

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 02.03.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.6906 of 2011 and
W.P.No.6096 of 2011

W.P.No.6906 of 2011:

Jacobite Syrian Christian Association
(A regd. Society) regn.No.166/09
rep. by its Secretary, P.I. Verghese,
site No.1,2,3 and 4 in S.F. No.120 & 121,
Puthuthottam 1st st.,
Sanganur village, Rathinapuri,
Coimbatore - 27. ... Petitioner

Vs.

1.The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore.
2.Karunamoorthy
3.Ravichandran ... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to take disciplinary proceedings against the respondents 2 and 3 by disposing the written representation made by the petitioner on 8.1.2011 within a stipulated time.

For Petitioner : No appearance

For 1st Respondent : Mr.K.Magesh
Special Government Pleader

W.P.No.6096 of 2011:

Jacobite Syrian Christian Association
(A regd. Society) regn.No.166/09
rep. by its Secretary, P.I. Verghese,
site No.1,2,3 and 4 in S.F. No.120 & 121,
Puthuthottam 1st st.,
Sanganur village, Rathinapuri,
Coimbatore - 27. ... Petitioner

Vs.

- 1.The Commissioner,
Coimbatore Municipal Corporation, Coimbatore.
- 2.The Town Planning Officer,
Coimbatore Municipal Corporation, Coimbatore.
- 3.The Member Secretary,
Local Planning Authority,
Corporation Commercial Shopping Complex,
Sivanandha Colony, Coimbatore - 12.
- 4.The Secretary (Self Claimed)
The Jacobite Syrian Christian Association
(Unregistered Society)
Rep. by K.K.Merrish, Mount Sinai Nagar,
Puduthottam 1st Street, Rathinapuri,
Coimbatore - 27.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to consider and pass orders on merits by disposing the written representation made by the petitioner on 13.12.2010 within a stipulated time.

For Petitioner : No appearance

For Respondents : Mr.K.Magesh
Standing Counsel for R1 & R2
and Special Government Pleader
for R3

For 4th Respondent : Mr.A.Jenasenan

COMMON ORDER

Since the issue raised in both the writ petitions is one and the same, with the consent of the learned counsel appearing for the respondents, these writ petitions were heard together and disposed of by this common order.

2.The petitioner in both the writ petitions is an Association called 'Jacobite Syrian Christian Association', which according to them, is a registered Society under the Tamil Nadu Societies Registration Act, 1975.

3.Their grievance appears to be that, some illegal construction or unlawful construction taken place and in this regard, according to the petitioner, only with the connivance of the second and third respondents, such kind of alleged unlawful construction taken place. Therefore, for such connivance action on the part of the second and third respondents, disciplinary action has to be taken against them. Therefore, in this context, the petitioner seek for a mandamus to the first respondent to take action against the second and third respondents.

4.I have heard Mr.K.Magesh, learned Special Government Pleader appearing for the first respondent as well as the learned Standing Counsel appearing for the Corporation and Mr.A.Jenasenan, learned Standing Counsel appearing for the fourth respondent in W.P.No.6096 of 201.

5.On going through the prayer sought for in these writ petitions, this Court feels that, first of all, it is not a service dispute, the petitioner is only a Society, against whom there could be no grievance over the disciplinary action with regard to service of any one and therefore, the petitioner has no locus standi to file these writ petitions under service jurisdiction of this Court.

6.Moreover, as per the instructions of the learned Standing Counsel for the fourth respondent, one of the private respondent has already retired from service on superannuation and another respondent has been transferred long back from the Coimbatore Municipal Corporation Limited.

7.Therefore, this Court feels that, absolutely the petitioner does not have any locus to file these writ petitions seeking for disciplinary action against the private respondents and therefore, on that ground, these writ petitions are liable to be dismissed.

8.Insofar as the plea raised by the petitioner to take action against the fourth respondent in W.P.No.6096 of 2011, such action cannot be independently available for the first respondent to take action as the first respondent is only a Commissioner of Coimbatore Corporation, he may not have any control over the fourth respondent and therefore, the interse dispute between the petitioner and the fourth respondent cannot be resolved in this writ petition by filing a writ petition as if that is a service dispute.

9.For all these reasons, this Court feels that, both the writ petitions are liable to be rejected, accordingly, they are dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Sgl
To

- 1.The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore.
- 2.The Town Planning Officer,
Coimbatore Municipal Corporation,
Coimbatore.
- 3.The Member Secretary,
Local Planning Authority,
Corporation Commercial Shopping Complex,
Sivanandha Colony, Coimbatore - 12.

+1cc to M/s.K.Magesh, Advocate Sr.12822
+1cc to the Government Pleader Sr.13215

W.P.No.6906 of 2011 and
W.P.No.6096 of 2011

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srg 12/07/2021

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