



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
13.12.2021	23.12.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.25211 OF 2021

AND

W.M.P. NOS.27332 & 26586 OF 2021

B.Rufus Jayaraj

.. Petitioner

- Vs -

- 1.The Diocese of Madras
rep. By its Secretary
CSI Diocesan Office
No.226, Cathedral Road
Chennai 600 086.
- 2.The Convenor
Diocesan Ministerial Committee
CSI Diocese of Madras
No.226, Cathedral Road
Chennai 600 086.
- 3.The Bishop
Bishop-in-Madras
CSI Diocese of Madras
No.226, Cathedral Road
Chennai 600 086.
- 4.The Bishop Rt. Rev. J.George Stephen
Bishop-in-Madras
CSI Diocese of Madras
No.226, Cathedral Road
Chennai 600 086.
- 5.Edward Sam Nicholus
- 6.D.Kanagaraj
- 7.Moses Premkumar
- 8.S.Raja
- 9.Dr.Gregory Thomas Baskar
- 10.D.Manogar
- 11.Dr.D.Samuel Sounderaraj Singh



12. Stepheya Sandhana George Stephen
(RR-5 to 12 impleaded vide order dated
6.12.21 made in WMP No.27469/2021 in
W.P.No.25211/2021)

.. Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus for appointment of Administrator to the 1st respondent for selection and appointment of candidates for the Pastoral Ministry in the Madras Diocese as per the rules enshrined in the Madras Diocesan Constitution and the Bye Laws.

For Petitioner : Mr. N.G.R.Prasad for
M/s.Row & Reddy

For Respondents : Mr. Vijay Narayan, SC, for
Mr. C.Vigneswaran & Mr.P.Vasanthakumar
for RR-1 to 4
Mr. N.R.Elango, SC, for
M/s. M.Krishnamoorthy for RR-5 to 12

ORDER

The present writ petition is filed by the petitioner against the selection and the selection process and ordination of respondents 5 to 12 as Presbyters in the Church of South India.

2. It is the case of the petitioner that the Church of South India as well as its component Dioceses are governed by the Constitution of the Church of South India of the Synod and the Constitutions of the respective Dioceses. It is the further averment of the petitioner that the selection of the candidates for pastoral ministry is to serve as Ordained Ministers/Presbyters in the Diocese of Madras and it is to be done in accordance with the aforementioned two constitutions. It is the pointed averment of the petitioner that the selection of the candidates is not in accordance with the aforesaid two constitutions.

3. It is the further averment of the petitioner that the important functions of a Bishop, viz., pastoral oversight, leadership in evangelism, teaching and worship are carried out through the ordained presbyters and deacons and the task of ordination and authorisation is done by the Bishop in accordance with the Madras Diocesan Constitution and the Bye-Laws.

4. It is the further averment of the petitioner that though the selection of Presbyters/Ordained Ministers is to be by



forming certain committees, as provided in the aforesaid two constitutions, however, without adhering to the above, the 4th respondent has created a Ministerial Consultative Committee to select the candidates, which is unconstitutional and the 4th respondent has no legal authority to do so.

5. It is the averment of the petitioner that the 4th respondent, in blatant violation of the constitutional provision of the CSI Synod and the constitution of the Madras Diocese is selecting candidates to serve as Ministers/Presbyters in the church. It is further averred that in spite of strong opposition from the clergy relating to selection of the candidates due to procedural lapses. It is further averred that the candidates selected do not fulfill the educational qualification and in utter disregard to the rules and regulations and educational qualifications, the candidates have been selected.

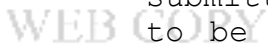
6. It is the further averment of the petitioner that the writ is very well maintainable as the duty performed by the body relates to educational activities and, therefore, mandamus can very well be granted. Since the ordination of the Ministers/Presbyters is to be conducted in a hasty and urgent manner, the present writ petition has been filed.

7. When the matter was listed before this Court on 25.11.2021, while this Court admitted the writ petition, further granted interim order of stay restraining the respondents from hurriedly ordaining the Ministers/Presbyters. Pursuant to the said order, vacate stay petition has been filed to vacate the said interim order and the said vacate stay petition is listed for hearing.

8. When the matter relating to vacating the stay was taken up by this Court, learned counsel appearing on either side consented for taking up the main writ petition itself and on the basis of the said consent, the main writ petition itself was taken up and heard.

9. Learned counsel appearing for the petitioner submitted that in blatant violation of the constitutions and procedures, the selection of the candidates for Ministers/Presbyters has been made. It is the further submission of the learned counsel for the petitioner that only with a view to favour the 4th respondent's daughter, who is one of the selected candidates, hurried action is being taken by the respondents to ordain the selected candidates.

10. It is the further submission of the learned counsel for the petitioner that the candidates, who have been selected do



11. Learned counsel appearing for the petitioner further submitted that the persons, viz., respondents 5 to 12, who are to be ordained as Ministers/Presbyters, do not come within the locality where the church is situate and they have not attended the church in the locality and, therefore, they are ineligible to contest in the elections to the said position.

13. In support of his submission as to maintainability of the writ petition against the private respondents, learned counsel for the petitioner placed reliance upon the decision of this Court in R.Jayakumar Jayaraj - Vs - (W.P. (MD) Nos. 21134/2017, etc. Batch - Dated 05.08.2019).

15. It is the further submission of the learned senior counsel for respondents 1 to 3 that the contention of the petitioner that respondents 5 to 12 do not fulfill the qualification is wholly incorrect. In support of his stand, learned senior counsel for respondents 1 to 4 placed before the Court a chart tabulating the qualification of each and every person, who have been selected to the said post and submitted that the committee, after careful consideration and satisfying that the candidates have fulfilled the qualification, have



recommended the names and, therefore, the stand of the petitioner does not deserve acceptance.

16. It is the further submission of the learned senior counsel for respondents 1 to 4 that nowhere the constitution of the church mandates that the persons, who are to be ordained as Ministers/Presbyters should be from the same church or the locality where the church is there. Further, the petitioner has also not pointed out any particular provision in the constitution which mandates so and in the absence of the same, the stand of the petitioner is an exercise in futility.

17. In support of the submission as to the maintainability of the writ petition, learned senior counsel appearing for respondents 1 to 4 placed reliance on certain decisions of the Hon'ble Supreme Court and this Court, which will be taken up at the appropriate place.

18. Learned senior counsel appearing for respondents 5 to 12 adopted the arguments placed by the learned senior counsel on behalf of respondents 1 to 4 and submitted that the writ petition is liable to be dismissed on the very question of maintainability.

19. This Court paid its careful consideration to the submissions advanced by the learned counsel on either side and also perused the materials available on record as also the decisions to which this Court's attention was drawn.

20. The pivotal question that falls for consideration before the other ancillary questions can be dealt with is whether the writ petition is maintainable against the respondents 1 to 4, who are not other authorities within the meaning of State as provided in Article 12 of the Constitution.

21. In the case of Federal Bank Ltd. - Vs - Sagar Thomas & Ors. (2003 (10) SCC 733), reiterating the view taken by the Hon'ble Apex Court in Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Samark Trust & Ors. - Vs - V.R.Rudani & Ors. (1989 (2) SCC 691), spelt out the bodies against which a writ petition under Article 226 is maintainable and for better appreciation, the relevant observation is extracted hereunder :-

"18. From the decisions referred to above, the position that emerges is that a writ petition under Article 226 of the Constitution of India may be maintainable against (i) the State (Government); (ii) an authority; (iii) a statutory body; (iv) an instrumentality or agency of the State; (v) a company which is financed and



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owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of public nature; and (viii) a person or a body under liability to discharge any function under any statute, to compel it to perform such a statutory function.

* * * * *

26. A company registered under the Companies Act for the purposes of carrying on any trade or business is a private enterprise to earn livelihood and to make profits out of such activities. Banking is also a kind of profession and a commercial activity, the primary motive behind it can well be said to earn returns and profits. Since time immemorial, such activities have been carried on by individuals generally. It is a private affair of the company though the case of nationalized banks stands on a different footing. There may well be companies, in which majority of the share capital may be contributed out of the State funds and in that view of the matter there may be more participation or dominant participation of the State in managing the affairs of the company. But in the present case we are concerned with a banking company which has its own resources to raise its funds without any contribution or shareholding by the State. It has its own Board of Directors elected by its shareholders. It works like any other private company in the banking business having no monopoly status at all. Any company carrying on banking business with a capital of five lakhs will become a scheduled bank. All the same, banking activity as a whole carried on by various banks undoubtedly has an impact and effect on the economy of the country in general. Money of the shareholders and the depositors is with such companies, carrying on banking activity. The banks finance the borrowers on any given rate of interest at a particular time. They advance loans as against securities. Therefore, it is obviously necessary to have regulatory check over such activities in the interest of the company itself, the shareholders, the depositors as well as to maintain the proper financial equilibrium of the national economy. The banking companies have not been set up for the purposes of building the economy of the State; on the other hand such private companies have been voluntarily



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established for their own purposes and interest but their activities are kept under check so that their activities may not go wayward and harm the economy in general. A private banking company with all freedom that it has, has to act in a manner that it may not be in conflict with or against the fiscal policies of the State and for such purposes, guidelines are provided by Reserve Bank so that a proper fiscal discipline, to conduct its affairs in carrying on its business, is maintained. So as to ensure adherence to such fiscal discipline, if need be, at times even the management of the company can be taken over. Nonetheless, as observed earlier, these are all regulatory measures to keep a check and provide guidelines and not a participatory dominance or control over the affairs of the company. For other companies in general carrying on other business activities, maybe manufacturing, other industries or any business, such checks are provided under the provisions of the Companies Act, as indicated earlier. There also, the main consideration is that the company itself may not sink because of its own mismanagement or the interest of the shareholders or people generally may not be jeopardized for that reason. Besides taking care of such interest as indicated above, there is no other interest of the State, to control the affairs and management of the private companies. Care is taken in regard to the industries covered under the Industries (Development and Regulation) Act, 1951 that their production, which is important for the economy, may not go down, yet the business activity is carried on by such companies or corporations which only remains a private activity of the entrepreneurs/companies.

27. Such private companies would normally not be amenable to the writ jurisdiction under Article 226 of the Constitution. But in certain circumstances a writ may issue to such private bodies or persons as there may be statutes which need to be complied with by all concerned including the private companies. For example, there are certain legislations like the Industrial Disputes Act, the Minimum Wages Act, the Factories Act or for maintaining proper environment, say the Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1974 etc. or



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statutes of the like nature which fasten certain duties and responsibilities statutorily upon such private bodies which they are bound to comply with. If they violate such a statutory provision a writ would certainly be issued for compliance with those provisions. For instance, if a private employer dispenses with the service of its employee in violation of the provisions contained under the Industrial Disputes Act, in innumerable cases the High Court interfered and has issued the writ to the private bodies and the companies in that regard. But the difficulty in issuing a writ may arise where there may not be any non-compliance with or violation of any statutory provision by the private body. In that event a writ may not be issued at all. Other remedies, as may be available, may have to be resorted to.

28. The six factors which have been enumerated in the case of *Ajay Hasia* [*Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722 : 1981 SCC (L&S) 258] and approved in the later decisions in the case of *Ramana* [*Ramana Dayaram Shetty v. International Airport Authority of India*, (1979) 3 SCC 489] and the seven-Judge Bench in the case of *Pradeep Kumar Biswas* [(2002) 5 SCC 111 : 2002 SCC (L&S) 633] may be applied to the facts of the present case and see whether those tests apply to the appellant Bank or not. As indicated earlier, share capital of the appellant Bank is not held at all by the Government nor is any financial assistance provided by the State, nothing to say which may meet almost the entire expenditure of the company. The third factor is also not answered since the appellant Bank does not enjoy any monopoly status nor can it be said to be an institution having State protection. So far as control over the affairs of the appellant Bank is concerned, they are managed by the Board of Directors elected by its shareholders. No governmental agency or officer is connected with the affairs of the appellant Bank nor is any one of them a member of the Board of Directors. In the normal functioning of the private banking company there is no participation or interference of the State or its authorities. The statutes have been framed regulating the financial and commercial activities so that fiscal equilibrium may be kept maintained and not get disturbed by the malfunctioning of such companies or institutions involved in the business of banking.



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These are regulatory measures for the purpose of maintaining a healthy economic atmosphere in the country. Such regulatory measures are provided for other companies also as well as industries manufacturing goods of importance. Otherwise these are purely private commercial activities. It deserves to be noted that it hardly makes any difference that such supervisory vigilance is kept by Reserve Bank of India under a statute or the Central Government. Even if it was with the Central Government in place of Reserve Bank of India it would not have made any difference, therefore, the argument based on the decision of All India Bank Employees' Assn. [AIR 1962 SC 171 : (1962) 3 SCR 269] does not advance the case of the respondent. It is only in case of malfunctioning of the company that occasion to exercise such powers arises to protect the interest of the depositors, shareholders or the company itself or to help the company to be out of the woods. In times of normal functioning such occasions do not arise except for routine inspections etc. with a view to see that things are moved smoothly in keeping with fiscal policies in general.

29. There are a number of such companies carrying on the profession of banking. There is nothing which can be said to be close to the governmental functions. It is an old profession in one form or the other carried on by individuals or by a group of them. Losses incurred in the business are theirs as well as the profits. Any business or commercial activity, maybe banking, manufacturing units or related to any other kind of business generating resources, employment, production and resulting in circulation of money are no doubt, such which do have impact on the economy of the country in general. But such activities cannot be classified as one falling in the category of discharging duties or functions of a public nature. Thus the case does not fall in the fifth category of cases enumerated in the case of Ajay Hasia [Ajay Hasia v. Khalid Mujib Sehravardi, (1981) 1 SCC 722 : 1981 SCC (L&S) 258] . Again we find that the activity which is carried on by the appellant is not one which may have been earlier carried on by the Government and transferred to the appellant company. For the sake of argument, even if it may be assumed that one or the other test as provided



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in the case of Ajay Hasia [Ajay Hasia v. Khalid Mujib Sehravardi, (1981) 1 SCC 722 : 1981 SCC (L&S) 258] may be attracted, that by itself would not be sufficient to hold that it is an agency of the State or a company carrying on the functions of public nature. In this connection, observations made in the case of Pradeep Kumar Biswas [(2002) 5 SCC 111 : 2002 SCC (L&S) 633] quoted earlier would also be relevant.

30. We may now consider the two decisions i.e. Andi Mukta [(1989) 2 SCC 691] and U.P. State Coop. Land Development Bank Ltd. [(1999) 1 SCC 741 : 1999 SCC (L&S) 389 : AIR 1999 SC 753] upon which much reliance has been placed on behalf of the respondents to show that a writ would lie against the appellant company. So far as the decision in the case of U.P. State Coop. Land Development Bank Ltd. [(1999) 1 SCC 741 : 1999 SCC (L&S) 389 : AIR 1999 SC 753] is concerned, it stands entirely on a different footing and we have elaborately discussed it earlier.

31. The other case which has been heavily relied upon is Andi Mukta [(1989) 2 SCC 691]. It is no doubt held that a mandamus can be issued to any person or authority performing public duty, owing positive obligation to the affected party. The writ petition was held to be maintainable since the teacher whose services were terminated by the institution was affiliated to the university and was governed by the ordinances, casting certain obligations which it owed to that petitioner. But it is not the case here. Our attention has been drawn by the learned counsel for the appellant to paras 12, 13 and 21 of the decision (Andi Mukta [(1989) 2 SCC 691]) to indicate that even according to this case no writ would lie against the private body except where it has some obligation to discharge which is statutory or of public character.

32. Merely because Reserve Bank of India lays the banking policy in the interest of the banking system or in the interest of monetary stability or sound economic growth having due regard to the interests of the depositors etc. as provided under Section 5(c)(a) of the Banking Regulation Act does not mean that the private companies carrying on the business or commercial activity of banking, discharge any public function or public duty. These are all regulatory measures applicable to those carrying on commercial



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activity in banking and these companies are to act according to these provisions failing which certain consequences follow as indicated in the Act itself. As to the provision regarding acquisition of a banking company by the Government, it may be pointed out that any private property can be acquired by the Government in public interest. It is now a judicially accepted norm that private interest has to give way to the public interest. If a private property is acquired in public interest it does not mean that the party whose property is acquired is performing or discharging any function or duty of public character though it would be so for the acquiring authority.

33. For the discussion held above, in our view, a private company carrying on banking business as a scheduled bank, cannot be termed as an institution or a company carrying on any statutory or public duty. A private body or a person may be amenable to writ jurisdiction only where it may become necessary to compel such body or association to enforce any statutory obligations or such obligations of public nature casting positive obligation upon it. We don't find such conditions are fulfilled in respect of a private company carrying on a commercial activity of banking. Merely regulatory provisions to ensure such activity carried on by private bodies work within a discipline, do not confer any such status upon the company nor put any such obligation upon it which may be enforced through issue of a writ under Article 226 of the Constitution. Present is a case of disciplinary action being taken against its employee by the appellant Bank. The respondent's service with the Bank stands terminated. The action of the Bank was challenged by the respondent by filing a writ petition under Article 226 of the Constitution of India. The respondent is not trying to enforce any statutory duty on the part of the Bank. That being the position, the appeal deserves to be allowed."

22. Yet again, the Constitution Bench of the Hon'ble Supreme Court in the case of Zee Telefilms Ltd. & Anr. - Vs - Union of India & Ors. (2005 (4) SCC 649), with regard to the meaning and scope of "State" and "other authorities" found in Article 12, held as under :-



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"31. Be that as it may, it cannot be denied that the Board does discharge some duties like the selection of an Indian cricket team, controlling the activities of the players and others involved in the game of cricket. These activities can be said to be akin to public duties or State functions and if there is any violation of any constitutional or statutory obligation or rights of other citizens, the aggrieved party may not have a relief by way of a petition under Article 32. But that does not mean that the violator of such right would go scot-free merely because it or he is not a State. Under the Indian jurisprudence there is always a just remedy for the violation of a right of a citizen. Though the remedy under Article 32 is not available, an aggrieved party can always seek a remedy under the ordinary course of law or by way of a writ petition under Article 226 of the Constitution, which is much wider than Article 32.

32. This Court in the case of Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust v. V.R. Rudani [(1989) 2 SCC 691] has held: (SCC pp. 692-93)

"Article 226 confers wide powers on the High Courts to issue writs in the nature of prerogative writs. This is a striking departure from the English law. Under Article 226, writs can be issued to 'any person or authority'. The term 'authority' used in the context, must receive a liberal meaning unlike the term in Article 12 which is relevant only for the purpose of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non-fundamental rights. The words 'any person or authority' used in Article 226 are, therefore, not to be confined only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The form of the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of positive obligation owed by the person or authority to the affected party, no matter by



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what means the duty is imposed. If a positive obligation exists mandamus cannot be denied."

33. Thus, it is clear that when a private body exercises its public functions even if it is not a State, the aggrieved person has a remedy not only under the ordinary law but also under the Constitution, by way of a writ petition under Article 226. Therefore, merely because a non-governmental body exercises some public duty, that by itself would not suffice to make such body a State for the purpose of Article 12. In the instant case the activities of the Board do not come under the guidelines laid down by this Court in Pradeep Kumar Biswas case [(2002) 5 SCC 111 : 2002 SCC (L&S) 633] hence there is force in the contention of Mr Venugopal that this petition under Article 32 of the Constitution is not maintainable."

23. Yet again, in Ramakrishna Mission & Anr. - Vs - Kago Kunya & Ors. (2019 (16) SCC 303), the Hon'ble Supreme Court, reiterating the meaning of "State" provided with Article 12 of the Constitution, held as under :-

"29. More recently in K.K. Saksena v. International Commission on Irrigation & Drainage [K.K. Saksena v. International Commission on Irrigation & Drainage, (2015) 4 SCC 670 : (2015) 2 SCC (Civ) 654 : (2015) 2 SCC (L&S) 119] , another two-Judge Bench of this Court held that a writ would not lie to enforce purely private law rights. Consequently, even if a body is performing a public duty and is amenable to the exercise of writ jurisdiction, all its decisions would not be subject to judicial review. The Court held thus: (SCC p. 692, para 43)

"43. What follows from a minute and careful reading of the aforesaid judgments of this Court is that if a person or authority is "State" within the meaning of Article 12 of the Constitution, admittedly a writ petition under Article 226 would lie against such a person or body. However, we may add that even in such cases writ would not lie to enforce private law rights. There are a catena of judgments on this aspect and it is not necessary to refer to those judgments as that is the basic principle of judicial review of an action under the administrative law. The



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reason is obvious. A private law is that part of a legal system which is a part of common law that involves relationships between individuals, such as law of contract or torts. Therefore, even if writ petition would be maintainable against an authority, which is "State" under Article 12 of the Constitution, before issuing any writ, particularly writ of mandamus, the court has to satisfy that action of such an authority, which is challenged, is in the domain of public law as distinguished from private law."

30. Thus, even if the body discharges a public function in a wider sense, there is no public law element involved in the enforcement of a private contract of service.

31. Having analysed the circumstances which were relied upon by the State of Arunachal Pradesh, we are of the view that in running the hospital, Ramakrishna Mission does not discharge a public function. Undoubtedly, the hospital is in receipt of some element of grant. The grants which are received by the hospital cover only a part of the expenditure. The terms of the grant do not indicate any form of governmental control in the management or day to day functioning of the hospital. The nature of the work which is rendered by Ramakrishna Mission, in general, including in relation to its activities concerning the hospital in question is purely voluntary."

(Emphasis Supplied)

24. This Court need not multiply the case laws any further on the point of the "other authorities" which would fall within the meaning of "State" as found in Article 12 of the Constitution. It is manifestly clear from the above proposition that even if the body discharges a public function in a wider sense, if there is no public law element involved in the discharge of its duties, the said body cannot be brought within the ambit of "State" as found in Article 12 of the Constitution.

25. In the backdrop of the above law laid down with regard to the meaning of "State" provided under Article 12 of the Constitution, the functions that is sought to be discharged by the ordained Ministers/Presbyters needs to be looked into.

26. It is the stand of the petitioner that the elected persons, who are to be ordained as Ministers/Presbyters are to



function as teachers in the schools run by the petitioner and they would be imparting education to the students and education being a subject under the State, the act of imparting education done by the said individuals under the auspices of the church in the schools run by it would squarely be termed to be public function and would fall within the meaning of "State" thereby attracting Article 12 of the Constitution.

27. Counter to the said contention, attention of this Court is drawn to the Constitution of the Church of South India by the learned senior counsel for respondents 1 to 4 and in particular, the duties of Presbyters is pointed. A perusal of the duties of Presbyters reveal that their act is mainly for the purpose of spreading the religion and religious beliefs to the public under their control and to preach the religious holy faith. Nowhere, the Presbyters have been given the task of handling education in the schools run by the Church. There is no whisper in the Constitution of the Church with regard to the Presbyters imparting education to the students in the schools run by the Church. Equally so is the case with regard to the persons, who are ordained as Ministers. The Ministers and Presbyters are not involved in the day to-day activities of the educational institutions nor are they given the responsibility of imparting education to the students in the school run by the Church. A careful perusal of all the duties and responsibilities of the Ministers/Presbyters found in the Constitution of the Church of South India clearly reveals that the Ministers/Presbyters are not entrusted with any task relating to public duty. Such being the case, the activities done by the said Ministers/Presbyters cannot be termed to be public duty as envisaged upon the State under Article 12 of the Constitution. Therefore, in the above backdrop, the present petition at the instance of the petitioner is strictly not maintainable, as the respondent Church is a private body, which will not come within the ambit of Article 12 of the Constitution. The mere contention of the petitioners that the Ministers/Presbyters are performing public duty by imparting education in the school, cannot be accepted in the absence of any material to substantiate the same.

28. Insofar as the other contentions are concerned relating to the qualifications of the persons elected for being ordained as Ministers/Presbyters, data is placed before this Court by the learned senior counsel for respondents 1 to 4 that the persons, who have been selected to be ordained as Ministers/Presbyters fulfill all the necessary educational qualification and, in fact, their qualification is even above the qualification required for the said post. Though the petitioner claim that respondents 5 to 12 do not have the requisite qualification to hold the post of Ministers/Presbyters, however, no material



whatsoever to substantiate the said stand is placed by the petitioner to controvert the said submission.

29. Insofar as the contention of the petitioner that it is only for the purpose of selection of one of the respondent, viz., 12th respondent, being the daughter of the 4th respondent as a Minister/Presbyter, rules have been bent relating to qualification and no affinity to the church in the said locality, however, material is placed by the respondents 1 to 3 to show that the 12th respondent, who is the daughter of the 4th respondent fulfills the necessary qualification for holding the said post. It is the further stand of the respondents 1 to 3 that there is no necessity for a person to be a member of a particular church to be ordained as a Minister/Presbyter and the petitioner, except oral submission, is also not able to lay a hand on any material to show that proximity to a particular church is necessary for a person to be ordained as a Minister/Presbyters. Further, it is to be pointed out that merely because the 12th respondent is the daughter of the 4th respondent, that alone cannot be the ground to come to an adverse conclusion that rules have been bent to confer an undue benefit on the 12th respondent. So long as the 12th respondent fulfills all the necessary criteria and qualification to contest for the said post, there is no embargo to consider the name of the 12th respondent for the said post. Therefore, in the absence of any material to the contra, the stand of the petitioner relating to the person, who is to be ordained as a Minister/Presbyter, to be a member of the church does not deserve consideration.

30. One other contention raised by the respondents is with regard to the locus of the petitioner to file this petition. It is the stand of the respondents that the petitioner is in no way connected with the affairs of the church, except being a member and is a mechanic by profession, who is not privy to the internal activities of the church and only with an intent to stall the election process and ordination process at the behest of certain vested interests, this petition has been filed and, therefore, the same deserves to be dismissed in limine.

31. True it is that no material whatsoever is placed before this Court at the instance of the petitioner to show his interest in the church or his day to-day involvement in the church activities. Just because the petitioner is a member of the Church, authority is not vested in him to question all the acts of the Church, when the petitioner is not oblivious of all the rules and regulations and the by-laws governing the Church. However, this Court is not giving any opinion on the locus of the petitioner as it would fall within a disputed question of



fact. However, this Court is merely pointing out the fallacy in the petitioner filing this petition.

32. The election to the Synod having been conducted upon proper selection of candidates, who have fulfilled the requisite qualifications and also fulfilling the regulations and that the election conducted is within the Constitution of the Church of South India, the prayer of the petitioner for appointing an Administrator does not arise.

33. For the reasons aforesaid, the writ petition at the instance of the petitioner against the respondents is not maintainable and, accordingly, the same is dismissed. Consequently, the interim order granted by this Court stands vacated and the vacate stay petition is accordingly allowed. Consequently, the miscellaneous petition filed for stay stands dismissed. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

GLN

To

- 1.The Secretary,
The Diocese of Madras, CSI Diocesan Office,
No.226, Cathedral Road, Chennai 600 086.
- 2.The Convenor,
Diocesan Ministerial Committee,
CSI Diocese of Madras, No.226, Cathedral Road,
Chennai 600 086.
- 3.The Bishop,
Bishop-in-Madras, CSI Diocese of Madras,
No.226, Cathedral Road, Chennai 600 086.

+1cc to Mr.M.Krishnamoorthy, Advocate SR. No.69473
+1cc to M/s.Row & Reddy, Advocate SR. No.69630

W.P. NO. 25211 OF 2021

CP (CO)
PR (07/01/2022)