



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2021

CORAM

THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P. (MD)No.18798 of 2021

and

WMP (MD) .No.15624 of 2021

D.Sakayaraju

... Petitioner

Vs.

1. The Church of South India,
Trust Association,
No.5, Whites Road,
Rayapettai, Chennai.
2. The District Collector,
District Collector's Office,
Virudhunagar.
3. The Bishop of CSI Madurai & Ramnad
Diocese,
162, AV Buildings, First Floor,
East Veli Street, Madurai.
4. The Clergy Secretary CSI Madurai & Ramnad
Diocese,
162, AV Buildings, First Floor,
East Veli Street, Madurai.
5. The Law Secretary CSI Madurai & Ramnad
Diocese,
162, AV Buildings, First Floor,
East Veli Street, Madurai.
6. The Deputy Chairman CSI Madurai & Ramnad
Diocese,
162, AV Buildings, First Floor,
East Veli Street, Madurai.
7. The Pastor,
C.S.I.Puliyampatti Pastorate,
Puliyampatti, Aruppukottai,
Virudhunagar District.

... Respondents



Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to consider the petitioner's representation dated 27.07.2021 and to take appropriate action on the third to seventh respondents for denying the petitioner's right to participate the pastorate committee election on 24.07.2021 violating COVID-19 lockdown rules for conducting election and allowing the pensioners to contest election against the Tamil Nadu Pension Rules 1978 Rule 8A and G.O.No.89, Finance (Pension) Department dated 25.02.2000 with effect from 25.02.2000 and to grant such other relief.

For Petitioner : Mr.Samuel James Devasagayam.S

For Respondents : Mr.P.Subbaraj,
Counsel for the State for R1 and R2.
Mr.B.Mahaboob Athiff for R3 to R7

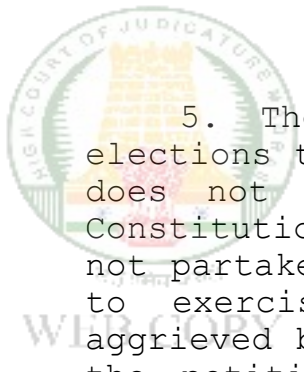
O R D E R

The petitioner seeks consideration of his representation dated 27.07.2021 to take appropriate action against the third to seventh respondents for depriving the petitioner of the right to participate in the pastorate committee election on 24.07.2021 and for violating applicable rules and the COVID-19 protocol in relation thereto.

2. The petitioner states that he is a member of the C.S.I.Puliyampatti Pastorate in Aruppukottai. He states that he has been remitting the monthly subscription to the Church. When the third respondent announced the dates of the election, it is stated that the petitioner submitted his nomination form on 19.07.2021. However, the petitioner alleges that he was not permitted to participate in the said election.

3. The petitioner also alleges that pensioners were permitted to participate in the election in violation of the Tamil Nadu Pension Rules, 1978 and G.O.No.89, Finance (Pension) Department dated 25.02.2000. The third ground raised by the petitioner is that the COVID-19 restrictions with regard to congregation of persons was violated.

4. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of respondents 1 and 2 and Mr.B.Mahaboob Athiff, learned Standing Counsel, accepts notice on behalf of respondents 3 to 7. Mr.Athiff submits that the dispute raised in the present writ petition does not involve public law and is a civil dispute raised by a person in respect of an election to a private body. Therefore, he submits that the writ petition is liable to be dismissed. In addition, he submits that elections were conducted at the American College and at other locations pursuant to orders passed by the Division Bench of this Court in separate proceedings.



5. The complaints raised by the petitioner relate to the elections to a pastorate committee. Such pastorate committee clearly does not qualify as State for purposes of Article 12 of the Constitution. In addition, the issues raised in the writ petition do not partake of a sufficient public law character to impel the Court to exercise discretionary jurisdiction. If the petitioner is aggrieved by the elections, including the alleged refusal to permit the petitioner to participate at such elections, the petitioner should take recourse to a remedy under private law.

6. For reasons set out above, W.P(MD).No.18798 of 2021 is dismissed without any order as to costs by leaving it open to the petitioner to avail of remedies before a jurisdictional civil court if so intended. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

The District Collector,
District Collector's Office,
Virudhunagar.

+1 CC to M/s.SPL.GP (SR-32354[F] dated 25/10/2021)

W.P. (MD)No.18798 of 2021

22.10.2021

MGJ/JGB(01.11.2021) 3P 3C