



W.P(MD)No.15776 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15776 of 2022

and

W.M.P.(MD)Nos.11370, 11371, 11372 & 11373 of 2022

Rev.A.Dilipkumar

... Petitioner

Vs.

1.The Church of South India (CSI)

CSI Synod Secretariat

5, Whites Road,

Royapettah, Chennai-600014,

Rep. by its Moderator.

2.The Church of South India,

Madurai-Ramand Diocese

No.162, East Veli Street,

Madurai-625 001

Represented by its Bishop

3.The Chairperson

Lay Sub Committee-7th Bishopric Panel Election

Madurai-Ramnad Diocese

No.162, East Veli Street, Madurai-625 001.

4.The Director of Collegiate Education

9th Floor, EVK Sampath Maligai,

DRI Campus, College Road, Nungambakkam,

Chennai-600006.



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- 5.The Director of School Education
17, College Road, Subba Road Avenue,
Nungambakkam, Chennai-600006.
- 6.The Director of Medical Education,
EVR Periyar Road,
Kilpauk, Chennai-600010.
- 7.City Commissioner of Police,
Madurai City, Madurai-625 001.
- 8.The Inspector of Police,
Vilakuthoon Police Station,
Madurai-625 001.
- 9.Rev.D.Jeyasingh Prince Prabhakaran
PC Chairman,
CSI Cathedral Church
Narimedu, Madurai-625 002.
- 10.Rev.J.Jesler Roy
PC Chairman
CSI Immanuel Church
West Gate, Madurai-625 001.
- 11.Rev.T.Samuel Ravindra Victor Singh
PC Chairman,
CSI Good Samaritan Church
Chockalingam Nagar (Bypass road),
Madurai-625 018.
- 12.Rev.Mrs.Hepzibah Soundaravalli Eliarasi
CSI Love Devine Church
No.61D, South Veli Street,
Madurai-625 001.
- 13.Mr.Fernandez Rathinaraja
General Secretary,
CSI Synod Secretariat,
5.Whites Road, Royapettah, Chennai-600014.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned notifications issued by the first respondent dated 14.06.2022 R.ef.No.GS3/MR/41/2022 and 16.07.2022 declaring the respondents 9 to 12 as bishopric panel members and appointing the 9th respondent as Bishop/Manager for all Government aided and unaided educational institutions of the second respondent Diocese and quash the same and all consequential proceedings and consequently, appoint an Hon'ble Retired Judge of the High Court or an independent election officer to conduct the Bishopric panel election of the second respondent diocese for ensuring that a free and fair procedure is followed for the appointment of the Manager of all Government aided and unaided educational institutions and colleges of the second respondent diocese as per the Constitution of the first respondent.

For Petitioner : Mr.S.Thanka Sivan

For R1 & R13 : Mr.V.Prakash
Senior Counsel
for Ms.Varsha Vinolin Nancy

For R2, R3,
R9 to R12 : Mr.M.Ajmalkhan
Senior Counsel
for M/s.Ajmal Associates

For R4 to R8 : Mr.V.OM.Prakash
Government Advocate



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ORDER

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Heard the learned counsel appearing for the writ petitioner and the learned senior counsel appearing for R1 & R13 and the learned senior counsel appearing for R2, R3, R9 to R12 and the learned Government Advocate appearing for the official respondents.

2. The writ petitioner questions the entire process whereby the Rev.bishop of Madurai-Ramnad was selected. The learned counsel appearing for the petitioner took me through the averments set out in the affidavit filed in support of the writ petition as well as the typed set of papers.

3. His pointed contention is that the procedure set out in the constitution of CSI was not adhered to. He would also state that the election for electing the shortlisted candidates was vitiated by a number of irregularities. His primary grievance appears to be that when these complaints were lodged before the reverend moderator, he did not even bother to look into the same. Instead, they went ahead with the process of selecting the bishop from among the shortlisted candidates. The learned counsel relied on the decisions reported in **(2005) 4 SCC 649 (Zee Telefilms Ltd Vs. Union of India)**, **(2014) 3 SCC 502 (Dipak Babaria Vs. State of Gujarat)** and **2016 (1) CTC 240 (Dr.Janet Jeyapaul Vs.**



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SRM University) for contending that this writ petition is very much maintainable, even though it is in respect of a diocesan election. He placed reliance on the order dated 05.08.2019 rendered by a learned Judge of this Court in W.P.(MD)Nos.21134 of 2017 etc. batch dated 05.08.2019 (*Tirunelveli Diocese Trust Association Vs. R.Jayakumar Thoms Jayaraj @ R.Jeyakumar Jayaraj*), which concerned the affairs of the Tirunelveli diocese. He pointed out that the order passed by the learned single Judge was eventually confirmed by the Hon'ble Division Bench vide order dated 25.02.2020 in W.A.(MD)Nos. 878 of 2019 (*R.Jeyakumar Jayaraj Vs. The Deputy Inspector General of Police*).

4. I am unable to entertain the writ petition primarily because disputed questions of fact have arisen for consideration.

5. Both the learned Senior Counsel appearing for the contesting private respondents pointed out that civil suits have already been filed questioning the impugned election. They pointed out that in O.S.No.51 of 2022 on the file of the District Munsif Court, Kodaikanal, interim order was granted and the same was stayed by this Court in C.R.P.(MD)No.1427 of 2022. Even while questioning the very maintainability of the writ petition, both the learned senior



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counsel denied the veracity of each and every factual allegation made by the learned counsel appearing for the writ petitioner.

6. Since the issues raised before this Court have already been raised in as many as three civil suits, it would not be proper for this Court to entertain the writ petition. I cannot lose sight of the fact that the Division Bench of this Court in the decision reported in **2014-3-L.W.108 (S.D.K.Rajan Vs. Jeddiya Sathya @ Sathya)** had held that CSI Thoothukudi-Nazareth Diocese is not amenable to the jurisdiction of this Court under Article 226 of the Constitution and that election to the said diocese can at the most be the subject matter of a civil suit and not a writ petition under Article 226 of the Constitution.

7. Of-course, the learned counsel appearing for the petitioner would rely on some subsequent decisions of the Hon'ble Supreme court to contend that this Court can very well consider the issue raised in the writ petition. I do not want to go into the issue of maintainability. I would rather rest my decision on the ground that since disputed questions of fact have been thrown up for consideration, it is only the jurisdictional civil Court that would be competent to decide the matter. The issues raised by the writ petitioner require evidence to be adduced. Since such a course of action is not possible to be adopted in



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these proceedings, I decline to entertain the writ petition. At the same time, to address the concerns raised by the writ petitioner, I withdraw O.S.No.51 of 2022 from the file of the District Munsif Court, Kodaikanal & O.S.Nos.390 & 440 of 2022 from the file of the Additional District Munsif, Madurai Town and transfer them to the file of the Principal District Judge, Madurai. The learned Principal District Judge, Madurai is requested to dispose of the transferred suits ie., O.S.Nos.51, 390 & 440 of 2022 on merits and in accordance with law within a period of six months after they are received. The petitioner is given liberty to institute a fresh suit on the same cause of action before the learned Principal District Judge, Madurai. Such a suit will be numbered without any delay and taken up along with the other suits and disposed of on merits and in accordance with law.

8. The Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

29.07.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To

- 1.The Director of Collegiate Education
9th Floor, EVK Sampath Maligai,
DRI Campus, College Road, Nungambakkam,
Chennai-600006.
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