



W.P.(MD)No.27498 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.27498 of 2022

and

W.M.P(MD)No.21596 of 2022

1.A.Subash

2.S.Mamallan

3.Christopher Jeyakumar

... Petitioners

Vs

1.The Registrar of Companies,
2nd Floor, Shastri Bhavan,
26, Haddows Road, Chennai – 6.

2.Church of South India Trust Association,
Represented by the General Secretary,
No.5, Whites Road, Royapettah,
Chennai – 14.

3.Church of South India,
Represented by Its Moderator,
No.5, Whites Road, Royapettah, Chennai – 14.

4.CSI Thoothukudi Nazareth Diocese,
Represented by
The Vice Chairman,
Calwell School Campus,
Thoothukudi.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the fourth respondent from preventing the respective petitioners from participating in the Executive Committee Meeting and Diocesan Council Meeting hereafter including the Diocesan Council Meeting to be held for the election of the delegates to the CSI SYNOD.

For Petitioners : Mr.T.A.Ebenezer

For Respondents : Mr.N.Dilip Kumar for R.4

Notice Dispensed With for R.1 to R.3

ORDER

Heard the learned counsel appearing for the writ petitioners and the learned counsel appearing for the fourth respondent. Considering the nature of relief to be granted, issuance of notice to the respondents 1 to 3 is dispensed with.

2. The petitioners herein are the members of Diocesan Council / Diocesan Executive Committee. The meeting of the Diocesan Council is to take place tomorrow (06.12.2022). Apprehending that the fourth respondent may prevent them from participating in the said meeting, this writ petition has been filed.

3. The learned counsel appearing for the petitioners submitted that since they had taken legal recourse to avail certain remedies, they are not going to be



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allowed to participate in the proposed meeting to be held tomorrow (06.12.2022). The learned counsel drew my attention to the interim order of stay granted by the Hon'ble First Bench vide order dated 03.11.2022 in W.M.P(MD)No.19070 of 2022 in W.P(MD)No.24960 of 2022. It appears that the CSI Management had issued circular forbearing its members from approaching the Courts of law in the first instance. The said order had been stayed by the Hon'ble First Bench. The petitioners' counsel would argue that in view of the said order, the petitioners cannot be prevented from participating in the proposed meeting.

4.I made it clear to the learned counsel for the petitioner that if the CSI Management violates the interim order passed by the Hon'ble First Bench, it is certainly open to the petitioners to file contempt petition. Even if they are not parties to the said writ proceedings, the benefit of the order passed by the Hon'ble First Bench can be availed by any member.

5.At this stage, the learned counsel for the fourth respondent clarified that if at all any adverse action is to be taken against the petitioner, it would not be on the strength of the circular dated 16.09.2022 which is the subject matter of W.P(MD)No.24960 of 2022.



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6. These are matters in which the writ Court will not be in a position to grant proper relief. In the very nature of things, disputed facts are involved. It is true that CSI management is running hundreds of Educational Institutions and Orphanages which are receiving aid from the Government. Though it is discharging public duties, the election in question or meeting cannot be said to be in discharge of such public functions. The petitioners will have to move only the jurisdictional Civil Court for relief. The writ petition is not maintainable. At the same time, I must address the concerns expressed by the learned counsel for the petitioner. He would argue that even if the suit questioning the validity of an election is filed, it will take years and it will be eventually dismissed as infructuous. According to him if effective remedy is not given in time, the entire exercise becomes futile. I therefore issue the following directions :

1. If the petitioners file any civil suit, advance notice will be given by the petitioners to the fourth respondent and the suit will be numbered by the next day.
2. Any Interlocutory Applications that may be filed by the petitioner will be disposed of on merits and in accordance with law within a period of two weeks. If the suit itself is likely to become infructuous within a given



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time, the jurisdictional Court will ensure that the suit is disposed of well before the said date or within a period of six months, whichever is earlier.

At this stage, the learned counsel appearing for the petitioner submitted that the petitioners have not been allowed to enter and allowed to worship in the respective churches. The learned counsel for the fourth respondent made it absolutely clear that the petitioners are welcome and that at no point of time, the petitioners were stopped and also submitted that they will never be stopped even in future also. This undertaking of the learned counsel for the fourth respondent is also recorded.

7.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

05.12.2022

Index : Yes / No
Internet : Yes/ No
mga

Note: Issue Order copy on 05.12.2022.



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G.R.SWAMINATHAN, J.

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