



WEB COPY



W.P.No.1638 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.08.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.1638 of 2023

D.Devasahayam

... Petitioner

Vs

- 1.The Regional Director
Southern Region
Ministry of Corporate Affairs
Block No.6, B Wing
5th Floor, Shastri Bhavan
26, Haddows Road
Chennai - 600 006.
- 2.The Registrar of Companies
Ministry of Corporate Affairs
Block No.6, B Wing
5th Floor, Shastri Bhavan
26, Haddows Road
Chennai - 600 006.
- 3.Church of South India Trust Association
CIN No.U93090TN1947NPL000346
No.5, Whites Road
Royapettah, Chennai - 600 014.
- 4.The Church of South India
Represented by its Moderator
No.5, Whites Road
Royapettah, Chennai - 600 014.

... Respondents



W.P.No.1638 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 to initiate action against the third respondent for making amendments raising the retirement age of Bishops and Moderator from 67 years to 70 years by considering and disposing the petitioner's complaint dated 2.1.2023, within a stipulated time.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.M.Arvind Kumar
Senior Panel Counsel for R1 & R2

Mr.V.Prakash, Senior Counsel
Assisted by Mr.Adrian D.Rozario
for R3 & R4

COMMON ORDER

The petitioner herein challenges certain decisions which according to him, was purported to have been taken by the third respondent, by which it has amended the retirement age of Bishops and Moderators from 67 years to 70 years, and required the respondents 1 and 2 to register his complaint dated 02.01.2023, on the ground that these amendments were made by the third respondent vide its Memorandum of Articles of Association, without the sanction of the Registrar of Companies.



W.P.No.1638 of 2023

2. The learned counsel appearing for the respondents 3 and 4 made a statement that the third respondent is a company and it is registered as a charitable company under the relevant provisions of Companies Act, and it only holds the property of Church of South India, the fourth respondent, since the latter is an unregistered association of persons.

3. The idea is unlike an unregistered association of persons, holding and managing the properties, third respondent is a company, which in law, can hold and deal with the property. While so, it is the fourth respondent which amended its by-laws and increased the age of Bishop and Moderator and also the clergymen. This is in challenge in multiple proceedings including C.S.No.45 of 2022, C.S.No.274 of 2022 and C.S.No.7 of 2023 among others.

4. This Court considers that the petitioner appeared to have misconceived the status of respondents 3 and 4 in law. What the fourth respondent has done cannot be telescoped into the third respondent. It may be that some of those who manned the third respondent may either by office or otherwise, been in or associated with the Board of the third respondent, but that does not imply that they share identical legal character.



W.P.No.1638 of 2023

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5. Inasmuch as amendment to the by-law of the fourth respondent is involved in certain other litigations catalogued above, the petitioner if at all interested, he may have to work out his remedy in any of the pending suits. Turning to the present case, this Court considers that nothing this Court can do to direct the respondents 1 and 2 to investigate.

6. In the result, this writ petition is dismissed. No costs.

23.08.2023

Index : Yes / No

Speaking order / Non-speaking order
ds



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N.SESHASAYEE.J.,

ds

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