



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.202 of 2021

and

C.M.P. (MD)Nos.624 & 625 of 2021

G.John Kennady

... Appellant/Petitioner

Vs.

1.The Most Rev. Moderator,
Church of South India,
5, Whites Road,
Royapettah, Chennai - 14.

2.The Tirunelveli CSI Diocese,
Rep. by its Bishop,
176B, Trivandrum Road,
Tirunelveli,
Tirunelveli District.

3.The Tirunelveli Diocese Trust Association,
Old No.18, New No.19,
North - High Ground Road,
Palayamkottai,
Tirunelveli - 627 002.

4.The Registrar of Companies,
Ministry of Corporate Affairs,
Block No.6, 'B' Wing,
Second Floor, Shastri Bhavan,
D.No.26, Haddows Road,
Chennai - 600 006.

... Respondents / Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act against the order passed by this Court in W.M.P.(MD)No.10425 of 2020 in W.P.(MD)No.12111 of 2020, dated 11.01.2021.

Prayer in WMP(MD). 10425/ 2020 :

This Petition is filed under Article 226 of the Constitution of India, to pass an order of interim direction directing the respondents to permit the persons who have paid Rs.100/- as sangam to caste their votes pending disposal of this writ petition.

Prayer in WP(MD). 12111/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue writ of Declaration, declaring the communication of the 1st respondent dated



08-09-2020 fixing of sangam in CSI diocese at the amount not less than Rs.300/- for the purpose of election to the committee and councils as null and void.

For Appellant : Ms.J.Anandhavalli

For R2 : Mr.G.Prabhu Rajadurai
Standing Counsel

For Administrator : Mr.G.Thankasivan

* * * * *

J U D G M E N T

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellant, who was incidentally the writ petitioner, seeking to set aside the order of the learned Single Judge with one specific grievance - Permission granted to vote and contest in the ensuing election with the payment of subscription [Sangam Amount] of Rs.300/-, which includes the extension of time to those who have paid Rs.100/- and above already. The payment of the said amount, as per the Constitution of the Diocese, would entitle a person either to vote or contest. In other words, the Sangam amount in the nature of contribution may vary from Rs.100/- and above.

2.The appellant, who is the writ petitioner along with one another person challenged the impugned order dated 08.09.2020, passed by Respondent No.1, which is a communication sent to the learned Administrators stating that the Sangam amount for the purpose of Election to Committees and Council shall be the amount not less than Rs.300. The said decision is sought to be assailed on the premise that it does not have the sanction of law.

3.On an earlier occasion, taking note of the *inter se* dispute emanating in the conduct of election, two retired Hon'ble Judges of this Court were appointed as Administrators in W.P.(MD)Nos.21134 of 2017, etc. batch, dated 05.08.2019. The decision of the learned Single Judge was approved by the judgment of the Division Bench of this Court in W.A.(MD)Nos.878 of 2019 etc. batch, dated 25.02.2020.

4.The learned Single Judge on the first instance passed an order, dated 05.11.2020, stating that the persons, who have paid the contribution of Rs.100/- and above as against Rs.300/- per year can be permitted to vote and contest, subject to the orders to be passed. Therefore, this is an interim arrangement made, we deem it to appropriate to record the directions issued by the learned Single Judge:-

'17.In such view of the matter, this Court issues the following directions:

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



(i) The learned Administrators on their discretion, shall appoint three independent persons as Election Tribunals (one for two pastorate councils), two Election Officers and also nominate independent Observers to assist the Election Officers, for free and fair conduct of the elections to the entire Diocese.

(ii) The Election Officers shall direct the Pastorate Chairman of the respective Pastorates, to prepare the eligible voters' list, irrespective of payment of Sangam amount as Rs.100/- and above by the members, publish the same in the notice board of the respective churches, call for objections, if any. Necessary report be submitted to the Election Officers. On receipt of the same, the Election Officers shall finalise the voters' list. It is made clear that the eligibility criteria for the voters to cast their votes / contest the election, cannot be determined based on the quantum of sangam amount, which is subject to the result of the present writ petitions.

(iii) The Election Officers shall invite nominations through the Chairman of each pastorate and scrutinise the same, as per law.

(iv) The Election Officers shall prepare schedule for the four phases of elections of the CSI Diocese and proceed with the same accordingly.

(v) The Election Officers shall also decide the venue of polls and date, time and venue for counting votes and also the date for declaring the result of the election.

(vi) The Election Officers shall report each and every aspects of the election process to the learned Administrators, without any default.

(vii) The Election Officers shall conduct the elections for the available respective posts, in consultation with the learned Administrators.

(viii) The Observers shall assist the Election Officers and ensure the peaceful conduct of elections in each of the pastorate.

(ix) If there is any disturbance created by any one, it is open to the learned Administrators / Election Officers to seek police protection.

(x) The Moderator and his Commissary, Synod, Executive Council members, Pastorate members and all concerned, should co-operate with the learned Administrators / Election Officers, in all aspects of the election process.

(xi) The Diocese shall meet out all the expenses to be incurred for the election of the CSI Diocese.

(xii) Needless to state that the decision of the learned Administrators is final and the same is binding on all the parties.

(xiii) The learned Administrators shall file a detailed



report enclosing necessary documents before this Court, on or before 24.11.2020.

18. Post these matters on 24.11.2020, for passing further orders. ''

5. The aforesaid order was modified by the subsequent order, dated 11.01.2021, accepting the report submitted by the learned Administrators. The said report suggests that it would be difficult to undertake the process as directed by the learned Single Judge, as it would amount to derail the process of election apart from allowing ineligible persons to contest and vote, of course, in the event of this Court holding that fixation of Rs.300/- as Sangam amount as justified. The order under challenge, dated 11.01.2021, took into consideration the report of the learned Administrators and the operative portion of the said order is re-produced hereunder:-

''3.2. However, the learned Administrators filed Report No.7 dated 07.01.2021, the relevant paragraphs of which, for better appreciation, are reproduced hereunder:

"3. In the order dated 18.12.2020, it is stated that submissions have been made by the respective counsel justifying their rival stand. If this Hon'ble Court is taking a view that Rs.300/- per year as mentioned in the CSI Tirunelveli Diocesan Constitution as submitted by the concerned respective counsel, the congregation members, who have paid Rs.100/- per year may be given a chance to pay the balance amount of Rs.200/- per year for three years and time may be granted till 28.01.2021 as the filing of nomination is fixed as 31.01.2021. The contention of the learned counsel for the petitioner in WP.No.12295 of 2020 that some of the members are expressing their inability and the members will give an undertaking to pay in future is not proper as exercising voting right is a privilege which can be availed only by the persons who are satisfying the norms/ rules regarding payment of SANGAM and extending time for payment for the difference in amount itself is a concession as about 70,641 members have not paid Rs.300/- per year as SANGAM (only 16,198 persons have paid Rs.300/- as SANGAM). It is respectfully submitted that giving permission to vote/ contest by giving an undertaking will create legal complications as one could vote /contest without paying the prescribed SANGAM before voting or filing of nomination to contest. Hence, the Administrators are of the view that in case this Hon'ble Court decides the SANGAM amount payable is Rs.300/- per year, such of those members who have paid only Rs.100/- may be given time to pay the balance of Rs.200/- each for three years before the Pastorate Chairman of the concerned Church or the person in charge of the church to conduct election on or before 28.01.2021 and produce the payment receipt while exercising their voting right.



4.It is submitted that such of those members who are willing to pay Rs.200/- each for three years and on paying the same, the pastorate chairman has to update the voters list for the voting which is fixed on 07.02.2020 so that the election schedule already announced need not be changed. The Chairman of the concerned pastorate or the person in charge of the church shall be directed to give announcement to pay the Additional Sangam amounts for three years during the Divine Worship Service in the following Sunday after the order is pronounced by this Hon'ble Court."

3.3.It is an admitted fact that the rules for election is governed by bye-laws, according to which, the quantum of sangam amount is only Rs.300/- per year. As per the Constitution of CSI Diocese, the payment of Sangam is mandatory for casting vote as well as for contesting in the election. The learned Administrators in their aforesaid report no.7, clearly pointed out that there are about 70641 members, who have paid less than Rs.300/- per year as sangam; and that granting permission to them by giving an undertaking, will create legal complications with respect to the election process. There is an urgent need for speedy election of the CSI Tirunelveli Diocese. Taking note of all these aspects, this Court, in the interest of the institutions run by the Diocese of Tirunelveli and administered by TDTA, is inclined to issue the following directions:

(i)The congregation members, who have paid less than Rs.300/- per year towards subscription / Sangam, shall pay the balance amount for three years to the Pastorate Chairman/ in-charge of the concerned Church, on or before 28.01.2021 and produce the receipt to the Election Officer, if required, for casting their votes.

(ii)The Chairman of the concerned Pastorates or the person in-charge of the Church shall give an announcement on the forthcoming Church day, as regards the payment of the Sangam amount at Rs.300/- per year for three years and upon receipt of the same, they shall update the voters list for voting, which is scheduled to be fixed on 07.02.2021 and submit the same to the Election Officer, after marking a copy to the learned Administrators.

(iii)The learned Administrators shall proceed with the election process, as scheduled. There is no modification with regard to the dates already fixed.

(iv)The police authorities shall provide necessary assistance for the conduct of election of the CSI Diocese in a peaceful manner.



churches with other Pastorates, the learned counsel for the learned Administrators drew the attention of this Court to the paragraph no.4 of the Report No.4 dated 01.09.2020 filed by the learned Administrators, wherein, it is stated that having regard to the fact that the candidates can contest only on the basis of the Sangam payment, they have passed an order on 17.08.2020, not to decide the said issue at this stage and ordered to continue the same position and requested the newly elected body of the Diocese to consider the said issue after ascertaining the views of the General body of the church concerned by conducting secret ballot.

4.2 In the light of the above, this Court directs the learned Administrators to act in line with paragraph no.4 of the Report No.4 dated 01.09.2020 filed by them.

5. Post on 20.01.2021 for filing reports and for reporting compliance.''

6.Assailing the aforesaid order, the appellant / writ petitioner in W.P.(MD)No.12111 of 2020 has approached this Court. The learned counsel appearing for the appellant submitted that the writ petitioner in W.P.(MD)No.12295 of 2020 has not filed appeal against the said order.

7.The learned counsel appearing for the appellant submitted that the order passed by the learned Single Judge requires to be interfered with, since the earlier order has been accepted by both sides. As a consequence of the order passed, the list of eligible voters is likely to be changed. There is no power or authority for respondent No.1 to enhance the Sangam amount without the sanction and approval of the Synod. There was a communication to this effect, followed by a Resolution representing the Synod. Therefore, the order requires interference.

8.The learned counsel appearing for respondent No.2 submitted that the resolution of the Synod, as sought to be relied upon by the learned counsel for the appellant, has been withdrawn. As on today, the Constitution of the Diocese would indicate the Sangam amount as Rs.300/-. This is only an interim order and the appellant on a wrong factual premise has come forward to file this Writ Appeal.

9.The learned counsel representing the learned Administrators submitted that in compliance of the order passed by the learned Single Judge, more than 10,000 persons have paid the differential amount and same has been continuing still and if any change is made at this stage, the same would be difficult for the learned Administrators to proceed further. Therefore, it is requested that the appeal has to be dismissed.



10.The Writ Petition has been filed by the appellant seeking a Writ of Declaration, declaring the communication of respondent No.1, fixing of Sangam amount in CSI Diocese not less than Rs.300/- for the purpose of election to the Committee and Councils as null and void. Two Writ Petitions have been filed. If at all, the appellant has got any grievance, he can be advised to restrict it only to himself. We are not dealing with the Public Interest Litigation as against an election likely to be conducted.

11.The learned Administrators, who consented to undertake the said job are Men of pure knowledge and wisdom. It is only pursuant to the wisdom expressed in conducting the ensuing election, a report was filed. The learned Single Judge has rightly accepted the report. After all, the learned Administrators were assigned with the task of conducting the election in a fair and free manner. Right to vote and contest are obviously not constitutional rights. They are governed by Statutes.

12.In the case on hand, a specified amount has been fixed for vote and contest. As stated, the decision has been accepted by one and all, except two persons, namely, the appellant herein and another. Certainly, the appellant cannot raise any plea by contending *inter alia* that many of the persons may not be in a position to vote in view of increase in Sangam amount. As of now, the Constitution says a sum of Rs.300/- as Sangam amount.

13.The contention of the learned counsel appearing for the appellant that it is not open to the contesting respondent to support the order under challenge, having agreed under the earlier order, will not hold water as we are concerned with the suggestions made by the learned Administrators after considering the relevant materials furnished in the form of report for the purpose of conduct of election. When such a view has been expressed, after a conscious consideration of relevant materials, the same cannot be found fault with, as rightly done by the learned Single Judge.

14.The issue as to whether the said amount fixed at Rs.300/- as Sangam amount is correct or not as against Rs.100/-, as contended by the learned counsel appearing for the appellant, can certainly be gone into at a later point of time. In any case, even if the appellant succeeds, his entitlement will be very little. Had not the appellant approached this Court, certainly the election would have been conducted with Rs.300/- as Sangam amount. That is the reason why, the appellant has approached this Court. After all, this is only an interim arrangement and no body can be sure, who would come successful in the election. Suffice to state that except the limited interest of the appellant, insofar as his case is concerned, he cannot canvass beyond and it is possible that the appellant's faction would still become victorious in the election. The



arrangement is only a process for conduct of the election. Since the learned Administrators are in-charge for quite some time, it is better for this Court not to express anything than what they have suggested.

15. In such view of the matter, we do not find any reason to interfere with the order of the learned Single Judge, especially, when the election process is going on, particularly, in line with the submissions made by the learned Administrators that there is substantial enthusiasm to make the increased payment of Sangam amount to facilitate the person to vote.

16. This Writ Appeal is dismissed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

smn2

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Registrar of Companies,
Ministry of Corporate Affairs,
Block No.6, 'B' Wing,
Second Floor, Shastri Bhavan,
D.No.26, Haddows Road,
Chennai - 600 006.

+1 CC to M/s.J.ANANDHA VALLI, Advocate (SR-2464[F]
dated 29/01/2021)

W.A. (MD) No.202 of 2021
27.01.2021

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sv2 (CO)

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