

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.4166 of 2018

ORDER:

Heard Mr.G.Jayaprakash Babu for petitioners and Mr.G.Elisha for the 1st respondent and Ms.Kiran Mayee for 2nd respondent.

The parties to the CRP who assert to have dedicated their lives to the cause of Central Guntur Synod are agitating for enforcement of their rights or vindication of their grievances through a spate of litigations. The petitioners in S.O.P.No.723 of 2017 in the Court of I Additional District Judge Guntur are the revision petitioners.

The revision petitioners laid S.O.P.No.723 of 2017 under Section 23 of the Societies Registration Act, 2001 (for short 'the Act'). Through the order impugned in the CRP, the learned trial Judge rejected the prayer of the revision petitioners namely to grant permanent injunction restraining the respondents, their men, bodies, associates, council, council committees not to interfere with the administrative activities and discharging the functions of the 1st petitioner as the Administrative Head of the Central Guntur Synod Bishop and the 2nd petitioner as Vice President.

From the nature of the prayer in S.O.P.No.723/2017, it can be stated that the petitioners seek enforcement of both a right and protection from invasion of such right at the hands of respondents. In other words, what is applicable to a case of simple perpetual injunction is applicable to the case on hand as well, excepting that the parties/members of Central Guntur Synod are pitted against each other.

For appreciating the facts in issue between the parties and how the respective parties have proved their case, since there is no dispute on the recitation of these circumstances or consideration of documentary evidence placed by the parties in the order under revision, this Court prefers to succinctly state the averments of either side for disposing of the present CRP.

The case of the revision petitioners is that the Andhra Evangelical Lutheran Church (for short 'AELC') is a ecclesiastical body registered under the provisions of the Act. Under the administration of AELC, it is admitted by both the parties that six administrative units known as (1) East Godavari Synod (2) East Guntur Synod (3) Central Guntur Synod (for short 'CGS') (4) West Godavari Synod (5) West Guntur Synod and (6) Visaka Synod are discharging duty or function of AELC as per declaration ordained through the Constitution, bye laws etc.

According to revision petitioners, in the 78th Annual Convention of Central Guntur Synod held on 13/14-4-2015, the 1st petitioner has been elected as the President of CGS Bishop. According to petitioner, the term of the office of Bishop of CGS is from 2015 to 31st of May, 2020. Therefore, the first foundation on which the present petition is laid by the petitioners is that the petitioner is the duly elected Bishop of CGS in the election held on 13/14-4-2015.

The petitioners further alleged that according to the Constitution of AELC (Ex.A2), there is no requirement of *ex post facto* approval of the convention or decisions taken therein by AELC. The practice is unknown to the history of AELC. Therefore, it is stated that election of

the 1st petitioner as Bishop of CGS, the 1st petitioner is continuing to work and discharging the functions, duties etc., as Bishop of CGS. The definite case of petitioners is that the 1st petitioner in his capacity as President/Bishop of CGS has authority to transfer pastors working within the jurisdiction of CGS. In exercise of such power, the 1st respondent asserts that the 1st petitioner has been effecting transfers or assigning functions to various pastors in his jurisdiction from the date of taking charge for the term commencing from 01.06.2016 to 31.05.2020. This is the next limb of case the petitioners have pleaded in support of the right claimed through election held on 13/14-4-2015 in the 78th Annual Convention of CGS. In other words, the interference in the administrative matters of any Synod, for that matter including CGS is not available to any body, except the duly elected body of a Synod. The petitioners refer to filing of S.O.P.No.585/2016 which was filed for declaration that the proceedings of the 2nd respondent impugned in the said O.P. are invalid, inoperative and prayed for consequential permanent injunction. For the purpose of brevity and to appreciate the spate of litigations between the parties, the same is depicted through the following tabular statement.

Sl No.	Case No.	Parties names	Prayer
1.	SOP 723/2017	1.The Executive Committee of Central Guntur Synod, AELC, Rep. by its Bishop/President. 2.The Executive Committee of Central Guntur Synod, AELC, Rep. by its Vice President. Vs. Rev. T. Santha Rao 2.Rev.K.Fredric Paradesi Babu	This O.P. is filed by the petitioners under Sec.23 of Societies and Registration Act, praying to declare the issuance of Transfer orders/ appointment by the 1st respondent to the Pastors of Central Guntur Synod as null and void in the eye of law and to grant permanent injunction restraining the respondents, their men, bodies, associates, councils and council

			committees from interfering with The administrative activities and discharging the functions of the 1 st petitioners as administrative head of the Central Guntur Synod, Guntur the Bishop and the 2 nd Petitioner as Vice-President.
2.	CRP 2928/ 2018	The Executive Committee of Central Guntur Synod vs. T. Santha Rao	Challenging the docket order dated 10.04.2018 passed in I.A.No.613 of 2017 in O.S.No.723 of 2017 on the file of I Additional District & Sessions Judge Court, Guntur.
3.	Civil Appeal 5640/2018	Rev. T. Santha Rao vs. The Executive Committee of Central Guntur Synod AEL Church & Ors	Arising out of impugned final judgment and order dated 02.05.2018 in CRP.No.2928/2018 passed by the High Court of Judicature at Hyderabad.
4.	SOP 458/2015	Rev.T.Santha Rao vs. 1.Andhra Evangelical Lutheran Church (AELC) 2.Most Rev.K.Fredrick Paradesi Babu 3.The Executive Council of AELC 4.Sri Patta Devaraj 5.Rev.Chintala Elia 6.T.James Vara Prasada Bau	This petition is filed by the petitioner under section 23 of Societies Registration Act, 2001 a) for declaration that the Election of 5 th respondent for the post of Synod Bishop of Central Guntur Synod of AELC is illegal, arbitrary and thereby declare that he is not having eligibility to hold the post of Synod bishop of Central Guntur Synod for the period from June, 2015 to May, 2020 b) for a permanent injunction restraining the 5 th respondent from holding office or discharging the functions of Synod Bishop of Central Guntur Synod for the period from June 2015 to May, 2020 c) for a permanent injunction restraining the 3 rd respondent from approving the election of the 5 th respondent for the post of Synod Bishop of Central Guntur Synod for the period from June, 2015 to May, 2020.
5.	CRP 5778/ 2015	Rev. T. Sandia Rao vs. Rev. Chintala Elia 2.The A.E.L.C., Guntur 3.K.Fredrick Paradesi Babu 4. The Executive Council of AELC 5.Patta Devaraj 6.T.James Vara Prasada Babu	To stay the order dated 28.11.2015 passed in I.A.No.2031 of 2015 in SOP.No.458/2015 on the file of the IV Additional District Judge, Guntur.
6.	WP 7514/2015	Sri Chinthala Elia vs. 1. The State of Andhra Pradesh,	May be pleased to suspend the operation of the proceedings of the second respondent bearing

		Department of Revenue 2.The Revenue Divisional Officer 3.B.Mathew 4.Most Rev .K.F. Paradesi Babu	No.D.Dis.82/45/2015-G dated 05.03.2015 pending disposal of W.P.No.7514 of 2015.
7.	SOP 390/2015	Rev.Tekkem Shanta Rao Vs. 1.Andhra Evalangencial Lutheran Church 2.The Executive Council, AELC 3.Rt.Rev,KF Paradesi Babu 4.Rev,Chintala Elia	This is a petitioner by the petitioner U/Sec.23 of A.P. Societies Registration Act, 2001 prays t pass a decree and Judgment in favour of the petitioner (a) to declaration of the 4 th respondent Rev.Ch.Elia is not have requisite qualifications to contest in the ensuing lections on 13/14-4-2015 for the post of Synod as his date of Birth is 15-5- 1953, age crossed 60 years (now 62 years) and having more than 13 years consecutive service in Central Guntur Synod; (b) for consequential permanent injunction restraining the Respondents 1 to 3 from allowing 4 th respondent Ev.Ch. Elia for contesting in the ensuing elections on 13/14-4-2015 for the post of Synod President/Bishop for Central Guntur Synod
8.	SOP 1/2015	Bolleddu Mathew vs. Andhra Evangelical Lutheran Church Rep. By Rev. K.F. Paradesi Babu and 2 others	To number the accompanying petition as out of order and bring the same before bench and pass appropriate orders.

The revision petitioners herein are also revision petitioners in CRP.No.5501/2016 and the interim order passed by this Court is the subject matter of appeal in Civil Appeal No.5640/2018. This detail referred to as CRP.No.5501/2016 is listed as an accompanying CRP for consideration by this Court.

Be that as it may, the revision petitioners after adverting to uninformed, unauthorised etc., acts of respondents stated that the revision petitioners are unable to discharge the duty or function of Synod on account of various orders passed by the 1st and 2nd

respondents. This Court, for the purpose of appreciating the cause of action and preceding circumstances, provoking institution of S.O.P.No.723/2017 prefers to excerpt the following two paragraphs from the affidavit in SOP.No.723/2017.

“It is further submitted that, the 1st respondent have no manner of right to interfere with the peaceful functions of the 1st petitioner as Bishop of the Central Guntur Synod, Guntur and 2nd petitioner as Vice-President. But recently the 1st respondent issued Transfer Orders/Appointments dated 31st May 2017 to the pastor styling himself Bishop of Central Guntur Synod which is completely utter violation of the bylaws of A.E.L.C and Indian Constitution at large. This act of the 1st respondent is in violation of the constitution of the AELC and Synod By-laws and also the popular mandate given in favour of 1st petitioner while electing him as Bishop for Central Guntur Synod in the 78th Annual Convention. Thus, the 1st Respondent is trespassing into the functions of the Petitioners by one way or the other and causing troubles to the Petitioners and to their functions. The Respondents are also threatening the Petitioners and other Pastors of the Synod by the guise of foisting false cases against them. The acts of the Respondents is causing fear in the minds of the all the Pastors and also affecting their future and thus they are having apprehension.”

“IV.Cause of Action:

The cause of action of the Petition arises on when the 1st Respondent issued a Transfer Orders/Appointments styling himself as Bishop of Central Guntur Synod and he issued transfer orders dated 31st May 2017 styling himself as the bishop of Central Guntur Synod when there is already an existing duly elected Bishop administering the Synod affairs with his duly elected executive body. Not only that the 1st respondent is also trying to issue transfer orders to other pastors in my synod. The Transfer Orders/Appointments issued by the 1st Respondent to the pastors is in violation of the constitution of the AELC and Synod By-laws and also the popular mandate given in favour of the Petitioner while electing him as Bishop for Central Guntur Synod in the 78th Annual Convention. Thus, the Respondents are trespassing into the functions of the Petitioner by one way or the other and causing troubles to the Petitioners. The Respondents are also threatening the

Petitioners and other Pastors of the Synod by threatening them in the guise of foisting false cases against them. The acts of the Respondents is causing fear in the minds of all the Pastors and also affecting their future and thus they are having apprehension.”

Hence, the petitioners pray for the relief referred to above.

The respondents oppose the prayer for perpetual injunction on all fours. The gist of respondents reply is that the 1st petitioner is ineligible on account of age restrictions imposed by the Constitution of AELC to contest in the elections said to have been conducted in the 78th Convention on 13/14-4-2015. According to respondents, the 1st petitioner is beyond 60 years of age by 13/14-4-2015 when the election is said to have been held for electing the Bishop of CGS. This Court is conscious of parallel litigation pending in a writ petition on the age of the 1st petitioner. Therefore, reference by this Court on the age of the 1st petitioner even for the limited purpose of appreciating the case of respondents ought not to be understood as this Court expressing any view in this behalf. Prefacing so, this Court considers the next objection raised in the counter affidavit. According to respondents, the respondents have conducted election pursuant to the interim order passed by the Supreme Court and in the said election, the 1st respondent was elected as the Bishop of CGS. Therefore, the Bishop elected in the 80th convention held on 24.04.2017 alone is competent Bishop to look after the administration of CGS. In the case on hand, either on account of omission or by design, it appears neither of the parties have put into challenge either the election said to have been

conducted on 13/14-4-2015 or the election held on 24.04.2017. According to respondents, the sum and substance is that the petitioners do not have right seeking enforcement through a petition filed under Section 23 of the Act; and the respondents in the right conferred on them in the election held on 24.04.2017 and according to the Constitution of AELC are discharging their function or duty. This Court, for the purpose of appreciating this objection, refers to the following paragraphs from the counter affidavit.

“The balance of convenience is in favour of the respondents and the petitioner has no prima facie case. The Central Guntur Synod has its office bearers duly elected and discharging their duties as per bye laws. The court shall not pass any order from preventing the members from discharging their legitimate duties. The petitioner cannot hold any election or convention without the signature and intervention of AEL Church council as per the constitution. If the petitioner held election for 80th convention on his own accord, it is only improper and illegal and unconditional and invalid. The petitioner was suspended from holding any office by the Church after sending the matter to the committee and disciplinary action was ordered for illegal acts of the petitioner. Even though number of notices were sent to the petitioner. The petitioner did not respond for the same and the petitioner was suspended long back from the Central Guntur Synod.

The Executive Council has got power to review of the convention of the Synods and under that power since inception of the church, the actions in the convention are strictly being approved by the Church for which the petitioner also a party and it is significant to note that the Hon’ble High Court held that the respondent Church has got power to approve or disapprove the conventions held by the church. The petitioner is also a party to such proceedings previously. However, the annual and biannual convention of Synods are being approved by the Church Council. Since err long for some of which the petitioner is also a party.

It is blatantly false to allege that the petitioner conducted the convention on 05-04-2017 when the AEL Church tool over Central

Guntur Synod due to the illegalities committed by the petitioner and when the 78th Convention was not approved by the Church? How can the petitioner hold convention without the mandate and pre-requisites to be issued by the AEL Church. The alleged convention said to have been conducted by the petitioner is neither true in fact nor valid in law.

The President/Moderator/Bishop of AEL Church conducted the convention on 24-4-2017 at West Parish-St.Mathews Church according to the provisions of the AEL Church consequent upon vacating of the stay granted by the Hon'ble High Court. All the vacancies for all categories are filled up. Rev.Santha Rao is elected as Bishop of Central Guntur Synod. Vice President, Executive Council Members and delegates to the 48th Convention were elected. In view of court litigation, the above convention and also the 80th Convention of the East Guntur Synod are not approved by the Executive Council of AEL Church and were kept in abeyance. Approval by the Executive Council of AEL Church regarding Synod Conventions in Sine-Qua-Non as per law and age old continuous practice and usage. It is re-iterated that the petitioner is not the Bishop of Central Guntur Synod. He is propagating himself as 'Bishop' of Central Guntur Synod and styling himself as such in court proceedings. The petitioner has no right whatsoever to call himself as Bishop of Central Guntur Synod. Ad-interim injunction is granted by the court in spite of caveat lodged by the respondent. The respondents are ready to proceed with the trial/enquiry of the main petition itself immediately. Rev.Elia unleashed spate of litigation with false allegations and suppressing the truth which is the first causality. The petitioner (Elia) is not entitled to the discretionary relief of injunction for the above reasons. It is also false to state that the respondents kept away 60 delegates from participating in the 48th Biennial Convention. All delegates, who are allowed to participate and all the posts were unanimously selected by the delegates to the Convention attended by 123 delegates."

The learned trial Judge has framed the following points for consideration:

"1. Whether the Transfer Orders/Appointments made by the 1st Respondent to the Pastors of Central Guntur Synod are valid and binding?"

2. Whether the Petitioners are entitled for permanent injunction as prayed for against the Respondents?”

The parties have not adduced oral evidence but have participated in the enquiry by marking the documentary evidence. The petitioners have marked Exs.A1 to A9 and the respondents have marked Exs.B1 to B20. The learned trial Judge has answered the point so framed in the order under revision against the revision petitioners. Hence, the Civil Revision Petition.

Mr.Jayaprakash Babu contends that the order impugned in the CRP has transgressed the facts in issue between the parties and recorded findings which are completely unwarranted. According to him, the issue is not about the age of petitioners and/or the orders passed by either the trial Court or this Court in the earlier round of litigation. CGS being an entity recognised within the realm of the Act is entitled to seek protection of its rights through a Court of law if interference or invasion of, or right of petitioners or obstructing the petitioners from discharging duties or functions of CGS. According to him, once the 1st petitioner is duly elected, there is no requirement in the Constitution (Ex.A.2) seeking ex post approval from the higher body in the Constitution of ALEC (Ex.A.2). Therefore, the petitioners, without reference to whatever is claimed by the respondents, are entitled to seek protection from the Court through perpetual injunction against respondents. Adverting to the findings recorded by the trial Court, he submits that the trial Court was over concerned with the age of the petitioners, and such appreciation cannot and could not be the basis for concluding that the

petitioner is beyond 60 years. He contends that though RDO held otherwise, the decision of RDO is under challenge in writ petition filed by the petitioners. This Court granted stay of the proceeding and the stay of this Court ought to be understood in the manner in which the law provided for appreciation of orders of a Court of law. The finding while granting interim order shows how perfunctory the impugned order is and prays for allowing the CRP.

Mr.Elisha contends that revision petitioners seek relief of injunction from the trial Court under Section 23 of the Act. The respondents since are supporting an order in their favour, Mr.Elisha submits that he prefers to explain how the revision petitioners have failed to establish a right in their favour, or in the jurisdiction conferred under Section 23 of the Act and/or by applying the principles for grant of either temporary or permanent injunction and how the petitioners failed to make out a case. He stoutly relies on evidence Exs.A1 to A9 marked on behalf of revision petitioners and contends that, mere plea, the elections said to have held on 13/14-4-2015 cannot be treated as proof in the circumstance, more particularly when the respondents categorically dispute that on the date so stated any election was conducted for CGS. He draws the attention of the Court to various findings of fact recorded by the trial Court and submits that there is no ground made out warranting interference of this Court under Article 227 of the Constitution of India.

Ms.Kiran Mayee appearing for 2nd respondent adopts the argument of Mr.Elisha and simplifies the issue by drawing attention of the Court

to the respective jurisdictions of the hierarchy of bodies under Ex.A.2. According to her, the subtle circumstance which is required to be appreciated by this Court and on the other hand, failed to be taken note of by the revision petitioners, is that until and unless a direct challenge is urged by the revision petitioners herein questioning the Convention held on 24-4-2017, the petitioners cannot continue to claim the existence of a right in their favour by reference to election held on 13/14-4-2015. She further contends that in the absence of at least a rebuttal to what is stated in paragraph 6 of the counter filed by the respondents, this Court ought not to examine the case of the respondents. She contends that in the jurisdiction of this Court under Article 227 of Constitution of India, the *prima facie* case etc., as pleaded and proved by revision petitioners is undertaken and CRP decided. Therefore, even for the limited purpose of appreciating whether the order under revision is tenable or not, or the order is otherwise untenable, whether the petitioners have made out a case for grant of perpetual injunction, the documentary evidence in Exs.A1 to A9 would defeat the case of revision petitioners. She prays for dismissing the CRP.

I have taken note of the contentions urged by the counsel appearing for both the parties. I have perused the record, particularly the exhibits marked on behalf of revision petitioners and respondents. At the end of this order, this Court would prefer to refer to Ex.A.2 as well.

Now, the comprehensive point that arises for consideration is whether the petitioners are entitled for perpetual injunction as prayed

and the order under revision warrants interference of this Court under Article 227 of Constitution of India.

The case of both the parties has been stated in required detail in the preceding paragraphs. This Court prefers not to repeat the very same averments, for brevity. But succinctly states that revision petitioners are seeking equitable relief of perpetual injunction restraining the respondents from interfering with the functioning or administration of CGS.

Ex.A1 is the copy of transfer order dated 31.05.2017. Ex.A.1 at best can be treated as a document necessitating the filing of present SOP or to show that there is cause of action for filing the SOP. Ex.A2 is the copy of constitution of AELC. Both the parties rely on the mode, manner and procedure in AELC and how Ex.A2 ordains to discharge the duties and functions by its constituents.

Ex.A3 is the copy of extract from the minutes of meeting of the Executive Committee dated 26.05.2017. After appreciating Ex.A.3, this Court is of the view that this document is ex post facto to the meeting said to have been convened on 13/14-4-2015. For the purpose of the right claimed by the petitioners, this document does not show the case of the petitioners, to the same effect is Exs.A4, A5 and A6. These documents are between 26.05.2015 and 27.05.2017. Exs.A7 and A8 are receipts for Rs.1,000/- dated 28.12.2016. The payment of either a donation or subscription is not a issue in the case on hand and this Court ought not to be over concerned with the examination of Exs.A7 and A8. It is not in dispute that AELC is a body registered under the

provisions of the Act. Ex.A9, even if admitted as available, is not going to decide the issue between the parties beyond a point.

Now, let me analyse the case of the petitioners in the light of the documentary evidence placed by the petitioners. The Court considers granting relief of either temporary injunction or perpetual injunction on establishing *prima facie* case, balance of convenience and irreparable injury to the right claimed by petitioners. The foundation of petitioners case is that the petitioners are duly elected in the election held on 13/14-4-2015 and are entitled to function without interference from any person, including a member of CGS.

Examining the case on hand in the above requirement, let me first refer to definite case pleaded by the petitioners. The petitioners allege that the meeting held on 13/14-4-2015, in the 78th Annual Convention, the 1st respondent is elected as President of CGS for a period of 5 years. The petitioners continue to function in the office under the authority they claim to be derived through the election held on 13/14-4-2015. To the pointed query of the Court, learned counsel appearing for both the parties submit that the document which otherwise can be treated as evidence of happenings on 13/14-4-2015 is not placed on record as one of the exhibits. The petitioners can be relieved of discharging the said onus, if the case of the respondents is otherwise. In the case on hand, the case of the respondents as already excerpted is that the factum of meeting being held on 13/14-4-2015 is stoutly denied and the material or averment is sufficient to dislodge the case of the petitioners at threshold. The petitioners, seeking protection of the Court, ought to

establish that the 1st petitioner is duly elected in the meeting held on 13/14-4-2015 for consideration within the jurisdiction of the Court under Section 23 of the Act, for the purpose of preventing even a member of the Society or a stranger etc., can be considered and granted. In the case on hand, this Court, upon careful examination of the case of the revision petitioners and documents on which the revision petitioners relied on, is of the view that the first requirement i.e. the *prima facie* case of election of 1st petitioner on 13/14-4-2015 for granting either temporary or perpetual injunction is not established by the revision petitioners. This Court has independently examined each one of the findings recorded by the trial Court. After considering the matter in the above perspective viz., whether the petitioners have established existence of a right, this court is satisfied that the petitioners have not made out a ground for interference under Article 227 of Constitution of India, for the jurisdiction of this Court under Article 227 defines a catena of gist of the principles under which such a power can be exercised. The point is answered against petitioners.

This Court could part with the matter with the above finding but it appears that AELC is not looking at the issues of CGS from the discretion conferred on AELC as the Apex body. This Court while deciding the dispute between the parties, does not render advice but merely this observation is made to sensitise AELC. It is for the better wisdom of the person who has accepted high responsibility of Apex body

to look into the grievances and protect the property and administration of CGS.

Civil Revision Petition fails and accordingly dismissed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 15.12.2018

Note:

CC in four days.

(B/o) dv

