

A.Nos.8281 and 8282 of 2019
in
TR.CS.No.741 of 2017

SENTHILKUMAR RAMAMOORTHY J.

These applications are filed to direct the Interim Administrator to take steps to delete the name of the society "IELC - Ambur Synod" registered as No.11/14 on the file of the Registrar of Societies, Vellore and also to direct the Interim Administrator to reject all past, present and future representations by any members alleged to have been elected on 26.05.2017 under the "Indian Evangelical Lutheran Church – Ambur Synod" registered as No.11/14 on the file of the Registrar of Societies, Vellore.

2. I heard the learned senior counsel appearing for the Applicants, the learned senior counsel appearing for the Administrator and the learned counsel appearing for Respondents 2 and 3.

3. The learned senior counsel for the Applicants submitted that the first Respondent is the Apex body, which was registered in the year 1959 under Registration No.11/1959. She further submitted that there is a separate and unconnected society, which was registered under Registration No.11/14 under the name of Indian Evangelical

Lutheran Church – Ambur Synod (IELC-11/2014). As a result of registering the society with a deceptively similar name, she submitted that much confusion has been caused even to the learned Administrator. In specific, she pointed out that at the election of IELC-11/14, on 26.05.2017, various office bearers appear to have been elected as per details contained at pages 32 to 34 of the typed set of papers filed on 05.08.2019. Some of these office bearers were subsequently appointed to various positions by the learned Administrator as would be clear from the letter dated 01.02.2019 of the learned Administrator to the District Educational Officer, Vaniyambadi, which is at pages 1 and 2 of the typed set of papers. She also referred to the minutes of the meeting held on 10.09.2019, which also reflects the names of persons who were elected by IELC – 11/14. She further submitted that the learned Administrator also subsequently realized the consequences of proceeding on the basis that this society is connected with the first Respondent society. In particular, she referred to paragraphs 16 to 18 of the counter affidavit of the learned Administrator, wherein, at paragraph 17, the learned Administrator categorically stated that “As explained above, the Society registered as 11/2014 has nothing to do with IELC which is a society with Registration Number 11/1959.” By relying upon the aforesaid categorical statement of the learned Administrator, she

further submitted that as the person in-charge of all the affairs of the society, the learned Administrator has the authority to take appropriate action so as to delete the name of IELC-11/2014 from the Register of Societies. She further submitted that all the decisions taken on the basis that IELC-11/2014 is connected with the first Respondent society are also liable to be annulled. With regard to the third application, A.No.8283 of 2019, for auditing the accounts of the society, she submitted that the society has obtained deposits from outside India by obtaining a registration under the Foreign Contribution Regulation Act. Consequently, she submitted that the audited accounts of the society should be produced so as to ensure that such funds were not misused.

4. In response, the learned senior counsel appearing for the Administrator submitted that the learned Administrator is extremely busy with the large number of provident fund claims, ESI claims and various proceedings initiated by employees before the Labour Courts and Tribunals and that, therefore, he is struggling to meet the current work load. Consequently, he submitted that the learned Administrator had stated that the Applicants should take necessary steps with regard to deleting the name of IELC-11/14.

5. With regard to the application for appointment of an Auditor, the learned senior counsel submitted that he does not have instructions, at this juncture, with regard to the accounts of the society and that, therefore, hearing of the said application may be deferred.

6. The learned counsel appearing for the Respondents 2 and 3/Defendants 1 and 2 in the suit submitted that he supports the applications and has no objection if the same are allowed.

7. I considered the submissions of the learned senior counsel and learned counsel for the respective parties and examined the records. From the above, it is clear that the name of the society called IELC – Ambur Synod under Registration No.11/14 has caused much confusion and deception and its continued existence under the same name would cause further confusion. Therefore, a case is made out to apply for the rectification of the said name by petitioning the Registrar of Societies concerned and the only open question is as to who should undertake this exercise.

8. The learned senior counsel for the Applicants submits that the applicant is only a member and that the learned Administrator is in- charge of all the affairs of the society. Therefore, a member cannot

petition the Registrar of Societies. The said submission is well founded and is liable to be accepted.

9. On the other hand, the learned senior counsel appearing for the learned Administrator submitted that the Administrator is overburdened and, therefore, would find it difficult to undertake such activities. In view of the said submission, it is made clear that it is open to the learned Administrator to engage the services of appropriate persons, including Advocates, to take steps in this regard. In fact, the order of appointment of the learned Administrator confers wide powers on the Administrator who is in charge of administering the society until the entire dispute between the parties is resolved and paragraph 3, clause 5, specifically enables the Administrator to take the assistance of a lawyer or other assistance in his administrative activities.

10. The other application with regard to the decisions taken pursuant to the election of the office bearers of IELC-11/2014 remains to be considered. The learned senior counsel for the Applicants referred to the letters dated 01.02.2019 and 19.11.2019 and the minutes of meeting dated 10.09.2019 to demonstrate that the office bearers of IELC-11/2014 have been permitted to participate in

the activities of this society and have also been appointed to positions such as the correspondent of IELC aided elementary schools in various places on account of the confusion and the misconception that the IELC-11/2014 is closely connected with the first Respondent. Upon perusal of the relevant documents, it appears that the said persons have been associated with the affairs and activities of the first Respondent society on account of the misconception that the said society is connected with the first Respondent society. Consequently, all such decisions and appointments are liable to be annulled.

11. Therefore, these applications are disposed of by issuing the following directions:

(i) The learned Administrator is directed to initiate necessary action to call upon the Registrar of Societies, Vellore, to direct the society, which is presently registered as IELC – Ambur Synod, Registration No.11/2014 on the file of the Registrar of Societies, Vellore, to change its name by substituting it with a name that is not closely or deceptively similar to that of the first Respondent society. For such purposes, the learned Administrator is entitled to take all necessary assistance, including by appointing an Advocate or any other appropriate persons. A copy of this order may be forwarded to the Registrar of Societies along with the application.

(ii) All the appointments made by the first Respondent Society of office bearers or members of IELC – Ambur Synod Registration No.11/14 to positions or posts either in the first Respondent Society or to entities affiliated to it are hereby annulled. The positions or posts that are vacated as a consequence may be filled-up as per the bye-laws or rules and regulations of the Society or the affiliated entity, as the case may be.

rrg

18.12.2019



WEB COPY

A.Nos.8281 & 8282 of 2019

SENTHILKUMAR RAMAMOORTHY.J,

rrg



A.Nos.8281 & 8282 of 2019
in
Tr.CS.No.741 of 2017

WEB COPY

18.12.2019