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W.P.(MD) No.15554 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD) No.15554 of 2024

and

W.M.P.(MD) Nos.13606 & 13607 of 2024

Rev.Dr.Y.John Kutty

... Petitioner

-vs-

1.The District Collector
Kanyakumari District
at Nagercoil

2.The Tahsildar
Thiruvattar Taluk
Kanyakumari District

3.The District Registrar
Registrar of Societies
Kanyakumari District
at Nagercoil

4.Rev.D.S.Laji Kumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned proceedings in Ref. No.206 dated 04.05.2024 issued by the fourth



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respondent and quash the same on the ground that the same is arbitrary, illegal and without any legal basis and consequently directing the respondents to allow the petitioner to continue as a Pastor in the Church of South India Assemblies of God Southern District, situated at Pallikuzhivilai, Attoor, Thiruvattar Taluk, Kanyakumari District, in the Church, within time frame stipulated by this Court.

For Petitioner : Mr.P.Krishnasamy

For Respondents : Mr.D.Gandhi Raj
Special Government Pleader for R1 to R3

ORDER

Mr.P.Gandhiraj, learned Special Government Pleader, takes notice for the respondents 1 to 3.

2. Since the writ petition is disposed of at the admission stage itself and in view of the nature of the order proposed to be passed, notice to the fourth respondent is dispensed with.

3. With the consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.



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4. This writ petition has been filed challenging the order, dated 04.05.2024, passed by the fourth respondent, transferring the petitioner from AG Church, Attoor, to Jehovah Salom AG Church, Shalompuram, Karumanoor, Alampara-629 170, and to direct the respondents to permit him to continue as Pastor in AG Church, Attoor.

5. The petitioner took charge as Pastor of Pallikuzhivilai, Attoor, AG Church, under South India Assemblies of God Southern District. While being so, by the impugned order, he was transferred to Jehovah Salom AG Church, as per the decision of the Southern District South India Assemblies of God Executive Committee held on 30.04.2024.

6. The Honourable Full Bench of this Court in ***D.Bright Joseph vs. Church of South India (CSI) and others***, reported in **2024 (2) CTC 369**, has categorically held that functions of maintaining Churches and functions of Clergy discharged by the Churches are not public functions and they are outside the scope of judicial review under Article 226 of the Constitution of India.



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7. It is seen that the Church involved in the case on hand is a Private Church and the functions of the petitioner and his consequential impugned transfer order is outside the scope of judicial review under Article 226 of the Constitution of India. Therefore, the above decision squarely applies to the case on hand. Hence, this writ petition is not maintainable and it is liable to be dismissed.

8. Accordingly, this writ petition is dismissed. However, liberty is given to the petitioner to approach the competent Civil Court for appropriate relief by filing appropriate application, in the manner known to law, if he is so advised. No costs. Consequently, connected miscellaneous petitions are closed.

07.11.2024

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

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