



W.A.(MD)Nos.1059 to 1062, 1182 to 1184, 1192 to
1194 1198, 1179 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

**W.A.(MD)Nos.1059 to 1062, 1182 to 1184,
1192 to 1194, 1198, 1179 of 2024**
and

**C.M.P(mD)Nos. 9176, 9211, 9241, 9144, 9145, 9209,
9135, 9091, 7911, 7914, 7920 and 7933 of 2024**

W.A(MD)No.1059 of 2024:

Rev.V.M.S.Tamil Selvan

... Appellant/6th Respondent

vs.

1. S.Mamallan

2.The Revenue Divisional Officer,
Kovilpatti,
Tuticorin District.

3.The Tahsildar,
Eral Taluk, Eral,
Tuticorin District.

4.The Tahsildar,
Ottapidaram Taluk, Ottapidaram,
Tuticorin District.



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5.The CSI Thoothukudi Nazareth Diocese,
Rep. by its Bishop,
Caldwell Higher Secondary School Campus,
Beach Road, Thoothukudi – 628 01

6.Rt.Rev.Dr.Timothy Ravinder
Moderator Commissary,
Caldwell Hr.Sec.School Campus,
No.100, Beach Road,
Thoothukudi – 628 001.

7.Rev.M.P.Immanuel Vonstock
Clerical Secretary,
CSI Thoothukudi Nazareth Diocese,
Caldwell Hr.Sec.School Campus,
No.100, Beach Road,
Thoothukudi – 628 001.

8.D.Neeger Prince Giftson
Lay Secretary,
CSI Thoothukudi Nazareth Diocese,
Caldwell Hr.Sec.School Campus,
No.100, Beach Road,
Thoothukudi 628 001.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent challenging
the order dated 12.06.2024 made in W.P.(MD)No.8191 of 2024.



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In W.A(MD)No.1059 of 2024:

For Appellant : Mr.A.K.Shriram
Senior Counsel
for Mr.Mr.A.M.Packianathan Easter

For R1 : Mr.V.Raghavachari
Senior Counsel
for Mr.J.Kingsly Solomon
Mr.S.Vidyasagar

For R2 - R4 : Mr.SRA.Ramachandran
Additional Government Pleader

For R7 : Mr.K.Sathishkumar

For R8 : Mr.N.Dilip Kumar

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

Challenge in all these appeals is to a common order dated 12.06.2024 made in W.P(MD)Nos.7357, 7358, 8191 and 9223 of 2024. The prayers in all these writ petitions relate to a dispute over the management of the Tuticorin-Nazareth Diocese of the Church of South India. The petitioner in W.P(MD)No.7357 of 2024 had sought for a prayer to declare certain resolutions of the Diocese and the



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council meetings as invalid and for restoration of his voting rights. Similar is the prayer in the other petitions filed by various individuals.

2. The writ court has allowed the writ petitions. The issue relating to the maintainability of the writ petitions against the Church of South India or its union came up for consideration before the Hon'ble Full Bench of this Court to which one of us (Justice Mr.R.Subramanian) was a party and the Full Bench had opined as follows:

24. To summarize the issue now in reference, it can be stated that:

(i) the respondents 1 and 2 are running 2300 schools, 150 colleges and 104 hospitals in India. Therefore, the public duty that they discharge falls within the contours of Article 21 and 21A of the Constitution of India.

(ii) The Courts have emphasized that educational institutions which nurture and develop young minds should ensure quality education and high standards of integrity to the persons passing through their institutes. Therefore, persons administering and



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managing these institutions should be above board.

(iii) Since the educational institutions run by respondents 1 and 2, both aided as well as unaided, are bound by statutory regulations of varying degrees, they are amenable to the writ jurisdiction. Any act of the management who are in administration of these institutes / hospitals likely to bring down the standards of both education as well as medical services can be challenged by any person invoking the rights under Article 226 and in that sense, respondents 1 and 2 would fall within the category of any person or authority as described under Article 226 of the Constitution of India.

(iv) The educational agency of the institutions run by the first respondent is the Synod and the Constitution of the Synod has a direct impact on the quality and standards of the educational institutions/hospitals. Therefore, any act impairing / impacting the process of electing the Synod would have a direct impact on the quality and standard of these institutions/hospitals.

(v) Apart from running educational institutions, respondents 1



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and 2 are also maintaining churches and discharging functions of the clergy. These functions are outside the scope of judicial review under Article 226 of the Constitution of India.

(vi) A person aggrieved by the acts of respondents 1 and 2 relating to the above can definitely move this Court under Article 226 of the Constitution of India to ensure the due compliance of this public duty.

3. A perusal of the above dictum of the Full Bench makes it clear that only when the issue in a writ petition relates to the public functions, namely, running of schools and hospitals by the Church of South India, a writ petition will lie and not otherwise. We have taken a similar view in W.A(MD)No.1345 of 2024 in our order dated 08.08.2024. The issue in these writ petitions did not relate to any public function, but purely relates to the management of the Church. It is also seen that three of the petitioners had filed a suit in O.S.No.44 of 2023 before the District Munsif Court, Tuticorin, seeking the relief that they have sought for in these writ petitions. Hence, we are unable to subscribe to the order of the learned single Judge, where the writ petitions were entertained and the writ court



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reviewed the removal of the petitioner as a member of the Church and pronounced upon under Article 226 of the Constitution of India. The decision of the Full Bench, though relied upon, is actually against the order passed in the writ petitions and hence, the writ appeals stand allowed and the writ petitions stand dismissed as not maintainable. We make it clear that the dismissal of the writ petitions will not in any way affect the rights of the parties in the civil suit or any other proceedings that is pending before any court. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.M., J.) (S.M., J.)
23.09.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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Note: Registry is directed to upload this judgment in the official web-site on 24.09.2024 itself.



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