IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.26497 of 2018

E.Prem Kumar ...Petitioner

Vs.

1. The Secretary to the Government of India,
Ministry of Home Affairs,
North Block, Cabinet Secretariat,
Raisina Hill, New Delhi - 110 011.

2. The Under Secretary to the Government of India,
Ministry of Home Affairs,
Foreigners Division (FCRA WING),
Major Dhyan Chand National Stadium,
Near Pragati Maidan, New Delhi - 110 001.

3. The Director,
Intelligence Bureau,
35 Sardar Patel Marg,
Chanakyapuri, New Delhi - 110 021.

4. The Central Vigilance Commission,
Satarkata Bhavan, 'A' Block,
GPO Complex, INA,
New Delhi - 110 023.

5. The Chairperson,
Central Board of Direct Taxes,

9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi - 110 003.

6. The Chief Commissioners of Income-Tax,
121, M.G.Road, Nungambakkam,
Chennai - 600 034.

7. The Secretary,
Church of South India Trust Association,
No.5, Whites Road, Royapettah,
Chennai - 600 014. ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 6 to dispose of Petitioner's representation dated 05.03.2018 with regard to the Special Audit Report which was submitted to the 6th respondent in relating to various violations committed under the Income Tax Act and FCRA Act by the 7th respondent.

For Petitioner : Mr.M.Ramasamy

For Respondents : Mr.T.L.Thirumalaisamy,CGSC, for R1 - R4
: M/s.Hema Muralikrishnan, for R5 & R6
: Mr.V.Selvaraj
for Mr.S.Bharathirajan, for R7

<u>O R D E R</u>

The petitioner has filed this Writ petition seeking issuance of a Writ of Mandamus to direct the respondents 1 to 6 to dispose of the petitioner's representation dated 05.03.2018 as early as possible.

2. The case of the petitioner is that the petitioner is a voting member of Slater Nagar Pastorate, Perundurai, CSI Coimbatore diocese, which is one of the 24 Constituent Dioceses of CSI. The 7th respondent Association was registered under the Indian Companies Act as non-profit public, religious and charitable trust. The petitioner herein made a representation dated 05.03.2018 before the respondents 1 to 6 with regard to the various violations committed by the 7th respondent in Special Audit Report of the Income Tax Department. Upon receipt of the said representation, though the 1st respondent has forwarded the same to the Income Tax Department, however, till date, no action has been initiated as against the 7th respondent. Hence, this Writ petition.

3. Learned counsel for the petitioner submitted that, though the Special Audit Report from the Income Tax dated 29.09.2014 & 26.09.2015 has observed very clearly that the 7th respondent has violated several provisions of the FCRA Act, however, till date no action has been initiated as against the 7th respondent. Hence, it would suffice if this Court issues direction to the respondents 1 to 6 to take action against the 7th respondent on the basis of the petitioner's representation dated 05.03.2018.

4. Learned Central Government Standing Counsel appearing for the respondents 1 to 4 submitted that, the petitioner's representation was already forwarded to the 6th respondent, however, the 6th respondent has not sent any remarks, enabling the 1st respondent to pass appropriate orders.

5. Learned counsel appearing for the 7th respondent submitted that, with regard to the Special Audit Report of the Income Tax Department, Serious Fraud investigation proceedings have been initiated, against which, the 7th respondent filed a Writ petition in W.P.No.25236 of 2018 and this Court, vide order dated 01.02.2021 issued necessary direction to conclude the investigation proceedings, after affording opportunity to the 7th respondent. While so, filing the present Writ petition for the very same relief is not sustainable. Hence, he prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the materials available on record.

7. On a perusal of the materials placed on record, this Court is of the

view that, expressing any opinion on the merits of the case will adversely affect the interest of both petitioner and the 7th respondent. Further, the 1st respondent has already entertained the petitioner's representation and forwarded the same to the 6th respondent.

8. In view of the above facts, this Court, without expressing any opinion on the merits of the case, directs the 2nd respondent to consider the petitioner's representation dated 05.03.2018 on merits and in accordance with law and pass appropriate orders, within a period of twelve weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner and the 7th respondent.

9. With the above observational and directions, this Writ petition stands disposed of. No costs.

15.03.2023

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Speaking Order : Yes/ No
Index : Yes/ No

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M.DHANDAPANI., J.

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