



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD).No.17129 of 2021

Julius Jawahar Devakandan

... Petitioner

Vs.

- 1.Union of India,
Ministry of Corporate Affairs
Represented by its Secretary,
Shastri Bhawan,
Rajendra Prasad Road,
New Delhi-1.
- 2.The Registrar of Companies
Chennai, Block No.6, B Wing 2nd Floor,
Shastri Bhawan 26,
Haddows Road, Chennai-34.
- 3.Church of South India Trust Association,
CIN No.U93090TN194NPL000346,
Represented by its General Secretary,
No.5, Whites Road,
Royapettah, Chennai-14.
- 4.Church of South Indian,
Represented by its Moderator,
No.5, Whites Road,
Royapettah, Chennai-14.
- 5.CSI Diocese of Madurai Ramnad,
Represented by its Bishop,
162, East Veli Street,
Madurai-1.
- 6.Fernandus Rethinaraja
General Secretary,
Church of South India,
No.5, Whites Road,
Royapettah, Chennai-14.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the second respondent from approving the elected or nominated candidates as directors through unregistered Church of South India or Synod or its dioceses otherwise than elected under Companies Act, 2013 to the third respondent company based on the petitioner's



representation, dated 03.06.2020.

For Petitioner	: Mr.T.A.Ebenezer
For R1 and R2	: Mrs.L.Victoria Gowri
	Assistant Solicitor General of India
For R3 to R6	: Mr.M.Ajmalkhan
	Senior Counsel

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ORDER

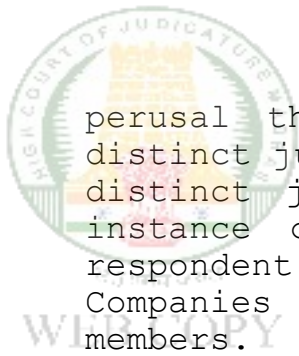
The petitioner seeks a direction to prevent the second respondent from approving the elected or nominated candidates as directors through the unregistered Church of South India or Synod or its dioceses based on his representation dated 03.06.2020.

2.The third respondent is a Company registered under Section 26 of the Indian Companies Act, 1913, which corresponds to Section 25 of the Companies Act, 1956 and Section 8 of the Companies Act, 2013. In effect, it is a company established to carry on charitable or not for profit activities. The petitioner states that the Board of Directors of the Company consists of ten Directors. It is alleged that the CSI Madurai Ramnad Diocese illegally elected three members to the Church of South India Synod in violation of the Constitution of the Church of South India Synod and in violation of the Constitution of the CSI Madurai Ramnad Diocese. The petitioner submitted a representation on 03.06.2020 to the Registrar of Companies seeking to prevent the acceptance of the return indicating the names of such directors. The present writ petition is filed in the said facts and circumstances.

3.Learned counsel for the petitioner asserts that he is a member of the fifth respondent, CSI Diocese of Madurai Ramnad. Therefore, he submits that he has the *locus standi* to file the present writ petition. This contention is refuted by learned Senior Counsel for respondents 3 to 5. Learned Senior Counsel submits that the petitioner is not a member or director of the third respondent. Therefore, he submits that the petitioner does not have the *locus standi* to maintain the present writ petition. In addition, he submits that the petitioner should approach a jurisdictional civil court in case the petitioner is aggrieved by the elections held on 25.11.2019. Furthermore, it is submitted that a mandamus should not be issued unless a statutory duty is imposed on an authority and such authority fails to discharge the statutory duty in spite of being called upon to do so. In the case at hand, learned Senior Counsel submits that the second respondent is under a statutory duty to receive forms and returns submitted in relation to changes in the composition of the board of directors and that the second respondent cannot be deterred from performing his statutory duty.

4.The petitioner has enclosed the Memorandum and Articles of Association of the Church of South India Trust Association. On

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



perusal thereof, it is evident that the third respondent is a distinct juristic entity. Therefore, as regards the affairs of such distinct juristic entity, interference is permitted only at the instance of its stakeholders. Given the fact that the third respondent is a Company registered under Section 26 of the Indian Companies Act, 1913, it does not have share holders but it has members. The petitioner is admittedly not a member of the third respondent. He is not a director either. The petitioner has also failed to establish that he is a legitimate stakeholder in some other capacity. The only assertion in this regard is that the petitioner is a member of the fifth respondent. As a member of the fifth respondent, if the petitioner is aggrieved by the conduct of elections of the fifth respondent on 25.11.2019 or on any other date, it is open to the fifth respondent to seek redressal of such grievances by approaching a jurisdictional civil court.

5.The second respondent is an authority vested with several functions under the Companies Act 2013, including the function of receiving forms and returns filed by Companies incorporated under company law. A mandamus cannot be issued to restrain a statutory authority from performing statutory functions. Besides, such mandamus cannot be issued at the behest of a person who is admittedly neither a member nor a director of the Company concerned.

6.For reasons set out above, W.P.(MD)No.17129 of 2021 is dismissed without any order as to costs. However, it is open to the petitioner to seek redressal in respect of the elections held on 25.11.2019 by approaching an appropriate civil court.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

1.The Secretary,
Union of India,
Ministry of Corporate Affairs
Shastri Bhawan,
Rajendra Prasad Road,
New Delhi-1.

2.The Registrar of Companies
Chennai, Block No.6, B Wing 2nd Floor,
Shastri Bhawan 26,
Haddows Road, Chennai-34.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-30283[F] dated
27/09/2021)

W.P (MD) .No.17129 of 2021
23.09.2021

SRR (CO)

RS (06.10.2021) 4P 4C