light of the order passed by this Honble High Court in W.A(MD)805 of 2018, dated 14.06.2018.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.H.Lakshmi Sankar
For R1 & R2
Mr.J.Barathan For R3
Mr.S.Chellapandian For R4

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ORDER

This writ petition has been filed to quash the impugned Hearing Notice in F.No.02/M-63/2018-19 dated 15.11.2018 issued by the 1st Respondent and to direct the 1st Respondent to issue hearing notice to the Petitioner to participate in the enquiry to be conducted by the 1st Respondent on 03.12.2018 in light of the order passed by this Court in W.A(MD)805 of 2018, dated 14.06.2018.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3.The case of the petitioner is that the third respondent is a company registered before the first respondent as per the Companies Act. 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 the constitution. The third respondent is governed by the Article and memorandum of Association and the elected members of the Executive Committee will become the members of the third respondent Association, in turn they would constitute a management Committee of the third respondent comprising of not less than three and not more than eight members. The Article of Association provides for Bishop of the Tirunelveli Diocese and the Treasurer of the Diocese Council would automatically become the ex-officio members of the third respondent Association.

4.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. The fourth respondent had submitted a representation dated 30.02.2018 to the second respondent against such deletion and to restore the name in the third respondent Company master data.

5.Thereafter, a writ petition (MD)No.11781 of 2018 was filed by the fourth respondent seeking a direction to delete the names of the petitioner and include his name in the Company master data. The said writ petition was allowed by this Court. Against which, the petitioner herein filed an appeal in W.A.(MD)No.805 of 2018. The Division Bench of this Court by order 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.

6.The petitioner sent a representation to the second respondent on 24.08.2018 and 28.08.2018 along with enclosures. On receipt of the same, the second respondent by notice dated 07.09.2018 directed the petitioner to appear before him for enquiry

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on 17.09.2018. Accordingly, the authorised representatives of the petitioner were attended the enquiry and made their oral submissions and thereafter, all of a sudden, the second respondent referred the matter to the first respondent and the first respondent has sent a notice dated 15.11.2018 to all the persons interested and directed them to appear for an enquiry on 03.12.2018, which has been called for, as per the direction of the Division Bench of this Court, dated 14.06.2018. But the petitioner submits that his name was not found in the said notice and notice was not sent to him. Any enquiry without notice to him and without hearing his objection will cause prejudice to him. If the enquiry is conducted without hearing the petitioner, it is against the orders of this Court. Hence, the petitioner has filed this writ petition.

7.The learned counsel for the first respondent submits that they have not sent any notice to the individual capacity and as a Company they have sent notice and they have no hesitation in giving him an another notice, which will be sent to him today itself.

8.The learned counsel for the fourth respondent would submit that it is only a formal enquiry and it need not be postponed from 03.12.2018. But the learned counsel for the petitioner would submit that the petitioner has to read the report issued by the second respondent, which has been forwarded to the first respondent and hence, he seeks time for enquiry. But the learned counsel for the respondent submits that it has been decided that they will appear for the enquiry on 03.12.2018 and the petitioner would be given a further time of 15 days time to putforth his defence. Accordingly, the petitioner will be accommodated in the said proceedings without any hindrance.

9.Considering the above facts and circumstances of the case, the petitioner and the respondents are directed 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 today 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.

10. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

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

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

+1CC to Mr.H.Lakshmi Sankar, Advocate, SR.No.98059
+1CC to Mr.T.R.Jeyapalam, Advocate, SR.No.98016
+1CC to Mr.G.Prabhu Rajadurai, Advocate, SR.No.98185

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RJ2
ES/PM/SAR 3/04.12.2018/4P/6C

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