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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 25TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.A.No.347 of 2021

and

A.No.2305 of 2021

in

C.S. No.196 of 2021

C.S.No.196 of 2021

1. The Bishop Rt.Rev.Dr.J.George Stephen,
S/o. Jeyaraj
Bishop in Madras
Church of South India,
No.226, Cathedral Road, Chennai 600 086.

2. The Diocese of Madras
Represented by its Secretary
Rev.Dr.Manuel S.Titus S/o. Rev.Manuel Swaminathan
Church of South India, No.226, Cathedral Road,
Chennai 600 086.

...Applicants/Plaintiffs

-Versus-

1. The Most Rev.A.Dharmaraj Rasalam
The Moderator
Church of South India,
Synod Secretariat
CSI Centre, No.5, Whites Road,
P.O.Box No.688
Royapettah, Chennai 600 014.

2. The Church of South India, Synod
Represented by its General Secretary
CSI Centre, No.5, Whites Road,
P.O.Box No.688
Royapettah, Chennai 600 014.



(*) 3. Rev.Dr.Pearly Usha Walter,
No.335/A, Duraiswamy Nagar,
Winterpet Post,
Arakkonam,
Tamil Nadu - 631 002

(*) 4. D.Bright Joseph
S/o late J.Devedoss
No.9, Brindavan Flats,
24, Papanasam Sivan Salai,
Mylapore,
Chennai - 600 004.

(*) 5. Mrs.Santhi,
W/o Sampathkumar,
No.49B, Kandigai 3rd Street,
Palanipet,
Arakkonam.

(*) 6. V.Sampath Kumar,
S/o Varadarajalu,
No.49B, Kandigai 3rd Street,
Palanipet, Arakkonam.

(*) 7. B.Rufus Jayaraj,
No.13/1, Bishop's Lane,
Purasawalkam,
Chennai- 600 007.

(*) 8. S.Nevil Raj,
S/o Sampathkumar,
No.49B, Kandigai 3rd Street,
Palanipet,
Arakkonam.

(*) 9. K.Viswanadhan,
No.10-117, VKS Layout Nagari,
Chitoor District,
Andhra Pradesh - 517 590.

(*) 10. S.Britto Santharaj,



S/o J.Sirtarasu,
No10, Latchayyarnar Street,
Ashok Nagar,
Arakkonam - 631 001.

(*) 11. D.Jeyakumar,
No.310, 19th Street, Periyar Nagar,
Jawahar Nagar,
Chennai - 600 082.

(*) 12. G.Abiraham,
"Blessing Home",
No.10, Erikarai Street,
Subramanya Nagar,
Tiruttani - 631 209,
Tiruvallur District.

(*) 13. A.Selvaraj,
Son of M.Arul Doss,
No.7, Gopala Menon Street,
Choolai,
Chennai - 600 112.

(*) 14. J.Freedy Baskaran
S/o Late S.Joel Samraj
Area Manager,
C.S.I. St.Paul Church,
No.62, Hunders Road,
Choolai,
Chennai - 600 112.

(*) 15. Rev.W.S.J.Richardson,
S/o Late. Rev.P.Wesley Brown,
Area Manager,
C.S.I. Church of Jesus the Lord,
No.189, G.S.T.Road,
West Tambaram,
Chennai - 600 045.

(*) 16. Rev.D.Paul Jesudoss,
S/o Late. J.Doraikkan,



Area Chairman,
Madras South Area,
C.S.I. Church of Jesus The Saviour,
No.30/5, Flower Street, Saidapet,
Chennai - 600 015.

(*) 17. Rev.L.Gideon Dhinakaran
S/o Late P.Lazarus,
Area Chairman, Central Area, Madras Diocese,
CSI Govdie Memorial Church,
No.64, Kambar Street, Thiruvallur,
Thiruvallur District.

(*) 18. P.J.Nishkalavani,
Wife of Thomas Barnabas,
Secretary, Madras Diocesan Council Member,
St.Paul Church, situated at
Mugaliwakkam Pastorate, CSI Mission,
Chennai - 600 116.

(*) 19. Ruban Doss
S/o Yesu Doss
No.42, Kinathu Theru, Melarumbakkam,
Nagavedu Post,
Arakonam Taluk,
Ranipet District - 631 002.

(*) Defendants 3 to 9 impleaded vide
common order dated 25.08.2021 in
A.Nos.2306, 2309, 2366, 2367, 2368,
2369, 2370, 2371, 2193, 2194, 2365, 2357,
2358, 2359,, 2360, 2356 &
2355 of 2021 in C.S.No. 196 of 2021

...Defendants

O.A.No.347 of 2021

and

A.No.2305 of 2021

1. The Bishop Rt.Rev.Dr.J.George Stephen,
S/o. Jeyaraj



Bishop in Madras
Church of South India,
No.226, Cathedral Road, Chennai 600 086.

2. The Diocese of Madras
Represented by its Secretary
Rev.Dr.Manuel S.Titus S/o. Rev.Manuel Swaminathan
Church of South India, No.226, Cathedral Road,
Chennai 600 086. ...Applicants/Plaintiffs

-Versus-

1. The Most Rev.A.Dharmaraj Rasalam
The Moderator
Church of South India,
Synod Secretariat
CSI Centre, No.5, Whites Road,
P.O.Box No.688
Royapettah, Chennai 600 014.

2. The Church of South India, Synod
Represented by its General Secretary
CSI Centre, No.5, Whites Road,
P.O.Box No.688
Royapettah, Chennai 600 014. ...Respondents/Defendants

O.A.No.347 of 2021

Original Application praying that this Hon'ble Court be pleased to grant an ad interim injunction restraining the Respondents/Defendants 1 and 2, their nominees, appointees, representatives, assignees, administrators, executors and agents from interfering with the internal affairs and administration, including the conduct and business of the Madras Diocesan Council of the Applicants/Plaintiffs, the election disputes with respect to the



ministerial stationing transfers, in any manner contrary to the Law and to the provisions of the Constitution of Church of South India of the Synod as well as the Constitution of the Church of South India of Madras Diocese pending disposal of the above suit.

A.No.2305 of 2021

Application praying that this Hon'ble Court be pleased to permit the Applicants/Plaintiffs to file the 1) email communication dated 25th June, 2021 sent by the Commission appointed by the First Defendant to the 1st Plaintiff and 2) reply email dated 25th June, 2021 sent by the 1st Plaintiff to the Commission appointed by the First Defendant and the 3) revised reply email dated 27th June, 2021, sent by the 1st Plaintiff to the Commission appointed by the First Defendant as additional documents in the above C.S.No.196 of 2021.

These Applications having been heard on 15.07.2021 through video Conferencing in the presence of Mr.P.S.Raman, Senior Counsel for Mr.V.P.Raman, Advocates for the 1st applicant in both applications and Mr.V.Vijaya Narayan, Senior Counsel for Mr.V.P.Raman, Advocates for the 2nd applicant in both applications and Mr.V.Prakash, Senior Counsel for M/s. Adrian D.Rozario, Advocates for the respondents 1 and 2 in both applications, and upon reading the judges summons and the affidavit of



herein dated 15.07.2021 and this Court is of the view that the applicants have not made any case for grant of relief, It is ordered as follows :-

That the interim order granted in pursuance of order dated 15.07.2021 made in O.A.No.347 of 2021 directing the defendants therein to maintain status-quo as on date in regard to the issue touching upon the subject matter of the “lis” before this Court, be and is hereby vacated.

2. That the applicants in A.No.2305 of 2021 be and is hereby permitted to file email communication dated 25.06.2021, reply email dated 25.06.2021 and revised reply email dated 27.06.2021 as additional documents in the above suit.

3. That the O.A.No.347 of 2021 be and is hereby dismissed.

4. That the suit in C.S.No.196 of 2021 be posted on 28.09.2021 for hearing along with connected pending applications.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 25th DAY OF AUGUST 2021.

Sd./-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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24.09.2021

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O.A.No.347 of 2021
and
A.No.2305 of 2021
in
C.S. No.196 of 2021

ORDER :-

DATED : 25.08.2021

THE HON'BLE MR.JUSTICE
V.PARTHIBAN

FOR APPROVAL: 27.09.2021

APPROVED ON: 27.09.2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 15.07.2021

Orders delivered on 25.08.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Original Application No.347 of 2021

and

A.Nos.2365, 2370, 2371, 2193, 2369, 2366, 2367, 2368, 2194, 2306, 2309,
2355, 2356 to 2360, 2305 of 2021

in

C.S.No.196 of 2021

O.A.No.347 of 2021

1. The Bishop Rt.Rev.Dr.J.George Stephen

S/o Jeyaraj,

Bishop in Madras,

Church of South India,

No.226, Cathedral Road,

Chennai - 600 086.

2. The Diocese of Madras,

represented by its Secretary,

Reve.Dr.Manuel S.Titus

S/o Rev. Manuel Swaminathan,

Church of South India,

No.226, Cathedral Road,

Chennai - 600 086.

..Applicants/ Plaintiffs

Vs

1. The Most Rev.A.Dharmaraj Rasalam,

The Moderator,

Church of South India,

Synod Secretariat,

CSI Centre, No.5, Whites Road,



P.O.Box No.688,
Royapettah,
Chennai - 600 014.

2. The Church of South India, Synod
represented by its General Secretary,
CSI Centre, No.5, Whites Road,
P.O.Box No.688,
Royapettah,
Chennai - 600 014.

..Respondents/Defendants

Judges summons issued under Order XIV Rule 8 of O.S.Rules read with Order XXXIX Rules 1 and 2 of C.P.C. to grant an order of ad-interim injunction restraining the respondents/Defendants 1 and 2, their nominees, appointees, representatives, assignees, administrators, executors and agents from interfering with the internal affairs and administration, including the conduct an business of the Madras Diocesan Council of the applicants/plaintiffs, the election disputes, with respect to the various Committees of the applicants/plaintiffs Diocese as well as ministerial stationing transfers, in any manner, contrary to the law and to the provisions of the constitution of Church of South India of the Synod as well as the Constitution of the Church of South India of Madras Diocese pending disposal of the above suit.

For Applicants in
O.A.Nos.347 of 2021 : Mr.P.S.Raman,
Senior Counsel for 1st Applicant
Mr.Vijay Narayan,
Senior Counsel for 2nd Applicant
for Mr.V.P.Raman

For Respondents in
O.A.Nos.347 of 2021 : Mr.V.Prakash,
Senior Counsel
for Mr.Adrian D.Rozario

**2357, 2358, 2359, 2360, 2356 & 2355 of 2021**

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Rev.Dr.Pearly Usha Walter,
No.335/A, Duraiswamy Nagar,
Winterpet Post,
Arakkonam,
Tamil Nadu - 631 002

..Applicant in A.No.2306 of 2021

D.Bright Joseph
S/o late J.Devedoss
No.9, Brindavan Flats,
24, Papanasam Sivan Salai,
Mylapore,
Chennai - 600 004.

..Applicant in A.No.2309 of 2021

Mrs.Santhi,
W/o Sampathkumar,
No.49B, Kandigai 3rd Street,
Palanipet,
Arakkonam.

..Applicant in A.No.2366 of 2021

V.Sampath Kumar,
S/o Varadarajalu,
No.49B, Kandigai 3rd Street,
Palanipet, Arakkonam.

..Applicant in A.No.2367 of 2021

B.Rufus Jayaraj,
No.13/1, Bishop's Lane,
Purasawalkam,
Chennai- 600 007.

..Applicant in A.No.2368 of 2021

S.Nevil Raj,
S/o Sampathkumar,
No.49B, Kandigai 3rd Street,
Palanipet,
Arakkonam.

..Applicant in A.No.2369 of 2021

K.Viswanadhan,
No.10-117, VKS Layout Nagari,
Chittoor District,

Andhra Pradesh - 517 590.

..Applicant in A.No.2370 of 2021



..Applicant in A.No.2371 of 2021

..Applicant in A.No.2193 of 2021

..Applicant in A.No.2194 of 2021

..Applicant in A.No.2365 of 2021

..Applicant in A.No.2357 of 2021

..Applicant in A.No.2358 of 2021

Rev.D.Paul Jesudoss,



S/o Late. J.Doraikkan,
Area Chairman,
Madras Suth Area,
C.S.I. Church of Jesus The Saviour,
No.30/5, Flower Street, Saidapet,
Chennai - 600 015.

..Applicant in A.No.2359 of 2021

Rev.L.Gideon Dhinakaran
S/o Late P.Lazarus,
Area Chairman,Central Area, Madras Diocese,
CSI Govdie Memorial Church,
No.64, Kambar Street, Thiruvallur,
Thiruvallur District.

..Applicant in A.No.2360 of 2021

P.J.Nishkalavani,
Wife of Thomas Barnabas,
Secretary, Madras Diocesan Council Member,
St.Paul Church, situated at
Mugaliwakkam Pastorate, CSI Mission,
Chennai - 600 116.

..Applicant in A.No.2356 of 2021

Ruban Doss
S/o Yesu Doss
No.42, Kinathu Theru,Melarumbakkam,
Nagavedu Post,
Arakonam Taluk,
Ranipet District - 631 002.

..Applicant in A.No.2355 of 2021

vs

1. The Bishop Rt.Rev.Dr.J.George Stephen
S/o Jeyaraj,
Bishop in Madras,
Church of South India,
No.226, Cathedral Road,
Chennai - 600 086.

2. The Diocese of Madras,
represented by its Secretary,
Reve Dr. Manuel S.Titus
S/o Rev. Manuel Swaminathan,
Church of South India,



No.226, Cathedral Road,
Chennai - 600 086.

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3. The Most Rev.A.Dharmaraj Rasalam,
The Moderator,
Church of South India,
Synod Secretariat,
CSI Centre, No.5, Whites Road,
P.O.Box No.688,
Royapettah,
Chennai - 600 014.

4. The Church of South India, Synod
represented by its General Secretary,
CSI Centre, No.5, Whites Road,
P.O.Box No.688,
Royapettah,
Chennai - 600 014.

..Respondents/Defendants

Judges summons issued under Order XIV Rule 8 of O.S.Rules read
with Order 1 Rule 8(3) of C.P.C. to implead the applicant as the party/
defendant in C.S.No.196 of 2021.

For Applicant in
A.No.2365 of 2021 : Mr.M.Mohanraj

For Applicant in
A.Nos.2370, 2371,2393
2369, 2366, 2367, 2368 &
2194/2021 : Mr.S.V.Karthikeyan

For Applicant in
A.No.2306/2021 : Mr.A.R.Karunakaran

For Applicant in
A.No.2309/2021 : Mr.N.Rajan

For Applicant in
A.No.2355/2021 : Mr.V.Raghavachari



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for Mr.M.Kempuraj

For Applicants in
A.Nos.2356 to
2360/2021

: Mr.R.Singaravelan,
Senior Counsel
for Mr.C.K.Chandrasekaran

For Respondents 1 & 2 : Mr.P.S.Raman,
Senior Counsel for 1st Respondent
Mr.V.Vijaya Narayan,
Senior Counsel for 2nd Respondent
for Mr.V.P.Raman

For Respondents 3 & 4 : Mr.V.Prakash,
Senior Counsel
for Mr.Adrian D.Rozario

A.No.2305 of 2021

1. The Bishop Rt.Rev.Dr.J.George Stephen
S/o Jeyaraj,
Bishop in Madras,
Church of South India,
No.226, Cathedral Road,
Chennai - 600 086.

2. The Diocese of Madras,
represented by its Secretary,
Reve.Dr.Manuel S.Titus
S/o Rev. Manuel Swaminathan,
Church of South India,
No.226, Cathedral Road,
Chennai - 600 086.

..Applicants/ Plaintiffs

Vs

1. The Most Rev.A.Dharmaraj Rasalam,
The Moderator,



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Church of South India,
Synod Secretariat,
CSI Centre, No.5, Whites Road,
P.O.Box No.688,
Royapettah, Chennai - 600 014.

2. The Church of South India, Synod
represented by its General Secretary,
CSI Centre, No.5, Whites Road,
P.O.Box No.688,
Royapettah,
Chennai - 600 014.

..Respondents/Defendants

Judges summons issued under Order XIV Rule 8 of O.S.Rules read with Order VII Rules 14(3) of C.P.C. to permit the applicants/plaintiffs to file 1) email communication dated 25th June, 2021 sent by the Commission appointed by the First Defendant to the 1st Plaintiff and 2) reply email dated 25th June, 2021 sent by the 1st Plaintiff to the commission appointed by the First defendant and 3) revised reply email dated 27th June, 2021, sent by the 1st Plaintiff to the commission appointed by the First Defendant as additional documents in the above C.S.No.196 of 2021.

For Applicants : Mr.V.P.Raman

For Respondents : Mr.V.Prakash,
Senior Counsel
for Mr.Adrian D.Rozario

COMMON ORDER

The matter is taken up through web hearing.

The applicants herein are the plaintiffs in the suit. The prayers in the suit are as follows:

<https://hcservices.ecourts.gov.in/hcservices/>

- i) to declare that the action of the Defendants under



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letter dated 29.05.2021 appointing a Commission to inquire into the complaints regarding the conduct of the Diocesan Council Meeting and the elections of CSI Diocese of Madras held on 13th and 14th April 2021 or any further action by the defendants in any other manner in interfering with the internal affairs of the plaintiff Diocese which is contrary to the law, to the provisions of the Constitution of Church of South India of the (Synod) as well as the Constitution of the Church of South India Madras Diocese as illegal and void;

ii) To grant permanent injunction, restraining the defendants their nominees, appointees, representatives, assignees, administrators, executors and agents from interfering with the internal affairs and administration, including the conduct and business of the Madras Diocesan Council of the Plaintiffs, the election disputes with respect to the various Committees of the plaintiffs Diocese, as well as ministerial stationing transfers, in any manner contrary to the Law and to the provisions of the Constitution of Church of South India of Synod as well as the Constitution of the Church of South India of Madras Diocese.



2. The facts and the circumstances that constitute the background to the filing of the present Suit and the Original Application are briefly stated hereunder.

i) The 1st applicant is the Bishop of Madras Diocese of Church of South India. The 2nd applicant is the Diocese of Madras represented by its Secretary. The 1st respondent is the Moderator of the Church of South India and the 2nd respondent is the Church of South India represented by its General Secretary, hereinafter referred to as the CSI. Election to Madras Diocese Council is held every three years in the ordinary meeting of the Council in the month of January of the year when the tenure of previous elected council expires. In the present case, the previous tenure of the Madras Diocese Council, hereinafter referred to as the MDC, expired in January, 2021 and for any reason, if election could not be held in January in terms of the provisions of the Constitution of the CSI as well as the Constitution of the MDC, the election should be held within three months from the due date.

ii) The election to the MDC could not be conducted in January, 2021 due to Covid-19 situation. However, in order to meet the dead line for the conduct of election to the MDC, the election was scheduled on 13th and 14th of April, 2021. The MDC consists of 690 members in total, out of which, 230 are presbyters and the remaining 460 laymen. These members



constitute the electoral college of the MDC.

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iii) The election is to be conducted from among the posts of Bishop, Secretary, Treasurer and members to various Committees/Commissions functioning under the Constitution of the MDC. The elected Bishop would be the ex-officio President of the MDC in terms of the provisions of the constitution of the CSI.

iv) When the election was scheduled on 13th and 14th of April 2021, during that time, the Government of Tamilnadu had issued series of guidelines in the form of Government Orders regulating large assembly of people as a cautionary measure for containing the spread of Covid-19 virus. One of the Government Orders specified that more than 200 persons could not assemble in a particular place for any function or for any activity. In view of the restriction of assembly of people in one place, the voting was arranged in five different venues. The transport facilities were also arranged for the voters to cast their votes in the election at the chosen venues.

v) The elections were conducted as scheduled on 13th and 14th of April, 2021 and the first applicant has been elected as the Bishop of Diocese of Madras. By virtue of his election as the Bishop of the Diocese of Madras, the 1st applicant has become the ex-officio President of the MDC. In the

election, other office bearers and committee members to various



committees/ commissions have also been elected.

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vi) After the election, it appeared that some complaints were made by some members of the Church belonging to the Diocese of Madras pointing out certain irregularities in the conduct of the election. The complaints had been addressed to the first respondent, the Moderator, who is the Head of the Church of South India, comprising 24 Dioceses spreading across the present southern parts of India and Sri Lanka.

vii) On receipt of the complaints from some members of the Madras Diocese, the 2nd respondent Synod, which is the Apex Body, having overall control over the 24 Dioceses, has forwarded the complaints initially by e-communication dated 05.05.2021 enclosing the complaints attachments and subsequently, by regular communication, requesting the 1st applicant Bishop to clarify the contents of the complaint, by his response to the complaints.

viii) At this, the 1st applicant Bishop, by his letter dated 21.05.2021, has drawn reference to the nature of complaints of the members of the Church and clarified that the complaints had been in respect of the MDC Election 2021 and such disputes were to be dealt with at the level of the Diocesan Election Commission in terms of Rule 5 of Chapter XI of the CSI Constitution. According to the 1st applicant Bishop the complaints were in



have been referred to him in the first place for action to be taken at the Diocesan level. He further clarified that the complaints pertain to the internal administration of the Diocese of Madras and the MDC being governed by its own Constitution and Bye-laws, the jurisdiction in deciding the validity of the Diocesan Election falls exclusively within the powers of the Diocesan Election Commission constituted under its own construction. The 1st applicant finally clarified that the complaints preferred to the 1st respondent directly are to be treated to have been preferred to him in terms of the provisions of the Constitution of the CSI and the Diocese of Madras.

ix) Thereafter, the 2nd respondent vide its proceedings dated 29.05.2021, appointed a Commission to enquire and report on the complaints made against the 1st applicant Bishop. The Commission was stated to comprise the Deputy Moderator of the Church of CSI and the Treasurer of the CSI. In the proceedings, there was a reference to the reply of the 1st applicant Bishop dated 21.05.2021. In the same proceedings, the 1st applicant Bishop was also advised to stop all ministerial transfers until further orders. This communication is the subject matter of the lis in the Suit.

3. In a nutshell, the case of the applicants/plaintiffs is that the

appointment of a Commission to enquire into the complaints relating to the



conduct of the Election to the MDC is without the authority, as the disputes relating to the Diocesan Election is purely and administratively an internal matter of the Diocese of Madras. The disputes relate to the diocese election are to be dealt with at the diocesan level by the Diocesan Election Commission specifically constituted for the said purpose under Article 45 of the Diocesan Constitution and in terms of the Constitution of the CSI. The bone contention qua parties is principally on the issue of jurisdiction or lack of it. The respective learned Senior Counsels/ Counsels representing the applicants and the respondents and other interested parties seeking to implead themselves in the Suit, which has been filed in a representative capacity under Order 1 Rule 8 of C.P.C, advanced their arguments primarily focussing on the power or the absence of the power towards initiating the impugned action.

4. Spearheading the challenge, Mr.P.S.Raman, the learned Senior Counsel appearing for the 1st applicant Bishop would submit the following:

i) The learned Senior Counsel before embarking upon the arguments on merits has drawn the attention of this Court to the hierarchical structure of the CSI both in terms of management of the common religious affairs of the episcopacy and the governance of the internal affairs of administration



Synod and the MDC will be referred to, at the later stage of consideration of this Court.

ii) According to the learned Senior Counsel, in the elections to the MDC held on 13th and 14th of April, 2021, out of 690 members forming the electoral College, 675 have voted and only 15 have not voted. The election was originally scheduled in a single venue at LITE Auditorium located within the Campus of St.Bain School, Kilpauk, Chennai, but in view of the Government Order No.242 dated 08.02.2021 restricting the assembly of not more than 200 people due to Covid 19 situation, five different venues had been arranged and the entire process of the elections had been concluded smoothly. The elections had been held for electing the office bearers of the MDC and muchless to various committees to be constituted in terms of the Constitution of the Diocese of Madras.

iii) According to the learned senior counsel, some disgruntled members of the Church belonging to the Diocese had sent complaints directly to the 1st respondent pointing out certain irregularities in the conduct of election. This Court's attention has been drawn to the complaints given by five persons, all dated 22.04.2021 and 24.04.2021. All five complaints relate to certain perceived irregularities in the conduct of the election. The complaints range from absence of roll call, election of the



nomination to various committees, election of the MDC members who did not belong to the diocese etc. The five complaints relating to the Diocesan election were the basis for the action by the respondents/ defendants against the 1st applicant, resulting in filing of the present suit.

iv) The learned Senior Counsel has straight away drawn the attention of this Court to the proceedings of the 1st respondent dated 29.05.2021, wherein a mere cursory reference of the reply of the 1st applicant Bishop dated 21.05.2021 is made. The 1st respondent appeared to have either deliberately overlooked the explanation or simply ignored the reply of the 1st applicant Bishop. The 1st applicant in his reply has criticised the legality of the action initiated by the respondents in terms of the constitution of the very CSI itself. However, without dealing with such important jurisdictional issue raised by the 1st applicant, by communication dated 29.05.2021, the 1st respondent unilaterally appointed a Commission of Enquiry comprising the Deputy Moderator and the Treasurer of the CSI to look into the complaints and file a report. In the impugned communication, the 1st applicant Bishop has also been advised to stop all the ministerial transfers until further orders.

v) According to the learned Senior Counsel, preventing the Bishop in Madras from administering the affairs of the Diocese of Madras by a simple letter dated 29.05.2021 is not traceable to any of the constitutional



provisions of the CSI Constitution. Such intervention of the respondents into the internal affairs of the Diocese of Madras is *per se* ultra-vires, the scheme of the CSI Constitution and the bye-laws.

vi) The learned Senior Counsel referred to paragraph No.8 of the counter affidavit filed in support of the above application by the respondents/defendants. The answer from the respondents to the jurisdictional aspect in the said paragraph is that the dispute herein is not to be painted with the same brush as the election disputes at the diocesan level but the complaints also to do with the CSI Constitution violations. In the counter, Rule 15(c) of Chapter IX of CSI Constitution has been referred to, extracted hereunder.

15. (c) *When the Synod or the Synod Executive is satisfied that a Diocesan Council is unable or unwilling to perform its functions as laid down in this Constitution or in the Constitution of the Diocese, it may, on the recommendation of the Bishop of the Diocese or the Diocesan Executive or the Moderator, take such steps as it considers necessary for the good administration of the internal affairs of the Diocese; provided that action under this clause shall require the consent of three-fourths of the members present and voting excluding the elected representatives of the Diocese concerned and*



disputes. In the said Chapter, particularly Rule 5 has been referred to which is extracted hereunder.

5. All matters relating to Church discipline shall be dealt with by the local court, the Diocesan Court and the Synod Court. All election disputes shall be dealt with by the Diocesan Election Commission at the Diocesan level and by the Synod election commission at the Synod level. All other disputes between members and the Church or its institutions shall be settled by Conciliation and Arbitration.

ix) The above Rule clearly spells out that all election disputes shall be dealt with Diocesan Election Commission at the Diocesan level and very precisely, the 1st applicant Bishop, when he submitted his reply on 21.05.2021, had pointed out the above legal position to the respondents. However, deliberately overlooking the provision as pointed in the reply by the Bishop, the Enquiry Commission has been appointed. Under the guise of appointing the Enquiry Commission, the Bishop has also been prevented from exercising his authority in the internal administration of the Diocese. In the same breath, the learned Senior Counsel has also drawn the attention of this Court to Article 45 of the Constitution of Diocese of Madras,



the election disputes of the Diocese. This Article has been framed in terms of Chapter XI of the CSI Constitution and the attention of this Court has been drawn to sub-clause (c) of Article 45 which reads as follows.

"45. Commission for Election disputes (CSI Constitution Chap. XI B I):

a)...

b)...

c) Any dispute or complaint regarding elections shall be referred to the Bishop in writing within fourteen days from the date of the particular election.

d) The decision of the Commission shall be final.

...."

x) In terms of Article 45, the Diocesan Election has been constituted and the complaints said to have been the basis for action by the respondents, in the fitness of things, ought to have been forwarded to the 1st applicant Bishop for the sake of enquiring into by the Diocesan Election Commission. The purpose of the Constitution of Election Commission at the Diocesan level is only to look into the disputes relating to the election at the Diocesan level and hence, the remedy for the complainants lies with the Diocesan Election Commission and certainly not with the Moderator or the Synod. The complainants with an oblique motive have by-passed the regular and effective mechanism created under the Constitution of the



Diocese of Madras and jumped the gun by complaining directly to the 1st respondent Moderator, calling for his intervention.

xi) The learned Senior Counsel referred to the letter dated 25.06.2021, purported to have been issued by the 2nd respondent Synod stating that the complaints *prima facie* disclosed violation of provisions as contained in Chapter VIII of the CSI Constitution, warranting intervention by the Synod. In the same communication, the Bishop was also requested not to convene the Diocesan Executive Committee which was scheduled on 25.06.2021 or any other date. By this communication, the duly elected Bishop has been prevented from administering the Diocese and managing its own affairs, pending report by the Commission. In fact, the communication is signed by the Deputy Moderator who is one of the two members of the Commission appointed to enquire into the complaints against the 1st applicant Bishop. He or the 1st respondent is not vested with the power to prevent the Bishop from convening the Diocesan Executive Committee Meeting in the first place and further the basis of the *prima facie* conclusion of the enquiry commission with reference to the Diocesan Election violations has not been spelt out.

xii) According to the learned Senior counsel, the Moderator is a Bishop himself of South Kerala Diocese and elected by the Bishops Council comprising all 24 Bishops of all the Dioceses of the CSI.



xiii) The learned Senior counsel summed up contending that the complaints were purely in the nature of the diocesan election disputes and therefore, the same are referable only to the Election Commission constituted under Article 45 of the Constitution of the Diocese of Madras. The so-called power exercised under Rule 15(c) of the CSI Constitution is invalid for the reason that the contingencies laid down therein were absent. Learned Senior Counsel finally added that in any case, if action is to be initiated under Rule 15(c), approval of 3/4th of the members present of the Synod Executive was required. In this, the 1st respondent on his own has appointed an Enquiry Commission, without the approval of the Synod Executive, assuming that the dispute could attract Rule 15(c) of the CSI Constitution. Therefore, the impugned action, in any case, is ultra-vires the CSI Constitution.

xiv) The learned senior counsel, in support of his contention, referred to a decision reported in **2009(2) CTC 631 (M.Isaac Vs. The Church of South India & Ors.)**. He has referred to paragraph Nos.7, 20 and 21 which are extracted hereunder.

7. Drawing the attention of the Court to Chapter IX, Rule 15, the learned counsel for the First Respondent Mr. Adrian D. Rozario, has submitted that the Synod shall deal only with matters of common interest to the whole CSI and



those which affect the relationship of the Dioceses to one another and the internal affairs of each Diocese are left to the Diocesan Councils to deal with the matter and that the First Respondent is an unnecessary Party to the Suit. Laying emphasis upon the Rules in Chapter VIII and Chapter IX of the Constitution of CSI the learned counsel has further submitted that the election dispute is the internal affairs of Tirunelveli Diocese and in such internal affairs the First Respondent-Moderator has no role to play and therefore, this Court would have no jurisdiction to entertain the Suit.

...

...

20. As rightly submitted by the learned counsel for the First Respondent-Moderator has nothing to do with Tirunelveli Diocese election. Synod, which deals with the common interest of the Church, hardly has any role to play in Tirunelveli Dioceses Council election. While so, the First Respondent is not at all a necessary party to this Suit. Even, if certain allegations are levelled against the Bishop, that is not the ground for the Moderator to interfere in the internal administration of Tirunelveli Diocese.

21. The learned Senior Counsel for the



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Applicant has urged that the Synod being the highest representative body of CSI only the First Respondent could issue directions as he is in over all control of the Church. It was further argued that certain allegations are levelled against the Second Respondent-Bishop and only the Moderator has to decide the matter. Drawing the attention of the Court to Chapter XI, Rules 25 to 28, the learned Senior Counsel Ms. Hema Sampath has submitted that when a charge is brought against a Bishop, only the Court of Synod shall try the charges against the Bishop. Chapter XI, Rules 25 to 28 deal with the procedure for trial of Bishops when specific charges are levelled against the Bishop. Rules 25 to 28 lay down the procedure for trial of Bishop. In this case Applicant complains of certain violations of election Rules and are alleged at the behest of the Bishop. It cannot be equated to charge brought against a Bishop warranting trial of Bishop under Rules 25 to 28.

xv) The contention of the Synod before the learned Judge of this Court was exactly the opposite of the contention that is being raised hereunder.

xvi) When the diocesan election dispute was the subject matter of



Tirunelveli Diocese, on behalf of the Synod, the Counsel representing the Synod vehemently argued that the election dispute therein is the internal affairs of the Tirunelveli Diocese and in such internal affairs, the respondent Moderator has no role to play and that this Court would have no jurisdiction to entertain the Suit. The Learned Judge of this Court, as she then was, after analysing the various Chapters of the CSI Constitution had finally concluded that the respondent Moderator had nothing to do with the Tirunelveli Diocese Election dispute and finally, rejected the application seeking leave to sue stating that no cause of action had arisen within the original side jurisdiction of this Court.

xvii) Therefore, the learned Senior Counsel submitted that it does not lie in the mouth of the respondents herein to take a diametrically opposite stand as against the Diocese of Madras and contend that the election disputes relating to the Diocese of Madras, the Moderator or the Synod intervention is called for. From the above submission of the respondents in relation to the Election dispute of Tirunelveli Diocese, it is clearly established that neither the Moderator or the Synod has any role in interfering with the disputes relating to the Diocesan election. The present action is therefore actuated by malafides, calling for intervention of this Court in safeguarding the rights of the 1st applicant herein, pending disposal of the Suit.



5. On behalf of the 2nd applicant Diocese, Mr. Vijay Narayan, learned senior counsel appeared and made the following submissions.

i) The learned Senior Counsel commenced his submission contending that by appointing Enquiry Commission and issuing Advisory to the duly elected 1st applicant Bishop amounted to interference in the day-to-day affairs of the Diocese of Madras. In this connection, he referred to Chapter V of the Constitution of CSI and drew reference to Rule 6(b) which reads as under.

6(a) Authorization-

(b) The Stationing of Ministers - The stationing of ministers shall be carried out by the bishop of the diocese together with the diocesan committees or other bodies prescribed by the rules of the diocese.

ii) From the above, it is very clear that stationing and transfers of Ministers shall fall exclusively within the domain of Bishop powers together with the Diocesan Committees and other bodies prescribed by the Rules of the Diocese. Such matters do not come within the purview of the Synod at all. The communication dated 29.05.2021 advising to stop all the ministerial transfers until further orders is therefore, ultra-vires the Constitution of the C.S.I. Though it is couched in the expression of advise, ~~but in fact, it is a command issued to the 1st applicant Bishop to stop all~~ transfers until further orders. The learned Senior Counsel then referred to



Clause 9 in the same Chapter which deals with the Diocesan Council which is extracted hereunder.

9. Diocesan Council - The bishop of the diocese shall be President of the Diocesan Council, and shall have the right to take part in the proceedings of any standing committee, board or council of the diocese. He shall have the right of suspending the operation of certain clauses of decisions or resolutions of the Diocesan Council, in accordance with the provisions of Chapter VIII of this Constitution.

iii) As per the above provision, the Bishop shall be the President of the Diocesan Council and has been given wide powers in accordance with the provisions of Chapter VIII of the Constitution of CSI. Clause 6 of Chapter VIII of the CSI Constitution confers ultimate financial authority to the Diocesan Council and in all matters concerning its internal administration. The said Rule is also extracted hereunder:

6. Except as provided under Chapter IX Rule 15, the Diocesan Council shall be the ultimate financial authority of the Church in its diocese and in all matters concerning its internal administration.

iv) He then proceeded to refer to Rule 7 which provided for separation of power to be dealt with by Diocesan Council at its level and the



Synod, which is also extracted hereunder.

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7. The normal duty of a Diocesan Council is to deal with matters which concern only its own diocese, leaving it to the Synod to deal with matters of common interest to the whole Church, but every Diocesan Council shall advise the Synod on all matters that may be referred to it by the Synod, and has power to bring business before the Synod.

v) The learned Senior Counsel therefore, submitted that the Constitution of the C.S.I. has clearly and categorically envisaged functional autonomy of the individual Dioceses which are part of the CSI.

vi) The learned Senior Counsel referred to the most important provision which is said to have been invoked by the respondents namely Clause 15 and in sub-clauses under Chapter IX. The said provision would be extracted and discussed infra at the appropriate place.

vii) In terms of the above Clause, the Diocesan Councils have been given exclusive power to deal with their internal affairs and the Synod has been endowed with the power of dealing with the matters of common interest to the whole Church of South India and also in matters affecting the relation of the Diocese to one another and to the rest of the universal Church.

viii) According to the sub clauses of Clause 15, it is only the



Executive Committee or the Working Committee of the Synod or the Officers of the Synod shall have the power to call for particulars relating to the administrative and financial management of a Diocese from the Bishop, whenever required. In this case, neither the Synod Executive Committee nor the Officers of the Synod had called for any particulars but it was at the behest of some disgruntled members belonging to the Diocese of Madras, action has been initiated, that too, without the approval of the 3/4th majority of the Synod Executive Committees as provided under sub-clause (c) of Clause 15. According to the learned Senior Counsel, the last meeting of the Synod Executive was held in March 2021, that was before the election to the Diocese of Madras which was held on 13th and 14th of April, 2021. Therefore, the very initiation of action by the 1st respondent through communication dated 29.05.2021 is without the authority of law.

ix) The learned Senior Counsel further referred to Clause 5 of Chapter IX which is part of the provisions relating to the discipline of the Church and Settlement of dispute. The said Clause has been extracted supra.

x) The learned Senior Counsel with reference to the above provision once again emphasised that the election dispute shall be dealt with by the Diocesan Election Commission at the Diocesan level and by the Synod election commission at the Synod level.

xi) In regard to the factual consideration as to the conduct of the



election, the LITE Auditorium located within the campus of Bain School, Kilpauk, was chosen as the venue for registration of voters in order to check the identity of the voters and the voting had taken place in various other avenues in terms of the directives issued by the Disaster Management Department of the Government of Tamil Nadu. Out of 690 members, 675 members have voted and 15 absentees, in fact, took leave of absence. Therefore, there was no scope or cause for any complaint in regard to the conduct of the election.

xii) But subsequent to the election some members of the diocese having a personal axe to grind against the Bishop and few other elected members had sent complaints to the 1st respondent by raising various allegations which are baseless and unfounded. In the normal course, such complaints ought to have been forwarded to the Bishop of the Diocese concerned for action to be taken on such complaints. But in this case, the 1st respondent has ventured to intervene, presumably because of the fact that the 1st applicant Bishop was also a candidate for election to the post of Moderator and lost in favour of the present Moderator, the 1st respondent herein. Therefore, there is a personal element involved in the purported action taken against the 1st applicant under the pretext for enforcing certain constitutional provisions of the C.S.I. in matters which exclusively fall



xiii) The learned Senior counsel referred to the communication dated 05.05.2021 and contended that it was not issued with the approval of the Synod Executive. A reference has been drawn to the various complaints of the complainants and finally referred to the impugned letter dated 29.05.2021. According to the learned Senior Counsel that the impugned communication has been issued in total violation of the Constitutional provisions of the CSI, as no meeting of the Synod had taken place before issuing the said communication. Moreover, the action of the respondents in seizing the election dispute relating to the Diocesan Council election was uncalled for as separate election Commissions have been constituted both on the Diocesan level and at Synod level. The interference with diocesan election disputes amounted to interfering with the internal affairs of the Diocese.

xiv) The learned Senior Counsel also referred to the reply of the 1st applicant Bishop dated 21.05.2021 wherein he had clearly explained the distributions of power as between the individual Diocese and the Synod at the helm in terms of the respective Constitutions. The communication dated 25.06.2021 addressed to the 1st applicant Bishop by the Deputy Moderator C.S.I. who is one of the two members constituting the commission of enquiry which proceedings clearly disclosed that the enquiry was being held



complainants being called upon to submit evidence in support of their allegation and the matter would be enquired into. It was like an information which was given to the 1st applicant Bishop by the Deputy Moderator presumably on behalf of the Commission appointed by the 1st respondent Moderator. According to the learned Senior counsel that Chapter VII of the Constitution of CSI dealing with the Diocesan Council nowhere stated that such power is available for the appointment of the commission of this nature.

xv) The learned senior counsel also relied on Clause 3 Chapter XI of CSI Constitution which will be referred to infra at the appropriate place.

xvi) The clause mandates the members that they shall first exhaust all provisions available in this Constitution for enforcement of their rights for redressal of their grievances. In this case, the complainants have directly approached the Synod for enforcing their right for redressal of their grievances, without submitting themselves to the jurisdiction of the Diocese.

xvii) The learned counsel relied on the same decision relied on by the learned Senior Counsel Mr.P.S.Raman reported in **2009(2) CTC 631** and once again referred to paragraph Nos.7, 20 and 21 which have been already extracted supra.

xviii) Learned Senior Counsel further relied on another decision reported **2005 (4) SCC 741 (BCCI vs. Netaji Cricket Club)**. He also drew



reference to paragraph No.82 which is extracted hereunder.

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82. An association or a club which has framed its rules is bound thereby. The strict implementation of such rules is imperative. Necessarily, the office-bearers in terms of the Memorandum and Articles of Association must not only act within the four corners thereof but exercise their respective powers in an honest and fair manner, keeping in view the public good as also the welfare of the sport of cricket. It is, therefore, wholly undesirable that a body in charge of controlling the sport of cricket should involve itself in litigations completely losing sight of the objectives of the society. It is furthermore unfortunate that room for suspicion has been created that all its dealings are not fair. The Board has been accused of shady dealings and double standards.

xix) The above ruling of the Hon'ble Supreme Court has been relied on by the learned Senior Counsel in order to emphasize the point that the respondents are bound by their own Constitution and they cannot be allowed to exceed their well defined powers.

xx) The learned Senior Counsel relied on yet another decision reported in **2005(5) SCC 632 (Zoroastrian Cooperative Housing Society**



paragraph No.27 which is extracted hereunder.

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27. Under the Contract Act, 1872, a person sui juris has the freedom to enter into a contract. The bye-laws of a cooperative society setting out the terms of membership to it, is a contract entered into by a person when he seeks to become a member of that society. Even the formation of the society is based on a contract. This freedom to contract available to a citizen cannot be curtailed or curbed relying on the fundamental rights enshrined in Part III of the Constitution against State action. A right to enforce a fundamental right against State action, cannot be extended to challenge a right to enter into a contract giving up an absolute right in oneself in the interests of an association to be formed or in the interests of the members in general of that association. This is also in lieu of advantages derived by that person by accepting a membership in the society. The restriction imposed, is generally for retaining the identity of the society and to carry forward the object for which the society was originally formed. It is, therefore, a fallacy to consider, in the context of cooperative societies, that the surrendering of an absolute right by a citizen who becomes a member of that society, could be challenged by the said member by taking up the



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position that the restriction he had placed on himself by entering into the compact, is in violation of his fundamental right of freedom of movement, trade or right to settle in any part of the country. He exercises his right of association when he becomes a member of a society by entering into a contract with others regulating his conduct vis-à-vis the society, the members constituting it, and submerging his rights in the common right to be enjoyed by all and he is really exercising his right of association guaranteed by Article 19(1)(c) of the Constitution in that process. His rights merge in the rights of the society and are controlled by the Act and the bye-laws of the society.

xxi) When members have subscribed to the Constitution, they are bound by the provisions of the Constitution and all other rights of the members are to be surrendered to such Constitution. The above decision fortifies the legal position as above. In this case, when the members of the Church belonging to the Diocese of Madras having subscribed to the constitution of the Diocese of Madras, they are estopped from approaching the Synod directly in matters relating to the diocese.

xxii) The learned Senior Counsel further relied on the decision reported in **AIR 1962 Supreme Court 1172 (Pratap Singh and another vs Gurbaksh Singh)**. This Court's reference has been drawn to paragraph Nos.



10 and 11.

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xxiii) The above decision was mainly relied on to point the fact that subsequent to the laying of the suit, the 1st applicant Bishop was threatened by the respondents to withdraw the Suit. In the above decision, the Hon'ble Supreme Court held that such action amounted to contempt of Court. In any case, this Court is not inclined to deal with the complaint whether there was any threat from the respondents or any pressure applied on the applicants for withdrawing the suit or not. Therefore, the relevant paragraphs are not extracted as being unnecessary for the present determination.

xxiv) Finally, the learned Senior counsel submitted that the applicants have established more than a *prima facie* case and to prevent further injustice to the applicants at the hands of the respondents, the rights for the applicants may be protected from interference pending disposal of the suit.

6. Mr.R.Singaravelan, the learned Senior Counsel appearing for one of the impleading applicants (Application Nos.2356 & 2360/2021) has straight away drawn this Court's attention to various averments contained in the counter affidavit filed on behalf of the respondents/ defendants.

According to the learned Senior Counsel, in paragraph No.6, Rule 12(D) of



provision is not at all applicable to this case. He also referred to the averments in paragraph No.7 of the counter affidavit stating the fact that no complaint has been received by the Bishop against the conduct of the election was of no consequence for the Moderator not to act on the complaint. Such averment is completely erroneous and also illegal, as the Moderator has no say at all in the diocesan election dispute, in terms of Constitutional arrangement as between the CSI and the individual Diocese.

7. The learned Senior Counsel then referred to Chapter XI of CSI Constitution and has drawn reference to Clause 5(B) providing for Settlement of Disputes at the Diocesan level. Clause 29 under the said Chapter provides for appointment of Election Commission to enquire into and settle all election disputes at the Diocesan and the Synod level. He also referred to clause 31 which provides that any dispute, complaint regarding election should be referred to the Bishop of the diocese. in writing within 14 days from the date of particular election. When the CSI Constitution itself has prescribed time limit for giving any complaint relating to the election and the dispute is only referable to the Diocesan Election Commission, the question of Moderator's intervention and ordering of investigation into the complaint is ultravires the Constitutional powers vested in him. In this



as contained in the diocesan Constitution, which would be dealt with, later.

Article 45 is incorporated in the diocesan Constitution in terms of the provisions made in Chapter XI (B) (I) referred to above in the CSI constitution, providing for constitution of commission for election disputes of diocesan level.

8. The learned Senior Counsel has also drawn the attention to Clauses 13, 14 and 15 under Chapter IX of the CSI Constitution elaborating the powers of the Synod. The learned Senior counsel going back to the averments contained in the counter affidavit in paragraphs 7 & 8 stating that the averments, when critically examined, it could be seen that they are self contradictory. He also referred to the impugned letter dated 29.05.2021 wherein a mere reference was made only to the conduct of Diocesan Council meeting and election of Diocese of Madras, whereas in the counter affidavit, particularly paragraph Nos. 11, 14 and 15 several extraneous facts have been stated as if the dispute is not an internal affair but relates to the Church of South India Trust Association. According to the learned Senior Counsel that mere diocesan election dispute has been needlessly magnified and overstated as if there is likelihood of a constitutional break down calling for interference by the respondents. The learned Senior Counsel

therefore submitted that the respondents, by appointing a Enquiry



Commission vide impugned letter dated 29.09.2021, has clearly exceeded the power vested in them under their Constitution.

9. Mr.V.Raghavachari, the learned counsel appearing for one of the impleading applicants, Ruban Doss (Application No.2355 of 2021) has made the following submissions :

i) The learned counsel would refer to relevant Chapter IX of CSI Constitution and the Bye-laws of the Synod. Bye law 7 deals with Procedure for the Election of the Moderator. As per the bye-laws, the Moderator is described as Official Spokesperson of the Church and its policies and visions. His right to attend meetings of a Diocesan Council or visit a Diocese officially only when is invited to do so by the Bishop of the Diocese. Therefore, the role of the Moderator in the day-to-day administration of the individual Diocese or the conduct of election etc., is completely absent both under the provisions of the CSI constitution as well as the bye-laws of the CSI Constitution.

ii) According to the learned counsel, when the meeting of the Diocesan Council and the election held on 13.04.2021 and 14.04.2021 in terms of the CSI Constitution, the complaints against the election are required to be given within 14 days to the Bishop and in this case, no



said circumstances, the so called complaint by the members of the Diocese addressing the same to the Moderator have no legal sanctity to be acted upon.

iii) The learned counsel thus drew the attention to Section XIII of the Bye-Laws appended to the Diocesan Constitution dealing with the for Commission for Election Disputes of the diocesan constitution. Bye-laws 2 and 3 under the said Chapter, read as under.

2. Any dispute regarding election shall be referred to the Bishop within fourteen days from the date of the particular election.

3. The Bishop shall refer the dispute to the Commission to enquire into and settle the dispute.

iv) The learned counsel further referred to Article 12 of the Diocesan Constitution which provided for Quorum for any session of the Madras Diocesan Council namely one-half of the total membership of whom atleast one-half shall be lay representatives. The learned counsel simultaneously referred to Chapter XI of the CSI Constitution by referring to clauses 3 and 5. Clause 3 provided that all members of the Church shall first exhaust all provisions available in this Constitution for the enforcement of their rights under the Constitution and for redressal of their grievances. Clause 5 provided for all election disputes shall be dealt with by the



Election Commission at the Synod level.

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v) The learned counsel also referred to Clause 15 of Chapter IX of CSI Constitution which has been relied upon uniformly by all Counsels in order to lay emphasis on the powers of the Synod and how it should be exercised. Clause 15 and other sub-clauses would throw clear light on what matters which could be the subject matter of intervention by the Synod on one hand and on the other how diocesan Council has exclusive power of administration of all its internal affairs of its Diocese.

vi) The learned counsel would therefore submitted that by ordering a Commission of enquiry, the Synod is attempting to meddle into the internal affairs of the Diocese and the power to order Commission of enquiry is not available at all under the provisions of the CSI Constitution in regard to the election dispute at the Diocesan level and hence, the attempt to disturb the function of the Bishop is totally uncalled for. The democratically elected members of the Council and the Bishop should not be disturbed by the unjust and illegal action of the respondent.

vii) The arguments and the submissions thus far are in support of the applicants/plaintiffs questioning the Constitutional validity of the action of the respondents herein.



for the respondents 1 and 2 herein would make the following submissions.

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i) At the outset, the learned Senior Counsel submitted that both the CSI and the Diocesan constitutions need to be respected and complied with and there cannot be any two opinions on that. The members of the Madras Diocese or the members of the CSI are the subscribers to the larger group of faith namely Church of South India. The learned Senior Counsel submitted that the Church of South India being an unregistered body cannot own or deal with properties and hence, the Church of South India Trust Association has been formed and registered as a Company in India hereinafter referred to as CSITA. According to the learned Senior Counsel in terms of the CSI Constitution the CSITA is in charge and control of all properties belonging to all the 24 dioceses established under the CSI.

ii) The relevance of the CSITA to the present dispute as referred to by the learned Senior Counsel would be dealt with at the appropriate context. According to the learned Senior Counsel the necessity to intervene in the matter is because the complaints against the conduct of the election were very serious in nature which cannot be overlooked or ignored by the respondents. In the scheme of the CSI constitution, the Synod is the supreme governing and legislative body of the Church of South India and the final authority in all matters pertaining to the Church. This position has



13. Clause 9 under the same Chapter describe the Moderator as the Presiding Officer of the Synod and the Chairman as Executive Committee and he shall be the official representative of the Church.

iii) The learned Senior Counsel referred to one of the complaints given by one D. Bright Joseph dated 22.04.2021. The complaint if it is read in its entirety would reveal that there were serious irregularities pointed out in the conduct of the election in the council meeting held on 13th and 14th of April, 2021. The complaints are directed against the acts of omission and commission by the 1st applicant Bishop himself. The learned Senior Counsel then referred to Clauses 9 and 10 of Chapter V of the CSI Constitution. Clause 9 though states that the Bishop has a right to take part in its proceedings of standing committee, board or council and also have the right to suspend the operation of certain clauses of decisions or resolutions of the Diocesan Council, however, such right need to be exercised only in accordance with the provisions of Chapter VIII of the Constitution. As far as Clause 10 is concerned, it deals with the financial administration wherein it is clearly stated that the Bishop of the Diocese has a general oversight of the financial administration of the diocese but shall not exercise any direct control over the finances. Therefore, the power to manage or control over the finance is only vested in the Synod.

iv) The learned Senior Counsel further referred to the other



complaints by one B.Rufus Jayaraj and another Rev.Samuel Punitharaj, if the contents of all these complaints are looked into, the objections raised by the 1st applicant Bishop questioning the action taken by the respondents would have no force at all. According to the learned Senior counsel, the members of the Diocesan Election Commission were also elected in the same Council meeting held on 13th and 14th April, 2021, under the aegis of the 1st applicant Bishop. Therefore, the question of referring the complaints to the same Election Commission would be a useless formality as no dispassionate or impartial enquiry or investigation would be undertaken by the Commission.

v) The learned Senior counsel referred to Article 45 of the Diocesan Constitution which deals with Diocesan Commission for election dispute. When complaints were made, the Bishop in fact, has not chosen to give any reply to the allegations as could be seen from his reply dated 21.05.2021. On the other hand, he comes up with the reply stating that the respondents have no jurisdiction to entertain the complaints against him. This Court's attention is once again drawn to the impugned letter dated 29.05.2021. The nature of the proceedings is only advisory as the respondent felt that in view of the Commission of enquiry being ordered in response to the complaints, the 1st applicant Bishop was advised to stop all the ministerial transfers. Such advise is a normal routine and the same



cannot be faulted with.

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vi) The learned Senior Counsel then proceeded to refer the most pivotal of all the provisions in the Constitution CSI, namely Clause 15 of Chapter IX. Clause 15 enjoins up on the Synod the power to deal with matters of common interest to the whole Church of South India. Sub Clause (c) of Clause 15 confers power on the Moderator and the Synod Executive namely either the Moderator or the Synod Executive is satisfied that a Diocesan Council is unable or unwilling to perform its function as laid down in the Constitution, the Moderator to take such steps as it considers necessary for good administration of the internal affairs of the Diocese. Therefore, in the scheme of the CSI Constitution, the Moderator or the Synod is not excluded from taking over the administration of the Diocese on certain situations. When a specific power has been provided in the said clause, the satisfaction of the Moderator is a matter of subjective consideration and no interference is called for unless it is unequivocally established that the exercise of the vested power was arbitrary, capricious or unreasonable.

vii) The learned counsel would further submitted that the arguments advanced on behalf of the applicants that under the said clause, action to be taken only with the consent of three-fourth members present and voting of the Synod Executive are misplaced and not valid. The



proceedings dated 29.05.2021 issued by Moderator is only a preliminary action to collect details and to ascertain the genuineness and existence of any substance in the complaints. Only after a report is obtained from the Enquiry Commission, further action would be taken whether to refer the dispute for voting for approval of the Synod Executive or not. The scope of the arguments of the learned Senior Counsels for the applicants that no Synod approval was taken before issuing the impugned notice would have no force or substance at this stage and hence, liable to be rejected.

viii) The learned Senior Counsel submitted that the complaints given against the 1st applicant are touching upon the common interest to the CSI as a whole. Therefore, ordering of the Commission of enquiry became inevitable and he referred to Article 2 of the Diocesan Constitution, which reads as under.

Article 2

The Madras Diocesan Council:

The name of the Council shall be the Madras Diocesan Council. The Madras Diocesan Council shall be constituted as the body responsible for the internal government and administration of the Diocese of Madras within the Church of South India in accordance with the constitution of the C.S.I.,



From the above, it could be seen that the administration of the Diocese of Madras is to be in accordance with the Constitution of the CSI, Chapter VIII. This provision makes it very clear that the administration of the individual Diocese is subordinate to the over all control of the CSI represented by the 1st respondent Moderator and the Synod of the C.S.I.

ix) The learned Senior Counsel specifically referred to paragraph No.8 and 11 of the counter affidavit filed by the respondents. The said paragraphs are extracted hereunder.

8. As regards the averments in paragraphs 6.10 to 9 of the affidavit filed in support of the application, the defendants have examined the reply dated 21.5.2021 of the 1st plaintiff Bishop but deny that the complaints in question are only with reference to election disputes at the Diocesan level and referable only to the Diocesan Election Commission. They are also to do with the violations of the provisions entrenched in the CSI/Madras Diocesan Constitutions and cannot be painted with the same brush of election disputes. It is in this context that Rule 15(c) of Chapter IX of the CSI Constitution gains significance and is reproduced below for ease of reference:

15(c) When the Synod or the Synod Executive is satisfied that a Diocesan Council is unable or unwilling to perform



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its functions as laid down in this Constitution or in the Constitution of the Diocese, it may, on the recommendation of the Bishop of the Diocese or the Diocesan Executive or the Moderator, take such steps as it considers necessary for the good administration of the internal affairs of the Diocese; provided that action under this clause shall require the consent of three-fourths of the members present and voting excluding the elected representatives of the Diocese concerned and shall remain in force only until the next meeting of the Synod.

For, if the allegation in the complaints are true, they would lead to the conclusion that the Madras Diocesan Council is unable or unwilling to perform its functions as laid down in the CSI/ Madras Diocesan Constitutions, with the 1st defendant Moderator having equal rights to recommend action in terms of the said rule. The Moderator therefore discussed the matter in detail with the other Officers of the 2nd defendant Synod and were unanimous on the appointment of a Commission to enquire and report to the Moderator. The impugned proceedings took into account the reply of the 1st plaintiff Bishop and the least that could be done was to appoint a Commission for the purpose of a preliminary or fact-finding enquiry into the complaints. All the more, in respect of the allegations in the affidavit as to the stationing of ministers, the Moderator



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had only suggested or advised the Bishop in view of the COVID-19 pandemic situation/ lockdown and it is not as if the Moderator commanded or demanded of the Bishop for the latter to take offence to the same. It is nothing but a show of ministerial comity and does not tantamount to any interference with the internal affairs of the 2nd plaintiff Diocese.

....

11. Moreover, there cannot be any question of internal affairs when it comes to the Church of South India Trust Association (CSITA) which is the legal holding body of the movable and immovable properties of the CSI and the 2nd plaintiff Diocese and its institutions are units thereof. The CSITA was incorporated under Section 26 of the Indian Companies Act, 1913 (thereafter Section 25 of the Companies Act, 1956 and now Section 8 of the Companies Act, 2013) as a religious and charitable company. It goes without saying that the company is required to act strictly in accordance with its Memorandum and Articles of Association, the CSI Synod Rules for the Management of Movable & Immovable Properties, 1983 and the provisions of the Companies Act, 2013. And one of the Power of Attorneys in the Dioceses shall be the Diocesan Treasurer under Clause II(1) of the CSI Synod



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Rules, apart from the pivotal role a Treasurer is expected to play in the Diocese. While so, allegations have been levelled in the complaints in question as to the eligibility, qualification and manner of election of the Treasurer of the Diocese and the same are not run of the mill election disputes or internal affairs for the Synod to sweep them under the carpet. The situation would be disastrous for the finances and properties of the Diocese and lead to a constitutional breakdown as the CSITA will not recognize such a Diocesan Treasurer/ issue a Power of Attorney in favour thereof, if the allegations are true and all the more the need to ascertain the same. This is bound to jeopardize the interests of all the other dioceses/entire Church as well, especially the income tax exemption granted to the company under Section 10(23C) (v) of the Income Tax Act, 1961.

x) According to the learned Senior Counsel, the above averments would clearly explain as to what prompted the respondents to order for Commission of enquiry and how the power has been exercised under Clause 15 of Chapter IX of the C.S.I. Constitution. The learned Senior Counsel thereafter elaborated his arguments in regard to the management of the properties belonging to all Dioceses. In terms of Clause 14 of Chapter IX,

the Synod has been vested with power for the general management and



good government of the Church and of the property and affairs thereof. He particularly laid emphasis on Clause 14 that reads as under.

14. It has power to make rules and pass resolutions and take executive action as may be necessary from time to time for the general management and good government of the Church and of the property and affairs thereof.

In as much as the Church of South India Trust Association has been formed for the purpose of acting as Trustee or Agent of all the properties, movable and immovable, of the Church of South India, the Church of South India Synod shall have the power to elect the members of the Church of South India Trust Association. The Moderator, the Deputy Moderator, the General Secretary and the Treasurer shall be ex-officio members of the Church of South India Trust Association.(1999)

xi) The function of the CSITA admittedly falls exclusively within the domain of the Synod. As far as the present dispute is concerned, the election of Treasurer to the MDC assumed far more legal significance than to be dismissed as a simple election dispute. As the Treasurer of the Diocese is in-charge of the financial administration, his function would inevitably



touch upon the common interest of the Church, as the properties of all Dioceses shall be exclusively administered by the Synod represented by the Moderator 1st respondent herein. Therefore, when the disputes touch upon the financial management and administration, the intervention by the respondents in response to the complaints is well within the frame work of the C.S.I. Constitution.

xii) According to the learned Senior counsel in terms of clause 13 of Chapter IX of the C.S.I. Constitution, the Synod has been given powers after describing the Synod as the supreme governing and legislative body of the CSI and conferred with the power as a final authority in all matters pertaining to the Church. According to the learned Senior Counsel that unlike Hindu Temples where the Courts have declared that the temple itself can be considered as the juristic person on the basis of the legal fiction adopted by Courts, the CSI being an unregistered body was under obligation to have a registered body for administering and managing the properties belonging to the Church as a whole. Therefore, CSITA was formed and registered as a Company under the Companies Act and CSITA is nothing but an extension of the 2nd respondent Synod and controlled by the Synod. In these circumstances, Clause 14 and 15(c) of Chapter IX of the C.S.I. Constitution need to receive purposive interpretation. The learned Senior



been described as the Presiding Officer of the Synod and Chairman of the Executive Committee besides, he shall be the official representative of the Church. Therefore, in the fitness of things, the complaints were addressed to the Moderator by the aggrieved members of the Church.

xiii) The learned Senior Counsel also submitted that in any case, referring the complaints before the diocesan election commission is of no use as there is likelihood of bias as the members constituting the election commission were elected in the same council meeting held on 13th and 14th April 2021, against which, several complaints have been given, alleging various irregularities.

xiv) Finally, the learned Senior Counsel submitted that the interim injunction and permanent injunction is the same and such omnibus prayer is not valid and cannot be entertained. In support of his contention, the learned counsel relied on the decision of this Court reported in **2008 (2) CTC 51(Dr.M.Thirunavukarasu v. Indian Psychiatric Society Tribunal)**. This Court's attention has been drawn to paragraph No.10 of the decision which is extracted as under:

10. As on date, the applicant/applicant/plaintiff is not in Office and that the individuals nominated by the Executive Council by their decision on 14.7.2007 are in charge of the Society till election is conducted afresh. The prayer for an order of interim Injunction in



complaints. The suit, apart from lacking in merits is also premature and liable to be rejected on that ground also.

11. Mr.Vijay Narayan, the learned Senior counsel by way of reply stated that the dispute has been needlessly magnified and stretched as if the administration of the Diocese itself would be in peril. The fact of the matter is that the dispute is only in regard to the election conducted to the Diocese on 13th and 14th April, 2021 and the action of the Bishop ordering ministerial transfers. The Bishop as the head of the Diocese is fully empowered to make transfers in the interest of the administration of the Diocese and the power of transfers falls exclusively within the internal administration of the Diocese. It is not for the Synod to consider such internal transfers as if the same affect the common interest of the entire CSI. Hence, the attempt to prevent the Bishop from acting within his well defined powers is a blatant misuse of the authority by the respondents. The learned Senior Counsel once again referred to the impugned proceedings of the 1st respondent dated 29.05.2021, referring to various complaints being received only with regard to the conduct of the Diocesan Council meeting and the election to the Council. Therefore, the disputes are nothing but election dispute only.



12. Mr.V.P.Raman, the learned Counsel for the 1st applicant Bishop replied that the arguments advanced on behalf of the Synod are diametrically opposite to the stand taken by the same Synod in respect of the dispute related to Tirunelveli Diocese. The leaned Counsel referred to the decision of this Court reported in **2009(2) CTC 631 (M.Isaac Vs. The Church of South India & Ors.)** which has been already referred to and extracted supra.

13. Mr.R.Singalavelan, the learned Senior counsel for one of the proposed parties would refer to various bye-laws listed out under Chapter IX relating to the composition of the Synod and the duties of various Officers of the Synod including as that of the Moderator.

i) According to the learned Senior Counsel, the various provisions have been laid down in the Bye-laws under the caption "Moderator" but nowhere any power has been provided for specifying any rights to receive complaints directly from the members of a Diocese in regard to the internal administration of the Diocese concerned. Therefore, the very initiation of the proceedings itself as contained in letter dated 29.05.2021 is invalid. The learned Senior Counsel also referred to clause 21 of Chapter IX of the C.S.I. Constitution which clearly mentioned that who are the persons or bodies



hereunder:

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21. The following persons or bodies have the right to bring business before the Synod:

any officer of the Synod;

any diocesan bishop;

any committee or board of the Synod; and

any Diocesan Council of the Church.

ii) According to the learned Senior Counsel, the present complaint by the members of the Diocese cannot therefore, maintain the complaints before the Synod in terms of the above sub-clause. He therefore submitted that the action of the respondents in its entirety is riddled with illegality and is liable to be interfered with.

14. Mr.V.Raghavachari, the learned counsel while replying refuted the submissions made on behalf of the respondents that the complaints given by some of the aggrieved members of the Diocese touch upon the common interest of the Church, as according to him such submission is without any basis. The learned Counsel further submitted as to how could the complaints relating to the conduct of election to one Diocese be construed as common interest of the entire CSI including all other 23 Dioceses. Therefore, such submissions are made only for the purpose of the case, and are liable to be rejected outright.



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15. Apart from the above counsels, few other counsels representing various proposed parties have also made their submissions as under.

16. Mr.S.V.Karthikeyan, learned counsel for some of the members submitted that he represented all the complainants. According to him, the Diocesan Election Commission itself was constituted on 14.04.2021. The Election Commission, in terms of the Article 45 of the Diocesan Constitution should consist of 6 members, 3 presbyters and 3 lay members to be elected, out of the panel of 10 members. The 1st applicant Bishop in the present election has nominated 50% of the members to the Election Commission. Therefore, the question of going before Diocesan Election Commission would be a futile exercise and a waste of time. In the face of the very election and members to the Election Commission being seriously questioned, the aggrieved members of the Diocese, therefore, complained to the Moderator, the 1st respondent herein.

17. The learned counsel submitted that when complaints were made on 22.04.2021 and 24.04.2021, the same were simply forwarded to by the respondents on 05.05.2021 seeking the response of the 1st applicant Bishop



comments have been made either by the Moderator or on behalf of the Synod. If only the Bishop had given a reply to the complaints the entire controversy could have rested at that. Unfortunately, the 1st applicant has chosen to challenge the preliminary action by the respondents questioning their authority and escalated the controversy before this Court. In terms of the Constitutional provisions, the Bishop is not authorized to nominate 50% of the members to any committee. Therefore, the very constitution of the election Commission itself is illegal and void.

18. The learned counsel also refuted the submission made by the learned Senior Counsel Mr.P.Singaravelan and the learned Counsel Mr.V.Raghavachari, that the complaints were not given within 14 days. The complaints were in fact, given within 14 days i.e., on 22.04.2021 and 24.04.2021 itself, but in the above said circumstances, the complaints have been addressed to the Moderator.

19. The learned counsel Mr.Karunakaran, appeared for the applicant in A.No.2306/2021. According to him, the convening of the Council Meeting on 13th and 14th of April, 2021 itself is illegal. The learned counsel, in the course of his submission has attempted to bring in



by the applicants and grave injustice has been done to him. This Court is not inclined to consider such individual grievances which have no relevance to the lis in present adjudication.

20. One other learned counsel Mr.Rajan, appeared for the applicant in A.No.2309/2021, which application has been filed by one Bright Joseph, whose complaint dated 24.04.2021 has been heavily relied upon by the respondents. According to the learned counsel, there is a difference between the disciplinary proceedings and the election disputes. In support of his submission he relied on Clause 2 of Chapter VIII, which Chapter deals with Constitution of Diocesan Council. According to him, the very constitution of the Diocesan council is illegal and it is not in terms of Chapter VIII of the CSI Constitution. He also referred to Clause 10 of Chapter V of the CSI Constitution which dealt with financial administration of the Diocese. In this connection, the learned counsel submitted that the Treasurer who was nominated by the Bishop is not a member of the Diocese at all and his election was therefore illegal and void. In the face of the patent illegality the respondents were forced to intervene as an effective response to the complaints. He further referred to Clause 5 of Chapter XI of the CSI Constitution in order to lay emphasis that the present dispute is a matter concerning discipline and therefore, the respondents have rightly initiated



action against the Bishop. He also referred to Clause 25 to 27 of Chapter XI that when a charge is brought against the Bishop, the Moderator is responsible for deciding if a Court shall be constituted. Therefore, rightly, the complaints have been addressed to the Moderator for him to take action in terms of the scheme of the CSI Constitution.

21. The learned counsel then referred to Chapter XI of the bye-laws of the CSI Constitution which deal with the discipline of the Church. He particularly referred to sub-clause (d) under definition of Offences which reads as under.

d. Wilful violation of the constitution and Rules of the church of South India and Diocese concerned.

22. It is a matter of discipline being enforced and in such event, the Synod is the competent body to initiate action against the Bishop. The learned counsel also submitted that the allegations are only against the 1st applicant Bishop and not against Diocese. Finally, the learned counsel referred to the decision reported in **2009(2) CTC 631 (M.Isaac Vs. The Church of South India & Ors.)** wherein he relied on paragraph No.7 of the decision. The said paragraph has already been extracted supra.



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23. In the said paragraph, it was argued on behalf of the Synod that the Synod shall deal with the matters of common interest of the whole CSI. In this case, the acts of the commission and omission of the 1st applicant Bishop affect the common interest of the church and therefore, the respondents have rightly initiated the action. He therefore, summed up that the 1st applicant Bishop is not entitled to any relief as he has not made out any case at all muchless a *prima facie* case for grant of any interim protection.

24. Heard the learned Senior Counsels/ Counsels for the applicants/ respondents and the proposed parties in various applications. The Court has also perused the pleadings and the materials placed on record.

25. Elaborate arguments have been advanced on behalf of the parties strongly expressing broadly two different opposing views, one that the action initiated by the 1st respondent Moderator against the 1st applicant Bishop vide impugned letter dated 29.05.2021, is outside the scope of the CSI Constitution and amounted to illegal interference with the internal affairs of the Diocese as per the distribution of powers and hence, not

maintainable, two that the impugned action is very much within the frame



work of the CSI Constitution considering the nature of the complaints emanated from the members of the Church against the conduct of the 1st applicant Bishop himself, warranting interference by the Apex body, namely the Synod in order to protect the common interest to the whole Church of South India.

26. The Cardinal issue for consideration of this Court hereunder (the expression "Cardinal" may be little inappropriate in the episcopal context of adjudication undertaken, yet on a lexicon semantic construct, such expression is not out of context) is whether the impugned action by the 1st respondent Moderator as against the 1st applicant Bishop seeking his clarification in appointing a Commission of Enquiry into the complaints of some members of the Church belonging to the 2nd applicant Diocese is justified in terms of the provisions of the CSI Constitution or such action is to be held as unconstitutional intervention in the affairs of the 2nd applicant Diocese with reference to the well defined distribution of the powers relating to the internal management and the administration of the individual Dioceses under the very same Constitution of the CSI.

27. The starting point of the dispute which gave rise to the present suit proceedings was the election conducted to the Madras Diocese



Council,(MDC), on 13th and 14th of April, 2021. Some members, who claim to have participated in the election, found there were irregularities in the conduct of the election and the Constitutional provisions of both CSI and the Diocese of Madras, had been violated. Several instances of irregularities and violations had been the subject matter of the complaints from some members of the Church belonging to the 2nd applicant Diocese. In order to appreciate the nucleus of the controversy incisively, a brief background to the edifice and the structure of the CSI and its constituent dioceses need to be dealt with briefly in order to unravel the competing claims of the parties, the claims being primarily canvassed on the bedrock of the single document namely, the Constitution of the CSI.

28. The Church of South India has been constituted in 1947 and has declared itself as an autonomous Indian Church free from any control legal or otherwise, in any Church or Society external to itself. The Church of South India referred to as the CSI, during its formation had accepted episcopacy within its fold, calling the same as historic and allowed episcopate to remain in a constitutional form. For equipping the whole Church for the fulfilment of its ministry and to build up the body of Christ, the ordained ministry was created conferring the functions and responsibilities of Bishops, Presbyters and Deacons under Chapter V of the



CSI Constitution.

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29. The Church of South India, on acceptance of episcopacy in a constitutional form has 24 Dioceses under its fold spreading across the Southern parts of India namely the State of Tamilnadu, the State of Karnataka, the State of Andhra Pradesh, the State of Telungana and the State of Kerala. Apart from these States, the CSI has its presence in Srilanka (Jafna). There are 24 Dioceses functioning under the control of the CSI and each Diocese by and large in the CSI constitutional scheme given functional autonomy in managing its own day-to-day affairs and the overall administration of the Diocese. Each Diocese is credited with its own structural hierarchical formation in clear terms as per the CSI Constitution. The CSI constitution conferred with the power for determination of geographical boundaries of each Diocese under Clause 16 of Chapter IX.

30. It is imperative that some of the salient provisions of the constitutions of both the CSI and the Diocese of Madras need to be referred to, even at the risk of repetition for a clearer understanding as to its respective applications on the controversy herein.

31. The CSI although an unregistered body is fully governed by the



written Constitution, containing I to XIV Chapters and multitude of provisions dealing with every aspect of its function, from faith related matters of common interest to the Church as a whole, its supreme control of the administration of properties, control over the finances of all the Dioceses, its relationship with individual dioceses and other Churches etc. The provisions of the CSI Constitution provide for multi layered structure for the governance of the CSI and the individual Diocese. Apart from the constitution, there are bye-laws framed supplementing the Constitution and regulating its membership, the ministry of the Church, election of Moderator, Bishop, consecration and installation of Bishop, election of the office bearers to the Synod, formation of Courts of Diocesan council and Synod for dealing with the disciplinary matters etc. As per the scheme of the CSI constitution, the Synod, the 2nd respondent herein is the supreme governing and legislative body of the CSI as spelt out in Clause 13 of Chapter IX. The Clause 13 reads as under.

13. The Synod is the supreme governing and legislative body of the Church of South India, and the final authority in all matters pertaining to the Church.

32. Being the supreme governing body, the Synod has been

conferred with the power to take executive action as per Clause 14 under the



same Chapter, which reads as under .

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14. It has power to make rules and pass resolutions and take executive action as may be necessary from time to time for the general management and good government of the Church and of the property and affairs thereof.

In as much as the Church of South India Trust Association has been formed for the purpose of acting as Trustee or Agent of all the properties, movable and immovable, of the Church of South India, the Church of South India Synod shall have the power to elect the members of the Church of South India Trust Association. The Moderator, the Deputy Moderator, the General Secretary and the Treasurer shall be ex-officio members of the Church of South India Trust Association.(1999)

33. The power of the Synod include as far as to take over the administration of the internal affairs of the Diocese on certain contingencies by following the procedure in terms of Clause 15 of its sub-clauses. Clause 15 (a)(b)& (c) which are extracted as under:

15. The Synod shall deal with matters of common interest to the whole Church of South India, and with those which affect the relation of the dioceses to one another and to the rest of the



universal Church, and shall leave the Diocesan Councils to deal with the internal affairs of each diocese.

(a) The Synod executive Committee/ Working Committee/ Officers shall have the power to call for particulars relating to the administration and financial management of a diocese from the Bishop whenever required. If for any reason the Bishop of the Diocese is unable to furnish the particulars, the same may be called for from the Officers of the Diocese and such information shall be furnished.

(b) If, at any time, the Synod Executive/ the Working Committee/ the Officers of the Synod are convinced that the situation of administration and financial management in a particular diocese needs the assistance of the Synod, the Working Committee shall, without delay, take appropriate action in consultation with the executive Committee of the Diocese concerned, for restoring sound administration and financial management. The report of any such action shall be submitted to the Synod Executive Committee for review, within a period of six months, if necessary by a special meeting.

(c) When the Synod or the Synod executive is satisfied that a Diocesan Council is unable or unwilling to perform its functions as



laid down in this Constitution or in the Constitution of the Diocese, it may, on the recommendation of the Bishop of the Diocese or the Diocesan Executive or the Moderator, take such steps as it considers necessary for the good administration of the internal affairs of the Diocese; provided that action under this clause shall require the consent of three-fourths of the members present and voting excluding the elected representatives of the Diocese concerned and shall remain in force only until the next meeting of the Synod.

34. The Synod's primacy in all matters of common interest in the administration of the Church is beyond the pale of any doubt or contestation as the CSI constitution has been drafted in that fashion. At the same time, the CSI constitution has provided a latitude for the individual diocese to have its own constitution for its internal administration. However, as per Clause 9 of Chapter VIII of the CSI constitution, the Diocese constitution shall not be at variance with the CSI constitution. Clause 9 reads as under.

9. Subject to the provisions of this Constitution a Diocesan Council has power to frame, amend or alter its own Constitution, provided that no Diocesan Constitution or any alteration therein shall be of force if the Synod or the Executive Committee of the Synod (2015) shall rule that such



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Constitution or alteration therein is at variance with anything contained in this Constitution.

35. This position is in fact reiterated under Chapter VIII of the Bye-law of the CSI in para (a) of Chapter VIII. Thus, the constitution of the Diocese of Madras was framed as found in Article 2 of the CSI Constitution. Article 2 reads as under.

Article 2

The Madras Diocesan Council:

The name of the Council shall be the Madras Diocesan Council. The Madras Diocesan Council shall be constituted as the body responsible for the internal government and administration of the Diocese of Madras within the Church of South India in accordance with the constitution of the C.S.I., Chap. VIII.

36. This Court's prime attention has been drawn to Clause 15 of Chapter IX of the CSI Constitution. Clause 15 which is extracted supra, clearly provides that the Diocesan Council shall deal with the internal affairs of each diocese and the Synod shall deal with matters of common interest to the whole Church of South India. The complaints being in relation to the election at the Diocesan level, the dispute is referable only in terms of Clause 5 of Chapter XI of the CSI Constitution. It is useful to refer



5. All matters relating to Church discipline shall be dealt with by the local court, the Diocesan Court and the Synod Court. All election disputes shall be dealt with by the Diocesan Election Commission at the Diocesan level and by the Synod election commission at the Synod level. All other disputes between members and the Church or its institutions shall be settled by Conciliation and Arbitration.

Apart from Clause 5 under Chapter B, 'Settlement of Disputes', in the same Chapter, clauses 29 to 33 deal with constitution of the election commission which will be referred to infra.

37. In furtherance of the above provisions, the Diocesan Election Commission for election dispute has been constituted created vide Article 45 of the Constitution of the Diocese of Madras.

38. Besides Article 45 of the Constitution, the bye-laws relating to the Commission for election disputes under Section XIII appended to the Constitution of Diocese of Madras under sub-clauses 2 and 3, it is stated that any dispute regarding the election shall be referred to the Bishop within fourteen days and the Bishop shall refer the dispute to Commission and settle the dispute.



39. In this regard, one other dimension has also been added by one of the learned Senior counsels arguing that any complaint or grievance of the member of the Church, the redressal provisions as provided for in the CSI Constitution, are to be exhausted before having recourse to remedial Court action. Clause 3, referred to in Chapter XI is extracted hereunder.

3. All members of the Church hereby agree that they shall first exhaust all provisions available in this Constitution for the enforcement of their rights under this Constitution and for redressal of their grievances, before they seek legal remedy in a court of law. Members who violate this rule shall ipso facto lose their right to participate in the government of the Church at all levels.

The above Clause would perforce include Diocesan Constitution also, as every Diocese is mandated to have its own Constitution as per Chapter VIII of the Bye-laws of the CSI Constitution. These provisions are very clear and no effort is required for understanding its import and application. So far as the dispute, pure and simple relating to the Diocesan Election, the proper forum to approach is the Diocesan Election Commission.

40. While the provisions of the two Constitutions hold the field within the well defined contours of its respective jurisdictions to deal with



the dispute of every kind, the present dispute falls under whose jurisdiction is the subject matter of call of this Court on a prima facie consideration of the rival contentions.

41. In the aforesaid arrangement, there are two Constitutions come in for consideration, namely the CSI Constitution and the Constitution of Diocese of Madras,. In the above backdrop of co-existence of the two Constitutions and their interplay, the core area of controversy as between the parties are to be judged principally on the interpretation of the provisions of the constitutions with reference to the factual matrix of the case.

42. Reverting to the origination of the controversy namely, the holding of election to the MDC on 13th and 14th April, 2021 in terms of the CSI Constitution, election is required to be held to the Council every three years as the term of Diocese Council is only for a period of three years as per Clause 12(A) under Chapter VIII. As per sub-clause (D) of Clause 12 under the same Chapter, it was provided that atleast six months before the term of the Council, the arrangement for electing a new council must be set in motion and in case, the new council cannot be convened within three months from the term of old council, the Synod shall take steps for proper



administration of the Diocese. In the face of the constitutional compulsion, the council's tenure of the earlier council having come to end in January 2021, the election to the new council had to be conducted in order to avoid any Constitutional impasse. Therefore, according to the applicants, the election was called for to the Council on 13th and 14th April, 2021.

43. The dispute started when some members of the Church belonging to the Madras Diocese complained directly to the 1st respondent Moderator pointing out certain irregularities in the conduct of the election to the Council. This Court's attention has been drawn to the complaints given by aggrieved members of the Church dated 22.04.2021 and 24.04.2021. According to the learned Senior Counsel appearing for the 1st applicant Bishop and the 2nd respondent Diocese, these complaints are thoroughly motivated and there is no substance in it and the complaints were all by disgruntled persons who had come up with baseless allegations, only with a view to bring disrepute to the otherwise smooth completion of the election process. Apart from the merits of the complaint, the maintainability of the complaints itself is to be gone into and in that context, the learned Senior Counsel has drawn the attention of this Court extensively to various provisions of the CSI Constitutions as well as Diocese of Madras contending that in matters of election dispute, any complaint is to be



addressed only to the Bishop himself and the Election Commission of the Diocese concerned alone can look into such complaints but in this case, the complainants have chosen to directly address to the 1st respondent who has no jurisdiction to look into such complaints, in terms of the distribution of power as provided for in the CSI Constitution.

44. In this case, the 2nd respondent being the apex body acting on the complaints, issued e-communication on 05.05.2021 seeking clarification from the 1st applicant Bishop on the complaints received, by enclosing copies of the complaints. At this, the 1st applicant Bishop replied on 21.05.2021 stating that all the complaints pertaining to the Madras Diocesan Council Election 2021 and the election disputes shall have to be dealt with by the Diocesan Election Commission at the Diocesan level. The 1st applicant has quoted Chapter XI of the CSI Constitution, pointing out the clear distinction between the election dispute of the Diocese and that of the Synod. He had in fact, particularly pointed out Rule 5 and Rules 29 to 33 of Chapter XI already extracted supra. The 1st applicant also referred to relevant clauses in the bye-laws governing the election dispute of the Diocese. He therefore, asserted that a rigid dichotomy is envisaged between the election dispute of the diocese and the election to the Synod.



45. Despite the reply, questioning the authority of the respondents in entertaining the election complaints relating to the diocesan election, the impugned letter was issued on 29.05.2021 announcing the appointment of the Commission comprising, the Deputy Moderator and the Treasurer of the CSI to enquire into the complaints and report to the 1st respondent. The letter further advised the 1st applicant Bishop to stop the ministerial transfers until further orders. The letter also appears to have referred to the reply by the 1st applicant dated 21.05.2021 but not elaborated on the contents of the reply.

46. The arguments in substance on behalf of the applicants is that the impugned action is not supported by any constitutional provision of the CSI, as the action *per se* amounted to over reaching the powers by the respondents in terms of the CSI Constitution. On the other side of the spectrum, it is argued that the Synod is the Supreme Governing Body in terms of the CSI Constitution and it also described as the highest legislative body and the final authority in all matters pertaining to the Church. The power thus, exercised cannot be faulted with.

47. According to the learned Senior Counsel for the respondents, the

action by the Synod cannot be faulted with. He referred to Clause 15 of



Chapter IX which begins with the statement that the Synod shall deal with matters of common interest to the whole Church of South India. The nature of complaints being extremely serious touching upon the common interest of the Church of South India, the respondents have to step in by constituting a Commission of enquiry. According to the learned Senior Counsel, there is nothing wrong in the exercise of power by constituting a commission of enquiry with a view to find out whether there was any substance in the complaint at all. The Synod, in terms of Clause 13 of Chapter XI of the CSI Constitution being the supreme governing and legislative body and the final authority in all matters pertaining to the Church is well within its power to initiate action on complaints of the present nature to protect the common interest of the Church of South India.

48. In this regard, the learned Senior Counsel also referred to sub-clause (a) to sub-Clause (c) of Clause 15 under Chapter IX of the CSI Constitution, wherein the Synod is given power to take necessary steps for the good administration of the internal affairs of the Diocese on certain contingencies. In order to find out whether any such contingencies exists, preliminary commission of enquiry is ordered and thereafter, further procedure would follow contemplated under sub-clause (a) to (c) of Clause



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49. The learned Senior Counsel has also drawn the attention of this Court to the contents of the complaints and submit that going before the Diocesan Election Commission would be of no use for all purposes as the Election Commission was elected in the same Diocesan Counsel election held on 13th and 14th April, 2021, and the majority of the nominees were that of the 1st applicant Bishop himself. In that view of the matter, referring the complaints before the diocesan election commission which is stated to be elected in the same Council election cannot be considered an impartial body to enquire into the complaints against the very conduct of its election.

50. In fact, on the side of the applicants, it was vehemently argued that even assuming there was any power vested in the Synod to initiate action in response to the complaints, a procedure provided under sub-clause (c) of Clause 15 had not been violated which provided that action under that clause shall require consent of three fourth members present and voting in the meeting of the Synod Executive. In fact, this has been specifically pointed out by the learned Senior Counsel Mr.Vijay Narayan in his arguments who appeared on behalf of the Diocese that while seeking clarification from the 1st applicant Bishop vide communication dated



meeting authorising such action. According to the learned Senior Counsel, in fact, the Synod Executive Committee had not met at all after the election to the Diocese Council was held on 13th and 14th April, 2021. Therefore, the learned Senior Counsel Mr. Vijay Narayan, has stated that even otherwise the action was to be held as illegal, it cannot be countenanced at all with reference to the provisions of the Constitution of South India.

51. The learned Senior Counsel Mr. V. Prakash, for the respondents however, replied that the present communication dated 29.05.2021, appointing a Commission of Enquiry with a view to collect any worthwhile materials and to find out any substance at all in the complaints before the complaints are taken forward in terms of the procedure laid down under Clause 15 of Chapter IX of the CSI Constitution. According to him, what have been initiated through letter dated 29.05.2021 is only a preliminary action in order to ascertain whether there was any substance in the complaints or not, before it could be taken forward to the Executive Committee of the Synod. The procedure as contemplated under sub-clause (c) would be pressed into service only at the appropriate time and not immediately after receipt of the complaints.



provisions of the Constitution of the CSI highlighting the powers vested in the supreme body namely the Synod, the 2nd respondent headed by Moderator, the 1st respondent herein and also the internal government of the Diocese of Madras governed by its own Constitution as well. On a combined reading and the understanding of the various Chapters and the provisions as contained in the CSI Constitution, this Court finds that the administration of the internal affairs of each Diocese is left to the control of the Diocesan council concerned. The provisions contained under various Chapters in the CSI Constitution would particularly and specifically referred to would unequivocally demonstrate that the individual Diocese is enjoined upon near total functional autonomy in regard to its internal management and governance. In more than one provision, it has been clearly spelt out in the CSI Constitution that the Diocese shall govern its own internal affairs by having its own Constitution and it can frame its own rules and pass resolution and take executive action for the general management and good government of the Diocese. The position is therefore, indisputably clear that the individual Diocese is given the enjoyment of a separate and definite space for its administration and management, without being overseen by the Synod on a routine basis.



transcends beyond the confines of the diocesan election, having serious constitutional implication. The Diocesan Constitution, its rules and bye-laws are to be in strict conformity to the constitution of the CSI. This means that there cannot be any Rules or constitutional provisions/ bye-laws by the individual Diocese which can run contrary or repugnant to the CSI Constitution. If it is a Diocesan election dispute simpliciter, no interference by the respondents is permissible owing to a well defined jurisdiction spelt out in the CSI Constitution. But the complaints *prima facie* appear to be touching upon the constitutionality of the procedure adopted by the applicants during the council meeting and the election to the Diocesan Council on the 13th and 14th of April, 2021.

54. As stated above, the 2nd respondent Synod, been described in Clause 13 of Chapter IX of the CSI Constitution as the supreme governing and legislative body and the final authority of all matters pertaining to the Church. Although Chapter VIII dealing with the Diocesan Council, provide for framing of its own (Diocese) Constitution, under Clause 9, the framing or amending of the Constitution is mandated to be not at variance with anything contained in the CSI Constitution. Therefore, it is clear that in matters of interpretation as to which Constitutional provisions must be



Constitution and its provisions must be in tune with the Constitutional provisions of the CSI. An harmonious construction is required to be adopted in the interplay of Constitutional provisions as between the CSI and Diocesan Constitutions.

55. In consideration of the above principle, the most crucial provisions that have been repeatedly relied upon by the learned Senior Counsels/ Counsels on either side is Clause 15 of Chapter IX and its sub-clauses (a), (b) & (c) which become focal point of their submission.

56. Clause 15 contains two aspects, one, it begins with the sentence that the Synod shall deal with the matters of common interest to the whole of Church of South India and two, shall leave the Diocesan Council to deal with the internal affairs of each Diocese. The applicants herein relied on the second aspect, namely the election dispute herein pertain to the internal affairs of the Diocese and the same cannot be propelled to the Synod level. The respondents on the other hand drawing strength from the first limb of the provisions submitted that the complaints being serious in nature, touching upon the common interest to the whole of Church of South India, the Synod has to deal with the same, in furtherance of its constitutional obligation.



58. The above Clause clearly provides for remedy before the Diocesan Election Commission for all election disputes at the Diocesan level. The election which is the subject matter of controversy herein is admittedly, at the Diocesan level and any dispute in regard to the same has to necessarily be referred to the Diocesan election commission only. Adding further sinew to the above Clause, in the same Chapter, under the caption

<https://hcservices.ecourts.gov.in/hcservices/>



constitution of election commission both at the Diocesan and Synod levels to deal with the election dispute. The relevant clauses 29 to 33 have been referred to by the learned Counsels, particularly, by the learned Senior Counsel Mr.R.Singaravelan.

59. In the same Chapter, apart from the election dispute, the other disputes relating to the discipline of the Church are also mentioned as to how the same shall be dealt with by the Court of the Diocesan Council and the Court of the Synod in appeal. Clauses 12 to 22 of the Chapter deal with the procedure to be followed in case of any disciplinary action against the members of the Church. In Clause 6, there are three types of Courts envisaged, one is local Court at pastorate level to deal with the disputes concerning members and the Court of Diocesan Council to deal with the dispute concerning Ministers and the Court of the Synod for the Bishops. These Courts are established under the CSI constitution as far as the disciplinary matters are concerned. The appeal to the Synod Court is also provided for in Clauses 23 and 24 in the said Chapter from the decisions of the Court of the Diocesan Council. But this Court is however not concerned with the application of these Rules in the present controversy.



provided as in the case of the dispute concerning disciplinary matters and in the absence of appeal remedy, it should be taken that the decision of the election commission at the Diocesan level is final and binding. In terms of the CSI Constitution, Article 45 was enacted by the Constitution of Diocese of Madras establishing the Commission for election disputes which has already been extracted supra.

61. Besides the constitutional provision, the bye-laws of the Diocesan Constitution under Section XIII also specifically deal with the Commission for election dispute. The bye-laws reiterate that the dispute regarding the election is to be referred to the Bishop within fourteen days from the date of a particular election and the Bishop shall refer the dispute to the Commission to enquire into and settle the dispute. On a cumulative reading of all these provisions would inexorably lead to conclusion that the election disputes relating to the Diocesan election are to be dealt with at the Diocesan level. The Constitution of the Diocese of Madras, apart from the election commission has several other committees created under various Articles and each Committee is vested with powers to look after the subjects which come under its purview. From the scheme of the Diocesan Constitution, as long as it is not at variance with the CSI constitution, the day to-day administration and the management of the Diocesan business fall within the autonomous governance of the Diocese.



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62. Be that as it may, referring to the nature of the complaints that actuated the impugned action and the constitutional justification supporting such action need to be examined by appreciating the controversy more by its substance than by its form. The proper judicial scrutiny ought to go beyond its form and identify the causation for a judicious and comprehensive adjudication.

63. This Court's attention has been drawn to the five complaints which had been addressed to the 1st respondent. The complaints are in relation to several irregularities in the conduct of the election starting from the change of venue in the last minute without any advance notice, absence of roll call which is stated to be mandatory in terms of the CSI Constitution, election of Treasurer who is not a member of the MDC, new nominations were added in the last minutes unconstitutionally etc. The complainants further alleged serious violation like nomination by the Bishop purported to be under sub-clause (c) of Article 49 of the Diocesan Constitution which is stated to be deleted as being contrary to the CSI Constitution in 2013 itself.

64. From the contents of the complaints, it could be seen that all the complaints were in fact, directed against the 1st applicant's conduct. In fact,



two of the complaints particularly, complaint of one Rufus Jayaraj (MDC member) and another from one Rev. Samuel Punitharaj dated 22.04.2021 relate to the exercise of power of nomination by the Bishop which power is specifically provided for under Article 49. Article 49 read as under.

"Article 49:

Mode of Election of members to Committees Board & other Bodies of the MDC:

a) *The Nomination Committees shall consist of:*

i) *The Officers of the MDC.*

ii) *The Area Chairmen and*

iii) *Two lay representatives nominated by each Area Executive of whom one shall be a Woman.*

b) *The Area Executive Committee and the Conveners of Committees, Boards & other Bodies shall be asked to suggest a panel of two or three names for each committee, Board & other Bodies for consideration by the Nomination Committee.*

c) *The Nomination Committee shall be authorized to nominate up to 40% of the members of the Committee, Boards, Synod, Representatives, Commission for Election Disputes, Panel of Arbitrators and members of the Court of the MDC, giving due representation to all the four Areas, Commission for election disputes, panel of Arbitrators & Court of the MDC and place the nominations before the MDC*



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d) At the session of the MDC the Chairman shall call for a vote for or against the nominations of the persons nominated by the Nomination Committee enblock. No amendment or additional nominations will be in order at this stage. The vote shall be taken for each Committee or Board & other bodies separately or altogether as determined by the Council.

e) If the motion indicated in (d) above is carried, the Chairman shall then call for nomination for the remaining places: if the motion is not carried, the Chairman shall call for nominations and the names of persons already suggested by the Nominations Committee for the various Committees, Board and other Bodies shall be automatically included in the list."

65. The complaint of Rev.Samuel Punitharaj dated 22.04.2021 alleging violation of Article 49 assumes clinching significance in the adjudication of this application. The contents of the complaint with reference to violation of Article 49, is extracted hereunder.

"Out of many irregularities which occurred before, during and after the council, I as a presbyter concerned in the true well-being of the church would like to bring to your knowledge the daring constitutional violations by the bishop in the council.



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With regard to the election of members to the Diocesan Committees and Boards, the Article 49(c) of the MDC constitution by 40% nomination has been struck down by the Synod Executive committee in 2013. Following which, the election to committees and boards in the MDC session in Jan 2013 was declared null and void by the Synod in Sep 2014 and the administrative committee was appointed for the Madras Diocese for not complying with the synod directive. In 2015, the Madras Diocesan Council presided by the then Moderator Most Rev.Dr.Dhyvasirvatham, gave 100% chance to members to participate in election for Synod, executive and other committees/boards saying that Article 49(c) and 21(g) of MDC has been deleted. Therefore, if Article 49(c) is deleted, then article 49(d) and (e) also becomes invalid. (refer MDC constitution pgs.44 and 45).

For your information, these changes brought in the synod constitution are intentionally not updated by our bishop in our diocesan constitution. The last updated version of the MDC constitution was in 2009. From the amendments made in 2018, only matters related to the pastorate elections were sent as circular in 2019 just before the pastorate elections and the same was incorporated and updated in the pastorate constitution where as the Diocesan constitution was never updated



till date. This was purposely done by the bishop with vested interest.

Whereas in 2018 MDC council, being aware of the removal of the Article 49(c) of the MDC constitution Bp George Stephen brought in his 40% nomination to all the committees and boards robbing the democratic rights of the council members. It is reliably learnt that this issue was strongly taken up by one of the senior presbyters during the regional Synod meeting held at Trichy. The then Moderator, Thomas K.Oommen and the then General Secretary, Rev.Dr.D.R.Sadananda were in by crude shock. All the synod officers and the delegates of Tamilnadu regional Synod met at Trichy declared that it was unconstitutional for a bishop to nominate 40%. So Bishop George Stephen was clearly told that he cannot go for 40% nomination.

But now the present bishop has printed the names of those who have been nominated for various committees and boards in voting paper model distributed to the council members of the 37th session of MDC on 13th April 2021, which is a violation of the constitution (Proof attached) and the same have been elected."

66. The members to the Diocesan election commission admittedly



doubt, the complaints given against the conduct of the election touch upon the irregularities in the election and there cannot be two opinion on this basic premise. But not all disputes arising out of election can said to be referable to election commission when election to the election commission itself is part of the dispute herein. Even though the dispute may qualify to be called as election dispute in one sense on a precipitous and impulsive appreciation but if the nature of the complaints is to be determinatively understood, the same is to be held as not referable to the diocesan election commission.

67. The complaints which have been referred to and extracted above clearly stated that Article 49 of the diocesan constitution conferring the power of nomination had already been struck down by the Synod Executive Committee in 2013 and following that diocesan election to Committees and Boards in the MDC sessions in January 2013 was declared null and void by the Synod in September 2014. When the provisions authorising nominations to be made to various committees in the diocesan constitution is said to have been struck down as being inconsistent with the CSI Constitution and if the statements in the complaints are true, then the dispute turn out to be a serious constitutional violation.



68. The reference to the election commission, at the Diocesan level is made in regard to normal disputes that most usually arise during the announcement of election, procedure adopted in the conduct of the election and the final declaration of the results etc. The internal election dispute that may touch upon the election to various committees, commissions, inclusion and exclusion of voters etc. Such of those disputes which need to be subjected to the enquiry by the diocesan election commission within the frame work of the Diocesan Constitution and its bye-laws. In that view of the matter, the decision by the diocesan election commission is final and binding. The disputes which are entirely confined to the internal election of the diocese and not at all touching upon the CSI constitutional imperatives cannot be obviously escalated to the Synod level, as the scheme of the CSI Constitution, no appeal is provided to the Synod against the decision of the diocesan election commission, unlike in the cases of discipline, appeal is provided from the decision of the Court of Diocesan Council to the court of the Synod.

69. But as far as the present dispute is concerned, the complaints have been given against the very conduct of election of members to various committees that included Election Commission of the Diocesan Council. In

the said circumstances, the arguments advanced on the side of the



respondents that going before the same election commission which has been illegally and unconstitutionally constituted is a purposeless and useless formality, has considerable force.

70. Further the requirement of going before the Commission, presupposes the existence of valid Diocesan Election Commission within the meaning of the CSI and the Diocesan Constitutions. When the very nominations to the Election Commission is being seriously questioned in the light of the allegation stated in the complaints, this Court is prima facie of the opinion that the exercise of the power of nominations by the 1st applicant is not in order at all. In the said circumstances, forwarding of the complaint to the Bishop and then to be referred to the Diocesan Election commission would be a travesty and a sham exercise. It is like referring a dispute to a Commission which does not exist in the eye of law. Inasmuch as the Diocesan Election Commission being not lawfully constituted, on a prima facie consideration, the remedy available for the aggrieved members may inevitably rest with the 2nd respondent represented by the 1st

respondent which is indisputably the final authority in all matters pertaining to the Church.



diocesan level and the Synod level and its powers could be traced to clauses 29 to 33 of Chapter XI of the CSI Constitution. The provisions need to be predicated on the substance and the essence of the complaints against the conduct of the 1st applicant Bishop. The provisions are extracted hereunder.

29. Every Diocesan Council/ Synod shall appoint an Election Commission to enquire into and settle all election disputes in the Diocese/ at the Synod level.

30. Persons found by the Commission to have indulged in malpractices in the election shall forfeit the right to vote and participate in the elections to the various bodies or committees, for a period of six years in the Diocese/ Synod. Such persons are also debarred from holding any positions in the administration of the Diocese or any of its institutions/ Synod or any of its institutions, during that period.

31. Any dispute or complaint regarding elections should be referred to the Bishop of the Diocese or Moderator, whichever may be the case, in writing, within fourteen days from the date of the particular election.

32. The decision of the Commission shall be final.

33. The Executive Committee of the Synod shall frame appropriate bye-laws for the guidance of the Diocesan/ Synod Commissioners.

72. The scope of the above provisions if it is to be cumulatively



directed against Bishop himself. Clause 30 speaks about "Persons found by the Commission to have indulged in malpractices " which apparently would not include the bishop in that category. Further, any election complaint itself is to be referred to the Bishop as per clause 31 above. Now, it is appropriate to refer to the provision relating to the Constitution of the Diocesan Election Commission in Article 45 which is extracted as under.

Article 45

Commission for Election disputes (CSI Constitution Chap.XI B I):

a) At each ordinary session of the MDC, a panel of ten members consisting of five Presbyters and five lay members shall be elected. The Diocesan Executive Committee shall appoint three Presbyters and three lay persons out of the Panel to enquire into the settle all election disputes in the Diocese.

b) Persons found by the Commission to have indulged in malpractices in the election shall forfeit the right to vote and participate in the elections to the various bodies and committees for a period of six years in the Diocese. Such persons are also debarred from holding any positions in the Diocese or in any of its Institution during that period.



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c) Any dispute or complaint regarding elections shall be referred to the Bishop in writing within fourteen days from the date of the particular election.

73. The above Article reiterates the same position in line with the CSI Constitution referred to above. The language and the expression used in the provisions obviously could not include Bishop, as the election commission is clothed with the power to debar any person found to have indulged in malpractice from holding any position in the administration of the Diocese. The power includes forfeiting the right to vote and participate in the election to various bodies and committees. Moreover, when the complaint itself is mandated to be referred to the Bishop in the first place, the scope and jurisdiction of the diocesan election commission to enquire into the complaints against Bishop of the Diocese is implicitly is not available. On a hypothetical consideration, if the complaints against the Bishop are to be examined by the Diocesan Election Commission and eventually the Commission finds substance in the complaints, can the diocesan election commission debar the bishop from holding any position in the administration of the Diocese. The answer is obviously 'No'.

74. In this regard, it is important to refer to Clause 33 as extracted above. For guidance of the Diocesan Commission (Election), the Executive Committee of the Synod is empowered to frame appropriate bye-laws. The



Bye-laws of the CSI under Chapter XI: Discipline of the Church deal with various offences by members, be it lay or ordained. The offences are enumerated therein in paras (a) to (h). From among the offences, a specific offence is contained in para (d) as pointed by Mr.N.Rajan, learned counsel for one of the impleading parties. Para (d) reads as under. Definition of offences:

*(d) Wilful violation of the Constitution and Rules
of the Church of South India and the Diocese concerned.*

The bye laws further provide for Constitution of the Court of the Synod to deal with complaints of offences against Bishop and Court is vested with power to impose sentences from Admonition to Removal from office etc. A consolidated appreciation of the provisions in the CSI constitution and the nature of complaints, prima facie, the controversy cannot be given a constricted colouration as a simple diocesan election dispute and relegated to the diocesan election commission, as the diocesan election commission cannot said to have been vested with power to entertain any dispute like the present one, which has arisen due to the unconstitutional actions of the 1st applicant Bishop.

75. Although the Diocese is governed by its own constitution for its internal administration and governance as a consequence of the distribution of power envisaged in the CSI Constitution, the administration of the



Diocese is mandated to be in accordance with the CSI Constitution, in terms of Article 2 of the Constitution of the Diocese, which has been extracted supra.

76. Despite being governed by its own Constitution, every Diocese is ultimately subjected to the provisions of the CSI Constitution in terms of Chapter VIII. In fact, Clause 9 which has been extracted supra categorically state that there cannot be any provision in the Diocesan constitution at variance with anything contained in the CSI Constitution. There are also other provisions like Clause 5 under the said Chapter that any resolution, executive action for the general management and good government of the Church in the diocese to be subject to the provisions of the CSI Constitution. In the backdrop of the dominant and pre-eminent status accorded to the Synod in the CSI Constitution, the complaints against the exercise of power of nomination by the 1st applicant to various committees/commission, call for the constitutional scrutiny by the guardians of the CSI constitution, the respondents herein.

77. The constitution of the CSIs peremptorily declared the Synod as the highest governing and legislative body and the final authority in all matters pertaining to Church. In the overall scheme of the Constitution, the aggrieved members of the Diocese alleging electoral mal-practices, relating

to the conduct of the bishop himself, having left with no option, have



chosen to approach the Moderator with their complaints. In this regard, this Court may have to refer to certain other constitutional provisions in order to highlight that the Synod is endowed with the predominant role in the election to the Diocesan Council, consecration and installation of Bishop. A separate Chapter (Chapter VI) has been devoted in the CSI Constitution, containing as may as 40 clauses covering all aspects of the election to the diocesan council. It deals with election, appointment, consecration and installation of Bishops. The clauses prescribed therein would demonstrate that right from the commencement of the election process and till the installation of Bishops, the Synod represented by the Moderator, is in complete charge. In fact, Clause 1 of the said Chapter begins with the statement "As provided for the Governing Principles of the Church (Chapter II-11(b)) the diocese concerned and the authorities of the Church of South India as a whole shall have an effective voice in the election and appointment of the Bishop."

78. The other clauses in the Chapter provide elaborate procedure to be followed in the run up to its diocesan council election and at every stage, the Synod is to be involved. Therefore, the arguments advanced on behalf of the applicants that the Synod is completely denuded of any role in the Diocesan Election is contrary to the specific Constitutional provisions as provided in this Chapter. In fact, after the election is over, the Chairperson



of the Sub Committee appointed to oversee the election shall dispatch to the Moderator, the list containing the results of the election, noting the number of votes obtained by each candidate at each ballot, and the proceedings of the whole meeting. The Sub Committee constituted shall also send to the General Secretary of the Synod all records and papers relating to the election, including the ballot papers, in sealed covers, by registered insured post, within seven days of the election. Ultimately, a Board consisting of the Moderator and six other members appointed by the Executive Committee of the Synod is empowered to appoint a Bishop from the panel. Moreover the Chapter also contemplates appointment of Election Observer by the Synod to oversee the entire process of election of panel for bishopric.

79. In the light of the above provision, the Synod, being an Apex Body of the Church of South India, cannot be expected to remain a mute spectator when serious constitutional infraction has been complained of by the aggrieved members of the Diocese. In terms of Clause 3 of Chapter XI, the members of the Church hence agreed that they shall exhaust all provisions available in the Constitution for the enforcement of their rights and redressal of their grievance. So the right to seek redressal for their grievance is provided for under the CSI Constitution. Therefore, some



respondent and as they legitimately felt that only the respondents could redress their grievances. When serious constitutional violations formed the basis of the complaints against the 1st applicant, the complainants have chosen to go before the ultimate authority who alone are in a position in terms of the scheme of the CSI constitution to redress and salvage the situation. In the opinion of this Court, addressing the complaints to the respondents in the circumstances of the case is impelled by the situational necessity akin to the doctrine of necessity.

80. Be that as it may even assuming on a simplistic appreciation, the controversy herein is only a election dispute at the diocesan level, propriety of the Diocesan election commission to deal with the dispute against its very constitution amounted to caricaturing of the very concept of dispute resolution mechanism. The diocesan election commission in that event, would become a Judge of its own cause as the aggrieved members would be compelled to appeal to the conscience of the usurper of office. Unlike, the disputes touching upon the discipline of Minister, Presbyters, Bishop etc., wherein the appeal is provided from the Court of Diocesan Council to Court of Synod, no such provision is provided for election dispute, albeit the Synod is fully involved in the election to the Diocesan Council in terms of Chapter VI of the CSI. At the risk of repetition, the

dispute herein is not to be enveloped within narrow definition of diocesan



election dispute and to deny the right of the the respondent to look into the complaints primarily touching upon the unconstitutional exercise of power by the 1st applicant. Therefore, the power and jurisdiction to look into the complaints by the respondents cannot said to be extraneous or alien to the federal arrangement, as elaborately spelt out in the CSI Constitution.

81. In regard to the alternate arguments of the learned Senior Counsels for the applicants that assuming the power is available for the Synod to intervene, the procedure contemplated under sub-clause(c) to Clause 15 of Chapter IX of the CSI Constitution had not been followed and therefore, the impugned action was even otherwise, unsustainable. The learned Senior Counsel Mr.V.Prakash for the respondent, rebutting the above submission rightly contended that the Commission of enquiry as ordered by the respondent appear to be only a fact finding enquiry and not an action to be treated to have been taken under sub-clause (b) and (c) of Clause 15 of Chapter IX of the CSI Constitution, as yet. The said arguments therefore advanced on behalf of the applicants, at the nascent stage of enquiry are to be rejected as being pre-mature and unripe for consideration now.

82. Further, as seen above, Article of the Constitution of the Diocese of Madras, internal government and administration of the Diocese of Madras within the Church of South India is to be in accordance with the



Constitution of the CSI, Chapter VIII. Therefore, any action by the Diocese or on its behalf must be within the framework of the CSI Constitution and any violation of the Constitution would certainly invite interference by the Synod for enforcement of the provision of the CSI Constitution by its constituent Diocese. There cannot be a modicum of doubt that the synod, represented by the Moderator, the respondents herein is conferred with overarching power of ensuring all the Dioceses under its control function within the framework of the CSI constitution. As per Clause 20 of Chapter II of the CSI constitution, any question raised with regard to the interpretation of any part of the constitution, that shall be determined by the Synod. The Synod therefore is indisputably placed at the altar of the constitutional administration of all Churches/ dioceses belong to the avowed faith of the CSI.

83. It is also relevant here to draw reference to the 1st applicant's reply dated 21.05.2021 to the communication of the respondent seeking his clarification in the complaint where in the 1st applicant has not whispered anything on the veracity of the complaints, but asserted that seeking clarification itself by the respondent is uncalled for and the complaints ought to be treated to have been referred to him and to be forwarded to the



Church. The intention thus manifested in his reply is to prevent the competent authority to look into the complaints of his alleged constitutional transgressions. In order to shield his action from being subjected to the legitimate enquiry, the 1st applicant despite being the primate of the bishopric appears to have resorted to clever and complacent interpretation of the CSI Constitution referring to few provisions in isolation without reference to the nature of complaints that are being the subject matter of consideration by the respondents. The lopsided interpretation of the CSI Constitution for serving his own ends amounted to arrogation of power to himself, for enquiring into the complaints principally directed against him.

84. One other issue has been raised on behalf of the respondents that the irregularities in the Diocesan Election spell serious consequences as to the financial management of the Diocese. In support of the said ground, reliance has been placed on sub-clause (a) and (b) of Clause 15 of Chapter IX which enjoins upon the Synod Executives/Officers, the power to call for particulars relating to the administration and financial management of the Diocese from the Bishop whenever required, and that the Synod or the Officers of the Synod are convinced that the situation of administration and financial management in a particular Diocese needs the assistance of the



financial management of the Diocese concerned. As there are also complaints of irregularities in the election of Treasurer to the MDC directly impacting on the financial management and the administration, in terms of clause 14 of Chapter, CSITA being the sole trustee and Agent of all properties of the CSI represented by the Synod, the 2nd respondent herein, the respondents are well within their power to initiate action against the applicants in the matters. The 1st respondent as per Clause 14 is the ex officio member of the CSITA, along with Deputy Moderator, the general Secretary and the Treasurer of CSI.

85. The arguments on the above lines by the learned Senior Counsel for the respondents Mr.V.Prakash, appear to be far fetched as the dispute raised by the complainants is only against the acts of omission and commission in the conduct of the election on the part of the 1st applicant and the misgivings expressed as to its adverse impact on the financial management leading to mal-administration of the Diocese can only be in the realm of speculation and conjecture. Therefore, the above reason being the cause for the impugned action by the respondents does not cut much ice with this Court. Moreover, the CSITA which is in control of all the properties and assets of all the Diocese in the scheme of the CSI



remotely in the present dispute. Therefore, the arguments of the learned Senior Counsel do not merit serious consideration of this Court and is rejected forthwith.

86. On behalf of the applicants, the learned counsels placed heavy reliance on the decision reported in **2009(2) CTC 631 (M.Isaac Vs. The Church of South India & Ors.)** of this Court. This Court has also extracted supra, paragraph Nos. 7, 20 and 21 of the said judgement of the learned Single Judge. In that case, the respondents herein are the respondents therein and the issue was relating to the Diocese of Tirunelveli. There also some disputes were raised relating to the conduct of the election in Tirunelveli Diocese and when the suit was filed on the original side of this Court, the stand was taken on behalf of the respondents herein that the Synod shall deal only in the matters of common interest to the whole of CSI etc. and as far as the election dispute is concerned, it is the internal affairs of the Tirunelveli Diocese. Further argument was advanced that the suit was laid on the original side of this Court and therefore, not maintainable as Synod was not a proper and necessary party. The learned Judge of this Court as she then was, has accepted the arguments and ultimately, dismissed the leave to sue application, as not maintainable.



87. The facts therein were in relation to the election to the Executive Committee of Tirunelveli Diocese. There was some procedural irregularity in the conduct of the election to the executive committee in violation of Tirunelveli Diocese constitution which was the subject matter of challenge in that case. In that context, the respondents herein had adopted a stand with reference to the facts of that case, as the dispute therein confined only to the internal election of the diocesan council in terms of its constitution. Further, the dispute therein is not against the exercise of power of the Bishop therein with reference to the CSI Constitution. In fact, in para 13 of the judgment, the learned Judge as she then was had clearly observed the challenge to election therein was on the basis of alleged violation of Tirunelveli diocesan constitution. Therefore, the stand adopted by the respondents in that case need not be held against them.

88. The learned Senior counsel Mr. Vijay Narayan, who appeared for the 2nd applicant, relied on another decision reported in **2005 (4) SCC 741 (BCCI vs. Netaji Cricket Club)** and would draw reference to paragraph No.82 which has been extracted supra. The observation made therein is that Association or Club having framed its rules are binding on it. In this case, the inter se claims of parties are entirely based on the constitutional provisions of both CSI as well as the Diocese of Madras and not outside the



frame work of the governing regulations. Even this case may not advance the case of the applicants herein.

89. Learned Senior counsel also relied on the yet another decision reported in **2005(5) SCC 632 (Zoroastrian Cooperative Housing Society Vs District Registrar Cooperative Societies)** and drawn reference to paragraph No.27 which is also extracted supra. That is a case relating to Society wherein the Court held that when a person subscribes to a Society by entering into a contract, his right is surrendered to the common right to be enjoyed by all members of the Society. This Court does not think that the ruling of the Hon'ble Supreme Court can be applied in this case at all. The right which is sought to be enforced herein is not outside the frame work of the CSI Constitution, but it is very much within the four corners of the Constitution.

90. There is also a decision cited on behalf of the respondents that the interim injunction having the effect of granting final decree and hence ought not to be granted, this Court is not inclined to go into the said legal issue in view of the applicants failing to persuade or convince this Court for grant of injunction in their favour on merits.

91. This Court on a prima facie consideration of all competing



claims does not find any legal infirmity in the action initiated by the respondents as conveyed through their letter dated 29.05.2021.

92. In the conspectus of the above discussion, this Court is of the considered view that the applicants have not made out any case for grant of relief. Therefore, the Original Application stands dismissed. The status quo passed by this while reserving order on 15.07.2021, is vacated forthwith.

93. The impleading applications are ordered and the parties are directed to be arrayed as defendants in the Suit. Application No.2305 of 2021 seeking permission to file email communication dated 25.06.2021, reply email dated 25.06.2021 and revised reply email dated 27.06.2021 as additional documents in the above Suit, is ordered.

Post the suit for hearing on 28.09.2021 along with connected pending applications.

Sd./-(V.P.N.J.,)

25.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.