

himself. In **P.M.A. Metropolitan's case** (supra), the Apex Court examined the various Articles in the 1934 constitution of the Malankara Church and ordered amendment to some of the Articles therein to resolve the factional dispute in the Malankara Church. Paragraph 103 of the said judgment indicates that the Apex Court had taken note of the provision contained in Article 101 of the constitution, which prior to the amendment pursuant to the directions issued in the said case was Article 92. A close reading of the judgment of the Apex Court indicates that the Apex Court had approved the said Article of the constitution, which is evident from paragraph 135(b) of the judgment dealing with the manner in which the Patriarch has to exercise his powers after the 1934 constitution. The relevant portion of the said paragraph reads thus:

"It may be that by this act of revival of Catholicate and the Kalpanas A. 13 and 14, the Patriarch is not denuded of the powers delegated by him to the Catholicos- assuming that these powers were not already possessed by the Catholicos and that they came to be conferred upon him only under A.13 and A.14 - yet, reasonably speaking, the Patriarch was, and is, expected to exercise those powers there after in consultation with the Catholicos and the Malankara Sabha (Association) - and, of course, in accordance with the 1934 Constitution. This was

necessary for the reasons (i) to avoid creating parallel authorities leading to conflict and confusion and (ii) the acceptance by the local people was asine qua non for any Metropolitan or melpattakar in Malankara Church as provided in the Mulanthuruthy Synod (convened and presided over by the then Patriarch himself) and given a judicial sanction by the judgment of the Travancore Royal Court of Appeal aforementioned."

The fact that the Apex Court had approved Article 101 of the 1934 constitution is further evident from the conclusion arrived at by the Apex Court as contained in paragraph 142 (3) of the said judgment, which reads thus:

"142(3) It may be that by conferring upon the Catholicos the powers of ordaining Metropolitans, consecrating Morone and to exercise other spiritual powers over Malankara Church, the Patriarch may not have denuded himself completely of the said powers which he enjoyed until then. But in view of the fact that he had himself created another center of power in India with the aforesaid powers, it would be reasonable to hold that thereafter the Patriarch cannot exercise those powers unilaterally, i.e., without reference to the Catholicos. He can exercise those powers only in consultation with the Catholicos. Moreover, the person to be appointed as Metropolitan or Malankara Metropolitan has to be accepted by the people as has been affirmed in the judgment in Seminary suit. The Patriarch's power to ordain the Metropolitans now is subject to the Constitution of 1934."

In the light of the findings recorded by the Apex Court in the said case as referred to above, it cannot be contended that the conclusion arrived at by the Apex Court in paragraph 142(4) of the judgment is unmindful of the fact that the Malankara Church would recognise only the Patriarch canonically consecrated with the co-operation of

the catholicos. As such, I have no hesitation to hold that the Patriarch of Antioch referred to in paragraph 142(4) of the judgment of the Apex Court is a Patriarch holding office in accordance with Article 101 of the 1934 constitution of the Malankara Church.

12. Now, I shall deal with the contentions raised by the learned counsel for the contesting respondents as regards the faith of the church. As noticed above, the contention is that the supremacy of the Patriarch of Antioch is one of the articles of faith of the church and that in so far as the parishioners who owe allegiance to the orthodox faction do not recognise the Patriarch of Antioch as the superior spiritual head, grant of reliefs to them would alter the faith of the church. Article 1 of the 1934 constitution of the Malankara Church categorically proclaims that the Malankara Church is a division of the orthodox syrian church and the primate of the orthodox syrian church is the Patriarch of Antioch. In the light of the said provision in the

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1934 constitution of the church, it cannot be contended that there is any deviation in the articles of faith of the church. The fact that there are two factions among the parishioners of the first defendant church as found by the trial court and that the plaintiffs are persons who owe allegiance to the orthodox faction are not in dispute. Merely for the reason that the contesting respondents recognises the Patriarch of Antioch holding office otherwise than in accordance with the 1934 constitution, it cannot be contended that if reliefs are granted to the plaintiffs as claimed by them, the same would result in altering the articles of faith of the church.

13. As regards the contention advanced by the learned counsel for the contesting respondents, relying on paragraph 141 of the judgment of the Apex Court in **P.M.A. Metropolitan's case** (supra), that the Apex Court has not held that the parish churches are to be governed by the 1934 constitution, it is seen that identical contention has been dealt with by a Division Bench of this Court in **Mathew**

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