

C.M.P.No.18985 of 2019
in LPA.No.3 of 2015

M.SATHYANARAYANAN, J.,
and
N.SESHASAYEE, J.,

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

The petitioner who is employed as Secondary Grade Teacher in a School namely The Tamil Evangelical Lutheran Church (in short hereinafter referred as “TELC”), Pudukottai, came forward to file this petition for his impleadment in L.P.A.No.3 of 2015.

2. The learned counsel appearing for the petitioner has drawn the attention of this Court to the contents of the affidavit as well as the typed set of papers filed in support of the said miscellaneous petition and made the following submissions: सत्यमेव जयते

2.1. As regards leasing out of the vacant site admeasuring to an extent of 400sq.ft at Pudukottai, there was an unregistered Lease Agreement between the Headmaster of the said School namely Mr.S.John David, and a private party namely Mr.A.P.Manikandan dated 18.03.2018 for a period of 36 months and during the course of

proceedings held before the learned Judge Administrator viz., Mr.K.Venkataraman, Hon'ble Retired Judge of this Court, it came out that at the instance of the present petitioner, the said Lease Deed came into being. Proceedings No.3 of 2018 was initiated against the petitioner by the learned Judge Administrator and an Enquiry Officer was appointed, who issued a show cause notice to the petitioner herein dated 21.08.2018, for which he has submitted his response dated 08.09.2018. The learned Judge Administrator, having found that the response to the show cause notice is not satisfactory, had framed charges, vide proceedings dated 03.10.2018.

2.2. The Enquiry Officer who has been appointed to hold the enquiry against the petitioner has issued notices of enquiry dated 21.02.2019 and 15.04.2019, for which, the petitioner prayed for time and subsequently issued one more notice of enquiry on 13.07.2019, for which the petitioner has submitted a representation dated 17.07.2019 praying for a direction to get legal assistance from his counsel and it was rejected by the Enquiry Officer, vide communication dated 23.07.2019. The Enquiry Officer has submitted his report dated 31.07.2019 before the

dated 03.10.2018 are sustainable and the petitioner is guilty of misconduct as alleged in the charge proceedings.

2.3. The petitioner was given a copy of the said report and his response was elicited and accordingly he has submitted his response. The learned Judge Administrator, vide communication dated 12.08.2019, has considered the contents of the Enquiry Report and the response submitted by the petitioner and passed the following order and it is relevant to extract the same:

A.Rule 182A and 182B envisages that you cannot continue to hold any post in TELC. Hence you are debarred to hold any post as per Rule 182A and 182B of the TELC Rules.

B.You are debarred from contesting for any of the elections or to exercise your vote in TELC for a period of 3 years with effect from 12.08.2019.

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2.4. The petitioner challenging the legality of the said order had filed CMP.Nos.Sr112725 of 2019 and pending disposal of the said petition also filed CMP.Nos.Sr112723 of 2019 for staying the operation of the said proceedings.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the order dated 30.01.2018 in SLP.(C) No.13243 of 2017 and would submit that certain directions were issued and as per direction no.5, in case of other directions required, parties / administrator can approach the Madras High Court and accordingly disposed of the Special Leave Petition and in the light of the said liberty, he is entitled to be impleaded in the LPA.No.3 of 2015 and also prays for appropriate orders to number the above said two miscellaneous petitions in C.M.P Sr.Nos.112725 and 112723 of 2019.

4. Per *contra*, Mr.Karthikei Balan, learned counsel who accepts notice on behalf of the learned Judge Administrator would submit that paragraph no.5 of the above cited order of the Honble Supreme Court of India dated 30.01.2018 would not enable the petitioner to file this miscellaneous petition for his impleadment for the reason that as per paragraph no.5, it is open to the parties / Administrator to approach this Court and not by the petitioner and would contend that the petition for impleadment is not at all maintainable.

5. In response to the said submission, the learned counsel for the petitioner would submit that the petitioner, being a Teacher of TELC School, cannot influence the Head Master to enter into a Lease Agreement and would further contend that a fair and transparent procedure have not been followed while conducting the enquiry and the learned Judge Administrator has passed the impugned order beyond his scope and therefore prays for impleadment.

6. During the course of arguments, attention of this Court was also invited to the order dated 10.05.2019 in I.A.No.75539/2019 in M.A.No.907/2019 in SLP.No.13243 of 2019, wherein certain parties had approached the Honble Supreme Court and the Supreme Court while issuing notice returnable in the last week of July 2019 also made it clear that the issuance of notice in no manner will be construed as interference with the working and decision making of the Administrator, with further request to file a report about the current position. Thus the said miscellaneous petition was again listed on 19.08.2019 and it was directed to be listed on 17.09.2019.

7. It is also the submission of the learned counsel for Judge Administrator that the Hon'ble Supreme Court of India also thought fit not to interfere with the working and decision making of the Administrator and prays for dismissal of this petition.

8. This Court has considered the rival submissions and also perused the materials placed before it.

9. The learned counsel appearing for the petitioner apart from answering the preliminary objection raised by the learned Judge Administrator as to the maintainability of the impleadment petition, also sought to canvass on the merits of the impugned order passed by the learned Judge Administrator. It is relevant to extract the direction passed in the order dated 30.01.2018 in S.L.P.(C) No.13243 of 2017:

"1.The new Administrator in place of the earlier administrator would continue to administer the Society till such time the elections are held in accordance with law.

2.The interim status quo order is lifted to facilitate the functioning of the Administrator.

3.Elections be held as expeditiously as possible.

4.The remuneration of the new Administrator taking

into consideration the work and the efforts required shall be Rs.2,50,000/- (Rupees Two Lakh Fifty Thousand only) per month apart from out of pocket expenses.

5.In case of any other directions required, parties/Administrator can approach the Madras High Court.

The special leave petition stands disposed of in terms of the aforesaid directions.

Pending application(s), if any, stand disposed of."

10. In the light of paragraph no.5 of the aforesaid order, this Court is of the considered view that parties to the LPA and Administrator cannot approach this Court for seeking any other directions and the petitioner, who has been disqualified to participate in the election process in the light of the impugned order, cannot seek impleadment in LPA.NO.3/2015.

11. In the light of the above said order, this Court cannot go into the merits or otherwise of the submission made by the petitioner with regard to the challenge made by him to the impugned order of the learned Judge Administrator dated 12.08.2019. Therefore, the present **Civil Miscellaneous Petition is dismissed as not maintainable.**

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12. Registry is directed to consider C.M.P.Nos.Sr112723 &
Sr112725 of 2019 as to the maintainability.

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