IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-07-2025

CORAM

THE HONOURABLE MRS JUSTICE J. NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A. No. 2151 of 2025
and C.M.P.No.16325 of 2025

A.Balsan
S/o. D.Arul Sundara Packiaraj, No. 16,
Jeeva Nagar, Erachakulam,
Kanyakumari District Thazhakudi Post,
629 901

Appellant(s)

Vs

1. The Registrar Of Societies
Central Chennai, Pycrofts Road,
Royapettah, Chennai 014

2.The India Evangelical Lutheran
Church
Rep by its General Treasurer cum
Secretary, No. 47, Eldams Road,
Teynampet, Chennai 018

Respondent(s)

PRAYER

The Writ Appeal filed under Clause 15 of the Letters Patent to set aside the Impugned Order passed by this Honble Court in W.P. No. 10567 of 2021 dated 26.03.2025.

For Appellant(s): Mr. S.I. Sharukumar

For Respondent(s): Mr. Mr. Stalin Abimanyu
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by J.NISHA BANU, J.)

This Writ Appeal impugns the order of the learned Single Judge dated 26.3.2025 passed in W.P.No.10567 of 2025.

2. The appellant herein is the writ petitioner. He filed the writ petition praying to quash the receipt dated 2.5.2024 issued by the respondents and to direct the first respondent to initiate appropriate proceedings against the erring persons alleging that he is a member of the Bethel Lutheran Church, Ganesapuram Pastorate Nagercoil, which is an integral part of Nagercoil Synod of the second respondent, registered with the first respondent. The second respondent has three Synods, namely, Ambur Synod, Nagercoil Synod and Trivandram Synod. The second respondent is acting as per the whims of the officer bearers who are engaged in the acts of dealing with the properties of the second respondent for their personal financial gain. When the appellant perused the annual accounts dated 27.9.2023, which was alleged to have been approved

and accepted in the General Body on 29.9.2023, the appellant found that the minutes of the meeting and the approved financial statement signed by the Auditor produced before the first respondent are *per se* fraudulent. It is also alleged that the actual financial statement signed by the Auditor is dated 31.10.2023 and not 27.9.2023 as claimed by the Society and the second respondent has tampered the material and sensitive documents and used the same before the public authority, which is punishable under law. The first respondent has accepted the accounts of the second respondent and also received the official fee of Rs.1800/- and issued receipt dated 2.5.2024. The issuance of receipt dated 2.5.2024 by the first respondent is the acceptance of the accounts and if the tampered and fabricated accounts are not dealt with as per law by the first respondent based on the appellant's complaint, then the office bearers of the second respondent would get along without their accounts being checked and the second respondent would be at loss and would be deprived of his right as member. Hence, the appellant has filed the writ petition with the prayer as stated above.

3. The learned Single Judge held that the appellant has not pointed out any loss to him or any prejudice to himself or the Church by virtue of filing one more statement with the date as 27.9.2023. While further holding that no further direction needs to be issued in the writ petition, the learned Single Judge has given liberty to the appellant if he is further aggrieved of any unlawful advantage that is gained by the parties, he can always agitate the same and

disposed of the writ petition. Challenging the same, the appellant has filed the present appeal.

4. The learned counsel for the appellant submitted that the learned Single Judge failed to consider the fact that the acceptance of the accounts of the second respondent for 2022-2023 by the first respondent by issuing the receipt dated 2.5.2024 is illegal and that the first respondent is enjoined by law to look into the authenticity of the documents produced and to act mechanically. He would submit that the original financial statement dated 31.10.2023 has been filed by the Auditor with the Institute of Chartered Accountants of India [ICAI] and the same is available in the website of ICAI wherein it has been stated that the date of signing the document is 31.10.2023. While being so, the statement could not have been approved in the meeting dated 29.9.2023 and, therefore, the same ought not to have been accepted by the first respondent. Despite bringing it to the notice of the first respondent by the appellant by way of representation on 27.1.2025 that there is a fraud in the admitted accounts, the first respondent has not acted upon the same. Thus, the learned counsel urged that when the above is the factual scenario, the learned Single Judge held that no wrongful gain was obtained by anybody through the filing of the tampered statement. Such conclusion arrived at by the learned Single Judge is not correct and, therefore, the impugned order is liable to be set aside.

5. The learned Additional Government Pleader for the first respondent submitted that there is error in the order of the learned Single Judge and this appeal has been filed with vague grounds. Thus, he prays for dismissal of the appeal.

6. We have considered the rival submissions and also perused the materials available on record.

7. The grievance of the appellant is that the second respondent appointed one Kanagaraj and Associates as Auditors and the said Auditors, after auditing the accounts, uploaded the audited statement in the website of the ICAI on 31.10.2023. However, the office bearers of the second respondent have produced a different audited statement dated 27.9.2023 and the same cannot be a correct statement, as the audited statement is dated only 31.10.2023.

8. Upon considering the rival submissions, the learned Single Judge held as under:-

> *"4.There is no change or tampering of any amount or any entry whatsoever. The entire accounts is submitted for a sum of Rs.12,18,30,937.48 which is reflected exactly in both the statements. Both the reports have been given only by Kanagaraj associates. What is pointed out is that when the approval meeting itself had taken place only on 29.09.2023, the auditors could not have given the statement on 27.09.2023*

and such a statement ought not to have been produced before the first respondent.

5.Be that as it may, for every wrongful act, Writ Petition cannot be entertained under Article 226 of the Constitution of India being the extraordinary remedy. When nothing further is averred in the affidavit filed in support of the Writ Petition that any false statement have been filed or that any wrongful gain has been obtained by anybody, for every wrong that is brought to the notice of the Court, Courts cannot keep on entertaining the Writ Petition under Article 226 of the Constitution of India. The petitioner has not pointed out any loss to him or any prejudice to himself or the Church, by virtue of filling (sic) one more statement with the date as 27.09.2023.

6.In the absence of any further averment as to any mala fide action or any unlawful advantage that is obtained by any person, no further direction needs be issued in this matter. It is made clear that if the petitioner is further aggrieved of any unlawful advantage that is gained by the parties, he can always agitate the said matter. With the liberty kept open to the petitioner, this Writ Petition stands disposed of. No costs."

9. The learned counsel for the appellant contended that the learned Single Judge did not countenance the fact that even on the face of the original statement of the Auditors of the second respondent, the financial statement is dated only 31.10.2023 and that fraud in any level and any circumstance not only maligns the provisions of law, but strikes at the root of the functioning a registered society. The learned counsel further contended that being a member of the Church, the appellant need not show that personally his right is infringed and it is suffice to show that indisputably a fraud has been played in the financial statement. The learned counsel also contended that the learned Single

Judge failed to see that the impugned receipt which was challenged in the writ petition has been issued based on a forged and tampered financial statement of the second respondent for the year 2022-2023 and the first respondent is a statutory authority coming within the purview of State defined under Article 12 of the Constitution of India and, therefore, the wrongful act of the first respondent ought to have been reviewed under Article 226 of the Constitution of India when the same was brought to the notice of the Court. Further, the language of Article 226 of the Constitution of India is very clear and does not require any loss or prejudice to be established for exercising such power for issuance of a writ.

10. As stated supra, the learned Single Judge, in the order under appeal, has clearly observed that in the absence of any averment as to any *mala fide* action or any unlawful advantage that is obtained by any person, no further direction needs be issued in this matter. The learned Single Judge also granted liberty to the appellant to agitate the matter, if he is aggrieved by any unlawful advantage that is gained by the parties.

11. Admittedly, the appellant has not pointed out any loss or prejudice to himself or the Church by virtue of filing the alleged forged and tampered financial statements. Further, as rightly observed by the learned Single Judge, every wrongful act, writ petition cannot be entertained under Article 226 of the Constitution of India.

12. The learned Single Judge, considering the given facts and circumstances of the case and also taking note of the power to issue writs under Article 226 of the Constitution of India, rightly disposed of the writ petition and granted liberty to the appellant. No valid grounds have been made by the appellant to interfere with the order of the learned Single Judge. The order of the learned Single Judge is well considered one and no need to interfere with the same. Resultantly, the writ appeal fails.

13. The writ appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(J.NISHA BANU J.) (M.JOTHIRAMAN J.)
15-07-2025

ASI

To

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Royapettah, Chennai 014

2.The General Treasurer cum Secretary,
India Evangelical Lutheran Church
No. 47, Eldams Road, Teynampet,
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