

(2014) 02 MAD CK 0224

In the Madras High Court

Case No : Contempt Appeal No. 10 of 2013

Rt. Rev. Dr. H.A. Martin, Bishop, Tamil Evangelical Lutheran
Church

APPELLANT

Vs

E.D. Charles and Others

RESPONDENT

Date of Decision : 28-02-2014

Acts Referred:

Constitution of India, 1950 — Article 136, 227

Contempt of Courts Act, 1971 — Section 12, 19, 19(1), 19(1)(a)

Citation : (2014) 1 LW 906 : (2014) 2 MLJ 513

Hon'ble Judges : Satish K. Agnihotri, Acting C.J.; K.K. Sasidharan, J

Bench : Division Bench

Judgement

Satish K. Agnihotri, Actg. C.J. and K.K. Sasidharan, J.—This contempt appeal is directed against the order dated 6 September 2013 in Contempt Petition No. 1266 of 2013 whereby and whereunder the learned Single Judge after holding that the appellant was guilty of contempt of Court refrained from imposing punishment, but issued a direction permitting the elected members to assume charge subject to the final outcome of the pending suit between the parties.

Brief Facts:

The first respondent initiated contempt proceedings in C.P. No. 1266 of 2013 against the appellant alleging violation of the order passed by the learned Single Judge dated 14 December 2010 in CRP (MD) No. 2385 of 2010.

2. The first respondent in the affidavit filed in support of the contempt petition contended that the appellant by wilfully disobeying the direction given in CRP (MD) No. 2385 of 2010 convened an Extraordinary General Body Meeting unilaterally on 26 and 27 April, 2013. Thereafter the appellant closed the Central Office to prevent the conduct of elections by convening the 42nd Triennial Synod.

3. The appellant contested the contempt petition primarily on the ground that he had a right to continue to function as Bishop in view of the compromise arrived

at before the Supreme Court in SLP (Civil) Nos. 8263 to 8265 of 2011. The appellant took an alternative contention that the very issue with regard to the legality and correctness of the General Body convened on 26 and 27 April 2013 and the general body convened by the first respondent from 2 to 4 May 2013 are subject matter of Civil Suits and as such the said issue cannot be decided in the contempt petition.

4. The learned Single Judge after holding that the manner in which the general body was convened, the validity of the notice issued, the right of the members who participated in the general body meeting, etc., are all matters to be settled by the Civil Court, categorically held that the appellant is liable to be punished for contempt. The learned Single Judge refrained from punishing the appellant by observing that "the appellant should seek pardon from the source in whose jurisdiction he has some faith." The learned Judge after passing such an order in the contempt petition issued a further direction permitting the elected members in the properly convened 42nd Synod on 2 to 4 May 2013 to take charge, subject to the final outcome of the pending civil suit. The order dated 6 September 2013 in Contempt Petition No. 1266 of 2013 is assailed by the contemnor in this appeal filed u/s 19(1) of the Contempt of Courts Act, 1971.

Submissions:

5. The learned Senior Counsel for the appellant made the following substantial contentions:

(i) The order dated 14 December 2010 in CRP (MD) No. 2385 of 2010 was delivered by the learned Single Judge at Madurai. Since the cause of action has arisen at Madurai, it was not proper on the part of the learned Single Judge sitting at the Principal Bench to entertain the contempt petition.

(ii) The appellant has already filed a contempt petition before the Madurai Bench in Contempt Petition (MD) No. 452 of 2013 against the first respondent alleging violation of the very same order dated 14 December 2010 in CRP (MD) No. 2385 of 2010. The contempt petition was argued and thereafter orders were reserved on 28 July 2013. The learned Single Judge was therefore not correct in taking up another contempt petition in the very same matter in spite of the submission made before him that the connected contempt petition was pending before the Madurai Bench.

(iii) The learned Single Judge having made an observation that the matters relating to the convening of general body and the elections are all matters to be settled by Civil Court, should not have issued a direction permitting the elected members to take charge.

(iv) There was an undertaking recorded by the Supreme Court that the Bishop would not be removed from the post. Even the order passed by the learned Judge in C.R.P. (MD). No. 2385 of 2010 there was a condition protecting the interest of the appellant. Even though the said condition was flouted by the first

respondent and his men and the related contempt petition to take action was pending, the learned Single Judge decided the present contempt petition and virtually punished the appellant.

6. The learned Senior Counsel for the first respondent made the following submissions:

(i) The present appeal u/s 19(1) of the Contempt of Courts Act is not maintainable in view of the factual position that the appellant was not punished by the learned Single Judge.

(ii) An appeal u/s 19(1) of the Contempt of Courts Act is maintainable only against an order or decision of the High Court passed in exercise of the jurisdiction to punish for contempt, meaning thereby the order imposing punishment for contempt. Since the appellant was not punished by the learned Single Judge, the present appeal is clearly not maintainable.

(iii) The first respondent and the other elected members have already assumed office on 2 May 2013 itself. Therefore, the permission granted by the learned Single Judge to the elected members to take charge does not matter much.

(iv) The appellant wilfully disobeyed the order dated 14 December 2010 in CRP (MD) No. 2385 of 2010 by convening a general body meeting without the association of first respondent or the administrator appointed by this Court. The learned Judge was therefore fully correct in holding that the appellant was guilty of contempt.

7. The learned Senior Counsel for the petitioner in M.P. Nos. 1 and 2 of 2014 (proposed party) made the following submissions:

(i) The 42nd Synod convened by the Administrator elected the office bearers and they assumed charge on 2 May 2013. The appellant after obtaining interim order in this contempt appeal made an attempt to interfere with the administration of church.

(ii) The earlier orders passed by the Madurai Bench in W.P. No. 9203 of 2013 dated 7 June 2013 has become final. Therefore it is not open to the appellant to contend that the first respondent and others took charge only on the strength of the order dated 6 September 2013 in contempt petition No. 1266 of 2013.

Analysis:

8. The Tamil Evangelical Lutheran Church is very much in news now for wrong reasons. The background facts clearly shows that there is an infighting going on between the faction led by the appellant and the rival faction commanded by the first respondent. This Court has witnessed several litigations initiated either by the appellant or by the first respondent and people connected to the respective faction. The Bishop and other functionaries are always in Court taking up one issue or the another. The Civil Revision Petition (MD) No. 2385 of 2010 was one such proceeding, which ultimately resulted in issuing certain directions by the

learned Single Judge.

9. The appellant herein filed Civil Revision Petitions in CRP (MD) Nos. 2385 and 2386 of 2010 before the Madurai Bench of this Court. The Civil Revision Petition in CRP (MD) No. 2385/2010, under Article 227 of the Constitution of India, was in relation to the order dated 12 November 2010 in LA. No. 1119 of 2010 on the file of Sub Court, Tiruchirappalli. The Civil Revision Petition was heard by the learned Single Judge along with the related contempt petition (MD) Nos. 643 & 681 of 2010 and CRP (PD) No. 2386/2010.

10. The learned Single Judge disposed of the Civil Revision Petitions and contempt petitions by a detailed order dated 14 December 2010. Para 53 of the said order contained the directions issued by the learned Single Judge. The order reads thus:

(a) Mr. Justice J. Kanakaraj, (Retd.) is appointed as the Administrator of Tamil Evangelical Lutheran Church;

(b) The Church Council elected in May 2010, with the Bishop as its President shall henceforth function, till the disposal of the main suits (for which separate directions are issued hereunder), under the guidance, supervision and control of the Administrator;

(c) The elected Members of the Church Council, who have opened (or broken opened) the Central Office of the institution at Trichy and taken over the records, pursuant to the interim order passed by the Sub Judge, Trichy, shall hand over all the records to the Administrator within a week;

(d) The Bishop/President shall hand over all the records relating to the transfers, postings and appointments made on and from 14.9.2010, to the Administrator. The Administrator shall scrutinise these records, hear the parties affected by such transfers, postings and appointments and pass appropriate orders, within six weeks from the date of receipt of a copy of this order. Those orders shall be binding on (i) the Bishop/President; (ii) the Church Council; and (iii) persons who are subjected to such transfers and postings. I am making the decision of the Administrator binding even on the persons who are subjected to transfers and postings, for the simple reason that though the Church Council has challenged such transfers and postings ordered by the Bishop/President after 14.9.2010, those affected parties have not chosen to come to Court. Therefore, I am making them bound by the decision of the Administrator, especially in view of the fact that the Administrator has also been directed to hear them before passing final orders;

(e) All meetings of the Church Council shall be held henceforth, under the supervision and control of the Administrator. If there is any conflict of opinion between the Bishop/President on the one hand and the elected Church Council on the other hand, the Administrator shall find out what is good for the institution and take appropriate decision. His decision shall be final and binding

on the Church Council and the Bishop/President;

(f) All the suits, listed in the annexure to this order, (other than those pre election suits which have already been ordered to be transferred to the Principal City Civil Court, Chennai, by an earlier order) shall stand transferred to the file of the Principal District Court, Tiruchirappalli, who shall allot all of them to any one of the additional District Courts (or Fast Track Courts). The Court to which all the suits are transferred, shall segregate the cases category wise and first take up for hearing, only those suits (i) where the elections to the Triennium 2010-2013 are substantially under challenge; and (ii) where the emergency circular dated 14.9.2010 issued by the Bishop/President is under challenge. Since some of the pre election suits have been transferred to the Principal City Civil Court, Chennai by judicial order dated 18.10.2010 by R.S. Ramanathan, J, and also since some of the parties to those suits are not before me, I am unable to order re-transfer of all those suits from the Principal City Civil Court, Chennai to the Principal District Court, Tiruchirappalli. However, the parties are directed to take out appropriate application within two weeks on the appellate side of this Court for transfer of even those suits which have already been transferred to the Principal City Civil Court, Chennai, so that they shall also be transferred to the Principal District court, Tiruchirappalli;

(g) If in the suits so taken up for hearing first, the election of the present body of Church Council (elected in May 2010) is upheld and in addition, if the circular issued under Rule 194 by the Bishop/President is set aside, then, the Administrator shall demit office and hand over charge to the Church Council represented by the Secretary. On the other hand, if the elections held in May 2010 are held to be invalid or if the elections as well as the emergency circular are upheld, then, the Administrator shall proceed to conduct fresh elections as per the bye laws;

(h) Till the first batch of suits segregated as per the preceding clauses are taken up for hearing are disposed of, none of the immovable properties of the institution shall be sold or encumbered in any manner;

(i) All transfers, postings and appointments to all educational and other institutions, which are considered necessary by the Bishop/President and/or by the Church Council, shall be placed in a meeting of the Church Council, convened under the supervision of the Administrator. If there is unanimity of opinion among the elected members and the President, those transfers, postings and appointments shall take place. If there is divergence of opinion, the same shall be resolved by the Administrator and his decision shall be final;

(j) The Administrator shall be present in all the meetings of the Church Council. All decisions taken in the meetings of the Church Council without any conflict between the Bishop/President on the one hand and the elected Members on the other hand, shall stand approved. But, if there is conflict of opinion between the Bishop/President on the one hand and the elected Members on the other hand,

then, the Administrator shall take a decision which shall be binding upon the Church Council;

(k) Since the flow of funds and control over properties whose values keep mounting, have been the root cause for all the problems faced by the institution and also since the Administrator may find it extremely difficult to look after even the distribution of the monthly salaries to the staff of all the institutions, I am of the view that the salaries of the teaching and non teaching staff of the educational institutions run by TELC, with the grant in aid received from the State Government, shall be arranged to be paid directly to the employees through the Regional Joint Director of Collegiate Education or the local school educational authorities. The Administrator shall take necessary steps within 3 weeks to write to the School/Collegiate Education authorities to henceforth make direct payment to the staff through electronic clearing system or other modes as prevalent in Government educational institutions;

(1) Since it was represented that due to the stalemate created by both parties, several payments could not be made to the Orphanages run by TELC and to the retired Pastors, the Administrator is requested to disburse such payments as are actually due, before Christmas, so that those innocent beneficiaries do not become victims of this (un) holy war, especially at a time when their festival season commences;

(m) No suit or other original proceedings, touching upon (i) the elections to the Synod, the Church Council and Bishop/President; and (ii) the management and administration of TELC, shall henceforth be entertained by any Court other than the Principal District Court, Tiruchirappalli, within whose jurisdiction the registered office of TELC is situate. It shall be open to the Principal District Court, Tiruchirappalli to assign those cases to any of the additional District Courts or Fast Track Courts. But, this restriction shall not apply to the employees of the various institutions run by TELC, to ventilate their individual grievances, before appropriate authorities/Courts;

(n) The Administrator shall be paid a remuneration of Rs. 30,000/- per month, apart from reimbursement of the expenses incurred by him towards the discharge of his duties. It will be open to the Administrator to engage the services of one or two secretarial staff, to assist him. The remuneration of such staff shall be fixed by him and the same shall also be reimbursed by the institution;

(o) All routine and regular payments, in respect of which there is no conflict between the Bishop/President and the Church Council, shall be continued to be made in the same manner as is done in normal times or by way of cheques signed by the President and Treasurer. Expenditure/payments in respect of which there is a controversy, shall be placed before the Administrator for his decision. If the Administrator approves an expenditure/payment, the President as well as the Treasurer shall sign the cheques for effecting such payments;

(p) To avoid any controversy and to clear all doubts regarding the role of the Administrator, it is clarified that the Administrator is not appointed as a substitute for the Church Council. He is appointed only as a Supervisor and a Facilitator, with powers to step in, whenever there is a conflict of opinion or clash of interests between the Bishop/President on the one hand and the Church Council on the other hand. In respect of decisions taken by consensus by both groups (President and Church Council), the Administrator would have no independent say;

(q) The arrangement made as above, shall continue till the disposal of the first set of cases by the Court to which they now stand transferred, or till the next elections. If it so happens that the elections themselves (to the next Triennium or even to the remaining period of the present Triennium) become due to be held even during the regime of the Administrator, the Administrator himself shall ensure free and fair elections and hand over charge to the newly elected Body;

(r) All interim orders passed by all courts in the cases listed in the table in paragraph 27 above, shall stand superseded to the extent they are in conflict with the directions issued herein above; and

(s) The Administrator is at liberty to seek appropriate directions as and when necessary.

11. The order passed by the learned Single Judge was taken up before the Supreme Court in SLP (Civil) Nos. 65 to 67 of 2011. The Special Leave Petitions were dismissed as withdrawn with liberty to file review applications.

12. The review applications filed thereafter were transferred to the Principal Bench pursuant to the order passed by the Honourable the Chief Justice. The review applications were ultimately dismissed by order dated 9 April 2011.

13. The appellant notwithstanding the direction given by the learned Single Judge that the meeting should be convened jointly by the Bishop (appellant), first respondent and the administrator, convened an extra ordinary general body meeting on 26 and 27 April 2013, without consulting others. The first respondent alleging violation of the directions initiated contempt proceedings against the appellant.

14. The first respondent alleged the following acts against the appellant as constituting the acts of disobedience of the order passed by the High Court in its Civil Revisional jurisdiction.

(i) The conduct of extra ordinary general body meeting on 26 and 27 April 2013 in violation of the order passed in CRP. (MD) No. 2385 of 2010.

(ii) Closed the Central Office after declaration of results of the elections conducted on 2 to 4 May 2013 for the 42nd Triennial Synod.

15. The learned Judge found that the notification issued by the Administrator by taking the appellant and the first respondent into confidence was thrown to the

winds by the appellant by dubious methods and the same was nothing but a clear unambiguous and tortuous violation of the direction contained in paragraph 53(q) of the order dated 14 December 2010 in C.R.P. (MD) No. 2385 of 2010. The learned Judge further observed that by closing the Central Office and thereby preventing the administrator from handing over charge to the newly elected body, the appellant not only disobeyed the direction but also interfered in the administration of justice.

16. The learned Judge after holding the appellant guilty, passed the following order:

28. Therefore, it is clear that the only effective way to deal with this contempt, is to punish the contemnor and also remove the effect of the wrong done by him through his contemptuous act. Hence this contempt petition is ordered holding the first respondent guilty of contempt and declaring the meeting conducted by him on 26th and 27th April 2013 and the resolutions passed and decisions taken therein, as null and void. Though it is a clear case where I am inclined at least to impose a fine on the first respondent for his conscious violation of the orders of this court, I refrain from doing so since he is a Bishop. But I would certainly like him at least to seek pardon from the source, in whose jurisdiction, he has some faith. Consequently, persons elected in the properly convened 42nd Synod on May 2 to 4, 2013 are permitted to take charge, subject however to the final outcome of the suit pending in the trial court.

Substantial issues:-

17. The contempt appeal raises the following three substantial issues:

(i) Whether contempt appeal is maintainable against the order holding the contemnor guilty without there being a consequential order of punishment.

(ii) Whether the learned Single Judge was correct in arriving at a finding that the appellant was guilty of contempt of court.

(iii) Whether the learned Judge was correct in issuing a direction in favour of the elected members permitting them to take charge after holding the appellant guilty of contempt of court.

First Issue-Maintainability of Contempt Appeal:

The Legal Provision:-

18. Sub Section (1) of Section 19 of the Contempt of Courts Act 1971 provides for filing appeals. The said provision is extracted below:

(1) An appeal shall lie as of right from any order or decision of High Court in the exercise of its jurisdiction to punish for contempt-

(a) where the order or decision is that of a single Judge, to a Bench of not less than two Judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court: Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.

Supreme court on maintainability of contempt appeal:-

19. The question as to whether an appeal u/s 19(1) of the Contempt of Courts Act is maintainable against the order or the decision of the High Court passed in exercise of its jurisdiction to punish for contempt without there being an order imposing punishment for contempt came up for consideration before the Supreme Court in *Midnapore Peoples' Co-op. Bank Ltd. and Others Vs. Chunilal Nanda and Others*, . The Supreme Court after scanning various earlier decisions on the subject summarised the legal position thus:

I. An appeal u/s 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable u/s 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of "jurisdiction to punish for contempt" and, therefore, not appealable u/s 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal u/s 19 of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).

20. The question as to whether a warning issued by the learned Single Judge in a contempt proceedings would constitute an order of punishment so as to enable the contemnor to file an appeal, came up for consideration before a Division Bench of this Court in *Mrs. Shobhana Radhakrishnan and Another Vs. R.*

Krishnamoorthy, . The Division Bench was of the view any order as contained in Section 19(1) of the Contempt of Courts Act is not independent of the expression "decision" and they have been put in an alternative form saying "Order" or "decision". The Division Bench held that a decision or order holding the contemnor guilty of either an order of the Court or breach of undertaking could be questioned by way of appeal u/s 19(1) of the Act. The following observation made by the Division Bench would make the position clear.

16. A decision has been taken by this Court holding that the appellants have committed the contempt. Only on such a decision, the learned Judge having regard to the submissions made by the learned counsel for the appellants herein that they would have no objection if the respondent wanted to effect repairs at his own and the respondent will be permitted to effect the repairs, the learned Judge did not impose any other punishment except warning. Warning is not specifically enumerated as a punishment u/s 12 of the Contempt of Courts Act, 1971. Nevertheless, when such warning may also cause serious prejudice or adversely affect the contemnor, an order imposing warning can also be questioned by preferring appeal since such warning is ordered only after holding the appellant guilty of contempt. Hence we hold that the present appeal is maintainable.

21. In *Tamilnad Mercantile Bank Share Holders Welfare Association Vs. S.C. Sekar and Others*, , the issue before the Division Bench of this Court was as to whether an appeal would lie u/s 19(1) of the Contempt of Courts Act against an order passed by the learned Single Judge in exercise of contempt jurisdiction. The Division Bench observed that any decision adversely affecting a person would give him a right to prefer an appeal u/s 19(1) of the Act. The Division Bench observed:

14. The next question that falls for our consideration is as to whether the appellants are entitled to file the present contempt appeals. In this context, it would be relevant to point out that this Court in exercise of its power u/s 12 is entitled to punish the contemnor and in such event, the person who is visited with such punishment is entitled as a matter of right to prefer an appeal u/s 19(1)(a) of the Act. In terms of section 19 of the Act, an appeal shall lie as of right from any order or decision of High Court in exercise of its jurisdiction to punish for contempt. To our mind, the said section contains two parts. Firstly, an appeal shall lie as of right from any order or decision of the High Court and secondly, such order or decision must be in exercise of its jurisdiction to punish for contempt. It need not necessarily, therefore, mean that only in such cases where this Court punishes the contemnor, an appeal would lie and not when some adverse order is passed. If that interpretation is given to the said provision, the first limb of the said provision regarding the right to appeal against any order or decision of the Court would lose its full meaning. Any order or decision passed by this Court while exercising its jurisdiction to punish the contemnor would mean the exercise of jurisdiction and the corresponding order or decision. In our

opinion, even in case of any order passed adversely affecting any person, certainly he would be entitled to prefer an appeal, as otherwise he would be left with no effective remedy and only to visit with such adverse orders.

22. The judgment of the Division Bench in S.C. Sekar was upheld by the Supreme Court in Tamilnad Mercantile Bank Share Holders Welfare Association Vs. S.C. Sekar and Others, While upholding the decision of the Division Bench, the Supreme Court was pleased to place on record the Division Bench judgment of the Calcutta High Court in Ashoke Kumar Rai Vs. Ashoke Arora and Another, wherein it was held that punishment is not confined only to detention of a person or imposition of fine and a direction to do a particular thing in a particular way would also come within the purview of the said terminology.

23. The question as to whether an order passed by the Court holding the contemnor guilty and thereafter, resolves to punish him without there being a consequential order imposing sentence, would give a right to the contemnor to file an appeal under sub-section (1) of Section 19 of the Act was not the subject matter in any of the decisions cited before us.

24. The learned Single Judge was pleased to pass an order holding the appellant guilty of contempt. In fact, the learned Single Judge has very clearly observed that the only effective way to deal with this contempt, was to punish the contemnor and also remove the effect of the wrong done by him through his contemptuous act. The learned Single Judge on the basis of materials arrived at a finding that the appellant has committed contempt. Thereafter, the learned Judge has taken up the issue regarding sentence. The learned Judge observed that it is a clear case to impose a fine on the appellant for his conscious violation of the order passed by the Court. However, the learned Judge refrained from doing so taking into account the position that the appellant is a Bishop. The learned Judge observed that the appellant has to seek pardon from the source, in whose jurisdiction, he has some faith. The order passed by the learned Single Judge holding the appellant guilty is in the nature of a conviction. It is true that there was no corresponding order to impose sentence on the appellant.

25. The moot question is whether the order holding the appellant guilty of Contempt of Court and to punish him for his contemptuous act and thereafter to direct him to seek pardon from the source in whose jurisdiction he has some faith, would amount to a sentence enabling him to file a statutory appeal u/s 19(1) of the Contempt of Courts Act.

26. The appellant is a Bishop. The learned Single Judge has said in so many words that the appellant is guilty of contemptuous act. The learned Single Judge has also observed that he is inclined to impose fine on the appellant. It was only thereafter the learned Single Judge left the matter to the source in whose jurisdiction the appellant has some faith. The order passed by the learned Single Judge, in our view, would amount to punishment even though it would not make him liable to pay fine or to suffer imprisonment.

27. The declaration made by the learned Judge that the appellant has committed a contemptuous act by disobeying the direction issued in CRP (MD) No. 2385/2010 and that he should be imposed with a fine for his conscious violation of the orders of the Court and the ultimate direction to seek pardon from the source in whose jurisdiction he has some faith, should be construed as a punishment within the meaning of sub-section (1) of Section 19 of the Contempt of Court Act, giving him a right of appeal before the Appellate Court.

Our answer to the first issue:-

28. The order of this nature holding the contemnor liable for his contemptuous act and a clear declaration with regard to the conscious violation of the order of the Court and the initial decision to impose fine, change of opinion with regard to sentence subsequently and directing him to take pardon from the divine faith, would amount to a clear case of punishment. The first respondent cannot therefore contend that in spite of such finding, statutory appeal is not maintainable on account of the absence of specific punishment. We, therefore reject the contention taken by the first respondent with respect to the maintainability of appeal under sub section (1) of Section 19 of Contempt of Courts Act.

Second issue:-

29. The second issue is as to whether the appellant was liable for contempt, on account of the alleged contemptuous act.

30. The following dates and events recorded by the learned Single Judge in the order in appeal would clearly prove that the appellant has willfully disobeyed the directions issued in C.R.P. (MD) No. 2385/2013.

(v) After the issue of the notification dated 21.3.2013, jointly by (1) the interim President (2) the Secretary and (3) the Judge Administrator, the first respondent issued an independent notification dated 27.3.2013, calling for the Synod meeting on 26th and 27th April 2013. Simultaneously, the first respondent-Bishop also filed a civil suit in O.S. No. 46 of 2013, praying for (1) a declaration that the Extraordinary General Body Meeting held on 27.2.2013 and the Resolution passed therein, appointing an interim President in his place, was illegal and (2) for a declaration that he is entitled to continue to hold Office as the Bishop/President till 14.1.2014 and also for a consequential relief of permanent injunction, (w) Upon coming to know of the Synod notification dated 27.3.2013 issued by the Bishop, the petitioner herein, both in his individual capacity and in his capacity as the Secretary, filed a suit in O.S. No. 55 of 2013, praying for a declaration that the Bishop's notification dated 27.3.2013, calling for a General Body Meeting on 26th and 27th April 2013 was illegal and null and void, (x) Fortunately it appears that there were no interim orders, both in O.S. No. 46 of 2013, filed by the first respondent-Bishop and in O.S. No. 55 of 2013, filed by the petitioner herein, (y) But the consequence was that the Bishop decided to proceed with one General Body Meeting on 26th and 27th April 2013

as per his unilateral notification dated 27.3.2013 and the Church Council decided to proceed with the 42nd Triennial Synod/General Body Meeting from May 2 to May 4, 2013, as originally proposed way back in January 2013 itself, (z) When the date fixed by the Bishop, for the General Body Meeting was approaching, one Synod member, by name Ambrose Johnson, filed a writ petition in W.P. No. 12525 of 2013, on the file of this Court, seeking a Mandamus to direct the State Government not to accept any proceedings or Form No. VII under the Tamil Nadu Societies Registration Act, 1975, in pursuance of anything that happened in the General Body Meeting convened by the Bishop on 26th and 27th April 2013. While ordering notice in the said writ petition, K. Venkataraman, J., granted an interim order of injunction in the said writ petition on 25.4.2013, restraining the Bishop from conducting the General Body Meeting on 26th and 27th April 2013, in pursuance of the Bishop's Synod notification dated 27.3.2013. (aa) At about the same time, the petitioner also filed a writ petition in W.P. (MD) No. 7180 of 2013, seeking a Mandamus to direct the Commissioner of Police, Trichy, to grant police protection for holding the Synod/General Body Meeting from May 2 to May 4, 2013. By an order dated 26.4.2013, the said writ petition was disposed of by K.K. Sasidharan, J., leaving it open to the learned Judge Administrator, appointed by this Court, to make a request to the Commissioner of Police, if it was necessary and directing the Commissioner to consider the same and take a decision.

(ab) However, despite the interim order of injunction granted in W.P. No. 12525 of 2013 on 25.4.2013, restraining the first respondent-Bishop from proceeding with the General Body Meeting on 26th and 27th April 2013, the first respondent proceeded with the General Body Meeting. Interestingly, the Agenda, as originally proposed by the first respondent, for the General Body Meeting on 26th and 27th April 2013 were only for considering (1) the Bishop/President's Report (2) Annual Accounts 2011-2012 (3) Amendment of Bye-laws and (4) any other matters. But by a further notification dated 4.4.2013, the first respondent included one more Agenda viz., the election of the Church Council members for the period 2013-2016.

(ac) Thereafter, the first respondent proceeded with the Agenda (specifically his Agenda) in the meetings convened on 26th and 27th April 2013 and declared himself to have been elected as the President, with 11 others as the members of the Council.

(ad) Since the General Body conducted by the first respondent on 26th and 27th April 2013, was in violation of the interim order of injunction granted in W.P. No. 12525 of 2013 and also since the first respondent himself was a party to the earliest notification issued in January 2013 for the 42nd Triennial Synod convened from May 2 to May 4, 2013, the said 42nd Triennial Synod was held under the stewardship of (1) the interim President (2) the Secretary and (3) the Judge Administrator, from 2nd May to 4th May, 2013. In the said 42nd Triennial Synod, an election was held under the supervision of the Judge Administrator. In

the said election, one Rev. S. Edwin Jayakumar was elected as President. The petitioner herein was elected as the Secretary and 8 others were elected as members. This information was communicated by a learned Judge Administrator in the form of a Report, to the District Registrar of Societies, the District Collector and the District Revenue Officer.

(ae) Immediately thereafter, the first respondent allegedly locked the Central Office of the institution and pasted a notice on 5.6.2013, declaring that the Central Office will be on vacation until further notification.

Our answer to the second issue:

31. The learned Judge was therefore fully correct in his conclusion that the appellant wilfully violated the directions given in C.R.P. (MD) No. 2385 of 2010, with impunity. We therefore, confirm the finding given by the learned Single Judge regarding the contemptuous act committed by the appellant.

The third issue:-

32. The third issue relates to the direction given by the learned Single Judge to the elected members to take charge subject to the final outcome of the suit pending before the trial court.

33. The learned Senior Counsel for the appellant by placing reliance on several decisions of the Supreme Court submitted that the learned Single Judge erred in issuing a further direction in the contempt petition, which would go beyond the purview of the said contempt proceedings.

34. The Supreme Court in J. Parihar Vs. Ganpat Duggar and others, held that a fresh direction cannot be given in a contempt petition after exercising judicial review in contempt proceedings.

35. The Supreme Court in State of J & K v. Syeed Zaffar Mehdi 1997 (9) SCC 640 observed that in a contempt application it was not open to the Court to enlarge the scope of original petition and issue certain other directions while making orders.

36. It is true that in All Bengal Excise Licensees Association Vs. Raghavendra Singh and Others, , the Supreme Court, by following the earlier judgments, held that in case a party to the litigation in spite of an interim order obtained an advantage, in breach of the said order, he should not be allowed to escape the consequences and the attempt of the Court should be to preserve status quo ante by taking away the benefits so obtained.

37. However, such a course is not necessary in the subject case in view of the factual finding recorded by the learned Single Judge in W.P. (MD) No. 9203 of 2013 to the effect that the elected officer bearers have assumed charge on 2 May 2013.

38. The learned Single Judge after holding the appellant guilty of contemptuous

act wanted to declare the meeting conducted by him on 26 and 27 April 2013, the resolutions passed and the related decisions taken as null and void. Accordingly, the learned Judge permitted the elected members to assume charge.

39. The materials available on record clearly shows that the elected members have assumed office on 2 May 2013 itself. Therefore, there was no need to issue a further direction to the elected members to take charge subject to the final outcome of the pending civil suit.

40. The first respondent herein filed a writ petition before the Madurai Bench in W.P. (MD) No. 9203 of 2013 against the appellant, the Commissioner of Police and Inspector of Police, Palakarai, Tiruchirappalli to take action on his representations dated 1 June 2013 and 3 June 2013. The appellant was a party to the said writ petition and he was represented by a counsel. The learned Single Judge after hearing the parties, recorded a finding that the election was conducted by the administrator appointed by the Court on 2 May 2013. The learned Judge further observed that the new office bearers including the first respondent were elected and they took charge on 2 May 2013 itself. The communication sent by the Administrator to the District Registrar dated 3 May 2013 and the proceedings of the peace committee held on 3 May 2013, were also recorded by the learned Single Judge. The learned Single Judge further observed that the administration was handed over to the newly elected office bearers and as such they are entitled to run the administration. The learned Single Judge directed the appellant to open the main office and hand over possession to the newly elected office bearers at 9.00 a.m. on 8 June 2013. The Commissioner of Police and Inspector of Police were directed to assist the parties and to give protection till normalcy is restored. It is a matter of record that the order dated 7 June 2013 in W.P. (MD) No. 9203 of 2013 has become final.

41. The appellant, thereafter filed a writ petition before this Court in W.P. No. 10736 of 2013. The order dated 3 July 2013 in M.P. Nos. 2 and 4 of 2013 in W.P. No. 10736 of 2013 contained a statement with regard to the assumption of office by the elected members and the earlier finding recorded by the learned Single Judge in W.P. (MD) No. 9203 of 2013.

Our answer to issue no. 3:-

42. The factual matrix therefore very clearly shows that the newly elected officer bearers have assumed charge on 2 May 2013 itself. Such being the case there was no necessity to pass a further order by the learned Single Judge permitting the newly elected members to assume charge, while disposing of the contempt petition. We are therefore of the view that the direction given by the learned Single Judge permitting the persons elected in the scheduled 42nd Synod was unwarranted and as such, it is liable to be set aside. We make it clear that the above finding would not affect the assumption of charge by the elected members on 2 May 2013 and the related finding recorded by the learned Single Judge in the order dated 7 June 2013 in W.P. No. 9203/2013. Since such a direction was

unwarranted in this matter, we do not propose to deal with the issue in detail as to whether the learned Judge was correct in permitting the elected members to assume charge, after observing that such issues should be decided only in the pending suit between the parties. Maintainability of contempt proceedings before The Principal Bench:-

43. The appellant has raised a preliminary question with regard to the maintainability of contempt petition before the Principal Bench.

44. There is no dispute that the learned Single Judge disposed of the Civil Revision Petition in CRP (MD) No. 2385 of 2010 while sitting at Madurai. Thereafter, review petitions were filed by the appellant seeking review of the common order dated 14 December 2010 in CRP (MD) Nos. 2385 and 2386 of 2010. The review petitions came up for consideration before a learned Judge at Madurai. The learned Judge was of the view that the review petitions should be heard by the very same learned Judge, who was the author of the common order dated 14 December 2010. The matter was placed before the Honourable the Chief Justice and accordingly the review petitions were listed before the learned Single Judge before the Principal Bench. It is a matter of record that another application for clarification was filed by the Administrator wherein certain orders were issued by the learned Single Judge while sitting at the Principal Bench. In fact, even the appellant along with certain other members have filed a miscellaneous petition in M.P. (MD) No. 3 of 2012 in CRP (MD) No. 2385 of 2010 seeking permission to dispose of some of the properties. The said application was taken up by the learned Single Judge while sitting at the Principal Bench and by order dated 29 January 2013, direction was issued to the Administrator to consider the issue taking into account the financial status of the Society and the requirement for funds. The said order was accepted by both the parties including the appellant. The order dated 14 December 2010 in CRP (MD) No. 2385 of 2010 merged with the subsequent order dated 9 April 2011 made in the review petition. The review petition was dismissed by the learned Judge while sitting at the Principal Bench. It was only under such circumstances, the contempt petition which is the subject matter of this appeal was moved before the Principal Bench. The learned Single Judge entertained the contempt petition in view of the background facts. We do not find any error or illegality in the said action.

45. The appellant filed a writ petition before this Court in W.P. No. 5386 of 2013 challenging the Government order dated 3 January 2013 in G.O. Ms. No. 1, Commercial Tax and Registration (M1) Department. Therefore it is not as if the Principal Bench has no jurisdiction to take up the matter. The issue regarding jurisdiction was considered by the learned Single Judge in extenso and it was answered against the appellant. We are in full agreement with the finding recorded by the learned Single Judge with regard to maintainability of contempt petition before the Principal Bench.

46. The learned Senior Counsel for the appellant has raised an issue with regard to the legality and correctness of the contempt proceedings before this Court

during the currency of a similar contempt petition initiated by him before the Madurai Bench.

47. The order, which was the subject matter of the contempt proceedings was passed by the learned Judge (VRSJ) in C.R.P. (MD) No. 2385 of 2010. The related review petition was also considered by the very same learned Single Judge. The first respondent alleging disobedience of the direction given by the learned Single Judge initiated contempt proceedings in Contempt Petition No. 1266 of 2013 before the Principal Bench. The appellant on the other hand preferred a contempt petition before the Madurai Bench. There are no materials before this Court to substantiate the contention taken by the appellant that he has moved the Madurai Bench or the Registry to transfer Contempt Petition (MD) No 452 of 2013 to the Principal Bench so as to take it along with Contempt Petition No. 1266 of 2013. Since the contempt petition was pending before the learned Judge, who was the author of the judgment in C.R.P. (MD) No. 2385 of 2010, the appellant should have moved the Registry for transfer of proceedings. The learned Single Judge heard the contempt petition in C.P. (MD). No. 452 of 2013 at Madurai and orders were reserved on 28 July 2013. The appellant having failed to initiate steps for clubbing both the matters, cannot be heard to say that the learned Single Judge proceeded with the contempt petition notwithstanding the pendency of connected contempt petition before the Madurai Bench. We, therefore reject the contention taken by the appellant with respect to the decision taken by the learned Single Judge to deal with the Contempt Petition No. 1266 of 2013 without awaiting the decision in CP. (MD). No. 452 of 2013 pending on the file of Madurai Bench.

Summary of conclusion:-

48. The order impugned in this contempt appeal and the materials available on record clearly shows that the appellant wilfully disobeyed the directions given by the learned Single Judge by convening the Extraordinary General Body Meeting unilaterally and closing the office of the Society. We, therefore confirm the finding with regard to the contemptuous conduct of the appellant. However we set aside the direction given by the learned Single Judge, permitting the elected members to take charge, as it was unwarranted, in view of the factual finding recorded in W.P. (MD) No. 9203 of 2013, dated 7 June 2013, to the effect that the elected members took charge on 2 May 2013 itself. In the upshot we allow the contempt appeal to the limited extent indicated above. No costs.