



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P (MD) NO.10249 OF 2021

and

W.M.P (MD) Nos.7942 and 12245 of 2021

Sahayaraj

:Petitioner

.vs.

1.The State of Tamil Nadu,
through its Secretary,
School Education Department,
Secretariat,
Fort St.George,
Chennai-9.

2.The Church of South India Trust Association,
represented by its Secretary,
CIN No.U93090TN1947NPL000346,
No.5, Whites Road,
Royapettah,
Chennai-14.

3.The Church of South India,
represented by its General Secretary,
No.5, Whites Road,
Royapettah,
Chennai-14.

4.The Thoothukudi Nazareth Diocese,
The Church of South India,
represented by its Bishop,
Caldwell School Campus,
Thoothukudi-1.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 2 to 4 from proceeding with the election to the fourth respondent Diocese of Thoothukudi Nazareth Diocese only after obeying the order of this Court in W.M.P(MD)No.15862 of 2020 in W.P(MD)No.18943 of 2020, dated 22.12.2020 and consequently to appoint a Commissioner to conduct a fair and proper election to the fourth respondent Diocese.



For Petitioner : Mr.T.A.Ebenezer
For Respondent-1 : Mr.Veerakathiravan
Senior Counsel for the State Govt.
for Mr.B.Saravaan,
Govt.Advocate.
For Respondent-4 : Mr.V.Lakshmi Narayanan
for M/s.Kingsly Solomon

O R D E R

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

The Petitioner has filed the above Writ Petition to issue a Writ of Mandamus directing the respondents 2 to 4 from proceeding with the election to the fourth respondent Diocese of Thoothukudi Nazareth Diocese only after obeying the order of this Court in W.M.P(MD)No.15862 of 2020 in W.P(MD)No.18943 of 2020, dated 22.12.2020 and consequently to appoint a Commissioner to conduct a fair and proper election to the fourth respondent Diocese.

2.The first respondent in the Writ Petition is the State of Tamil Nadu, represented by its Secretary, School Education Department, the second respondent is the Church of South India Trust Association, represented by its Secretary, the third respondent is the Church of South India, represented by its General Secretary and the fourth respondent is the Thoothukudi Nazareth Diocese, Church of South India, represented by its Bishop.

3.Mr.Veerakathiraan, learned Senior Counsel for the State Government appearing for the first respondent raised a preliminary issue stating that the Writ Petition itself is not maintainable for the reason that the prayer sought for in the Writ Petition is only against the respondents 2 to 4, who are amenable to Article 226 of the Constitution of India.

4.Mr.V.Lakshminarayanan, learned counsel appearing for the fourth respondent also supported the contention of the learned Senior Counsel for the State Government appearing for the first respondent and submitted that the Writ Petition is not maintainable.

5.Mr.T.A.Ebenezer, learned counsel appearing for the Petitioner submitted that this Court had already entertained Writ Petitions in W.P(MD)No.10132 of 2015 and W.P(MD)No.18943 of 2020 against the private respondents 2 to 4. Hence the present Writ Petition is also maintainable.

6.On a perusal of the prayer sought for in W.P(MD)No.10132 of 2015, it is clear that the Petitioner therein had sought for a direction as against the State Government, who were the



respondents 1 to 6 in the said Writ Petition. Therefore the said Writ Petition cannot be cited as a precedent for entertaining the present Writ Petition. The other Writ Petition in W.P(MD)No.18943 of 2020 was also filed to issue a Writ of Mandamus directing the State Government, the first respondent in the Writ Petition to forebear the staffs of the private respondents from contesting in election and holding the post in the respondents 3 and 4 religious organizations. W.P(MD)No.18943 is also filed against the first respondent. The said Writ Petition also cannot be cited as a precedent for entertaining the present Writ Petition.

7.Hence,as rightly pointed out by the learned Senior Counsel for the State Government appearing for the first respondent and the learned counsel appearing for the fourth respondent, since the prayer sought for by the Petitioner is against the private respondents, the Writ Petition is not maintainable.

8.Accordingly, the Writ Petition is dismissed as not maintainable. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

Note :1.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 Secretary,
Government of Tamil Nadu,
School Education Department,
Secretariat,
Fort St.George, Chennai-9.

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