[2025] 5 S.C.R. 1731 : 2025 INSC 622

Dr. Vimal Sukumar
v.
D. Lawrence & Ors.

(Civil Appeal No(s). 6264-6266 of 2025)

02 May 2025

[Bela M. Trivedi and Satish Chandra Sharma,* JJ.]

Issue for Consideration

The instant appeals are arising out of the two impugned orders dated 27.02.2024 and 12.04.2024 by which the Division Bench of the High Court declared re-election of all the office bearers since it was held that the electoral college itself was flawed and appointed committee of administrators to conduct re-elections. Furthermore, it was held that the amendments to the bye-laws had not been carried out in accordance with the procedure prescribed in the Constitution of Church of South India (CSI) and it was held that the Special Meeting of the Synod held on 7th and 8th March 2022 was not duly convened. The key issues that arise for consideration in the present appeals are as follows: (i) The validity of the Synod meeting convened on 07.03.2022, where certain amendments to the CSI Constitution were approved; (ii) The validity of the amendments to the Constitution and Bye-Law of the CSI; (iii) The validity of the Election of the Moderator; (iv) Whether the elections of other office bearers *i.e.* Deputy Moderator, General Secretary and Treasurer should be set aside due to alleged irregularities in the Electoral College; (v) Whether there should be an appointment of the Committee of Administrators to conduct fresh elections; (vi) Whether suits filed without obtaining leave under Order 1 Rule 8 of CPC are maintainable.

Headnotes†

Election – Constitution of Church of South India – Chapter XIII – The validity of the Synod meeting convened on 07.03.2022, where certain amendments to the CSI Constitution were approved:

Held: This Court is of the considered opinion that the Special Meeting of the Synod on 07.03.2022 was duly convened – By

* Author

going through the minutes of the Special Executive Committee of the Synod meeting held on 12.01.2022, it can be observed that: (a) Executive Committee of the Synod decided to send a resolution for the proposed constitutional and bye-law amendments to the Synod for the consideration and approval at its Special Session; (b) Executive Committee of the Synod decided to summon a special meeting of the Synod for the aforesaid purposes and to authorise the Moderator and other Officers of the Synod to fix the time and place of the meeting in consultation with the Bishops and (c) Executive Committee of the Synod decided to direct the General Secretary to prepare and circulate the proposed amendments to all the Bishops for forwarding the same to each and every member of the Synod in their respective dioceses – Thereafter, a Meeting Notice dated 10.02.2022 was issued by the General Secretary of CSI, informing all the members of the Synod that a decision to convene a Special Synod Meeting on 7th and 8th March, 2022 at Bishop Heber College has been taken by the Special Executive Committee – In the absence of provisions in the CSI Constitution regarding the manner of convening meetings of the Synod, a 25 days' notice was provided to the members of the Synod prior to the Special Meeting of the Synod – This chain of communication and procedural compliance further substantiates the fact that due process was followed in relation to the convening and conduct of the meeting – It can further be concluded that large numbers of the members attended the Special Meeting of the Synod and therefore the meeting cannot be said to have been conducted without notice – Therefore, it can *prima facie* be established that the Special Meeting of the Synod on 07.03.2022 was duly convened. [Paras 56, 56.1]

Election – Constitution of Church of South India – Chapter XIII – Amendment to the Constitution and Bye-laws – The validity of the amendments to the Constitution and Bye Law of the CSI:

Held: The present amendments to the CSI Constitution and its Bye-laws traces its origin in ordinary meeting of the Synod held on 14th and 15th January, 2020 – The Resolutions Committee's report from that meeting directed the Constitution Revision Committee to develop the necessary amendments – Consequently, the Constitution and Bye-Laws Revision Committee of the Synod

proposed amendments to the CSI Constitution and the Bye-Laws, following Rules 2 & 3 of Chapter XIII of the CSI Constitution – These proposed amendments were presented to the Special Synod Executive Committee on 12.01.2022 and after deliberation, the Executive Committee resolved to bring the amendments before the Synod, in accordance with Rule 2 (a) of Chapter XIII of the CSI Constitution – The main amendments related to increase in age of retirement, change in qualifications for post of General Secretary and Treasurer, and changes to the Synod (electoral college) – While the Single Judge held that the proposed amendments to the bye-laws are valid, it invalidated the proposed amendment to the Constitution – This Court is not inclined to interfere with the findings of the Single Judge of the High Court with regards to the validity of the amendments to the Constitution and the Bye-Laws of the CSI which are governed under Chapter XIII of the CSI Constitution under Rule 2 and Rule 3 – In consequence thereof, the findings of the Division Bench of the High Court regarding the validity of the amendments to the bye-laws are hereby set aside. [Paras 57, 58]

Election – Constitution of Church of South India – Chapter IX – Election of the Moderator – The validity of the Election of the Moderator:

Held: Taking into consideration the validity of the Election of the Moderator, the Single Judge is correct in holding that the said election of the Moderator is invalid – Rules 7 and 8 of Chapter IX of CSI Constitution details the election and tenure of the key Synod Officers including Moderator and Deputy Moderator, who are elected from among diocesan bishops – All officers, including the General Secretary and Treasurer, are elected by Synod ballot – Their terms align with the Synod's ordinary meetings which according to Rule 20 of Chapter IX of the CSI Constitution is required to be held once in every three years – Further, bye-Law 7 of the CSI Constitution prescribes the manner in which the election shall be conducted – It also prescribes that the Bishop who is nominated by the Bishop's Council to be the Moderator should not be due to retire during the ensuing term – In the present case, since the incumbent Moderator completed the age of 67 years in May 2023 and elections were held on 11.10.2020 for the three years period ending on 11.10.2023, it cannot be said that it was a fair

nomination and hence, lacks legitimacy and integrity in the election process – Even after considering the amendment to the Constitution by which the age limit for retirement was increased to 70 years, as recorded earlier, the said amendment is not enforceable since the same was not duly ratified which makes the said amendment by which the age limit was increased as invalid – Having regard to the above-mentioned facts, the election of the Moderator is said to have been tainted, thereby affecting its validity. [Paras 59, 59.1]

Election – Constitution of Church of South India – Whether the elections of other office bearers *i.e.* Deputy Moderator, General Secretary and Treasurer should be set aside due to alleged irregularities in the Electoral College:

Held: The Division Bench found that the electoral college was flawed based on the grounds that some of the diocesan councils do not comply with the requirements of the CSI Constitution regarding the nominated members *i.e.* bye laws states that number of members who should be below the age of 35 years and the number of women members – However, these factual assertions do not bear the direct impact on the core issues in the present applications, which pertains to the validity and effect of the amendments in question on the electoral process – The focus for consideration is not on the individual composition of the diocesan council per se, but rather on whether the amendments impacted the legitimacy of the election as a whole – Therefore, the Division Bench has declared the electoral college flawed without establishing the causal link to the amendments in question – Accordingly, the findings of the Division Bench is set aside on this point – The order previously passed by the Single Judge shall stand restored – Consequently, the elections conducted for the other office bearers—namely, the Deputy Moderator, the General Secretary, and the Treasurer—shall be deemed valid and will continue to hold legal sanctity but will be subject to the outcome of the suits. [Paras 60, 60.1]

Election – Constitution of Church of South India – Whether there should be an appointment of Committee of Administrators to conduct fresh elections:

Held: Since the election of the Moderator is declared as invalid and it is not in the interest of 4.5 million members of the CSI that

the institution functions without a Moderator until the final disposal of the suit – Moreover, the records indicate that the office bearers rushed the amendment process, despite the bye-law allowing two years for ratification by diocesan councils – This suggests they aimed to pass the amendments before the 2023 2026 elections – These facts warrant appointing an election officer to conduct the Moderator's election for that term – Therefore, the finding of the Single Judge of the High Court regarding the appointment and role of retired High Court judge in the election process is sustained. [Para 61]

Code of Civil Procedure, 1908 – Or.1 R.8 – Constitution of Church of South India – Whether suits filed without obtaining leave u/Or.1 R.8 of CPC are maintainable.

Held: This Court is of the considered opinion that the position of law regarding the applicability of Or.1 R.8 of CPC is well settled – Or.1 R.8 CPC does not prescribe any stage at which the application can be filed – While it is not a mandatory pre condition for the institution of a suit or for the granting of interim relief, it is a procedural requirement that cannot be disregarded altogether which bears upon the binding nature of any orders issued – Therefore, while the absence of Or.1 R.8 is a curable defect, its compliance remains crucial to ensure the enforceability and representative effect of the orders passed – Leave under Or.1 R.8 may be obtained at any stage of the proceedings; however, it is emphasized that until such leave is formally granted, the orders passed from these proceedings may not be considered binding upon the entirety of the membership of the CSI – Accordingly, this Court concurs with the findings of the Division Bench of the High Court passed in O.S.A. Nos.236, 237 and 238 of 2023 – Furthermore, the order passed by the Division Bench in O.S.A. No.188, 190 and 192 of 2023 is affirmed – It is well settled law that grant of leave u/Or.1 R.8 is not prerequisite for grant of interim reliefs since the permission under the said rule can be granted at any stage of the proceedings. [Para 62]

Constitution of Church of South India – Power to amend the CSI Constitution:

Held: This Court recognizes that the power to amend the CSI Constitution rests with the Synod, and nothing in this order should be interpreted as interference with that amending power. [Para 66]

Case Law Cited

Shyam Sel & Power Ltd and Anr. v. Shyam Steel Industries Limited **[2022] 3 SCR 1173 : (2023) 1 SCC 634;** *Bachhaj Nahar v. Nilima Mandal and Another* **[2008] 14 SCR 621 : (2008) 17 SCC 491;** *Supreme Court Bar Association & Ors. v. B.D. Kaushik* **[2011] 15 SCR 736 : (2011) 13 SCC 774 – referred to.**

The Executive Committee of the Synod Church of South India v. Rt. Rev. Dr. V. Devasahayam, **2009 SCC OnLine Mad 1506 – referred to.**

List of Acts

Code of Civil Procedure, 1908; Companies Act, 2013.

List of Keywords

Constitution of Church of South India; Bye-laws; Management and administration of the CSI; Church of South India Trust Association; CSI Synod; Power to amend the CSI Constitution; Election; Amendments to the bye-laws; Validity of the Synod meeting; Election of the Moderator; Deputy Moderator; General Secretary; Treasurer; Election of office bearers; Order 1 Rule 8 of CPC; Bishops; Special Meeting of the Synod.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No(s). 6264-6266 of 2025

From the Judgment and Order dated 12.04.2024 of the High Court of Judicature at Madras in OSA Nos. 236, 237 and 238 of 2023

With

Civil Appeal No(s). 6267, 6268, 6269-6271, 6272-6273, 6274-6276, 6277, 6278, 6279-6280, 6281, 6282-6284, 6285-6287, 6288, 6289-6294 and 6295 of 2025

Appearances for Parties

Advs. for the Appellant:
Shoeb Alam, Ms. Meenakshi Arora, Dama Seshadri Naidu, V. Prakash, Navin Pahwa, Sr. Advs., A Karthik, Kailas Bajirao Autade, A. Lakshminarayanan, Kumar Singh, Vairawan A.S, Pranjal Kishore, Adrian D. Rozario, Saurabh Ajay Gupta, Mandeep Kalra.

Advs. for the Respondents:
Dr. Aditya Sondhi, Dr. Ashwani Kumar, Ms. Liz Mathew, Raghenth Basant, V. Prabhakar, Sr. Advs., Vairawan A.S, Ms. Ranu Purohit, V. Balaji, Rakesh K. Sharma, Pranav Sachdeva, Jatin Bhardwaj, S. Thanka Sivan, Ms. Astha Tyagi, P. S. Sudheer, Manish Tiwari, Rk Tanwar, Pranjal Kishore, Vineet Subramani, Shyam Gopal, Shwetank Sailakwal, Azhar Assees, Radha Shyam Jena, Ms. Ruchi Gupta, M.P. Srivignesh, Manu Srinath, Ms. E. R. Sumathy, Pai Amit, Ms. Usha Nandini V., Goutham Shivshankar, S. Thanka Sivan, Ms. Astha Tyagi, Pranav Sachdeva, Jatin Bhardwaj.

Judgment / Order of the Supreme Court

Judgment

Satish Chandra Sharma, J.

1. Leave Granted.

2. The present appeals are arising out of the two impugned orders dated 27.02.2024 and 12.04.2024 by which Madras High Court (***"hereinafter High Court"***) declared re-election of all the office bearers since it was held that the electoral college itself was flawed and appointed committee of administrators to conduct re-elections. Furthermore, the High Court held that the amendments to the bye-laws had not been carried out in accordance with the procedure prescribed in the Constitution of Church of South India ***("hereinafter CSI"***) and it was held that the Special Meeting of the Synod held on 7th and 8th March 2022 was not duly convened.

3. The history of litigation goes back to the filing of the four civil suits under Order IV Rule 1 of the Original Side Rules and Section 92 of the Code of Civil Procedure, 1908 ("***hereinafter CPC"***) along with interim applications seeking interim reliefs. The learned Single Bench passed various orders in the interim applications which were challenged before the learned Division Bench and the aforesaid impugned orders were passed.

4. The aforesaid suits relate to the management and administration of the CSI, an un-registered body of persons which is in-charge of the functions of the protestant Churches in Southern India and in Sri Lanka. This un-registered body of persons christened as CSI came

into existence on the 27th September 1947 and it is governed by a set of Rules that is called the Constitution of the CSI.

5. Disputes often arise regarding the management and conduct of the elections for various posts of Office Bearers in the CSI and its other organizations called Church of South India Trust Association. While CSI looks after the ecclesiastical functions, the Church of South India Trust Association, which is a Company registered under Section 8 of the Companies Act, 2013 (Section 25 of the Companies Act, 1956) takes care of the secular functions and administration of the properties. All the properties of the Church vest in the Church of South India Trust Association.

FACTUAL MATRIX

6. The facts leading to the institution of the aforesaid suits – the plaintiffs who are six in number are the members of the Church for a considerably long period as claimed by them. Furthermore, it is contended that plaintiffs had held certain crucial positions in the management of the CSI in the past. Dispute arose when the 3rd defendant in the suit, Most Rev. Dharmaraj Rasalam, was elected as a Moderator in the election held on 11.10.2020 for the three years period ending on 11.10.2023. The plaintiffs contended that the 3rd defendant is accused of several criminal offences and almost ten FIRs are pending against him on the date of his nomination as the Moderator.

7. Subsequently, the **first suit C.S. No. 86 of 2022** came to be filed on 03.01.2022 fundamentally contending that a scheme be framed to set out the conditions for the appointment, terms of office. They further stated that Constitution of the CSI does not prescribe any qualification or dis-qualification for the post of Moderator which has led to persons with criminal antecedents to participate in the elections and occupy the post of the Moderator, which according to the plaintiffs, is the most powerful post in the CSI. The plaintiffs in the C.S. No. 86 of 2022 prayed for the following reliefs:

   a. Frame a scheme under Sections 92(g) and (h) of the Code, setting out the conditions for appointment and terms of office and prescribing disqualification for the members of the Synod of the 1st defendant.

b. *Removing the 3rd defendant from the office of Moderator of the Church of South India, the 1st defendant herein,*

c. *Consequently, removing the 3rd defendant as the Chairman of the CSITA, the 2nd defendant herein,*

d. *Directing the 1st defendant to hold fresh elections to the office of the Moderator of the Synod of the 1st defendant,*

e. *And to grant such further reliefs as this Hon'ble Court may deem fit to grant in the facts and circumstances of this case.*

8. Along with the filing of the aforesaid suit, plaintiffs also filed five applications in C.S. No. 86/2022 seeking following prayers:

a. ***A. No. 54/2023 - …..*** *To declare as invalid, illegal, null and void, all the proposed amendments of the CIS Constitution proposed by the CSI Synod at its meeting dated 07.03.2022 ……..*

b. ***A. No. 55/2023 - …..****To stay the operation of the proposed amendments of the CIS Constitution proposed by the CSI, Synod at its meeting dated 07.03.2022…..*

c. ***A. No. 56/2023 - …..****To suspend the 3rd respondent from acting as the Moderator of the 1st respondent, Church of South India.*

d. ***A. No. 57/2023 - …..****To appoint an Interim Administrator to take over and manage the affairs of the 1st respondent, Church of South India, including to conduct the upcoming elections.*

e. ***A. No. 2584/2023 -*** *Seeking appointment of an interim administrative committee headed by a Retired Judge of this Court to manage the affairs of the Synod till the disposal of the suit.*

9. Meanwhile, a Meeting Notice was issued on 10.02.2022 by the General Secretary of the CSI Synod convening a Special Meeting of the Synod on 7th and 8th March of 2022 at Bishop Heber College, Trichy. Further, it was claimed that the decision to hold a Special Meeting of the Synod had been taken in the Executive Committee of the Synod held on 12.01.2022 which led to the issuance of the

Meeting Notice. In the light of the preceding decision the **second suit C.S. No. 45/2022** was filed on 01.03.2022 by certain members of the Church of South India praying for the following reliefs:

a. *Declaring the Notice convening the Special Synod Meeting of the 1st Defendant on 7th and 8th March 2022 or such other adjourned date, as illegal, improper and as such void;*

b. *Permanent Injunction restraining the Defendants, their men, agents, servants, representatives or any person claiming through them or under them, from in any manner amending the Constitution and/or Bye Laws of CSI at the Special Meeting of the Synod of the 1st Defendant on 7th and 8th March 2022 or such other adjourned date, convened and conducted without following due process and/or procedure as per the Constitution and Bye Laws of CSI;*

c. *Permanent Injunction restraining the Defendants, their men, agents, servants, representatives or any person claiming through them or under them, from in any manner putting any Resolutions or decisions concerning Amendments to the Constitution or Bye Laws of CSI to vote at any Meeting whatsoever of the Synod or any of the Committees of bodies of the CSI, other than through the process of Secret Ballot;*

d. *Permanent Injunction restraining the Defendants their men, agents, servants representatives of any person claiming through them or under them from proceeding to implement any decision/Resolution taken/passed at any Meeting held by the Synod or any of the Committees or bodies of the CSI, without first circulating the Minutes of such Meetings at least one week prior to implementation of such decisions/resolutions;*

e. *Mandatory Injunction directing the Defendants their men, agents, servants, representatives of any person claiming through them or under them to convene all and any meetings held by the Synod or any of the Committees or bodies of the CSI only after providing 21 days clear notice to all the participants/members/attendees, along with a detailed agenda for such Meetings;*

f. Permanent Injunction restraining the Defendants their men, agents, servants, representatives or any person claiming through them or under them from in any manner Functioning or acting in any manner whatsoever in contravention to the 'Basis of Union' and 'The Governing Principles of the Church', as embodied in the Constitution of the Church of South India;

g. Costs of the Suit;

h. Such other Order or Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thereby render Justice.

10. Along with the said suit (C.S. No. 45 of 2022), two applications O.A. Nos. 114 & 115 of 2022 had been filed seeking interim reliefs as follows:

a. Pass an Order of Interim Injunction restraining the Respondents, their men, agents, servants, representatives or any person claiming through them or under them from in any manner conducting or holding the Special Meeting of the Synod on 7th and 8th March 2022 at Trichy or on any other date or at any other place, pending disposal of the Suit, and pass such further or other Order or Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thereby render Justice;

b. Pass an Order of Interim Injunction restraining the Respondents, their men, agents, servants, representatives or any person claiming through them or under them, from in any manner bringing before the Synod any proposal or proposals for any alteration or addition to the Constitution and Bye-Laws of the Church of South India by Resolution(s) at the special meeting of the Synod and at any Meeting whatsoever of the Synod of the Church of South India, other than through the process of Secret Ballot and pass such further or other Orders as this Hon'ble Court deems fit and proper in the facts and circumstances of the case, and thereby render Justice.

11. Following a period of vacancy (interregnum) within the Church of South India Synod, the office bearers convened a special Synod

Council in Trichirapalli on 07.03.2022 and passed certain amendments proposed to the Constitution of the Church of South India including increasing the age of retirement for clergy from 67 years to 70 years.

12. Being aggrieved by the resolution passed at the special session of the Synod on 07.03.2022, **third suit C.S. No. 274/2022** came to be filed on 20.12.2022 by a former CSI Synod Member, D. Lawrence wherein the plaintiff assailed the resolution and seeks appointment of a former Judge of the High Court along with other following prayers:

a. Declaring the resolution dated 7.3.2022 of 1st defendant declared as having passed in the special Synod council meeting held in Tiruchirappalli including the amendment seeking to amend Chapter V clause 12(a) of the Constitution of South India and enhancing the retirement age of the Bishop as 70 years, as manipulated, illegal, void and non-est in law.

b. Appointing a former judge/s of this Hon'ble Court as administrator(s) for administration and managing the affairs of the 1st defendant and for enquiring, correcting the manipulations and illegalities and streamlining the electoral college including nomination to its Synod Council, of the 1st defendant and conducting the forthcoming CSI election for the term 2023-2026 in a free and fair manner, strictly as per the constitution of CSI.

c. Permanent injunction restraining the defendants 2 to 8 from conducting any diocesan council meeting, either by zoom mode or any other mode, CSI Synod council, executive committee or working committee of CSI Synod for approval or implementation of the impugned resolution dated 7.3.2022 circulated by the defendants 2 to 5 and passing any resolution approving the disputed resolution dated 7.3.2022.

d. Permanent injunction restraining the defendants 2 to 5 from conducting any election process for the forthcoming CIS Synod council election for the term 2023-2026 prior to streamlining the electoral college by an administrator(s) to be appointed by this Hon'ble Court or altering the electoral college by any means.

e. To pay the cost of the suit

f. To pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

13. Along with the said suit (C.S. No. 274/2022), three applications were filed by the plaintiff seeking following reliefs:

a. ***O.A. No. 818/2022 - .....****To grant an order of interim injunction restraining the respondents/defendants 2 to 9 from conducting any diocesan council meeting, either by zoom mode or any other mode, CSI Synod council, executive committee or working committee of CSI Synod for approval or implementation of the impugned resolution dated 7.3.2022 circulated by the respondents/defendants 2 to 5 and passing any resolution approving the disputed resolution dated 7.3.2022, pending disposal of the suit.*

b. ***O.A. No. 819/2022 - .....****To grant an order of interim injunction restraining the respondents/defendants 2 to 5 from conducting any election process for the forthcoming CSI Synod council election for the term 2023-2026 prior to streamlining the electoral college by an administrator(s) to be appointed by this Court, or altering the electoral college by any means, pending disposal of the above suit.*

c. ***A. No. 5961/2022 - .....****To appoint a former judge/s of this Court as interim administrator(s) for administration and managing the affairs of the 1st respondent/defendant and for enquiring, correcting the manipulating and illegalities and streamlining the electoral college including nomination to its Synod Council, of the 1st respondent/defendant and conducting the forthcoming CSI election for the term 2023-2026 in a free and fair manner, strictly as per the constitution of the CSI pending, pending disposal of the above suit.*

14. In the chain of events, a notification was issued on 27.12.2022 by the General Secretary CSI to all the Bishops /Moderators CSI informing that the amendments to the Constitution have been ratified as per the Constitution of the CSI and shall come into force from the date of this communication. The operative part of the letter is read as under:

"It is therefore resolved that the ratification of the amendments to the Constitution of the Church of South India by 15 Diocesan Councils constituting two-thirds of the said Councils as contemplated under Chapter XIII, Rule 2 (c) at page 116 of the CS/ Constitution is in order and to authorize the General Secretary to declare that the amendments shall come into force from the date of such communication."

15. In consequence thereof, a **fourth suit C.S. No. 7 of 2023** came to be filed on 02.01.2023 by two Synod members, D. Sunildas and S. Jayaraj challenging the notification issued by the Working Committee of the Synod on 27.12.2022 along with other following reliefs:

    a. *Declaring the notification dated 27.12.2022 issued by the 1st defendant through the 4th defendant and all connected and consequential actions seeking to carry out or implement the amendments including the amendment seeking to enhance the retirement age of the Bishops and Presbyters as 70 years, allegedly passed by the Special Synod Council meeting held on 7.3.2022 at Tiruchirappalli, as illegal void and non-est in law.*

    b. *Permanent injunction restraining the defendants 2 to 5 and their men and agents from proceeding with any meeting of Church of South India Synod council or any other meeting for the election of Church of South India Synod Council and office bearers, for the forthcoming triennium 2023-2025 on the basis of the impugned notification dated 27.12.2022.*

    c. *Permanent injunction restraining the defendants and their men and agents from in any manner amending the Constitution/ Byelaws of the 1st defendants or implementing any amendments as per the Special Synod council meeting resolution dated 7.3.2022 held in Tiruchirappalli or the impugned notification dated 27.12.2022.*

    d. *Appointing a former judge/s of this Hon'ble Court as administrator(s) for framing guidelines and for good administration and managing the affairs of the 1st defendant and for enquiring into all pending disputes affecting or relating to the electoral college of Church of South India*

and the constituent dioceses of the 1st defendant and to streamline the electoral college and thereafter conduct the election for the CSI Synod council for the triennium 2023-2025 strictly in accordance with the Constitution of the 1st defendant.

e. To pay the cost of the suit.

f. To pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

16. Subsequent to filing the aforementioned suit C.S. No. 7/2023, the plaintiffs further filed three applications in this suit seeking interim reliefs with the following prayers:

*a. **O.A. No. 21/2023 - .....** To grant an order of interim injunction restraining the respondents/ defendants 2 to 5 and their men and agents from proceeding with any meeting of Church of South India Synod council or any other meeting for the election of Church of South India Synod Council and office bearers, for the forthcoming triennium 2023-2025 on the basis of the impugned notification dated 27.12.2022 or otherwise, pending disposal of the above suit.*

*b. **O.A. No. 22/2023 - .....** To grant an order of interim injunction restraining the respondents/ defendants and their men and agents from in any manner amending the Constitution/ Byelaws of the 1st respondent/ defendant or implementing any amendments claimed to have been passed in the Special Synod council meeting dated 07.03.2022 in Tiruchirappalli or the impugned notification dated 27.12.2022, pending disposal of the above suit.*

*c. **O.A. No. 190/2023 - .....** To appoint a former judge/s of this Hon'ble Court as interim administrator(s) for framing guidelines and for good administration and managing the affairs of the 1st respondent/ defendant and for enquiring into all pending disputes affecting or relating to the electoral college of Church of South India Synod and the constituent dioceses of the 1st respondent/defendant and to streamline the electoral college and thereafter conduct the election for the CSI Synod council for the triennium 2023-2025 strictly in accordance with the constitution of the 1st respondent/ defendant, pending disposal of the above suit.*

17. Before proceeding to the parties' respective arguments, this Court shall now undertake an examination of the orders rendered upon the applications filed in the aforementioned civil suits.

Observations Made in the Applications Filed in the First Suit C.S. No. 86/2022

18. Adverting to the applications (A. Nos. 54-27 of 2023 and A. No. 2584 of 2023) filed in the first suit C.S. No. 86/2022, the Learned Single Judge disposed of the applications vide a common interim order dated 05.09.2023.

19. The Learned Single Judge, in its consideration of the matter, confined the scope of its intervention to a determination of *whether prescribed procedures were followed while making the amendments.* Subsequently, the learned Single Judge concluded the following:

    (i) After reviewing both the video of the meeting and the minutes of the meeting, it can be concluded that the Special Meeting of the Synod held on 07.03.2022 was duly convened.

    (ii) Amendments to the CSI Constitution were not validly ratified by 2/3rd of the Diocesan Councils as CSI allegedly relied upon 15 Councils from total of 22 Diocesan Councils, out of which ratifications by the Coimbatore Diocese and the Medak Diocese were *prima facie* invalid due to non-adherence with prescribed procedures of the CSI Constitution;

    (iii) The election of the incumbent Moderator is *prima facie* invalid as the constitutional amendments, which could have impacted the eligibility to contest the election, were not validly ratified;

    (iv) The elections of the other office bearers (Deputy Moderator, General Secretary, and Treasurer) can be declared, subject to the outcome of pending civil suits because the increase in Synod member nominations from 10 to 15 had a minor impact on the 2023 election results and considering the wide victory margins and potential hardship to the 4.5 million CSI members, the court concluded that interfering with the election would cause greater harm;

(v) The Court declined to appoint an interim administrator for the CSI as none of the cases against the Moderator have resulted in their conviction;

(vi) There is a need to appoint an independent Election Officer (a retired High Court Judge) to conduct a fresh election for the position of Moderator as it is observed that Synod's hasty electoral amendments, seemingly aimed at influencing the 2023-2026 elections.

20. The relevant portion of the learned Single Judge's order dated 05.09.2023 is reproduced hereunder:

> *"**42.** Thus, the aforementioned Chapter XIII Rule 2 read with the above bye-law prescribes the following requirements for amendments to the Constitution to come into force:*
>
> > *1) A proposal for amendment by way of a resolution of one or more diocesan councils or by the Executive Committee of the Synod.*
> >
> > *2) The resolution for amendment being passed by not less than a 2/3rd majority of the Synod, including by following the special procedure prescribed by rules 22 to 24 in chapter IX, wherever applicable.*
> >
> > *3) The ratification of the resolutions passed by the Synod by not less than 2/3rd of the diocesan councils.*
> >
> > *4) Upon receipt of requisite ratifications, authorization by the Synod Executive Committee/ Working Committee to the General Secretary of the CSI to declare that the amendments have come into force.*
> >
> > *5) The issuance of such declaration by the General Secretary*
>
> ***43**. ….. The minutes disclose that the Executive Committee of the Synod resolved to forward the proposed constitutional amendments and amendments to the bye-laws for the consideration and approval of the Synod at the special session… Prima facie, the first requirement for amendment*

to the CSI Constitution and the bye-laws appears to have been satisfied. As stated earlier, the second requirement is for the Synod to approve the amendments by not less than a 2/3rd majority. Whether the special session of the Synod was duly convened and held is considered next.

***45**. The video recording provided by the CSI was viewed in Court at the hearing on 15.06.2023….. The video recording does not capture the audience and, therefore, it is not possible to conclude on the basis of the video whether the amendments were carried by the requisite 2/3rd majority. The video recording, however, captures the statement by the General Secretary that the amendments to the age of retirement of bishops and presbyters were carried…..*

***48.** As discussed above, in view of the 25-day notice and the absence of provisions in the CSI Constitution with regard to the manner of convening meetings of the Synod, it is concluded prima facie that the meeting of 07.03.2022 was duly convened. As regards the outcome of the meeting, the video recording indicates prima facie that a section of members objected to the amendments pertaining to the age of retirement of bishops and presbyters and requested for a secret ballot. While there was commotion when these items of business were transacted, the commotion appeared to have died down while the remaining business was transacted. When the video recording and the minutes of the special session meeting are looked at cumulatively, for interlocutory purposes, I conclude that the meeting was duly convened and that the minutes of meeting cannot be disregarded.*

***49**. The third stage is the ratification of the amendments by the requisite majority of diocesan councils. The CSI relied upon alleged ratifications by…..15 Diocesan Councils…..*

***50**. The list of 15 includes the Karnataka Central Diocese. The order dated 21.04.2023 of the Karnataka High Court, with regard to the meeting of the Karnataka Central Diocese, is self-evident. The operative portion of the order is set out below:*

"(iii) Defendant No.3 is restrained temporarily from taking any decision to ratify the resolution passed by Synod and to accept the proposed amendment, till disposal of the suit. If any decision is already taken in the meeting that was held on 21.12.2022 by defendant No.3, the same will not have any effect and the same is to be ignored."

….In this factual context, as regards the conclusions drawn in the said order with regard to the meeting of the Karnataka Central Diocese, for interlocutory purposes, I see no reason to deviate from the conclusion of the Karnataka High Court. Effectively, even assuming without admitting that the other 14 Diocesan Councils duly ratified the amendments, the requisite 2/3rd majority is not satisfied.

52. *…..Considering the non-adherence to the notice period; the large membership of about 387 members; the significance of the agenda (to consider amendments to the charter document); the failure to produce the minutes of meeting; and the purported conduct of the meeting on the Zoom platform, I reach the prima facie conclusion that the meeting of the CSI Coimbatore Diocese to ratify the amendments was not in accordance with the Constitution and that this ratification was prima facie invalid.*

53. *…..By taking into account the non-adherence to the notice period especially in the context of the large membership of about 534 members; the significance of the agenda (to consider amendments to the charter document); the failure to produce the minutes of meeting; and the purported conduct of the meeting on the Zoom platform, I reach the prima facie conclusion that the meeting of the CSI Medak Diocese to ratify the amendments was not in accordance with the Constitution and that this ratification was prima facie invalid.*

54. *Thus, apart from the Karnataka Central Diocese, the ratifications by the CSI Coimbatore Diocese and the CSI Medak Diocese are prima facie invalid. In effect, the ratifications of two thirds of the diocesan councils are*

prima facie not available and the conclusion that follows is that the amendments to the Constitution were not ratified in accordance with the procedure prescribed in Rule 2 of chapter XIII of the Constitution. Consequently, the amendments cannot be given effect to. Although rival contentions were advanced as regards the meetings of various other diocesan council meetings, in view of the above conclusion, it is unnecessary to examine the same at this juncture.

55. *The amendments to the bye-laws fall into a different category….. Rule 3 deals with the power of the Executive Committee of the Synod to frame rules, regulations and bye-laws for the operation of the provisions of the Constitution. Since the power to frame bye-laws is conferred on the Executive Committee of the Synod, in my view, the power to amend bye-laws is implied therein. Rule 3 applies subject to the rider "unless otherwise provided" ….. Whether the bye-laws were duly amended remains to be seen.*

56. *….. As discussed earlier, the video recording of the special session indicates that the amendments to the qualifications of the general secretary and treasurer (item nos. 3, 5, 6) were taken up along with the amendment to item 7 of the amendments to the Constitution and it is not possible to draw clear conclusions there from about the passing of these amendments as these amendments were not read out or discussed separately. Therefore, the video recording should be considered conjointly with the minutes of the special session. The minutes indicate that the amendments were passed unanimously. In the absence of any material indicating otherwise, I tentatively conclude that the amendments were carried at the special session.*

57. *The impact and implications of the above prima facie conclusions on the elections conducted on 13.01.2023 warrant careful consideration…..*

59. *….. Prima facie, the election of the incumbent Moderator is invalid in view of the earlier conclusion that the amendments were not duly ratified.*

60. *The next aspect to be considered is whether the amendments to the Constitution impacted the composition of the electoral college and, consequently, the election of other office bearers….. By taking into account the amendments and the composition of the Synod, I find that four amendments could have impacted the composition of the electoral college. The first of these being the increase in the age of retirement of bishops from 67 to 70 years….. This amendment potentially impacts the electoral college because all bishops are ex-officio members of the Synod and, consequently, entitled to participate in the election of office bearers of the Synod, including as members of the Bishops' Council. The consequence of increase in the age of retirement of bishops from 67 to 70 years is that even bishops who completed the age of 67, as on the date of election, would be entitled to continue as bishops and, therefore, ex officio, as members of the Synod.*

61. *The second amendment with potential impact on the electoral college is the amendment to the age of retirement of presbyters from 67 to 70 years….. As a result of the increase in the retirement age of presbyters, persons who were previously ineligible would become eligible for being elected as representatives of the respective diocesan councils to the Synod.*

67. *In order to examine whether the amendments to the age of retirement of bishops and presbyters actually impacted the composition of the Synod/electoral college to elect the office bearers of the Synod, it is necessary to check the ages of bishops and presbyters who participated in the election of office bearers of the Synod on 13.01.2023… By verifying the age of participating bishops and presbyters from these documents, I find prima facie that none of the bishops and presbyters from the above mentioned 20 Dioceses had completed the age of 67 as on 13.01.2023 because all the participants were born after 13.01.1956.*

69. *Apart from the two amendments discussed earlier, the third amendment….. This amendment enabled the four office bearers of the Synod to nominate 15 persons as*

additional members of the Synod. Prior to the amendment, the Moderator could nominate 10 additional members. As is evident from the list of participating persons at the ordinary meeting of the Synod, this amendment was implemented by nominating 15 members. Thus, as regards this amendment, there was an actual, albeit limited, impact.

70. *By an amendment to Rule 2(d) of Chapter XI, the CSI Congregations in the North American Council and in Gulf countries were permitted to elect four members each to the Synod. If such election was done and if such elected members participated in the elections, it could have altered the electoral college to that extent. On examining the list of participants at the Synod election and the attendance registers, I conclude that the CSI Congregations in the North American Council and in the Gulf countries did not send representatives pursuant to the amendments.*

71. *Hence, on an analysis of the four amendments discussed above, I conclude prima facie that the composition of the electorate was actually impacted to a very limited extent by the nomination of 15, instead of 10, members to the Synod by the incumbent officers of the Synod, and that the other three amendments did not have an impact. Therefore, the follow-on question is whether the election of the Deputy Moderator, General Secretary and Treasurer should be interfered with because five additional members were nominated by the Moderator and other officers of the Synod. The report of the election officer for the ordinary meeting of the Synod discloses that 345 delegates participated in the meeting and that 343 participated in the voting. The video recording of the election and the report are in conformity…..*

72. *From the above, it appears that the margin of victory of each of the three office bearers is significant and that the votes of the five additional members, who were nominated by the Moderator and the other officers of the Synod, did not impact the result… Therefore, I am of the view that interference with the election of the Deputy Moderator, General Secretary and Treasurer at the instance of the*

plaintiffs would cause far greater hardship to the 4.5 million members of the CSI and, consequently, to the institution than non-interference.

73. *By earlier order dated 12.01.2023, I held that the elections may take place but that the results should not be declared until further orders. I also held that no equities may be claimed by persons who would have been ineligible to contest but for the amendments, and this condition applies as regards the election of the Moderator. For reasons set out earlier, I conclude that the election of the Moderator was not valid but that the election of the other office bearers may be declared but would be subject to the outcome of the suits.*

74*. …..The respective plaintiffs prayed for the appointment of an interim administrator to take charge of the affairs of CSI, including to conduct the election… As on date, none of the cases have resulted in the conviction of the Moderator. The governance of the CSI is regulated by an elaborate written Constitution… In these facts and circumstances, I am not inclined to entertain the request for the appointment of an interim administrator. Whether an election officer or commissioner should be appointed is a distinct matter which falls for consideration next.*

75*. The incumbent Moderator was permitted to continue by order dated 12.01.2023 until further orders. The Moderator is elected for a three year term and is the head of the CSI. Therefore, it is not in the interest of the 4.5 million members of the CSI that the institution functions without a Moderator until final disposal. Therefore, I am of the view that the balance of convenience is in favour of directing re-election and that irreparable hardship would be caused to the plaintiffs and all the members of the CSI unless the Moderator is elected afresh. The documents on record indicate prima facie that the office bearers endeavoured to push through the amendments in great haste. Although the bye-law relating to the entry into force of amendments provides for a two year period within which the amendments must be ratified by the respective diocesan councils, the*

> *office bearers of the Synod proceeded with undue haste. From the above, a tentative conclusion may be drawn that the office bearers intended to ensure the passage of the amendments before the elections for the 2023-2026 triennium were held. These facts justify the appointment of an election officer to conduct the election of the Moderator of the Synod for the triennium 2023-2026…."*

21. Being aggrieved and dissatisfied by the common interim order dated 05.09.2023 passed by the Learned Single Judge, following appeals were filed challenging the aforesaid order:

    a) Ex-Bishop of Madras Diocese filed **O.S.A. No. 189/2023 in A. No. 54/2023** and **O.S.A. No. 191/2023 in A. No. 55/2023** and Ex-Moderator filed **OSA No. 204-5/2023 in A. No. 54/2023**, all the appeals challenging the finding that amendments were not ratified by 2/3rd of the Diocesan Councils.

    b) Ex-General Secretary filed **OSA No. 32/2024 in A. No. 54/2023** and CSI, Ex-General Secretary and Ex-Deputy Moderator filed **OSA No. 31/2024 in A. No. 55/2023**, both the appeals challenging particularly the order concluding that the amendments were not carried out in accordance with the Constitution of Church of South India and the requirements for carrying out valid amendments were not adhered to.

    c) Plaintiffs filed **OSA No. 198/2023 in A. No. 57/2023** challenging to the extent that the learned Single Judge has not appointed an Interim Administrator and has not validated the elections of the Deputy Moderator, General Secretary and Treasurer and directed fresh elections to these three posts be conducted.

22. The Learned Division Bench vide **Impugned Order dated 27.02.2024, disposed of O.S.A. No. 189/2023 in A. No. 54/2023** and **O.S.A. No. 191/2023 in A. No. 55/2023 as having become ineffective.** The relevant portion is reproduced as under:

> *"**2.** While disposing of another appeal in OSA.No.69 of 2022 today, we have affirmed the injunction granted by the learned single Judge of this Court restraining the CSI from implementing the resolutions relating to the enhancement of age of retirement of the Bishops and the terms of the Office of the elected Office Bearers and on the finding*

that the meeting of the synod dated 07.03.2022 was not properly convened.

2. In view of the said order that has been passed by us today, the position of the appellant as a retired Bishop becomes undisputable. Therefore, these appeals challenging only to the portion of the order relating to the enhancement of age do not survive. Therefore, these appeals are disposed of as having become ineffective as any orders passed in these appeals cannot be implemented in view of our order passed in O.S.A.No.69 of 2022……"

23. Subsequently, vide **Impugned Order dated 27.02.2024** passed in **OSA No. 204-05/2023 in A. No. 54/2023**, the Learned Division Bench again disposed of the appeals **as having become ineffective.** The Division Bench concluded that by the order passed in **O.S.A. No. 69/2022**, the Division Bench has upheld the injunction granted by the Learned Single judge in another suit on the ground that the meeting dated 07.03.2022 was not convened properly. The injunction granted specifically prohibited the CSI from implementing the resolutions regarding the increase in age of the bishops and terms of the Office of the Elected Bearers, which includes the Moderator who is the appellant in these two appeals. Therefore, the appeals also become ineffective, since any order passed in these appeals cannot be implemented in view of the prohibitory injunction that has been granted in C.S. No. 45/2022.

24. Further, vide **Common Impugned Order dated 12.04.2024** passed in **O.S.A. No. 198 of 2023 in A. No. 57/2023 and O.S.A Nos. 31-32/2024 in A. No. 54/2023,** the Division Bench of the High Court made the following observations:

(i) **O.S.A. No. 198 of 2023 – Firstly,** it has been observed that from the list of representatives who had participate in the ordinary meeting of the Synod held on 13th and 15th January 2023, it is found that out of 19 Diocesan Councils, at least 11 of them do not comply with the requirements of the Constitution regarding nominated members i.e. bye-laws states number of members who should be below the age of 35 years and the number of women members. Therefore, the structure of the Electoral College itself is fundamentally defective. The relevant portion is reproduced hereunder:

> ***"59.*** *The above provision would lays down the composition of representatives nominated or elected by each Diocesan Council to represent them in the meetings of the Synod. If we are to test as to whether the list that has been furnished by the Church of South India disclosing the number of representatives who had participated in the election meeting of the Synod held on 13th and 15th of January 2023 satisfy the requirements above, we find that at least insofar as the 11 Diocese are concerned, the bye-laws relating to the number of members who should be below the age of 35 years and the number of women members has not been complied with. Therefore, it is clear that the Electoral College itself is flawed."*

Secondly, the learned Division Bench did not agree with the findings of the learned Single Bench that the elections of the other office bearers cannot be said to be vitiated on the basis of the results, because once it is found that the constitution of the Electoral College was defective and the process of amendment of the bye-laws has not been carried out in accordance with the procedure prescribed in the Constitution of the CSI the sequitur should be that the whole of the elections will stand vitiated. Therefore, the other officer bearers who are elected in such a vitiated election cannot be allowed to continue in office. Thus, the Court is satisfied that Administrators should be appointed to conduct the elections of the Church of South India Synod. Learned Division Bench further observed that learned Single Bench had already appointed Hon'ble Mr. Justice V. Bharathidasan to conduct the elections for the post of Moderator alone, however learned Division Bench while considering the nature of work and the time to be spent, the Bench concluded that it would be better to form a Committee of Administrators rather than an individual, hence Hon'ble Mr. Justice R. Balasubramanian and Hon'ble Mr. Justice V. Bharathidasan, retired Judges of the HC were appointed as the member of the said committee.

(ii) **O.S.A Nos. 31 and 32 of 2024 –** In O.S.A. No. 69 of 2022, the learned Division Bench held that the very special meeting of the Church of South India Synod held on 07.03.2022 was not properly convened because there was no resolution of the Executive Committee authorising a special meeting of the Synod passed on 12.01.2022. Therefore, it was concluded that these appeals challenging the observations of the learned Single Judge to the effect that the amendments to the Constitution were not passed after following the procedure prescribed in the Constitution of the CSI have become ineffective, in view of the findings recorded by us in O.S.A. No. 69 of 2022. Hence, these appeals by the Church of South India were **dismissed as having become ineffective** by the learned Division Bench**.**

Observations Made in the Applications Filed in the Second Suit C.S. No. 45/2022

25. Regarding the applications (O.A. Nos. 114-115 of 2022) filed in the second suit C.S. No. 45/2022, the Learned Single Judge **disposed of the applications** vide an interim order dated 10.03.2022. The learned Single Judge **granted interim injunction**, restraining the defendants from giving effect to the resolutions passed in the meeting convened by the 1st Respondent/D. Lawrence on 7th and 8th March 2022 with regard to the fixation of upper age for the Bishops and Terms of elected members till the disposal of the above suit.

26. Being aggrieved and dissatisfied, CSI and office bearers filed **O.S.A. No. 69/2022** assailing the interim order dated 10.03.2022 praying to set aside the fair and decretal order dated 10.03.2022 in O.A. No. 115 of 2022 in C.S. No. 45/2022, and thereby allow this appeal with costs and render justice.

27. The Learned Division Bench vide **Impugned Order dated 27.02.2024 dismissed O.S.A. No. 69/2022**. The Court observed that Rule 20 of Chapter IX of the CSI Constitution deals with the convening of the Special Meeting of the Synod which makes it very clear that the Special Meeting of the Synod shall be summoned by the Executive Committee. The Court noted that the Defendants failed to provide any official resolution or evidence proving that any decision of setting a Synod Meeting on 7th and 8th March 2022 was taken by the

Executive Committee meeting held on 12.01.2022. The Court was of the opinion that the very convening of the Special Meeting of the Synod on 7th and 8th March 2022 is vitiated. The relevant extract is reproduced is as under:

> *"**13**. In the light of the above facts, we are of the considered opinion that the very convening of the Special Meeting of the Synod on 7th and of March 2022 is vitiated. This opinion of us is only prima facie since we are only dealing with the appeal against the order of the temporary injunction that has been granted in the suit. Though the learned Single Judge had not elaborately discussed these issues, being an order of temporary injunction, we do not propose to send the matter back to the learned Single Judge for a decision on these issues since we find from the records that there has been prima facie violation of Rule 20 and therefore, the order of interim injunction have to be sustained."*

Observations Made in the Applications Filed in the Third Suit C.S. No. 274/2022

28. Adverting to the applications (O.A. Nos. 818-819/2022 and A. No. 5961 of 2022) filed in the third suit C.S. No. 274/2022, the learned Single Judge closed the applications vide **common order dated 05.09.2023**. The learned Single Judge closed the applications in this suit by granting leave to apply for interim relief, if required, after obtaining leave under Order 1 Rule 8 of Code of Civil Procedure, 1908.

29. Being aggrieved and dissatisfied with the aforesaid order, **O.S.A. Nos. 236-238/2023** was preferred by the plaintiffs praying to set aside the order dated 05.09.2023 in so far as the closing of O.A. No. 818/2022 in C.S. No. 274/2022 and in so far as allowing the defendants 3 to 5 to get themselves declared as elected as Dy. Moderator, General Secretary and Treasurer respectively are concerned and allow O.A. No. 818/2022 as prayed for and thus render justice.

30. The learned Division Bench vide **Impugned Order dated 12.04.2024**, **dismissed** the **O.S.A. Nos. 236-238/2023,** and concluded that the plaintiffs had not obtained leave under Order 1 Rule 8 of the CPC to file the suit in a representative capacity. The relevant extract is reproduced as under:

> *"**37**. We should not be taken to have approved the orders of the learned Single Judge closing the applications on the ground permission under Order I Rule 8 has not been obtained. However, since no application under Order I Rule 8 was filed before the trial Court and whatever application that was filed was withdrawn we do not think we could entertain these appeals against the orders closing the applications in C.S.No.274 of 2022 and we leave it open to the plaintiff to file a fresh application in the said suit under Order I Rule 8 and thereafter seek interlocutory orders in the said suit. Original Side Appeals filed by the plaintiff in C.S.No.274 of 2022 viz., O.S.A.Nos.236, 237 and 238 of 2023 are therefore dismissed without costs."*

Observations Made in the Applications Filed in the Fourth Suit C.S. No. 7/2023

31. Regarding the applications (O.A. Nos. 21-22 of 2023 and O.A No. 190/2023) filed in the fourth suit C.S. No. 7/2023, the Learned Single Judge vide **common order dated 05.09.2023,** closed the applications in this suit by granting leave to apply for interim relief, if required, after obtaining leave under Order 1 Rule 8 of Code of Civil Procedure, 1908.

32. Being aggrieved and dissatisfied with the aforesaid order, plaintiffs preferred **O.S.A. No. 188, 190, 192/2023** praying to set aside the order dated 05.09.2023 in so far as the closing of O.A. No. 21/2023 in C.S. No. 7/2023 and in so far as allowing the defendants 3 to 5 to get themselves declared as elected as Dy. Moderator, General Secretary and Treasurer respectively are concerned and allow O.A. No. 21/2023 as prayed for and thus render justice.

33. The learned Division Bench vide **Common Impugned Order dated 12.04.2024 allowed O.S.A. No. 188, 190, 192/2023.** The Court observed that once it is held that permission under Order 1 Rule 8 of Code of Civil Procedure, 1908 can be obtained at any stage of the proceedings, the non-grant of permission being a curable defect cannot be construed as a stumbling block to grant the reliefs if circumstances justify. The relevant portion is reproduced as under:

> *"**85**. Once it is held that permission to sue under Order 1 Rule 8 can be obtained at any point of time and it is not a*

pre-condition. It automatically follows that the Court's power to grant interim orders, even before granting permission under Order 1 Rule 8, cannot be curtailed…..

***86**. Even otherwise, in the case on hand, the application for leave was pending on the date when the learned Single Judge refused relief to the plaintiffs in C.S.No.7 of 2023 on the ground that the application has not been ordered…..*

***91**. ….. We therefore do not think that the learned Single Judge was right in not passing any orders in the applications filed in C.S.No.7 of 2022 and closing the applications with liberty to the plaintiffs to seek the reliefs after obtaining leave.*

***92**. We would therefore allow these appeals only to the limited extent that these applications will also stand disposed of in terms of the orders passed by us in O.S.A. No. l98 of 2023. In view of the fact that we have appointed Administering Committee, the applications seeking interim injunctions do not survive, they are therefore closed."*

34. The present appeals are hereby arising out of these aforesaid impugned orders dated 27.02.2024 and 12.04.2024 passed by the learned Division Bench.

SUBMISSIONS MADE ON BEHALF OF THE APPELLANTS

Challenge to the order dated 27.02.2024 in O.S.A. No. 69/2022:

35. The learned counsel for the appellants advanced detailed and comprehensive submissions, addressing the matter at considerable length. In the course of their arguments, they raised several pivotal issues that go to the root of the dispute. These submissions encompassed both factual and legal dimensions of the case and sought to challenge the validity of the impugned orders dated 27.02.2024 and 12.04.2024.

36. In considering the arguments advanced by the appellants, it is now pertinent to undertake a *seriatim* examination of the submissions presented before this Court:

Validity of the Synod Meeting Dated 07.03.2022:

37. The learned counsel for the appellant denied the averments made in the plaint that no date and venue for the Special Meeting of Synod held on 07.03.2022 was fixed on 12.01.2022 in a Special Executive Committee meeting and that no agenda was circulated with the notice for the meeting. It has been vehemently argued that in the minutes of the meeting filed, it can be concluded that the special executive committee decided to convene the special synod meeting and authorised the moderator and other moderators to fix the date and venue of the meeting in consultation with the bishops and further directed the general secretary to prepare and circulate the proposed amendments to all the bishops for forwarding the same to each and every member of the synod in their respective diocese.

    37.1 The learned counsel further contended that the learned Single Judge had the benefit of viewing the video in this case and there was not a whisper from anybody that there was no resolution convening the meeting and in fact the plaintiff in C.S. No. 45 of 2022 also did not raise any objection as seen in the videography and on the basis of the material evidence, the learned Single Judge had come to the conclusion that the meeting was duly convened which finding not being perverse does not merit any interference. Reliance is placed regarding this on ***Shyam Sel & Power Ltd and Anr. v. Shyam Steel Industries Limited.***[1]

    37.2 Moreover, it was submitted that the respondent's email dated 10.02.2022 which is a reply to the General Secretary's email notice based on the resolution of the special executive committee of 12.01.2022, where the complaint is not that no resolution was passed by the special executive committee for convening the meeting, but the complaint was that copies of the proposed amendments and bye-laws were not enclosed along with the meeting notice.

1 (2023) 1 SCC 634 at Para 37.

Evidence Consideration:

38. The learned counsel further submitted that the learned Division Bench ignored the fact that 326/359 members attended the meeting on 07.03.2022. This included the members – Ms. Benita Babu, Ms. Sheeba Tharakarn, Mr. Franklyn James and Ms. Booshanam Thabithal who complained about a lack of proper notice. This can *prima facie* prove the adequacy of the notice.

    38.1 Moreover, the learned counsel for appellant also claimed that the court refused to consider the resolution of the Special Executive Committee held on 12.01.2022, which was present in connected appeals. From the said Special Executive Committee Meeting, it could be recorded from the minutes of the meeting that a decision was taken to summon a Special Synod Meeting for the approval of the proposed amendments.

Validity of the Proposed Amendments to the Constitution and Bye-Laws of the CSI:

39. The counsel for the appellant contended that the learned Single Judge, in his judgment dated 05.09.2023 has held that the first two steps for the amendment of the Constitution i.e. meetings dated 12.01.2022 and 07.03.2022, were valid. However, learned Division Bench while passing the judgment dated 27.02.2024 in O.S.A. No. 69/2022 whereby the meeting held on 07.03.2022 was declared as vitiated, however, the learned Division Bench did not consider the fact that there was already a judicial order dated 05.09.2023 confirming the validity of the two meetings.

    39.1 Further, it was submitted that out of 359 members, 326 members were present at the Special Synod Meeting held on 07.03.2022. With regards to the amendment proposing the increase of clergy retirement age from 67 to 70 is concerned, 289 members voted for the proposal for an increase in the retirement age and 37 voted against it. Therefore, it was submitted that the requirement of passing of resolution by 2/3rd majority of the Synod was fulfilled.

    39.2 Further, the learned counsels for the appellants vehemently argued that the proposal for amendment was sent to the 22

dioceses however, there is a judicial restraint against Karnataka Central Diocese from ratifying amendments. Thus, it should be excluded from the total number of dioceses who were eligible to vote. Thus, the total number of dioceses should be taken as 21 and not 22. Consequently, 2/3rd majority would thus be 14. It is further submitted that there is no dispute regarding the ratification by the following: (i) Dornakal (ii) Jaffna (iii) Karnataka North (iv) Karnataka South (v) Karimnagar (vi) Krishna-Godavari (vii) Kollam-Kottarkara (viii) Madras (ix) Madurai-Ramnad (x) Rayalseema (xi) Thoothukudi-Nazareth (xii) Trichy-Tanjore. Therefore, if it is shown that two more dioceses have voted in favour of the ratification, the 2/3rd majority would be crossed.

39.3 The learned counsel further submitted that with regard to Coimbatore Diocese, the learned Single Judge has found that the notice period of 3 months was not followed thus, the ratification was *prima facie* not proper. However, three notices were issued for the meeting: 18.11.2022, 1.12.2022 and 9.12.2022 and the meeting was then held on 10.12.2022. Further, the total number of members of the Diocese is 387 out of which 236 members attended and voted. Further, 221 members voted in favour of the proposal and 15 voted against. Therefore, even if it is held that all 151 members of the Diocese who did not attend/were unable to attend because of short notice voted against the ratification, the ratification would still have been 221:166. Thus, the finding that the meeting was invalid for lack of notice is incorrect. It is also important to note here that no absentee member of the Coimbatore diocese has challenged the meeting procedure.

39.4 The learned counsel further submitted that if they adopt the same line of reasoning with Medak Diocese (534 members out of which 378 attended and 260 voted in favour of the amendments, 15 voted against and remaining abstained) as they did with Coimbatore Diocese, the ratio would be 260:171. Besides, no absentee member of the Coimbatore diocese has challenged the meeting procedure.

39.5 Further it was submitted that with regards to Nandyal Diocese, the CSI, in its written statement before the High Court, had

relied on full ratifications by 15 dioceses. It had also relied on a partial ratification by the Nandyal diocese. This Diocese had approved the proposed amendment for enhancement of retirement age from 67 to 70 years by a majority of 241-6. The amendment on the issue of retirement age stood fully ratified.

39.6 Therefore, it was further submitted that if the votes of the Coimbatore, Nandyal and Medak are counted as ratifications and the vote of Karnatak Central diocese removed from consideration all together, it is seen that 15/21 diocese ratified the amendment and this comfortably crosses the 2/3rd majority and even if the vote of Karnataka Central is taken into consideration and counted against the amendments, it can be seen that 15/22 ratified the amendments, which is more than a 2/3rd majority.

40. Further, it was contended that while considering the validity of the amendments to the bye-laws, the learned Single Judge has correctly acknowledged the minutes of the meeting of the Special Executive Committee of the Synod, which was held on 12.01.2022, which indicates that the Executive Committee of the Synod framed amendments to the bye-laws and resolved to place the same before the Synod which later held on 07.03.2022. It was further submitted that the video recording of the special session indicated that the amendments to the qualifications of the general secretary and treasurer were taken up along with the amendment to the Constitution. The appellant further argued that while the learned Single Judge noted the difficulty in drawing clear conclusions about the passing of these amendments from the video recording of the 07.03.2022 session, the court also observed that the minutes of the special session indicated that the amendments to the bye-laws were passed unanimously.

40.1 Therefore, the learned counsel for the appellant argued that the learned Single Judge's conclusion that the amendments to the bye-laws were carried at the special session is correct, given the absence of any material indicating otherwise.

40.2 Further, the learned counsel for appellant stated that for the submission that the said minutes of the special synod meeting

was not signed, the counsel submitted that the original signed minutes are in the office of the synod and what was submitted on record was the print out.

41. Moreover, it was submitted that no prejudice from the amendments could have been caused as the amendments only increased the pool of people eligible to hold various offices. It is also important to note that none of the unsuccessful candidate in the election has challenged either the amendments or the election process.

Interim Relief:

42. It was further submitted that the learned Division Bench stayed the resolution, impermissibly moulding the relief at the interim stage. This Hon'ble Court has repeatedly held that relief that is outside the pleadings of the party should not be granted.[2]

42.1 Further, in the instant case, C.S. No. 45 of 2022 from which O.S.A. No. 69 of 2022 arose, was for a decree declaring the notice convening the special synod meeting on 7th and 8th March 2022 as illegal and the learned Division Bench has effectively decreed the suit even at the interlocutory stage without any trial, evidence etc. and with great respect, on a wrong premise that the relevant averments have not been denied.

Maintainability of the Suit:

43. It was further submitted that a Division Bench of the Madras High Court has held that a suit against the CSI is not maintainable without leave under Order 1 Rule 8.[3] In C.S. No. 45/2022 which was filed on 01.03.2022, interim relief was granted on 10.03.2022 and leave under Order 1 Rule 8 was granted only on 05.08.2022. It is the widely known rule that leave under Order 1 Rule 8 can be granted at any stage however, in the facts of the case, interim relief which in effect decreed the suit could not have been granted, without leave. Moreover, the procedure under Order 1 Rule 8 would have ensured that all affected parties were heard.

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2 Bachhaj Nahar v. Nilima Mandal and Another, (2008) 17 SCC 491 at Para 10-14.

3 The Executive Committee of the Synod Church of South India v. Rt. Rev. Dr. V. Devasahayam, 2009 SCC OnLine Mad 1506 at Para 23.

Challenge to the order dated 12.04.2024 in O.S.A. No. 198/2023 and connected appeals:

Scope of learned Single Judge's Reliance:

44. It was further submitted that learned Single Judge had closed the applications in C.S. No. 274/2022 and C.S. No. 7/2023 leaving only C.S. No. 86/2022 for consideration. The prayer in the C.S. No. 86/2022 is to frame a scheme, removal of Moderator and direction of fresh elections, alleging only criminal cases against the Moderator and not the validity of the amendment. However, learned Single Judge relied on the averments and prayers made in the applications filed in C.S. No. 274/2022 and C.S. No. 7/2023 while considering the grant of interim relief.

Validity of Ratifications:

45. It was further contended that out of 24 dioceses, 16 ratifications would be needed to secure 2/3rd majority. It was also submitted that: (a) the South Kerala Diocese had been restrained from ratifying the proposed amendments; (b) there was no meeting held in the Thoothukudi-Nazareth diocese; (c) the meeting was held by Zoom in some other diocese, but that was not permissible as the Constitution only provides for a physical meeting. However, the learned Single Judge did not find the ratification illegal on these grounds; instead, the bench stated that the ratification lacked 2/3rd majority due to improper ratification by Karnataka Central Diocese, Coimbatore Diocese, and Medak Diocese.

45.1 It was further submitted that there were no averments at all regarding these three dioceses in the suit/application in C.S. No. 86/2022. These dioceses were also not parties to the suit. Thus, the learned Single Judge erred in finding the ratifications to be improper in the absence of any pleading in the suit.

Interim Reliefs:

46. The learned counsel vehemently argued that averments regarding improper ratification by the Medak and Coimbatore diocese were made in C.S. No. 7/2023. The Diocese against whom the allegations were made were also parties to C.S. No. 7/2023. However, having closed the applications in C.S. No. 7/2023, the learned Single Judge

could not have relied on the averments made in the closed suit/ application.

46.1 It was further submitted that the interim relief that can be granted in a suit must be incidental to and in aid of the main relief. In this case, the main relief was for the framing of a scheme. The only averments were about the criminal cases against the Moderator. The amendments to the CSI constitution were not in dispute at all. In these circumstances, a completely different interim relief on an issue not presented in the plaint could not have been granted.

46.2 Further, this Hon'ble Court in the ***Supreme Court Bar Association & Ors. v. B.D. Kaushik***[4] categorically held that, an interim relief in the nature of allowing the final relief should not be granted lightly except in special circumstances. It was respectfully submitted that in the present case no special circumstances exist. In fact, the allegations of electoral college in the case in hand being flawed, read with the observations made in the Impugned Orders and the supporting judicial precedents relied upon/ discussed by the Respondents will not apply to the present case, as the margin of victory for the 3 office bearers explicitly conveys the will of the majority non disputed electoral college/voters. The learned Division Bench unfortunately did not abide by the spirit of election and democracy, instead interdicted the same at the instance of a few individuals.

SUBMISSIONS MADE ON BEHALF OF THE RESPONDENT

Scope of the Appeal:

47. The learned counsel for the respondent submitted that the statement that the impugned orders virtually decides C.S. No. 86/2022 is false. The relief prayed for in C.S. No. 86 / 2022 is for framing of a scheme for the administration of CSI. There is no scheme framed in the Impugned Orders. In fact the Appellant's actions in attempting to amend the CSI Constitution pending a Scheme Suit was a blatant attempt to frustrate the suit.

4 (2011) 13 SCC 774 at Para 38 and 39.

47.1 It was further submitted that appellant misguidedly relied on the doctrine of indoor management which has nothing whatsoever to do with the present appointment of administrators.

47.2 Moreover, the appellant egregiously faults the Division Bench for finding that the amendments did not secure the necessary ratifications when the CSI itself has admitted this fact in its O.S.A. Nos. 31-32/2024.

47.3 The learned counsel for the respondent submitted that the reliefs prayed for specifically seek the framing of a scheme for the administration of CSI including prescribing qualifications, disqualifications, and terms of office for Synod membership. The officer bearers are all members of the Synod, and the scheme sought in the suit would necessarily cover each of their posts which are part of the Synod.

Scope of Reliefs Sought:

48. It was further submitted that the powers of the Court is not limited by the specific allegations contained in the plaint and can consider subsequent events that affect the proper administration of CSI. In any event in this present suit, the Plaintiff has specifically prayed for framing a scheme under s.92(g) which is not limited to any aspects, and further also prays for framing a scheme under s.92(h) which expressly extends the power of the Court to pass any orders as the nature of the case may require. As such, it is clear that the power of the Court under s.92 is not limited to the specific allegations of the Plaint alone and can cover all subsequent and other facts as the Court considers necessary in the nature of the case.

Appellant's Locus Standi:

49. It was further submitted that C. Fernandas Rathina Raja, appellant in his erstwhile position as General Secretary of CSI, represented Defendant No. 2 in C.S. No. 86/2022 and Appellant No. 2 in O.S.A. Nos. 31-32/2024. However, he has filed these SLPs in his personal capacity. The issue at hand is limited to the setting aside of the election of the Moderator. C. Fernandas Rathina Raja as he has never been Moderator and can never be the Moderator of CSI since he is not an ordained member of the CSI Clergy, as only a Bishop

can contest the Moderator's elections. Hence the C. Fernandas Rathina Raja is not affected in any manner by the impugned order.

Validity of the Ratifications:

50. It was further contended that the learned Division Bench in dismissing O.S.A. Nos. 31-32/2024 relied on the decision in O.S.A. No. 69/2022 dated 27.02.2024 wherein it was held that the amendments sought to be made to the CSI Constitution were invalid on account of the invalidity of the Synod meeting which was held on 07.03.2022 in which the proposed amendments were passed. Although, the learned Division Bench dismissed O.S.A. Nos. 31-32/2024 without considering the correctness of the factual findings of the learned Single Judge that the amendments had not been ratified by 2/3rd of the Diocesan Councils, however it was obviated in view of the admission made by the CSI that the Single Judge had correctly found that the necessary 2/3rd ratifications had not been secured.

Merits of the SLP:

51. Further, it was submitted that there are no grounds made out at all for this Hon'ble Court to consider this SLP and certainly no grounds for grant of any interim reliefs since the appointment of the administrators only serves to protect CSI and the larger interest of the CSI membership which is more important than protecting the selfish motives of the Appellant who is only 1 out of 45 lakh CSI members.

DISCUSSION AND ANALYSIS

52. We have heard the learned counsels representing the respective parties at length and have meticulously examined the records presented before us. The arguments advanced by both sides have been duly considered, and all relevant materials, and documentary evidence, have been thoroughly scrutinized.

53. While expressing no opinion on the merits of the civil suits itself and upon careful consideration of the orders passed by the lower courts, we are not inclined to interfere with the orders passed by the learned Single Judge except the findings regarding Order 1 Rule 8 of CPC, which is discussed later.

54. However, with respect to the orders passed by the learned Division Bench it is our considered opinion that the said orders are legally

unsustainable and, consequently, warrant quashing. The key issues that arise for consideration in the present appeals are as follows:

(i) The validity of the Synod meeting convened on 07.03.2022, where certain amendments to the CSI Constitution were approved.

(ii) The validity of the amendments to the Constitution and Bye-Law of the CSI.

(iii) The validity of the Election of the Moderator.

(iv) Whether the elections of other office bearers i.e. Deputy Moderator, General Secretary and Treasurer should be set aside due to alleged irregularities in the Electoral College.

(v) Whether there should be an appointment of the Committee of Administrators to conduct fresh elections.

(vi) Whether suits filed without obtaining leave under Order 1 Rule 8 of CPC are maintainable.

55. The Court shall now proceed to examine the issues *seriatim*, undertaking a detailed analysis of each point raised in the proceedings.

The validity of the Synod meeting convened on 07.03.2022, where certain amendments to the CSI Constitution were approved.

56. We are of the considered opinion that the Special Meeting of the Synod on 07.03.2022 was duly convened. By going through the minutes of the Special Executive Committee of the Synod meeting held on 12.01.2022, it can be observed that: (a) Executive Committee of the Synod decided to send a resolution for the proposed constitutional and bye-law amendments to the Synod for the consideration and approval at its Special Session; (b) Executive Committee of the Synod decided to summon a special meeting of the Synod for the aforesaid purposes and to authorise the Moderator and other Officers of the Synod to fix the time and place of the meeting in consultation with the Bishops and (c) Executive Committee of the Synod decided to direct the General Secretary to prepare and circulate the proposed amendments to all the Bishops for forwarding the same to each and every member of the Synod in their respective dioceses. Thereafter, a Meeting Notice dated 10.02.2022 was issued by the General Secretary of CSI, Mr. C. Fernandas Rathina Raja informing all the

members of the Synod that a decision to convene a Special Synod Meeting on 7th and 8th March, 2022 at Bishop Heber College has been taken by the Special Executive Committee.

56.1 Therefore, in the absence of provisions in the CSI Constitution regarding the manner of convening meetings of the Synod, a 25 days' notice was provided to the members of the Synod prior to the Special Meeting of the Synod. Furthermore, minutes of the Special Executive Committee Meeting clearly reflect that Synod's Executive Committee decided to submit proposed constitutional and bye-law amendments to the Synod for approval at a special session. The committee also resolved to hold a special meeting for this purpose and instructed the General Secretary to distribute the amendments to all Bishops, who would then forward them to Synod members. This chain of communication and procedural compliance further substantiates the fact that due process was followed in relation to the convening and conduct of the meeting. It can further be concluded that large numbers of the members attended the Special Meeting of the Synod and therefore the meeting cannot be said to have been conducted without notice. Therefore, it can *prima facie* be established that the Special Meeting of the Synod on 07.03.2022 was duly convened.

The validity of the amendments to the Constitution and Bye-Law of the CSI.

57. The present amendments to the CSI Constitution and its Bye-laws traces its origin in ordinary meeting of the Synod held on 14th and 15th January, 2020. The Resolutions Committee's report from that meeting directed the Constitution Revision Committee to develop the necessary amendments. Consequently, the Constitution and Bye-Laws Revision Committee of the Synod proposed amendments to the CSI Constitution and the Bye-Laws, following Rules 2 & 3 of Chapter XIII of the CSI Constitution. These proposed amendments were presented to the Special Synod Executive Committee on 12.01.2022 and after deliberation, the Executive Committee resolved to bring the amendments before the Synod, in accordance with Rule 2 (a) of Chapter XIII of the CSI Constitution. The main amendments related to increase in age of retirement, change in qualifications for post of General Secretary and Treasurer, and changes to the Synod

(electoral college). While the learned Single Judge held that the proposed amendments to the bye-laws are valid, it invalidated the proposed amendment to the Constitution for the following reasons:

(i) One of the contested amendments to the CSI Constitution is to increase the retirement age of clergy from 67 years to 70 years. However, one of the requirement to approve the amendment is ratification of the proposed amendment by the 2/3rd Diocesan Councils and in the present case, the prescribed procedure was not followed since out of 15 diocesan councils who allegedly ratified the amendments, two of them namely, CSI Coimbatore Diocese and CSI Medak Diocese did not adhered to the procedure by which ratification of the proposed amendments must take place. Further, we are unable to concur with the submission advanced by the learned counsel for the appellants, which effectively presumes or infers ratification of the proposed constitutional amendments by certain Diocesan Councils, based on statistical voting patterns or lack of objection from absentee members. Such an approach cannot substitute the mandatory procedural compliance explicitly required under the Constitution of CSI which is a statutorily required procedural step. Moreover, any deviation from these procedural norms—such as convening meetings with inadequate notice (as in the case of Coimbatore), or relying on partial approval of select amendments (as in the case of Nandyal), or presuming the intent of silent or abstaining members—undermines the sanctity and legitimacy of the ratification process. Therefore, the requirement of ratification of the amendment to the Constitution by 2/3rd Diocesan Councils was not duly fulfilled and suffers from procedural infirmities leading to the invalidity of the proposed amendments. Consequently, the proposed amendments to the Constitution are not enforceable and cannot be given effect to. Therefore, order of learned Single Judge granting interim injunction restraining the respondents/defendants from giving effect to the resolution passed in the meeting convened on 7th and 8th March 2022, with regard to the fixation of upper age for the bishops and terms of elected members is sustained till the disposal of the pending suits.

(ii) The proposed amendments to the bye-laws relate to the qualifications of the General Secretary and Treasurer of the

Church of South India. Rule 3 of Chapter XIII of the Constitution of CSI gives the power to the Executive Committee of the Synod to frame rules, regulations and bye-laws for the operation of the provisions of the Constitution of CSI. However, in the absence of any contradictory provisions in the Constitution of CSI, it can be inferred that the power of the Executive Committee to make bye-laws includes power to amend such bye-laws. In the present case, the amendments to the bye-laws were carried at the special session of the Synod and as discussed earlier, the special meeting of the Synod held on 07.03.2022 was duly convened. Further, it can be seen from the minutes of the special meeting of the Synod that the amendments to the bye-laws were passed unanimously. This unanimous passage at a duly convened meeting supports the validity of the amendments to the bye-laws.

58. Given the facts as set out above, we are not inclined to interfere with the findings of the learned Single Judge with regards to the validity of the amendments to the Constitution and the Bye-Laws of the CSI which are governed under Chapter XIII of the CSI Constitution under Rule 2 and Rule 3. In consequence thereof, the findings of the learned Division Bench regarding the validity of the amendments to the bye-laws are hereby set aside.

The validity of the Election of the Moderator.

59. Taking into consideration the validity of the Election of the Moderator, the learned Single Judge is correct in holding that the said election of the Moderator is invalid. Rules 7 and 8 of Chapter IX of CSI Constitution details the election and tenure of the key Synod Officers including Moderator and Deputy Moderator, who are elected from among diocesan bishops. All officers, including the General Secretary and Treasurer, are elected by Synod ballot. Their terms align with the Synod's ordinary meetings which according to Rule 20 of Chapter IX of the CSI Constitution is required to be held once in every three years. Further, bye-Law 7 of the CSI Constitution prescribes the manner in which the election shall be conducted. It also prescribes that the Bishop who is nominated by the Bishop's Council to be the Moderator should not be due to retire during the ensuing term.

59.1 Accordingly, the core issue for consideration for the post of Moderator is that the nominated Bishop "should not be due to

retire during the ensuing term." Since the Synod meets every three years (Rule 20), it can be concluded that "ensuing term" refers to the next three-year period. Therefore, the nominated Bishop must have at least three years remaining before their mandatory retirement at the time of nomination. In the present case, since the incumbent Moderator completed the age of 67 years in May 2023 and elections were held on 11.10.2020 for the three years period ending on 11.10.2023, it cannot be said that it was a fair nomination and hence, lacks legitimacy and integrity in the election process. Even after considering the amendment to the Constitution by which the age limit for retirement was increased to 70 years, as recorded earlier, the said amendment is not enforceable since the same was not duly ratified which makes the said amendment by which the age limit was increased as invalid. Having regard to the above-mentioned facts, the election of the Moderator is said to have been tainted, thereby affecting its validity.

Whether the elections of other office bearers i.e. Deputy Moderator, General Secretary and Treasurer should be set aside due to alleged irregularities in the Electoral College.

60. The learned Division Bench found that the electoral college was flawed based on the grounds that some of the diocesan councils do not comply with the requirements of the CSI Constitution regarding the nominated members i.e. bye laws states that number of members who should be below the age of 35 years and the number of women members. However, these factual assertions do not bear the direct impact on the core issues in the present applications, which pertains to the validity and effect of the amendments in question on the electoral process. The focus for consideration is not on the individual composition of the diocesan council per se, but rather on whether the amendments impacted the legitimacy of the election as a whole. Therefore, the learned Division Bench has declared the electoral college flawed without establishing the causal link to the amendments in question. Accordingly, the findings of the learned Division Bench is set aside on this point.

60.1 Since the findings and conclusions of the learned Division Bench have been set aside, the order previously passed by the learned Single Judge shall stand restored and will continue

to remain in force. Consequently, the elections conducted for the other office bearers—namely, the Deputy Moderator, the General Secretary, and the Treasurer—shall be deemed valid and will continue to hold legal sanctity but will be subject to the outcome of the suits.

Whether there should be an appointment of Committee of Administrators to conduct fresh elections.

61. Since the election of the Moderator is declared as invalid and it is not in the interest of 4.5 million members of the CSI that the institution functions without a Moderator until the final disposal of the suit. Moreover, the records indicate that the office bearers rushed the amendment process, despite the bye-law allowing two years for ratification by diocesan councils. This suggests they aimed to pass the amendments before the 2023–2026 elections. These facts warrant appointing an election officer to conduct the Moderator's election for that term. Therefore, the finding of the learned Single Judge regarding the appointment and role of retired High Court judge in the election process is sustained.

Whether suits filed without obtaining leave under Order 1 Rule 8 of CPC are maintainable.

62. This Court is of the considered opinion that the position of law regarding the applicability of Order 1 Rule 8 of CPC is well settled. Order 1 Rule 8 CPC does not prescribe any stage at which the application can be filed.[5] While it is not a mandatory pre-condition for the institution of a suit or for the granting of interim relief, it is a procedural requirement that cannot be disregarded altogether which bears upon the binding nature of any orders issued. Therefore, while the absence of Order 1 Rule 8 is a curable defect, its compliance remains crucial to ensure the enforceability and representative effect of the orders passed. Leave under Order 1 Rule 8 may be obtained at any stage of the proceedings; however, it is emphasized that until such leave is formally granted, the orders passed from these proceedings may not be considered binding upon the entirety of the membership of the CSI.

5 Krishnan Vasudevan v. Shareef, (2005) 12 SCC 180.

63. Accordingly, we concur with the findings of the learned Division Bench passed in O.S.A. Nos. 236, 237 and 238 of 2023, insofar as it has been held that, in the absence of any application filed under Order 1 Rule 8 of the CPC before the learned Court—and in view of the fact that the application, if any, was subsequently withdrawn which was filed in C.S. No. 274/2022, the aforesaid appeals filed against the interim order cannot be sustained and therefore, are dismissed. Furthermore, the order passed by the learned Division Bench in O.S.A. No. 188, 190 and 192 of 2023 is affirmed since application under Order 1 Rule 8 is already pending in C.S. No. 7/2023. It is well settled law that grant of leave under Order 1 Rule 8 is not prerequisite for grant of interim reliefs since the permission under the said rule can be granted at any stage of the proceedings.

In light of the foregoing reasons, the following orders passed by the subordinate courts are hereby quashed by this Court:

64. In the light of aforementioned facts and circumstances, the appeals stand disposed of and the common order dated 05.09.2023 passed by learned Single Judge in O.A. No. 818/2022, O.A. No. 819/2022 and A. No. 5961/2022 in C.S. No. 274/2022 and O.A. No. 21/2023, O.A. No. 22/2023 and O.A. No. 190/2023 in C.S. No. 7/2023**, findings regarding Order 1 Rule 8 of CPC** are hereby quashed to such extent. Furthermore, the impugned orders dated 12.04.2024 passed by learned Division Bench in O.S.A Nos. 198/2023, 31-32/2024 and impugned order dated 27.02.2024 passed by learned Division Bench in O.S.A Nos. 69/2022, 189/2023, 191/2023, 204-205/2023 are hereby set aside to the said extent.

65. Accordingly, there shall be an order of interim injunction restraining the respondents/defendants from giving effect to the resolution passed in the meeting convened on 7th and 8th March 2022, concerning the fixation of the upper age for the Bishops and tenure of the elected members until the final disposal of the pending suits.

66. However, it is made clear that the observations contained in this order are only *prima facie* in nature and shall not be construed as a reflection on the merits of the aforementioned civil suits, which shall be decided independently at the stage of final adjudication. Furthermore, we recognise that the power to amend the CSI Constitution rests with the Synod, and nothing in this order should

be interpreted as interference with that amending power. The Court's ruling herein is limited to the legal issues presented before us and does not constitute a determination on the substantive merits of the underlying disputes.

Result of the case: Appeals disposed of.

†*Headnotes prepared by:* Ankit Gyan