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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.07.2023

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP.(MD).No.27321 of 2022

Tirunelveli Diocesan Trust Association,
Represented by its Treasurer,
Mr.C.Manohar Thangaraj,
CSI Tirunelveli Diocese,
Diocesan Office,
North High Ground Road,
Palayamkottai, Tirunelveli District.

... Petitioner

Vs.

Branch Manager,
HDFC Bank,
No.341/2, North Bye Pass Road,
BGS Towers, Opp to Galaxy Hospital,
Vannarapettai, Tirunelveli.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, to direct the respondent to de-freeze the bank account in A/c.No.50100205655470 maintained in the respondent bank, which stands in the mane of petitioner and activate the same based on the letter vide ADM:267/2021-2022 dated 23.12.2021 within the time frame as fixed by this Court.



For Petitioner : M/s.P.P.Alwin Balan
For Respondent : Mr.C.Mohan for M/s. King & Patridge

ORDER

The prayer made in this Writ Petition is for issuance of a writ of Mandamus, to direct the respondent to de-freeze the bank account of the petitioner in A/c.No.50100205655470 maintained in the respondent bank, and activate the same based on the letter in ADM:267/2021-2022 dated 23.12.2021 within a time frame to be stipulated by this Court.

2.The brief facts of the case would run thus:

2.1. The Tirunelveli Diocesan Trust Association (in short, "TDTA") is a body incorporated under the Indian Companies Act, 1913 and the very purpose of its incorporation is to aid and manage the institutions, properties and income of the Diocese. Apart from religious activities, the Diocese is running Educational Institutions including Government Aided Colleges, Higher Secondary Schools, Teacher Training Institutions and Colleges, besides Health Care Institutions, throughout the District of Tirunelveli and Tenkasi. The TDTA is governed by its Memorandum and holds the properties of the Diocese as its Trustee. The Memorandum authorizes the Bishop of the Tirunelveli Diocese and the Treasurer of the Diocesan Council as the Ex-officio



members and empowers the Bishop as the Chairman of TDTA.

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2.2. While so, in the year 2017, rival claims over the administration and management of the Diocese as well as TDTA paved way for various legal litigations. Due to the same, an account was opened by the petitioner on 05.06.2017 with the respondent bank vide Account No.50100205655470 in the name of M/s.TDTA General Church Fund as the account holder. The account operation was objected by the then Bishop Rt.Rev.Dr.J.J.Christdoss. Hence, the respondent requested the petitioner to execute a deed of indemnity in favour of the bank with a promise to do all transactions. Accordingly, the petitioner executed a deed of indemnity on 17.06.2017, made deposits and had transactions with the respondent bank from 21.06.2017 to 21.09.2017. However, the respondent withheld the account citing the said objection given by the then bishop and thereafter, denied to honour the cheques issued by the petitioner and made it as frozen account.

2.3. In the mean while, this court intervened and ultimately, passed an order dated 05.08.2019 in WP(MD)No.21134 of 2017 etc. batch which was upheld by the Division Bench in WA(MD)No.878 of 2020 dated 25.02.2020, thereby appointing the Administrators to guide, supervise and advise the diocese and TDTA. The Administrators were



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further directed to conduct elections to the diocese and elect new office bearers and the new Bishop of the diocese. Accordingly, election was conducted and the petitioner was elected as Honorary Treasurer of the Tirunelveli Diocese and assumed charge on 13.04.2021. The authorization letter authorizing him as Treasurer along with specimen signature was sent to the respondent bank by the Moderators Commissary through his communication dated 20.04.2021. Thereafter, the petitioner issued a letter to the respondent bank with a request to close the account and issue a cheque in the name of the TDTA General Church Fund, and the same was not considered. Again, he sent a letter dated 29.11.2021 along with the orders passed by this court in the writ petitions as well as in the writ appeals and the final report submitted by the Administrators with a request to de-freeze the account. However, the respondent, through its reply dated 07.12.2021 sought for the final order of this court. Hence, the petitioner sent another letter vide ADM: 267/2021-2022 dated 23.12.2021 to the respondent requesting to de-freeze and activate the bank account. Even thereafter, nothing moved. Therefore, this writ petition.



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3.The learned counsel appearing for the petitioner submitted that without any authority or order, the respondent bank unilaterally froze the bank account of the petitioner. Adding further, the learned counsel submitted that by proceedings in No.B/5b (12/2021) dated 20.04.2021, one C.Manohar Thangaraj, has been elected as Honorary Treasurer of the Diocese of Tirunelveli from 13.04.2021 to sign all cheques and other instruments either with Mr.D.Jayasingh (Lay Secretary) or with Rev.D.Baskar Kanagaraj (Clerical Secretary) to operate the bank account of the petitioner bearing No.50100205655470. Though the petitioner produced a copy of the said proceedings and the orders of this court as well as the report filed by the Administrators, the respondent failed to consider the same and de-freeze the bank account, till date, which cause serious prejudice and hardship to the petitioner. Therefore, the learned counsel prayed for appropriate direction to the respondent in this regard.

4.On the other hand, the learned counsel appearing for the respondent relied on a decision of the Hon'ble Supreme Court in ***Federal Bank Ltd v. Sagar Thomas and others [(2003) 10 SCC 733]***, wherein it was held that '*a private company carrying on banking business as a scheduled bank, cannot be termed as an institution or a company*



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carrying on any statutory or public duty; and a private body or a person may be amenable to writ jurisdiction only where it may become necessary to compel such body or association to enforce any statutory obligations or such obligations of public nature casting positive obligation upon it'; and submitted that this writ petition is not maintainable. However, the learned counsel submitted that after prolonged litigation, the newly elected body has taken over the administration and hence, necessary documents are required for considering the claim of the petitioner.

5. In reply, the learned counsel for the petitioner has agreed to submit the required documents called for by the respondent bank.

6. Considering the facts and circumstances of the case and as agreed by the learned counsel appearing for both sides, the petitioner is directed to submit all the required documents and materials including the proceedings dated 20.04.2021 of the Moderator's Commissary, within a period of two weeks from the date of receipt of a copy of this order. On such submission, the respondent bank shall consider the same and take necessary action, within a period of four weeks thereafter.



7. Accordingly, this writ petition stands disposed of. No costs.

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Index : Yes/No
Internet : Yes/No
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