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W.P.(MD)Nos.17949 & 18256 of 2024
and W.M.P.(MD)No.15384 of 2024
and Cont.P.(MD)No.2108 of 2024

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N.SATHISH KUMAR.J,

W.P.(MD)No.17949 of 2024 has been filed challenging the proceedings of the 4th respondent Bishop-Chairman, dated 04.07.2024 staying the appointment of the petitioner as the Secretary-Correspondent of the 5th respondent College viz., Scott Christian College (Autonomous), Nagercoil, Kanyakumari District.

2. W.P.(MD)No.18256 of 2024 has been filed seeking for a direction to the respondents 2 and 3 viz., the Director of Collegiate Education, Chennai and the Regional Joint Director of Collegiate Education, Tirunelveli to consider the petitioner's representation dated 16.07.2024 and take appropriate action, ensuring Direct payment system through the office of the Regional Joint Director of Collegiate Education, Tirunelveli, for the payment of monthly salaries towards the employees

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of the 4th respondent College viz., Scott Christian College (Autonomous),
Nagercoil, Kanyakumari District receiving salary from the Government
Aid and to Act.

3. Contempt Petition in Cont.P.(MD)No.2108 of 2024 has been
filed alleging willfully disobeying the interim order passed by this Court
in W.P.(MD)No.17949 of 2024, dated 28.08.2024.

4. Since the issues involved in these matters are one and the
same, these matters are taken up and heard together.

5. When the Writ Petition in W.P.(MD)No.17949 of 2024, came
up for admission on 02.08.2024, the following order is passed:

“Admit.

2. Issue rule Nisi.

3. Call for records by 19.08.2024.

*4. Mr.M.Sarangan, learned Additional
Government Pleader takes notice for respondents 1 and 2.*



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Mr.Mohamed Athiff, learned counsel takes notice for the third respondent. Mr.F.Deepak, learned counsel takes notice for the fourth respondent. Mr.Dilip Kumar, learned counsel takes notice for the fifth respondent. Mr.S.Bharathirajan, learned counsel takes notice for the sixth respondent.

5. Call this case for disposal on 19.08.2024.”

6. In the stay petition in W.M.P.(MD)No.15384 of 2024 in W.P. (MD)No.17949 of 2024, at the time of the admission on 02.08.2024, the following order is passed:

“Heard the learned Senior counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for respondents 1 and 2 and the learned Senior counsel appearing for respondents 4 and 6 and the learned counsel appearing for respondents 3 and 5.

2. The case on hand pertains to the affairs of C.S.I. Kanyakumari Diocese. The election for electing the members of the Diocesan Council was concluded in the second week of June 2024. The petitioner herein was elected as the Secretary of Kanyakumari Diocese of C.S.I. The executive committee of the Diocesan Council met on 04.07.2024. The petitioner's name was proposed for appointment as Correspondent / Secretary of Scott Christian College(Autonomous), Nagercoil. There was no



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counter proposal. However, there were two objections. Finally, Rev.Bishop informed the executive committee that complaints had been received against the petitioner and that even though clarification was sought from him, the petitioner had not given any reply. Rev.Bishop was of the view that the proposal to appoint the petitioner as correspondent of Scott Christian College was against the provisions of the Constitution and proceeded to stay the same, until the dispute is resolved by the higher body. In the minutes enclosed in the typed set of papers, it had been handwritten that Rev.Bishop was assuming charge of Scott Christian College(Autonomous), Nagercoil as Correspondent incharge. This stand taken by the fourth respondent is impugned in this writ petition.

3. The learned Senior counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to stay the impugned proceedings.

4. The learned Senior counsel appearing for the fourth respondent as well as the sixth respondent contended that the action of Rev.Bishop is very much in consonance with the Constitution of the C.S.I. Kanyakumari Diocese and that therefore, interference is not warranted.

5. I carefully considered the rival contentions. The question that calls for consideration is whether stay should be granted in respect of the impugned proceedings.



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6. *It is not in dispute that the Diocesan Council is the highest decision making body. In fact, even according to the respondents 4 and 5, the impugned decision is subject to the decision of the Diocesan Council. They also added that even a direction can be given for convening the same. My attention is drawn to Clause 63.4 (G) (d) of Chapter XXVIII of the Constitution of C.S.I. Kanyakumari Diocese which deals with the functions of the Bishop. This clause empowers the Bishop to stay the proceedings of any Council (except the Diocesan Council), Board, Committee, Sub-Committee or Church meeting until the matter to which he takes exception can be decided by the appropriate body. Likewise, Clause XI in Part II of the Rules reads as follows:-*

“Power of stay

If any resolution of a Committee, Sub Committee, Board, Council or Church meeting appears to the Chairman of that body to be against the Constitution and practice of the Diocese, he shall submit it to the next meeting of the immediately higher body and until the decision of the latter is received, the resolution shall be stayed by notifying his intention to the Secretary concerned, at the meeting, or in writing within 48 hours.”



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While Clause XI talks about stay in respect of committee resolution, Clause 63.4 G(d) is wider. It empowers the Bishop to stay any proceeding of any Council except Diocesan Council etc.

7. The impugned order passed by the fourth respondent is in two parts; a) It stays the proposal that emanated from the executive committee appointing the petitioner as Correspondent of Scott Christian College (Autonomous), Nagercoil and b) Bishop appointed himself as Correspondent in-charge till the issue is decided by the Diocesan Council. Both the provisions referred to above only authorise Rev.Bishop to stay the proceedings / resolution. Any provision providing for interfering with a democratically taken decision has to be narrowly and strictly construed. The executive committee of the Diocesan Council is a democratically elected body. It has taken a decision. However, the Constitution of the C.S.I. Kanyakumari Diocese empowers the Bishop to stay the same. Such a provision cannot be given an expansive construction. The clauses mentioned above only grant power to stay the resolution. They do not authorise the Bishop to assume extra power. My attention has not been drawn to any other provision in the CSI Constitution permitting the Rev.Bishop to assume charge or responsibility. While I cannot interfere with the decision of the Bishop in staying the



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proceedings of the Diocesan Council, I have to necessarily stay that part of the proceedings by which the Bishop had appointed himself as Correspondent in-charge.

8.If I stay the first part of the proceedings, that would amount to granting the main relief in the interim stage. I therefore have to give only a limited stay as mentioned above.

9.This petition stands disposed of accordingly.”

7. Thereafter, when the matter was came up for hearing on 28.08.2024, the following order is passed:

“It is stated that at present writ petitioner is still continuing in the Management, even though the appointment is stayed by the Bishop by exercising power of Constitution.

2.Taking note of the fact that the Lecturers and Teachers are not getting salary, the petitioner is permitted only to sign the salary bills of the staff. No other administrative work shall be undertaken by the petitioner.

3.Post the matter on 24.09.2024 at 02.15p.m.”

8. When the matter came up for hearing on 24.09.2024, the following order is passed:



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“After elaborate arguments, it is stated by both sides that Executive Committee Meeting shall be convened first to discuss the issue, for which, the writ petitioner shall issue notice to the Executive Committee, giving 15 days time for such meeting. During the meeting, the Executive Committee shall pass a resolution and take a final decision as to whether the Diocesan Council shall conduct a meeting or not.

2.Post the matter on 21.10.2024. In the meantime, the interim order already granted is extended.”

9. Today, when the matter is taken up for further hearing, it is stated by the learned Senior Counsel that pursuant to the directions, the Executive Committee passed a resolution not to convene the meeting of Diocesan Council. According to learned Senior Counsel, as per Section 63.9 of the “Constitution of the C.S.I. Kanyakumari Diocese” (hereinafter referred to as “the said Constitution), the Diocesan Council shall meet annually and a special meeting of the Diocesan Council shall be held when it or the Executive Committee deems it necessary. As the Executive Committee is not in favour of the special



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meeting of the Diocesan Council, the Diocesan Council has to take decision only in the annual meeting.

10. Whereas, Mr.V.Ragavachari, the learned Senior Counsel appearing for the 6th respondent mainly would submit that the Bishop can direct any Council, Board, Committee, Sub-Committee or Church meeting to consider any special subject and a special meeting shall be called if he so desires. As per Part II Rule (XI) of the said Constitution, the Bishop has stayed the Executive Committee resolution appointing the petitioner as a Secretary of the 5th respondent College. As per the said Rule, the Bishop is also entitled to stay the notification. Accordingly, the same has been exercised.

11. Whereas, the learned Senior Counsel appearing for the petitioner would point out that only when the resolution of the Executive Committee is against the Constitution and practice of Diocese, such action is permissible under Part II Rule (XI) of the said Constitution.



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Whereas according to him, 13 Assistant Professors, whose applications have not been forwarded by the petitioner, when he was working as Secretary in the earlier period, have made a general complaint making certain allegations that was put against the petitioner. There was no other allegations have been unearthed or proved. Therefore, the power of stay available under the Rule has not been properly exercised and the same has been exercised with motive.

12. This Court heard the submissions made by the learned Senior Counsel appearing on either side and perused the materials available on record.

13. It is not disputed by both sides that the elections and its decisions are governed by the said Constitution. The power of the Executive committee is provided under Chapter XXVII of the said Constitution. In Section 61.2 of the said Constitution, various functions of the Executive Committee have been prescribed. One such function is



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to appoint the Correspondent of the College. The petitioner was elected as Secretary of the C.S.I. Kanyakumari Diocese. The Executive Committee has selected him as a Corespondent of Scott Christian College (Autonomous), Nagercoil. Based on the allegations made by the Assistant Professors, whose applications have not been forwarded by the petitioner, when he was working as Secretary in the earlier period, his appointment sought to be stayed by the Bishop, apart from other allegations of construction of the building without any permissions.

14. As far as the functions of the Bishop, the same is governed under Section 63.4 of the said Constitution. As per Section 63.4 A of the said Constitution, the Bishop will be the spiritual leader of the Church and as per Section 63.4 F of the said Constitution, the Bishop shall have the right to suspend the operation of decisions or resolutions of the Diocesan Council which directly concern the faith and doctrine of the Church. As per Section 63.4 (G) (d) of the said Constitution, the Bishop has power to stay the proceedings of any Council (except the Diocesan



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Council) Board, Committee, Sub-Committee or Church meeting until the matter to which he takes exception can be decided by the appropriate body. Similarly, as per Section 63.4 (G) (b) of the said Constitution, the Bishop is authorized to direct any Council, Board, Committee, Sub-Committee or Church meeting to consider any special subject and a special meeting shall be called if he so desires. It is admitted by both sides that the highest decision making body is the Diocesan Council.

15. Though it is the stand of the petitioner that as the Executive Committee has passed a resolution not to call for a special meeting of Diocesan Council, the Diocesan Council can take a decision only in the next annual meeting, such submissions cannot be countenanced when the powers of the Constitutions carefully read with Rules. Section 63.4 (G) (b) of the said Constitution authorized the Bishop to direct any Council, Board, Committee, Sub-Committee or Church meeting to consider any special subject and a special meeting shall be called if he so desires. Similarly as per Part II Rule XI of the said Constitution, if any resolution



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of a Committee, Sub Committee, Board, Council or Church meeting appears to the Chairman of that body to be against the Constitution and practice of the Diocese, he shall submit it to the next meeting of the immediately higher body and until the decision of the latter is received, the resolution shall be stayed by notifying his intention to the Secretary concerned, at the meeting, or in writing within 48 hours. The above provision makes it very clear that if any action of the Committee is against the Constitution of the Diocese, the Bishop has power to stay that decision and place the matter before the higher body in the next meeting. Therefore, it cannot be said that the meeting of the Diocesan Council can be convened only annually or only at the request of the Executive Committee. As to whether the selection of the petitioner as a Secretary of the 5th respondent College is against the Constitution or practice of the Diocese is the matter to be decided by the Diocesan Council. Hence, the Bishop is directed to call for Diocesan Council meeting within a period of two months and the Diocesan Council shall decide the issue, after issuing notice to the petitioner in this regard. **The stay granted by this**



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Court by an order dated 02.08.2024 in respect of the proceedings by which, the Bishop had appointed himself as Correspondent in-charge is extended until further orders. Similarly, the interim order passed by this Court dated 28.08.2024 is also extended until further orders. The Diocesan Council shall decide the issue within a period of two months.

16. Though the above order has been passed on the merits of the case, taking note of the manner in which the properties have been handled by the few persons, who said to have been elected and in the helm of affairs for many years, this Court is of the view that though this Writ Petition pertains only to challenge the action of the 4th respondent, taking note of the nature of the litigation, this Court being Constitutional Court cannot resist itself from passing the following order taking notice of the several litigations filed by the Churches or elected members one way or the other not only before this Court but also all other civil Courts.



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17. Though the elections are stated to have been conducted as per the bylaws and their own Constitution, it appears that their own Constitution has also not been respected and only the persons, who are in the helm of affairs try to control the whole Management for many years, without following the Constitution or bylaws. This Court has seen various instance of mismanagement and misuse of the Church properties and it funds. Several matters are litigated before this Court either as petitions under Article 226 of the Constitution of India or by way of suits under Section 92 of the Code of Civil Procedure, 1908. Judicial notice can easily be taken note of the fact that filing of these type of cases become yearly affair with rival factions belonging to various Churches litigating against each other. To strengthen the positions, in the administration, only the Church funds have been used in all the litigations. The Churches not only have the vast properties but also educational institutions. In the process, the institutions which these persons ie., the so called elected persons, who are said to be helm of affairs, are supposed to protect and safeguard suffer administratively and



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financially as their funds are drained to fuel the power struggle. To alleviate this problem, it is a regular practice of this Court in appointing Administrators in the litigation of various Diocese from time to time as a temporary measure. Therefore, this Court is of the view that, it is high time that a permanent solution is required. It cannot be lost sight that these institutions performed and discharged several public functions like running educational institutions, hospital etc., which affect the public at large. Their assets and funds require protection and must be safeguarded.

18. It must also be pointed out the right to profess, practice and propagate religion under Article 25 of the Constitution of India is subject to restrictions. The secular aspects of religion including the administration of its management and properties can be subjected to State control as was held by the Supreme Court in *M.P.Gopalakrishnan Nair Vs. State of Kerala*, reported in (2005) 11 SCC 45, wherein it was held that the management of a temple is a secular act. In the context of Christians, this position has been made clear in the case of *K.S.Varghese*



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Vs. St.Peter's & ST. Paul's Syrian Orthodox Church, reported in (2017)

15 SCC 333, and the same reads as follows:

*“146.The submission as to the violation of faith and violation of a right under Article 25 is to be rejected. No doubt about it that a religious denomination or organisation enjoys a complete autonomy in the matter of deciding as to rites and ceremonies essential according to their tenets of religion they hold and no outside authority has any jurisdiction to interfere with their decisions in such matters. At the same time, secular matters can be controlled by the secular authorities in accordance with the law laid down by the competent legislature as laid down in the case of **Commr., Hindu Religious Endowments Vs. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt [Commr., Hindu Religious Endowments Vs. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, 1954 SCR 1005 : AIR 1954 SC 282].***

19. While the charitable endowments of Hindus and Muslims are subject to statutory regulation, no such comprehensive regulation exists for such endowments for Christians. Thus, the only scrutiny/oversight over the affairs of these institutions is by way of a suit

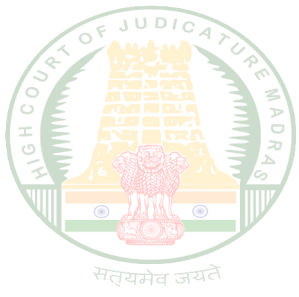


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under Section 92 of the Code of Civil Procedure. Trusts & trustees, charities & charitable institutions, charitable & religious endowments & religious institutions fall under List III (Concurrent List) in Schedule VII of the Constitution of India. As there is no Central Legislation holding the field, there cannot be any embargo for the Union or the State Governments to bring about a legislation in the light of the circumstances prevalent in this regard. For to make the institution more accountable, there must be a Statutory Board to regulate the affairs of the administration and the learned Senior Counsel appearing for both sides have no quarrel on these issues.

20. In such view of the matter, this Court *suo-motu* impleads the Union of India, Rep. by its Secretary to Government, Ministry of Home Affairs, New Delhi and the State of Tamil Nadu, Rep. by its Chief Secretary to Government, Fort St. George, Chennai as parties in both the Writ Petitions and the Contempt Petitions and they are directed to file their reports explaining their stand in this regard.



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21. Mr.K.Govindarajan, learned Deputy Solicitor General of India, takes notice for the Union of India and Mr.D.Gandhiraj, learned Special Government Pleader takes notice for the State of Tamil Nadu.

22. For filing report, post the matter on **18.11.2024**.

23.10.2024

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