



W.P(MD)No.14674 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14674 of 2024

and

W.M.P.(MD)Nos.12873, 12875 & 12877 of 2024

S.Byju Nizeth Paaul

... Petitioner

Vs.

- 1.Church of South India,
Synod,
Rep. by its General Secretary,
No.5, Whites Road,
Royapettah,
Chennai-600 0014.
- 2.Church of South India Trust Association,
No.5, Whites Road,
Royapettah,
Chennai-600 0014.
- 3.The Bishop,
Church of South India,
Kanyakumari Diocese,
CSI Diocesan Office,
No.71-A, Dennis Street,
Nagercoil-629 001,
Kanyakumari District.
- 4.The Vice President,
C.S.I.Kanyakumari Diocese,
No.71-A, Dennis Street,
Nagercoil-629 001, Kanyakumari District.



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5.The Treasurer,
C.S.I.Kanyakumari Diocese,
No.71-A, Dennis Street,
Nagercoil-629 001,
Kanyakumari District.

6.The Manager,
Bank of Baroda,
Nagercoil.

7.The Manager,
Canara Bank,
Nagercoil.

8.The Manager,
Federal Bank,
Nagercoil.

9.The Manager,
IDBI Bank,
Vadasery Nagercoil.

10.The Manager,
Indian Bank,
Nagercoil.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication orders issued by the 3rd respondent vide Ref Nos.B/1015/2024, B/1017/2024, B/1029/2024, B/1034/2024, dated 01.07.2024 to the 6th to 10th respondents and to quash the same and consequently, directing the respondents 6th to 10th to accept the double signatories (Secretary and Treasurer) to operate the bank accounts maintained by the diocese in the 6th to 10th respondents bank.



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For Petitioner : Mr.K.Govindarajan
for Mr.M.Karuppasamy
For Respondents : Mr.Meenakshi Sundaram
Senior Counsel for Mr.F.Deepak for R3
: Mr.S.C.Herold Singh for R4
: Mr.N.Dilip Kumar for R5
: Mr.C.Karthik for R7 to R10

ORDER

Heard the learned counsel for the petitioner, learned senior counsel assisted by the learned counsel for R3, learned counsel for R4, learned counsel for R5 and the learned counsel for R7 to R10.

2. The petitioner is the secretary of C.S.I. Kanyakumari Diocese. He challenges the impugned communication of the third respondent bishop authorizing diocesan treasurer to exclusively operate the bank account of the diocese.

3. The learned counsel appearing for the petitioner drew my attention to the relevant provisions of the constitution of C.S.I. Kanyakumari Diocese as well as the Constitution of the Church of South India, 2016. He pointed out that on 17.12.2018, a resolution was passed by the then executive committee



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providing for joint operation of the bank account by the treasurer as well as the secretary of the executive committee. He pointed out that the said resolution was accepted by the bishop and the system of joint operation has been in place for the last six years with a exception of a break of 8 months in the intervening period. The learned counsel for the petitioner pointed out that there is no justification for going back to the pre 2018 practice. He called upon this Court to set aside the impugned order and allow the writ petition as prayed for.

4. The learned counsel appearing for the treasurer as well as the learned senior counsel appearing for the Rev.Bishop submitted that the impugned order is in consonance with the Constitution of the C.S.I. Kanyakumari Diocese and therefore, interference is not warranted. They pressed for dismissal of the writ petition.

5. The learned counsel appearing for the fourth respondent sailed with the petitioner.

6. I carefully considered the rival contentions and went through the materials on record.

7. It is true that on 17.12.2018, the then executive committee passed the following resolution:-



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“K.K.6707 Taking charge as Treasurer:

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The Moderator's Commissary pointed out that in the CSI Kanyakumari Diocese, the practice was that the Treasurer of the Diocese was duly authorized to operate the bank accounts on his own. But, as per the requirement under the Constitution of the Synod and as stipulate by the Companies Act, two persons have to operate the accounts jointly. It was mandatory that the Treasurer has to be one of the signatories. Therefore, he proposed that the accounts be operated jointly by the Treasurer and the Secretary of the Diocese.

It was unanimously resolved to authorize the Treasurer Mr.N.P.Thankaraj to operate the accounts of the Diocese, jointly with the Secretary, Er.S.ByjuNizeh Paaul.”

This resolution was acted upon by the Moderator's Commissary by issuing communication dated 17.12.2018. This practice of joint operation of the bank account of the diocese by the treasurer and the secretary of the executive committee held good for three years. During the period from 30.08.2021 till 07.04.2022, the earlier position was restored and the treasurer alone was operating the bank account. On 08.04.2022, the financial administrator of the diocese and the administrative secretary were authorised to jointly operate the diocesan bank account. Following the diocesan election that were concluded on 15.06.2024, the Rev.bishop issued the communication dated 01.07.2024 conferring the treasurer with the right to operate the bank account exclusively. It is this communication that is put to challenge in this writ petition.



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8. The learned counsel appearing for the petitioner and the fourth respondent drew my attention to clause 63.6A of the Constitution of C.S.I. Kanyakumari Diocese. 63.6A reads as follows:-

“63.6 Functions of the Treasurer:-

A. The Treasurer shall receive the grants made by the Synod and the income available from various Boards and Committee and shall disburse them as resolved by the Executive Committee.”

9. When this writ petition was listed for admission on 03.07.2024, I had taken the view that the issue has to be decided by the executive committee of CSI Kanyakumari Diocese and that the executive committee will take a call in the matter in its meeting to be held on 04.07.2024. On 04.07.2024, the following resolution was passed:-

“ Signatories for the operation of bank accounts of the Diocese:-

It was unanimously resolved to accept the provision of the constitution of the Church of South India, Chapter IX.4.i, Page 156, which reads “He/she shall operate the bank accounts of the Synod jointly with the General Secretary or persons according to the decision of the Synod Executive Committee”. Accordingly, “The Treasurer shall operate the bank accounts of the Diocese jointly with the Secretary or person according to the decision of the Executive Committee” and the Constitution of the Kanyakumari Diocese will be amended by the Diocesan Council.”



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10. The argument of the learned counsel for the petitioner is that clause 63.6A read with the aforesaid resolution dated 04.07.2024 can lead to only one consequence, namely, quashing the impugned communication. It is true that I had indicated in the interim order that the executive committee will take a call in the matter. I may not have been entirely right. The activities of the CSI, Kanyakumari Diocese will have to be governed by the provisions of its Constitution. As rightly pointed out by the learned senior counsel appearing for the Rev.bishop, Clause 63.7 does not confer any financial power or power to operate the bank account on the secretary of the executive committee. That is why, the learned counsel appearing for the petitioner falls back on Clause 4 in Chapter IX of CSI Constitution dealing with the power of the treasurer. The said provision reads as follows:-

(4) Treasurer

(I) He/she operate the bank accounts of the Synod jointly with the General Secretary or persons according to the decision of the Synod Executive Committee.

11. My attention is also drawn to Clause 4 of the Constitution of C.S.I. Kanyakumari Diocese. It reads as follows:-

“4.Relation of Constitution of Church of South India

Nothing in this Constitution shall be of any effect which is not in agreement with the Constitution of the Church of South India, of which agreement, the Synod of the Church of the South India shall be the sole Judge.”



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12. The contention of the learned counsel is that when there is repugnancy between two Constitutions, CSI Constitution will prevail over the Kanyakumari Diocese Constitution. He argues that when as per the CSI Constitution, the treasurer has to operate the bank account jointly with the Secretary, as per the Constitution of the CSI Kanyakumari Diocese, the treasurer also will have to operate the bank account jointly with the Secretary. The above argument suffers from one basic flaw. As rightly pointed out by the learned counsel for Rev.bishop and the learned counsel appearing for the Treasurer, Chapter IX of the CSI Constitution deals with Synod and its office bearers. The provision referred to by the learned counsel for the petitioner and the learned counsel for the fourth respondent specifically refers to the operation of the bank account of the Synod. If the CSI constitution states that the bank account of the various dioceses should be jointly operated by the concerned treasurer and the secretary, then in the event, C.S.I. Kanyakumari Diocese Constitution can be said to fall foul of the Constitution of CSI. Such is not the case here.

13. The executive committee in its meeting held on 04.07.2024 has proposed an amendment to the Constitution of C.S.I. Kanyakumari Diocese. The executive committee is entitled to propose such amendment. It is the



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diocesan council that has to take a call. Till the diocesan council takes a call, the bishop is clearly bound by the provisions of the C.S.I. Kanyakumari Diocese. When the Kanyakumari Diocesan does not provide a joint operation, I cannot by any stretch of imagination hold that the impugned communication is in breach of the same. I therefore decline to interfere with the impugned communication. I however will have to make two observations. The bank account of public organizations particularly the Trusts will have to be jointly operated. It is not appropriate to vest the power of operating the bank account in a single individual. That can always lead to irregularities or misappropriation. In this writ petition, I am only making an observation as to what is best practice. Kanyakumari Diocesan will do well to conform this best practice. That is why, the executive committee has made such a recommendation. But then, it is the diocesan council which has to take the final call. While the treasurer can operate the bank account exclusively, the disbursement of the funds will have to be as per the resolution passed by the executive committee. The treasurer cannot act in breach of the executive committee's direction as mandated in Clause 63.6A of the C.S.I. Kanyakumari Diocese constitution.



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G.R.SWAMINATHAN, J.

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14. With these observations, the Writ Petition is dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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