

# IN THE COURT OF SENIOR CIVIL JUDGE- 2 AIZAWL DISTRICT: AIZAWL, MIZORAM

CIVIL SUIT NO. 06 OF 1996

Plaintiff:

United Penticostal Church  
North East India  
Registered under the Societies Registration Act, 1860  
Having its Headquarters at Jinking, Shillong- Meghalaya  
Through the General Superintendent  
United Pentecostal Church  
North East India

*By Advocates* : 1. Mr. W. Sam Joseph  
2. Mr. F. Lalenglina

*Versus*

Defendants:

1. The State of Mizoram  
Through the Chief Secretary to the  
Government of Mizoram
2. The Secretary to the Govt. of Mizoram  
Excise & Taxation  
i/c Registration of Firms & Societies  
Aizawl- Mizoram
3. The Registrar of Firms and Societies  
Govt. of Mizoram  
Mizoram- Aizawl
4. The Under Secretary to the Govt. of Mizoram  
Excise and Taxation Department  
i/c Registration of Firms & Societies  
Aizawl- Mizoram
5. Mr. Vanlalsipaia  
S/o Mr. Zaikunga  
District Secretary  
of Unregistered newly formed and Self Styled  
United Penticostal Church, Mizoram  
Chhing Veng, Aizawl
6. Mr. Lalthlamuana Hnamte  
S/o Smt. Hrangchhungi  
District Treasurer

of Unregistered newly formed and Self Styled  
United Pentecostal Church, Mizoram  
Chaltlang, Aizawl

7. Mr. R.T. Saihnuna  
District Pastor  
of Unregistered newly formed and Self Styled  
United Pentecostal Church, Mizoram

*By Advocates*

For the defendants 1-4 : 1. Mr. R. Lalremruata, AGA  
2. Miss Bobita Lalhmingmawii, AGA

For the defendants 5-7 : 1. Mr. L.H. Lianhrima  
2. Mr. Lalhriatpuia

Date of Arguments : 29- 06- 2011

Date of Judgment & Order : 09 -08 -2011

**BEFORE**

Dr. H.T.C. LALRINCHHANA, Sr. CJ- 2

**JUDGMENT & ORDER**

**INTRODUCTORY**

In the global scenario, the United Pentecostal Church International (UPCI) was founded in 1945 with the merger of the Pentecostal Assemblies of Jesus Christ (PAJC) and the Pentecostal Church Incorporated (PCI). The UPC is distinguished from other mainstream Pentecostal denominations by its anti-Trinitarian beliefs and teaching on the oneness of the nature of God. Leaders from both the PAJC and the UPCI met and together formed the UPCI. Officers were elected from both organizations. The first General Superintendent was Howard Goss and the Assistant General Secretary was W.T. Witherspoon.

In their brief history, In 1913 R.E. McAlister preached a sermon on Acts 2:38 in which he emphasized that God is known only in the name of Jesus Christ. Shortly thereafter, the practice of re-baptizing in the name of Jesus only, not in the Trinitarian name of Father, Son, and Holy Spirit, became common as “oneness” teaching spread. Tensions arose between the Trinitarians and the new Oneness believers, setting in motion a split. Numerous mergers, unions and splits followed, leading eventually to a merger in 1945 forming the United Pentecostal Church. The word “International” was later added to the name of the church body. Originally located in the city of St. Louis, in 1970 the denomination moved to Hazelwood, MO, a suburb, where it also operates its Gateway College of Evangelism. Today the UPCI is extremely active in foreign mission activities. Their sacred text is The Holy Bible

In their Beliefs and Practices, Oneness Pentecostals teach that baptism “in the name of Jesus” is the only correct formula for water baptism. The UPCI bases this view on Acts 2:38 where Peter commands repentance and baptism in the “name of Jesus Christ.” UPCI rejects the historic doctrine of the Trinity and hence also the use of the Trinitarian formula used in Christian Baptisms (Matt. 28:19). The UPCI belief is that the Father, the Son, and the Holy Spirit are really all manifestations of the one God who became flesh in the person of Jesus Christ. In the words of an UPCI statement of faith, the historic doctrine of the Trinity is “inadequate and a departure from the consistent and emphatic biblical revelation of God being one”. UPCI theologians and pastors argue that Jesus’ use of the singular word “name” in Matt. 28:19 reflects the view that the Father and the Holy Spirit are manifestations of the “one name” in the text – Jesus Christ. To further substantiate their claim, they also point to John 14:7-11 where Jesus prays that He and the Father are One. Baptismal practice reflects UPCI understandings of God. Previous Trinitarian baptisms are regarded as invalid. Coupled with this teaching is the belief that baptism by immersion only is the sole correct mode of baptism. Sprinkling does not constitute a correct baptism. The UPCI does not baptize infants. Oneness Pentecostals also believe in a “baptism in the Holy Spirit” today evidenced by the gift of speaking in tongues (glossalalia). Salvation is believed to be “by grace through faith” apart from works. The Lord’s Supper is practiced as a memorial feast. The holiness codes prevalent in most of the Holiness churches are also practiced in the UPCI. Dancing, movies, the wearing of jewelry, immodest dress and the like are forbidden. The polity of the UPCI is congregational with some degree of leadership and representation from its headquarters in Hazelwood, MO.

In the context of Mizoram, the UPC was firstly established in Mizoram on 19.2.1950 by Rev. E.L. Scism. Prior to that, there was no UPC in Mizoram (previously known as Lushai Hills). Rev. Scism came to India along with his wife and landed at Madras on 26<sup>th</sup> March 1949. After going to Kodaikanal and then to Travancore, he decided to come to Lushai Hills (now Mizoram). He arrived at Capital of Lushai Hills known as Aijal (Now Aizawl) on 18.2.1950. He had formed the UPC in Aijal, Lushai Hills on 19.2.1950 with some revivalist in Aizawl. When the UPC was formed by Rev. E.L. Scism, Pu Zakamlova was the first to join him and many others followed suit. The UPC which was established on 19.2.1950 was the part of UPC International and the Unit of UPC in Lushai Hills was under the administrative control of United Pentecostal Church of India. Initially the Headquarters was at Adur in Kerela later the headquarters was shifted to Bhopal, MP. All the UPC unit churches were controlled by the UPC India Unit. The UPC in Lushai Hills was also under the administrative control of UPC India. In the year 1969 for administrative convenience, UPC North East India was bifurcated from UPC India and named the ‘UPC North East India’.

Day by day the UPC in North East India evident gradual growth and many unit churches were established within North East India including Mizoram, touching a number mark of over 67,000 members within Mizoram alone. While the UPC (NEI) was progressing harmoniously, an unfortunate

incident occurred followed by a series of differences resulting out of the eruption un-befit of a church within Mizoram in 1994 -1995 witnessing huge number of members choosing to leave the UPC (NEI) to form a self-styled 'UPC of Mizoram' which is followed by a contest of title on Church buildings, Pastor Quarters etc. This incident also eked out the instant case as the plaintiff and the main defendants.

### **GERMINATION OF THE CASE**

The plaintiff, United Penticostal Church, North East India was registered as religious and charitable society under the Societies Registration Act 1860 with the Registration No. 100 of 1968-69 dated 26.3.1969 having its Headquarters at Shillong and branches at all over North East India including Mizoram. Meanwhile, the Govt. of Mizoram viz. the defendant no. 4 under No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 agreed to give registration to name United Pentecostal Church of Mizoram under the Societies Registration Act 1860. By alleging identical name or too nearly resembles to United Penticostal Church, North East India, the plaintiff had challenged and prayed to direct the state defendants not to register the organization of defendants 5-7 as United Penticostal Church, Mizoram under the existing/in force Societies Registration Act. The plaintiff therefore prays a relief that (a) a decree declaring that the society applied by the defendants 5-7 to the defendant no. 3 to be registered as United Penticostal Church, Mizoram or United Penticostal Church of Mizoram is identical with/too nearly resembles the names of the plaintiff and the same cannot be registered under the Societies Registration (Extension of Mizoram) Act, 1977 (b) a decree declaring that the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 is null and void and the same cannot be given effect to (c) by way of permanent and mandatory injunction that the defendants 1 to 4 be restrained from giving effect to the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 and the defendants 1 to 4 be restrained from registering the United Penticostal Church, Mizoram/of Mizoram applied by the defendants 5 to 7.

The defendants 1-4 submitted in their written statements that since the name of United Penticostal Church of Mizoram and United Penticostal Church, North East India are not identical nor have complete resemblance, there is no bar or reason for rejecting the application of defendants 5 to 7 to register. The Societies Registration Act, 1860 is not applicable in the state of Mizoram, there is no question of contravention of the provisions of the Societies Registration Act, 1860. As no cause of action had found in favour of the plaintiff, they prayed to dismiss the suit with exemplary cost.

The defendants 5 to 7 submitted in their written statements that no religious society in the name of United Penticostal Church of Mizoram or United Penticostal Church, North East India has been registered within the state and under the Govt. of Mizoram by the Registrar of Firms and Societies, Govt. of Mizoram, there is nor bar or reasons to interfere in the registration of United Penticostal Church of Mizoram. It was not the United Penticostal Church, North East, India who had established the forum

known as the United Pentecostal Church of North East India for the purpose of propagating the faith and creed of the United Pentecostal Church within the North Eastern states in cooperation with the United Pentecostal Church in other parts of India and with the United Pentecostal Church of United States of America. Prior to 1969 there were two Districts of United Pentecostal Church of Mizoram viz. United Pentecostal Church of North Mizo (Aizawl) District and United Pentecostal Church of South Mizo (Lunglei) District. The third District namely- United Pentecostal Church of Chhimtuipui District came into existence in the year 1974 and Aizawl East District in 1994. Indeed, the Aizawl East District was formed against the wishes and desire of the members and without authority by the plaintiff. As per the provisions of the Societies Registration Act, 1860 as extended by the Mizoram Act No. 3 of 1977, there is no provisions like impermissible to register any society which is identical with or too nearly resembles the names of any other society or anybody corporate which has been previously registered or incorporated under the said Act. It is solely the authority of defendants 1-4 who examine and scrutinize registration of society and which suggested registration of United Pentecostal Church of Mizoram, no interference if therefore call for. More so, there is substantial difference between United Pentecostal Church of Mizoram and United Pentecostal Church, Mizoram and no one is to be confused. The suit is therefore liable to dismiss with costs.

Here it may be pertinent to clarify that learned counsels of parties and in the plaint called as the Societies Registration (Extension of Mizoram) Act, 1977, by virtue of sub-section (1) of section 1 of the *Societies Registration (Extension to Mizoram) Act, 1976*, the said Act is truly titled as the Societies Registration (Extension to Mizoram) Act, 1976 as Mizoram Act No. 3 of 1977 which received the assent of the Acting President of India on 26<sup>th</sup> Feb., 1977 and notified under No. LJD. 127/76/55, the 15<sup>th</sup> March, 1977 which shall come into force at once as enumerated under sub-section (3) of section 1 of the Societies Registration (Extension to Mizoram) Act, 1976.

### **ISSUES**

The issues were framed on 28/7/2009 and by virtue of O. XIV, R. 5 of the CPC, the issues were amended and the amended form of issues are as follows -

1. Whether the suit is maintainable in its present form and style
2. Whether the society of the identical name can be registered.
3. Whether the United Pentecostal Church, North East India and United Pentecostal Church, Mizoram are identical name or too nearly resembles
4. Whether registration of United Pentecostal Church, Mizoram will cause any damage or injury to the plaintiff's United Pentecostal Church, North East India

5. Whether the plaintiff is entitled to the relief claimed. If so, to what extent

### **BRIEF ACCOUNT OF EVIDENCE**

#### For the plaintiff:

The plaintiff had produced only one witness namely- Rev. K. Lalrinsanga, General Superintendent of the United Penticostal Church, North East India (Hereinafter referred to as PW). In his examination in chief, he deposed that the United Penticostal Church, North East India was registered as religious and charitable society under the Societies Registration Act, 1860 with the Registration No. 100 of 1968-69 dated 26.3.1969 having its Headquarters at Shillong and branches at all over North East India including Mizoram. But, the headquarter is now shifted to Aizawl from Shillong. There are about 67,000 members of the plaintiff society within the state of Mizoram. Some of the members of his society left the plaintiff's society during 1994 and formed a new organization namely – United Penticostal Church and learnt that they applied registration under the Societies Registration (Extension to Mizoram) Act, 1977. As per the provisions of the Societies Registration Act, 1860, it is not permissible to register any society which is identical with or too nearly resembles the names of any other society or anybody corporate which has been previously registered or incorporated under the said Act. Since the plaintiff's society got registration on 26.3.1969. Since the name of the society of defendants 5-7 is identical with the name of the plaintiff, it is not permissible as per law. Thus, prayed a relief that (a) a decree declaring that the society applied by the defendants 5-7 to the defendant no. 3 to be registered as United Penticostal Church, Mizoram or United Penticostal Church of Mizoram is identical with/too nearly resembles the names of the plaintiff and the same cannot be registered under the Societies Registration (Extension of Mizoram) Act, 1977 (b) a decree declaring that the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 is null and void and the same cannot be given effect to (c) by way of permanent and mandatory injunction that the defendants 1 to 4 be restrained from giving effect to the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 and the defendants 1 to 4 be restrained from registering the United Penticostal Church, Mizoram/of Mizoram applied by the defendants 5 to 7. He further deposed that-

Ext. P- 1 is Certificate of registration of societies issued by the Registrar of Firms and Societies, Assam- Shillong under No. 100/1968-1969 in favour of the plaintiff namely- United Penticostal Church of North East India.

Ext. P- 2 is a copy of an application sent to the Registrar of Firms and Societies praying for registration of United Penticostal Church of Mizoram

Ext. P- 3 is a letter sent to the Deputy Registrar of Firms and Societies, Govt. of Mizoram by the Under Secy. to the Govt. of Mizoram, Excise and Narcotics Department informing about grant of registration

under the registration to United Pentecostal Church of Mizoram vide, letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995.

Ext. P- 4 is a copy of Notice Dt. 9/7/1996 u/s 80 of the CPC given to the state defendants by the plaintiff

In his cross examination by defendants 5&6, he deposed that the defendant governments were impleaded as defendants, he denied that the name of United Pentecostal Church of Mizoram and United Pentecostal Church of North East India is not identical or too nearly resembles. He further denied that registration of United Pentecostal Church of Mizoram will not cause any prejudice to the plaintiff.

During cross examination by defendants 1-4, he denied that the contents of his examination in chief are false and deposing falsely in the court.

For the defendants 1-4:

The defendants 1-4 had produced the following witnesses as follows-

1. Mr. H. K. Lalhawnghiana S/o Lalthlenghiana, Tuikual South- Aizawl (Hereinafter referred to as DW-1 of Defts 1-4)
2. Mr. Hrangthanmawia, Inspector of Taxes, Taxation Department, Govt. of Mizoram (Hereinafter referred to as DW-2 of Defts 1-4)

The DW-1 of Defts 1-4 in his examination in chief deposed that he is posted as Superintendent of Taxes (Hqrs.), Aizawl, Mizoram from 2004 till date. The District Board of United Pentecostal Church of Mizoram forming themselves into a society applies for grant of registration under the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) on 24<sup>th</sup> April, 1995. As required by the Societies Registration Act, they also submitted memorandum of Association which contains name of the society, aims and objectives and names and addresses of the Governing Body (District Board). A written objection was therefore filed by the plaintiff before them. On examination of the provisions of the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977), there appears no specific provisions to bar grant of registration to such religious organization having separate entity like the United Pentecostal Church of Mizoram and there was no reason to reject the application summarily. By referring the matter with lacunae of the provisions of the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) in such event, the Govt. of Mizoram conveyed decision under No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 stating that the Govt. of Mizoram has agreed to register the name of United Pentecostal Church of Mizoram under the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977). There is no similarity of United Pentecostal Church of Mizoram and United Pentecostal Church of North East India. Since the United Pentecostal Church of North East India is having headquarter at Shillong whilst United Pentecostal Church of Mizoram have headquarter at Aizawl, the area of operation or jurisdiction on which those two organizations is quite different

although may find some similarity in their names. There is no bar for registering United Penticostal Church of Mizoram under the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) [Now the Mizoram Societies Registration Act, 2005.

Ext. D-1 is a letter to the Deputy Registrar of Firms and Societies, Govt. of Mizoram Dt. 22<sup>nd</sup> December, 1995

Ext. D-2 is Challan No. 1081/A issued by Treasury Officer dt. 29<sup>th</sup> Dec., 1995

Ext. D- 3 is letter to the Registrar, Firms and Societies dt. 9<sup>th</sup> Jan., 1996 by making payment of Registration fee of Rs. 50.00 by the United Penticostal Church of Mizoram.

In his cross examination conducted by learned counsel for the plaintiff, he deposed that so far as his knowledge, the Registrar of Firms and Societies was rechristened as Commissionarate of Taxes in the year 1990 and he joined Taxation Department as Taxation Inspector on 5<sup>th</sup> Feb., 1990 and promoted to Superintendent of Taxes in 2004. His knowledge in connection with the case is derived from records maintained by the Department. During the year 1969, it is necessary to go to Shillong for registration of firms and societies even from Mizoram. The Societies Registration Act of 1860 was extended to Mizoram in the year 1977 and on 20<sup>th</sup> October, 2005, the Mizoram Societies Registration Act, 2005 came into force. At the time of the judgment & order passed by the Hon'ble Gauhati High Court in connection with W.P. (C) No. 99/01, the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) was also in force law which held that Ministry of Charity, Aizawl-Mizoram and Ministry of Charity, Mizoram was identical name and direct the Government to rectify or amend the Act accordingly to meet such situation. He knows nothing about the reasons for deciding registration of UPC of Mizoram under political pressures or not.

In his cross examination conducted by learned counsel for the defendants 5-7, he further deposed that in accordance with the Mizoram Societies Registration Act, 2005, he is ascertained that they had registered morethan 200 various societies under the scheme of Mizoram Intodelhna Programme (MIP). Wherein, the name of MIP was commonly used but only difference of their respective villages or localities, same procedure is also adopted under the National Rural Health Mission (NRHM), under the Health Department, they had registered like RKS- Mamit, RKS-Vanlaiphai, RKS-Saitual etc. He found no bar to register UPC of Mizoram although UPC of North East is already registered.

The DW-2 of Defts 1-4 in his examination in chief deposed that he is presently working as Inspector of Taxes, Taxation Department, Govt. of Mizoram, the UPC of North East was registered under the Societies Registration Act (Assam) in 1969 under No. 100 of 1968-1969. It was not therefore registered neither under the Mizoram Societies Registration Act, 2005 nor the Societies Registration (Extension to Mizoram) Act, 1976 (Act



No. 3 of 1977). The said UPC of North East did not have any connection with the Mizoram Societies Registration Act, 2005 or the Societies Registration (Extension to Mizoram) Act, 1976. In his opinion, he did not find that the names of UPC of Mizoram and UPC of North East are identical or near resembles.

In his cross examination by learned counsel for the plaintiff, he deposed that since the instant cause of action had arisen before his appointment into Taxation Department, his deposition is depends on the records maintained in the file. He also admitted that during 1968-1969, the Mizoram did not have any office of the Registrar of Firms and Societies and it was governed by the State of Assam.

For the defendants 5-7:

The defendants 5-7 had produced the following witnesses namely-

1. Rev. Vanlalsipaia S/o Rev. Zaikunga, Chhing Veng, Aizawl (Hereinafter referred to as DW-1 of defts 5-7)
2. Upa Lalthlamuana Hnamte S/o Chalzawna (L), Chaltlang- Aizawl (Hereinafter referred to as DW-2 of defts 5-7)

The DW- 1 of defts 5-7 in his examination in chief deposed that as duly applied for the United Penticostal Church of Mizoram had obtained society registration under No. S.R. 2/96/MZ-RFS of 1996 as per Memo No. RSR-39/95/51 Dt. 3<sup>rd</sup> January, 1996, none has already got registration under Firms and Societies in the name and style of United Penticostal Church of Mizoram. Meanwhile, United Penticostal Church, North East India had obtained registration under Firms and Societies, Govt. of Assam being location of their headquarter at Shillong, Meghalaya. United Penticostal Church of Mizoram was known as UPC of Mizo District since established in 1949. Since United Penticostal Church of Mizoram have not yet obtain registration, they simply sought registration under Firms and Societies. There is no identical names or too nearly resembles at all of United Penticostal Church of Mizoram and United Penticostal Church, North East India.

In his cross examination by learned counsel for the plaintiff, he further deposed that his father namely- Rev. Zaikunga was an ordained Pastor in the UPC. During 1968-1969, the territory of Mizoram was one of the districts of Assam State and in 1972, the Mizoram had attained Union Territory status. He admitted that prior to March 1995 when General body meeting of United Penticostal Church of Mizoram, United Penticostal Church of Mizoram did not have Memorandum of Association, Articles of faith, Rules, Regulations and Bye laws, they followed the Memorandum of Association, Articles of faith, Rules, Regulations and Bye laws of the UPC, North East. Ext. D-2 (a) is his true signature. So far as his knowledge concerned due to filing of the instant suit, their registration was not issued by the defendants 1-4.

The DW- 2 of defts 5-7 in his examination in chief deposed that as duly applied for the United Pentecostal Church of Mizoram had obtained society registration under No. S.R. 2/96/MZ-RFS of 1996 as per Memo No. RSR-39/95/51 Dt. 3<sup>rd</sup> January, 1996, none has already got registration under Firms and Societies in the name and style of United Pentecostal Church of Mizoram. Meanwhile, United Pentecostal Church, North East India had obtained registration under Firms and Societies, Govt. of Assam being location of their headquarter at Shillong, Meghalaya. United Pentecostal Church of Mizoram was known as UPC of Mizo District since established in 1949. Since United Pentecostal Church of Mizoram have not yet obtain registration, they simply sought registration under Firms and Societies. There is no identical names or too nearly resembles at all of United Pentecostal Church of Mizoram and United Pentecostal Church, North East India. No name of UPC is yet registered by the Govt. of Mizoram, he found no bar to register United Pentecostal Church of Mizoram. After already signed the certificate by the authority but before taking out of their certificate of registration, the plaintiff had filed the instant suit.

In his cross examination by learned counsel for the plaintiff, he deposed that so far as his knowledge concerned their Memorandum of Association, Articles of faith, Rules, Regulations and Bye laws were prepared in Feb., 1995 which was approved by the General body meeting held in the month of March, 1995 wherein, registration of the name of society was also resolute. He admitted that prior to March 1995 when General body meeting of United Pentecostal Church of Mizoram, United Pentecostal Church of Mizoram did not have Memorandum of Association, Articles of faith, Rules, Regulations and Bye laws, they followed the Memorandum of Association, Articles of faith, Rules, Regulations and Bye laws of the UPC, North East. He opined that there is no similarities or too nearly resembles of the UPC of Mizoram and UPC, North East.

### **ARGUMENTS/TERMS OF RIVALRY**

In the Argument, Mr. W. Sam Joseph, learned counsel for the plaintiff had submitted that from the evidence on record, the plaintiff's church was registered as "The United Pentecostal Church of North East India" under the Societies Registration Act, 1860 by the Registrar of Societies, Assam, Shillong when the Mizoram was one of the districts of the State of Assam. The UPC Churches in Mizoram were part and parcel of the UPC of North East India till some of the members of the UPC North East India left the church and formed the UPC of Mizoram in the year 1995, The Societies Registration Act, 1860 was extended to the Union Territory of Mizoram by the Societies Registration (Extension to Mizoram) Act, 1976. As per the provisions of S.2 of the said Extension Act runs thus: "The Societies Registration Act, 1860, as in the territories to which it generally extends, is hereby extended to, the Union territory of Mizoram and shall be deemed to have come in to force in that territory with effect from the 21<sup>st</sup> day of January, 1972, subject to the modifications mentioned in the Schedule." When the said Act was extended to Mizoram, as per the provisions of S.12A of the Societies Registration (Extension to Mizoram) Act, 1976 it was clearly mentioned that "Any society registered under this Act may, with the consent

of not less than two-thirds of the total number of its members, by a resolution at a general meeting convened for the purpose and subject to the provisions of section 12B change its name.” S.12 B (1) “Notice in writing of every change of name signed by the Secretary and by seven members of the society will be set to the Registrar. S.12 B(2) “If the proposed name is identical with that by which any other existing society has been registered or, in the opinion of the Registrar, it nearly resembles such name to be likely to deceive the public, Registrar shall refuse to register the change of name.” Though the said Societies Registration (Extension to Mizoram) Act, 1976 did not say anything about the registration of the fresh society, whose name is identical or nearly resembles such name likely to deceive the public, from the ratio of the provisions of S.12 B (2) it is amply clear that even a fresh society should not be registered if the name is identical or nearly resembles that of the society which have already been registered. In this connection he stated that he was compelled to point out the decision of the Honourable Gauhati High Court, Aizawl Bench in the Writ Petition (C) No.99 of 2001 Ministries of Charity, Aizawl, Mizoram, represented by its Secretary, Sh. R. Lalrinsanga Vs. State of Mizoram and Ministry of Charity, Mizoram (Respondent no.3). In the said case the Honourable High Court clearly ordered that (a) “The Registrar of firms & Societies will examine the matter and will permit respondent no.3 to change its name, if so desired, within a period of 2 (two) months from the date of this order. A notice from him will go to that effect to the parties concerned on receipt of the copy of this order, which will be furnished to him by the petitioner, and thereafter requisite order may be passed with the object to solve the problem to the satisfaction of both sides, bearing in mind that petitioner had its name registered earlier to get a preference. (b) The respondent no.1 is hereby directed to examine the matter in its proper perspective and enact appropriate law by way of amendment of the main act or otherwise as discussed in judgment in order to enlarge the provisions and remove the loop-hole as discussed in the judgment.”

Mr. W. Sam Joseph further supplemented that after the said Judgment was passed by the Honourable High Court, the Deputy Registrar, Firms & Societies, Mizoram issued a letter vide No.C.18015/1/01-RFS dated Aizawl, the 5<sup>th</sup> August, 2003 to Mr. V. Lalduha, the Chairman of the Ministries of Charity to propose another name in the place of “Ministries of Charity”. In pursuance of the said letter Mr. V. Lalduha proposed to change the name to “*Tribal Service Society*” from “*Ministries of Charity*”. Thereafter the State of Mizoram has passed the Mizoram Societies Registration Act, 2005 and as per the said Act S.11 no society with identical name cannot be registered and the said section runs thus: “*No Society shall be registered under a name which is identical with or too nearly resembles to that of any other society or any body corporate which has been previously registered or deemed to be registered under this act or incorporated under any other law for the time being in force.*” The Government of Mizoram carried out the orders of the Honourable High Court in the writ petition (C) No.99 of 2001 and enacted the Mizoram Societies Registration Act incorporating the suggestions made by the Honourable High Court of Gauhati, Aizawl Bench. It is clear from deposition of the DWs who deposed on behalf of the defendants nos. 1 to 4 and from the action of the Government and as per

the order of the Honourable High Court the defendants society under the name and style of United Pentecostal Church cannot be registered.

Learned counsel for the plaintiff concluded that from the evidence on record and on the basis of the decision of the Honourable High Court in the *Writ Petition (C) No. 99 of 2001 in the case of Ministries of Charity, Aizawl, Mizoram versus Ministries of Charity, Mizoram* it was clearly decided that the said two societies were identical or nearly resembles the other society, hence name of the society which was registered later in time had to be changed. In the orders passed by the Honourable High Court in the cause title the names of the two societies have been wrongly mentioned, however in the order dated 9.7.2003 *Writ Petition (C) No. 99 of 2001* it was mentioned in the 1<sup>st</sup> paragraph that the petitioner is “Ministries of Charity” Aizawl Mizoram and the respondent no.3 to be the “Ministry of Charity” Mizoram. This case was decided when the Societies Registration (Extension to Mizoram) Act, 1976 was in force and not after the Mizoram Societies Registration Act 2005 was enacted, hence the present case is similar to that of the case decided by the Honourable High Court in the *Writ Petition (C) No. 99 of 2001*. Even before the Mizoram Societies Registration Act 2005 came in to force the Honourable High Court clearly stated that the two societies having similar name and separated only by place mentioned along the side of the names could not be registered more so after the Mizoram Societies Registration Act 2005 came in to force due to the S.11 of the said Act. Hence the court is left with no other option but to allow the prayer made by the plaintiff in his plaint. This court can take judicial notice of the proceedings before the Honourable High Court and this court.

On the other hand, Mr. L.H. Lianhrima, learned counsel for the defendants 5-7 argued that in fact, no religious society in the name of UPC of Mizoram or UPC of North East India has been registered within the state and under the Govt. of Mizoram by the Registrar of Firms & Societies. And as such, there is no legal bar for interfering with the process of registration of the UPC of Mizoram by the authorities concerned and the suit is therefore nothing but malicious, vexatious and mala fide and is liable to be rejected outright. More so, it was not the UPC of Mizoram who had established the forum known as the UPC of N.E. India for the purpose of propagating the faith and creed of the UPC within the North Eastern States in co-operation with the UPC in other parts of India and with the UPC of USA. Prior to 1969 there were two districts of UPC of Mizoram viz UPC of North Mizo (Aizawl) District and UPC of South Mizo (Lunglei) District. The third district (i.e. UPC of Chhimtuipui District) came into existence in the year 1974 and the Aizawl East District in 1994. In fact, the Aizawl East District was formed against the wish and desire of the members and without authority by the Plaintiff. It is further submitted that the earlier name of UPC of Mizoram was UPC of Mizo District which was established in the year 1949. The fact that the UPC of Mizo District during the District Council period had joined hands with other UPC's in other states of the North East for the purpose of propagation of the faith and creed of the UPC within the said North Eastern area does not mean that the UPC of Mizoram had ceased to exist as a separate entity. As the said UPC of Mizoram in spite of its establishment way back in the year 1949 had not been registered under the Societies

Registration Act, 1860 and an application to that effect was made for registration of the UPC of Mizoram under the said Societies Registration Act, 1860 on its extension to the Mizoram vide the Mizoram Act No 3 of 1977 The Societies Registration (Extension to Mizoram) Act, 1976). Thus, there is no such provision which stated that no society shall be registered under the name which is identical with or too nearly resembles the name of any other society which has been previously registered under the same Act as averred by the Plaintiff. In fact, no religious society in the name of “United Pentecostal Church” or “UPC of Mizoram” has been registered under the Societies Registration Act 1860 as extended by the Mizoram Act No 3 of 1977 and as such the question of resemblance with any other society does not arise. As such, there is no any legal bar on the part of the said authority to issue the registration certificate in the name of the UPC of Mizoram on the application of the answering defendants.

Mr. L.H. Lianhrima added that the defendant no 1-4 are the competent authorities to see, examine and finally decide as to whether registration of a society is to be allowed or rejected. In the instant case, the defendant no 1 to 4 had examined the application and finally decided to grant the application of the answering defendant for registration of the UPC of Mizoram as a religious and charitable society under the said Act. In fact, there is no similarity between UPC of North East India and UPC of Mizoram. He concluded his arguments that in view of the facts and circumstances of the case and taking into account the evidences duly adduced by the witnesses of the rival parties and the relevant provision and the relevant documents available on record, this court may be graciously pleased to dismiss the instant suit outright with exemplary costs.

Miss Bobita Lalhmingmawii, learned Assistant Government Advocate for the defendants 1-4 simply and shortly submitted during oral arguments that the defendants 1-4 did not have any objections to register the name of the United Penticostal Church of Mizoram under the existing Societies Registration Act and found no legal bar to register them.

## **FINDINGS**

### **Issue No. 1**

#### **Whether the suit is maintainable in its present form and style**

The plaint is duly filed and sustainable in the circumlocution of the Code of Civil Procedure, whilst the defendants 1-4 had made a decision to register the name and style of United Penticostal Church of Mizoram as defendants 5-7 and whilst the name of the society of the plaintiff is United Penticostal Church, North East India, there is cause of action against the defendants in favour of the plaintiff. I find no irregularities and laches which vitiate the proceedings. As admitted, at the time of cause of action, the in force law i.e. the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) did not specifically prohibited to register any identical names or nearly resembles under the said Act. In this catena, the observations of Hon’ble Allahabad High Court is relevant which was held in **Raghubar Dayal vs Commissioner, Kanpur Division** decided on 6

December, 2004 and reported in 2005 (3) AWC 2230, 2005 (1) ESC 204, Hon'ble Allahabad High Court has observed that-

“14. It is, thus, clear that only Courts of law have been conferred a power to grant an injunction restraining the adoption and use of the same name when the Court is satisfied that damage has been caused or there is tangible risk or, possibility of a damage resulting from confusion caused in public mind, or the public being deceived by the use of the identical name and style. This power to grant injunction against the use of same name and style as recognised by the Courts of law is based upon a cause established by the plaintiff of likelihood damage/confusion to be caused in the mind of the public. Thus, it is established beyond doubt that it is for the respondents to have initiated suitable Civil Injunction Proceedings, if they had any apprehension of misuse of the name of the respondent by the subsequent society being registered. The claim, if any, so pleaded would be adjudged by the Civil Court, on the basis of evidence led and the extent of damage/loss, which may be caused. However, they cannot be permitted to invoke the authority of the Registrar himself to cancel the registration.”

This original civil court therefore have had a jurisdiction to entertain and adjudicate the instant case. In short, I therefore find no lacunae which vitiate the proceedings. Howsoever, towards justice, equity and good conscience, remedy remains alive under sub- section (3) of section 1 of the Code of Civil Procedure, 1908 (5 of 1908) and under Section 21 of the Mizoram Civil Courts Act, 2005 (Act No. 11 of 2005). With regards to another task on requisite court fees in the instant suit, whilst the suit is filed in 1996, the Court Fees (Mizoram Amendment) Act, 1996 (Act No. 5 of 1997) is made effective from 22<sup>nd</sup> April, 1997 vide, Notification No. G. 17013/8/96- FFC, the 21<sup>st</sup> July, 1997 published in the Mizoram Gazette, Vol. XXVI, 25.7.1997, Issue No. 30 [Part- II (A) p. 3]. Thus, there will be no question of lacunae on requisite court fees in the plaint.

## **Issue No. 2**

### **Whether the society of the identical name can be registered.**

The main cause of action had arisen on 22<sup>nd</sup> December, 1995 when issuance of letter under No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 stating that the Govt. of Mizoram has agreed to register the name of United Pentecostal Church of Mizoram under the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977). The submission of Mr. L.H. Lianhrima, learned counsel for the defendants 5-7 is a well settled law that the laws in force at the time of incident/occurrence will be applicable for adjudication of the dispute/case. Although the reliance sought by learned counsel for the defendants 5-7 in **Padma Srinivasan -vrs- Premier Insurance Co Ltd. AIR 1982 SC 836**, is un-doubtful, their Lordship of Hon'ble Supreme Court also accurately and

convincingly discussed the crux with a diverse view in the case of **Vinod Gurudas Raikar V. National Insurance Co.**, reported in 1991 AIR 2156, 1991 (3) SCR 912, 1991 (4) SCC 333, 1991 (2) SCALE 493, 1991 (3) JT 660, the precise question which was considered by the Bench was:

"The period of limitation for filing a claim petition both under the old Act and the new Act is six months from the date of the accident. The difference in the two Acts, which is relevant in the present case, is in regard to the provisions relating to condonation of delay. In view of the proviso to sub-section (3) of Section 166 of the new Act, the maximum period of delay which can be condoned is six months, which expired on January 22, 1990. If the new Act is held to be applicable, the appellant's petition filed in March had to be dismissed. The case of the appellant is that the accident having taken place before the new Act came into force, the proceeding is governed by the old Act, where there was no such restriction as in the new Act. The question is as to which Act is applicable; the new Act or the old."

The Bench opined:

"If in a given case the accident had taken place more than a year before the new Act coming in force and the claimant had actually filed his petition while the old Act was in force but after a period of one year, the position could be different. Having actually initiated the proceeding when the old Act covered the field a claimant could say that his right which has accrued on filing of the petition could not be taken away. The present case is different. The right or privilege to claim benefit of a provision for condonation of delay can be governed only the law in force at the time of delay. Even the hope or expectation of getting the benefit of an enactment presupposes applicability of the enactment when the need arises to take its benefit. In the present case the occasion to take the benefit of the provision for condonation of delay in filing the claim arose only after repeal of the old law. Obviously the ground for condonation set up as 'sufficient cause' also relates to the time after the repeal. The benefit of the repealed law could not, therefore, be available simply because the cause of action for the claim arose before repeal. 'Sufficient causes a ground of condonation of delay in filing the claim is distinct from, cause of action' for the claim itself. The question of condonation of delay must, therefore, be governed by the new law. We accordingly hold that the High Court was right in its view that the case was covered by the new Act, and delay for a longer period than six months could not be condoned."

As submitted by Mr. W. Sam Joseph, learned counsel for the plaintiff, the Societies Registration Act, 1860 was amended in its application to Assam Vide, Assam Act XIV of 1948; XV of 1948; XI of 1952; VII of 1957; XI

of 1958 and XIII of 1967, wherein S. 3A of the said Act as applicable in Assam enshrined that-

**“3-A Name of society.**

No society shall be registered under a name which is identical with, or too nearly resembles the name of, any other society or any body corporate which has been previously registered or incorporated under this Act or any other law for the time being in force, as the case may be”

In this task, the subsequent in force law was the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) which slightly modified the provisions of the Societies Registration Act, 1860 by appending the Schedule as imposed under S. 2 of the Societies Registration (Extension to Mizoram) Act, 1976. Whilst the provisions of the Societies Registration Act, 1860 (Act No. XXI of 1860) is silent on curbing of registration of societies whose names were identical with other societies already registered. Ss. 12 A and 12 B are inserted by the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977), the said Section 12 B reads thus-

**“12 B. Notice of Change of name:**

- (1) Notice in writing of every change of name signed by the Secretary and by seven members of the society shall be sent to the Registrar.
- (2) If the proposed name is identical with that by which any other existing society has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public, the Registrar shall refuse to register the change of name.
- (3) Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and the change of name shall have effect from the date of such registration”

Thus, the Societies Registration (Extension to Mizoram) Act, 1976 is silent on prohibition to register any identical name of the society witnessed by the observation of Hon’ble Gauhati High Court as submitted by Mr. W. Sam Joseph in the case of **Ministry of Charity, Aizawl, Mizoram Vs. State of Mizoram & Ors.** in connection with Writ Petition (C) No. 99 of 2001 decided on 9.7.2003.

However, subject to the modifications mentioned in the Schedule, the Societies Registration Act, 1860 as in force in the territories to the which it generally extends also extended to the then Union Territory of Mizoram with effect from 21<sup>st</sup> day of January, 1972 as embodied under section 2 of Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977). Furthermore, anything done or purported to have been done or any action taken or purported to have been taken, or any fees levied or collected, or



purported to have been levied or collected, before the commencement of Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977), by the Administrator of the Union Territory of Mizoram or by any other officer or authority under any law relating to registration of societies shall be deemed to have been validly done, taken, levied or collected under the Societies Registration Act, 1860 as extended to the Union Territory of Mizoram by the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) as clearly validated by S. 4 of the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977). By virtue of the proviso to clause (a) of Article 371 G of the Constitution of India, the said Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) will be applicable in the state of Mizoram even after full fledged statehood in 1987 when implementation of the Constitution (Fifty – third Amendment) Act, 1986 till enactment of the Mizoram Societies Registration Act, 2005 and came into force of the said Act, 2005. In my view, the decisions of Hon'ble Allahabad High Court is attracted in **Raghubar Dayal vs Commissioner, Kanpur Division (supra.)** which has held that damage or injury cause to other party will determine registration of identical name of societies where the relevant law is silent to preclude the same.

Needless to say is that as per Section 11 of the Mizoram Societies Registration Act, 2005 (Which is notified under No. H. 12018/136/06-LJD/5, the 17<sup>th</sup> October, 2005 Vide, the Mizoram Gazette, Extra Ordinary, Vol. XXXIV, 20.10.2005, Issue No. 278) which reads thus-

**“11. Identical name not to be registered:**

No society shall be registered under a name which is identical with or too nearly resembles to that of any other society or any body corporate which has been previously registered or deemed to be registered under this Act or incorporated under any other law for the time being in force”

It is not permissible to register identical names or too nearly resembles in view of the observations of the Calcutta High Court in **East India Photographic Traders' vs State Of West Bengal And Ors.** decided on 5 May, 1983 and reported in AIR 1984 Cal 92. But the instant case is different as cause of action had arisen before commencement of the said Mizoram Societies Registration Act, 2005. To widen the horizon, Section 12 of the Mizoram Societies Registration Act, 2005 further aimed to solve such problems saying that-

**“12. Registrar may direct change of name:**

(1) If a society is registered under a name or alters its name to another name which, in the opinion of the Registrar, is identical with, or too nearly resembles, the name of any other society or body corporate which, having been previously registered or incorporated under this Act or any other law for the time being in force, continues to exist, the Registrar may, by order direct such society to change its name within three months from the date of the order or such longer period as it may allow.

(2) The change of name shall not effect the rights and liabilities of a society or any legal proceedings by or against the society.

(3) In case of non-compliance with an order under Sub-section (1), every officer in default shall be punishable with fine which may extend to twenty rupees for every day until the order is complied with”

It may also be interesting to note that the Mizoram Societies Registration Rules, 2006 is also framed and notified under No. J. 23011/1/2003- RFS (Sectt), Dt. the 23<sup>rd</sup> June, 2006 Vide, the Mizoram Gazette, Ext. Ordinary, Vol. XXXV, 7.7. 2006, Issue No. 173, the effective date is also appointed with effect from 1<sup>st</sup> Sept., 2006 as notified under No. J. 23011/1/2003- RFS; Dt. the 1<sup>st</sup> Sept., 2006. Meanwhile, none of the parties can produce the effective date notification of the Mizoram Societies Registration Act, 2005 as required under sub-section (3) of section 1 of the Mizoram Societies Registration Act, 2005. Although DWs 1&2 of defts 1-4 in their respective depositions depends on the entity of the said Mizoram Societies Registration Act, 2005 at the current situation, its effective date remains hazy. More so, none of the parties can produce the Official Gazette copy of the effective date of the Mizoram Societies Registration Rules, 2006 as specifically required under sub- rule (2) of rule 1 of the Mizoram Societies Registration Rules, 2006. In a very nutshell, it not known that whether the Mizoram Societies Registration Act, 2005 is presently applicable in the state of Mizoram or not.

However, in the instant case, this court is ought to solve the moot points as held in **Raghubar Dayal vs Commissioner, Kanpur Division (supra.)** supplemented by the hazy legal position of the Mizoram Societies Registration Act, 2005.

### **Issue No. 3**

#### **Whether the United Penticostal Church, North East India and United Penticostal Church, Mizoram are identical name or too nearly resembles**

In this sphere, the arguments advanced by Mr. W. Sam Joseph, learned counsel for the plaintiff is relevant by submitting the observations of the Hon’ble Gauhati High Court, Aizawl Bench also before enactment of the Mizoram Registration Act, 2005 in the case of **Ministry of Charity, Aizawl, Mizoram Vs. State of Mizoram & Ors.** in connection with Writ Petition (C) No. 99 of 2001 decided on 9.7.2003, the Hon’ble Gauhati High Court, Aizawl Bench dealt a case that the name of *Ministry of Charity, Aizawl- Mizoram* was registered under the Societies Registration Act, 1860 which was extended to the state of Mizoram vide, the Societies Registration (Extension to Mizoram) Act, 1976, meanwhile, another society namely- *Ministry of Charity- Mizoram* was also allotted registration under the said Act, the Ministry of Charity, Aizawl- Mizoram thereby challenged the said registration of alleging identical name or nearly resemblance, wherein, it was held that-

“6. In view of this narrowing down of disputed facts, there is hardly any contested issue and hence the petition is being disposed of with the following direction/observation-

- (a) The Registrar of Co-operative Society will examine the matter and will permit respondent no. 3 to change its name, if so desired, within a period of (2) two months from the date of this order. A notice from him will go to that effect to the parties concerned on receipt of the copy of this order, which will be furnished to him by the petitioner, and thereafter requisite order may be passed with the object to solve the problem to the satisfaction of both sides, bearing mind that petitioner had its name registered earlier to get a preference.
- (b) The respondent no. 1 is hereby directed to examine the matter in its proper perspective and enact appropriate law by way of amendment of the main act or otherwise as discussed in judgment in order to enlarge the provision and remove the loophole as discussed in the judgment”

In regards to one point of argument advance by learned counsel of the defendants 5-7 Mr. L.H. Lianhrima as the headquarter is in different locations, it will be helpful to look into the decisions in **All India Indian Overseas Bank vs The District Registrar**, decided on 23 January, 2004 reported in 2004 (1) CTC 566, the Hon’ble Madras High Court has observed in paragraph 12 of their judgment that-

“12. The reasons contained in the counter affidavit of the first respondent, cannot also be sustained. The first respondent had taken the stand as if the location of the Association would make any difference. The said reason cannot be sustained. The registration is operative through out the State and therefore, the fact that the petitioner Society was registered at Chennai and that the second respondent Society has been registered at Kancheepuram, cannot justify registration of societies on identical or similar names. The further contention that both the Associations have different Headquarters, is also not a justification for ignoring the bar under Section 9 of the Act. The provisions of the Act and registrations thereunder are applicable and operative throughout the State.”

It will mean that where the same Act is applicable whether in Shillong or Aizawl, there is no vindication on the grounds of different locations of the headquarters to adjudicate the crux on whether the name of society is identical or not.

In this direction, DWs 1&2 of defts 1-4 deposed that separate entity of laws governed the registration of the society of the plaintiff which is not under the laws where applied by the UPC of Mizoram, another debatable point will therefore emerge like whether the same Act is applicable in the present State of Mizoram and the then Mizo District Council during

registration obtained by the plaintiff. In the Ext. P-1, it is ascertained that the UPC of North East India, Shillong was registered under the Societies Registration Act, 1860 by the Registrar of Societies, Assam- Shillong on 26<sup>th</sup> March, 1969. Pertinently, the then Lushai/Mizo District Council was inaugurated on the 25<sup>th</sup> April, 1952 by the then Chief Minister of Assam. The first meeting of the District Council was held on June 23<sup>rd</sup> 1952 where Dr. Rosiama was elected as the first Chief Executive Member to the District Council, the general election of the District Council was held every five years. It was constituted under *the Assam Autonomous District (Constitution of District Councils) Rules in 1951* and based on Art 244(2) of the Constitution of India. Which embodied that “*The provision of the Sixth Schedule shall apply to the administration of the tribal areas in the state of Assam, Meghalaya, Tripura and Mizoram*”. In 1954, the name of the district was changed from the Lushai Hills to the Mizo Hills District under *the Lushai Hills District (Change of Name) Act, 1954* and the institution of chieftainship was also abolished under *the Assam Lushai Hills District (Acquisition of Chiefs Rights) Act, 1954*. The then Mizo Hills District was elevated into Union Territory status on 21<sup>st</sup> January, 1972 under *the North Eastern Areas (Re-organization) Act, 1971* and the name had been re-christened as ‘Mizoram’. Again as emancipated under the Constitution (53<sup>rd</sup> Amendment) Act, 1986 and under the State of Mizoram Act, 1986 (14<sup>th</sup> August, 1986), the Union Territory of Mizoram was conferred a statehood on 20<sup>th</sup> February, 1987. Hence, during 26<sup>th</sup> March, 1969, the territory was under the administration of Assam State.

It is true that the Societies Registration Act, 1860 was amended in its application to Assam vide, Assam Act XIV of 1948; XV of 1948; XI of 1952; VII of 1957; XI of 1958 and XIII of 1967. Savings is further given under section 4 of the Societies Registration (Extension to Mizoram) Act, 1976 as follows-

#### **“4. Validation:**

Anything done or purported to have been done or any action taken or purported to have been taken, or any fees levied or collected, or purported to have been levied or collected, before the commencement of this Act, by the Administrator of the Union Territory of Mizoram or by any other officer or authority under any law relating to registration of societies shall be deemed to have been validly done, taken, levied or collected under the said Societies Registration Act, 1860 as extended to the Union Territory of Mizoram by this Act:

Provided that notwithstanding the extension of the Societies Registration Act, 1860 to the Union Territory of Mizoram with retrospective effect, no contravention of, or failure to comply with, any provisions of that Act as so extended by this Act shall render any person guilty of an offence punishable under that Act if such contravention or failure had occurred before the commencement of this Act”

Cogently, till enactment and effective of the Mizoram Registration Act, 2005, the said Societies Registration (Extension to Mizoram) Act, 1976 was applicable in the territory of Mizoram. Section 40 of the Mizoram Registration Act, 2005 also given savings as-

**“40. Repeal and Savings:**

- (1) The Societies Registration Act, 1860 in its application to Mizoram, is hereby repealed
- (2) Any society registered in any place within Mizoram under the Societies Registration Act (Extension to Mizoram) Act, 1976, shall be deemed to have been registered under this Act, and its principal office shall be deemed to be the registered office:

Provided that –

- (a) the memorandum and regulations of any society, if they are repugnant to any of the provisions of this Act and the rules, shall be brought in conformity within six months from the commencement of this Act or within such further period as the Registrar may allow, and thereafter, to the extent of such repugnancy, be deemed to avoid and of not effect;
- (b) any officer elected or appointed to and holding any office immediately before the commencement of this Act shall continue to hold such office until the expiry of his term or until such office is lawfully terminated;
- (c) nothing in this section shall affect any right, privilege, obligation, liability or punishment under the Societies Registration Act, 1860 and any investigation, remedy or proceedings, including proceedings for dissolution commenced before the coming into force of this Act, may be continued or enforced as if this Act had not been passed”

In this legal entity, depositions of DWs 1&2 of defts 1-4 and arguments advanced by learned counsel for the defendants 5-7 are wrong saying that separate laws applied for the plaintiff and for the registration of United Pentecostal Church of Mizoram.

The ratio laid down by the Hon’ble Gauhati High Court, Aizawl Bench in **Ministry of Charity, Aizawl, Mizoram Vs. State of Mizoram & Ors** (supra) which was also adjudicated before the enactment of the Mizoram Societies Registration Act, 2005 is very cogent by disagreeing registration of the societies having identical name or too nearly resembles under the then Societies Registration (Extension to Mizoram) Act, 1976. As directed thereof, the new Mizoram Registration Act, 2005 appears enacted in the state of Mizoram. In that case, as already highlighted, the Hon’ble Gauhati High Court, Aizawl Bench dealt a case that the name of *Ministry of Charity, Aizawl- Mizoram* was already registered under the Societies Registration Act, 1860 which was extended to the state of Mizoram vide, the Societies Registration (Extension to Mizoram) Act, 1976, meanwhile, another society namely- *Ministry of Charity- Mizoram* was also allotted registration under the said Act, the Hon’ble Gauhati High Court disagreed and rather

suggested to change the name of the said Ministry of Charity- Mizoram, their difference is also only *Aizawl* and *Mizoram*. In the instant case, the difference of the disputed societies is also only '*North East India*' and '*Mizoram*', the legal principles emerged in **Ministry of Charity, Aizawl, Mizoram Vs. State of Mizoram & Ors** (supra) is purely attracted in the instant case. I therefore must uphold that the name of *United Pentecostal Church, North East India* and *United Pentecostal Church, Mizoram* is identical names in nature and is too nearly resembles.

#### **Issue No. 4**

#### **Whether registration of United Pentecostal Church, Mizoram will cause any damage or injury to the plaintiff's United Pentecostal Church, North East India**

May be because of lacking in the original issues so framed, no evidence in this regard is adduced. But as it will determine the case as held in **Raghubar Dayal vs Commissioner, Kanpur Division (supra.)**. In the common acceptance and knowledge, being denomination of church and both are Christian religion having headquarters at Aizawl (because PW-1 deposed that the headquarter of the plaintiff is now shifted to Aizawl from Shillong), there will be inconvenience for the public at large and particularly for the plaintiff if register again the name and style of United Pentecostal Church of Mizoram like issuance and receiving of communication letters even for receiving aids from other parts of the country or from foreign contributions.

#### **Issue No. 5**

#### **Whether the plaintiff is entitled to the relief claimed. If so, to what extent**

As per the findings arrived in the foregoing various issues, the answer of various issues are affirmative in favour of the plaintiff. The relief sought in the plaint is reiterated with following findings as below-

*(a) a decree declaring that the society applied by the defendants 5-7 to the defendant no. 3 to be registered as United Pentecostal Church, Mizoram or United Pentecostal Church of Mizoram is identical with/too nearly resembles the names of the plaintiff and the same cannot be registered under the Societies Registration (Extension to Mizoram) Act, 1976.*

As per the findings under issue no. 3, it is hereby declared that the society applied by the defendants 5-7 to the defendant no. 3 to be registered as United Pentecostal Church, Mizoram or United Pentecostal Church of Mizoram is identical with/too nearly resembles the names of the plaintiff and the same cannot be registered under the Societies Registration (Extension to Mizoram) Act, 1976

*(b) a decree declaring that the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 is null and void and the same cannot be given effect to.*

For giving effect of the findings in various issues, it is further declared that the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 is null and void and the same cannot be given effect to

*(c) by way of permanent and mandatory injunction that the defendants 1 to 4 be restrained from giving effect to the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 and the defendants 1 to 4 be restrained from registering the United Penticostal Church, Mizoram/of Mizoram applied by the defendants 5 to 7.*

As inevitable, the defendants 1 to 4 are also restrained from giving effect to the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 and the defendants 1 to 4 are further restrained from registering the United Penticostal Church, Mizoram/of Mizoram applied by the defendants 5 to 7 due to the reasons already discussed above.

This court may not be in a position to betray the observations of the Hon'ble Gauhati High Court, Aizawl Bench which is similar in nature and delivered before pointing out of the Mizoram Registration Act, 2005 held in the case of **Ministry of Charity, Aizawl, Mizoram Vs. State of Mizoram & Ors.** in connection with Writ Petition (C) No. 99 of 2001 decided on 9.7.2003 for direction to change of name of the later society who has applied for registration like to examine the matter and to permit defendants nos. 5-7 to change its name, if so desired, within a period of (3) three months from the date of this order. A requisite order may be appropriated to pass with the object to solve the problem to the satisfaction of both sides, bearing mind that plaintiff had its name registered earlier to get a preference.

### **ORDER**

UPON the findings in the various issues as discussed above, it is hereby ORDERED and DECREED that -

The society applied by the defendants 5-7 to the defendant no. 3 to be registered as United Penticostal Church, Mizoram or United Penticostal Church of Mizoram is identical with/too nearly resembles the names of the plaintiff and the same cannot be registered under the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) as the then in force law and also under section 11 of the Mizoram Societies Registration Act, 2005 (Act No. 13 of 2005).

For giving effect of the findings in various issues, it is further declared that the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 is null and void and the same cannot be given effect to.

As inevitable, the defendants 1 to 4 are also restrained from giving effect to the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 and the defendants 1 to 4 are further restrained from registering the United Penticostal Church, Mizoram/of Mizoram applied by

the defendants 5 to 7 due to the reasons already discussed above either under the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) as the then in force law or under the Mizoram Societies Registration Act, 2005 (Act No. 13 of 2005)

By applying and following the observations of the Hon'ble Gauhati High Court, Aizawl Bench in the case of **Ministry of Charity, Aizawl, Mizoram Vs. State of Mizoram & Ors.** in connection with Writ Petition (C) No. 99 of 2001 decided on 9.7.2003, the Registrar of Societies, Govt. of Mizoram as defendant No. 3 is directed to examine the matter and will permit defendants nos. 5-7 to change its name, if so desired, within a period of (3) three months from the date of this order. A requisite order may be passed with the object to solve the problem to the satisfaction of both sides, bearing mind that plaintiff had its name registered earlier to get a preference.

Before parting with the case, being a religious purpose sanctity, there will be no difference whether register under the Societies Registration Act, 1860 (Act No. 21 of 1860) or not of the UPC of Mizoram. Diverse observations is rather streak out in **Md. Yunus vs The Inspector General Of Registration** decided on 24 August, 1979 and reported in AIR 1980 Pat 138, Hon'ble Patna High Court after examining the ratio laid down in *Anjuman Islamia of Muttra v. Nasir-Ud-Din* [(1906) ILR- 28 All 384] has held that-

“8. In our view, in interpreting the expressions 'charitable purpose or charitable society', we have to take note of the general scheme of the Act and the objects which were sought to be attained. We have already referred to the long title and the preamble. Both of them indicate that the purpose of legislation is the registration of societies which have as their aim general public benefit. To promote literature, science, fine arts etc. are all matters of general public benefit and are not confined to any religious denomination. In the context and the setting in which the expressions charitable purpose or charitable society appear we are inclined to hold that the expressions must be given a meaning which is more in consonance with the general object of the Act. A greater indication is available in Section 20 itself. The section has already been quoted. It would be observed that the numerous objects which have been enumerated therein have no reference to any religious institutions of religion. They are all matters of general public benefit. It is a well-established rule of construction that the expressions used in an enactment take their meaning and colour from the context in which they are used.

9. Thus, we are of the view, that the expression 'charitable purpose' must be a purpose which has some element of general public benefit and not a religious purpose. We, therefore, respectfully take a view different from what has been taken in *Anjuman Islamia's* case (supra).



...11. In the result, this application is allowed, the registration of the society under Section 3 of the Societies Registration Act is quashed. It is, however, made clear that our decision does not affect the rights of the parties, if any, in respect of the disputed properties.”

By following the decisions of **Md. Yunus vs The Inspector General Of Registration** decided on 24 August, 1979 and reported in AIR 1980 Pat 138 decided by the Hon'ble Patna High Court, in **Managing Committee Of Ekra Mosque vs State Of Bihar And Ors.** decided on 22 March, 2003 reported in AIR 2004 Jhar 3, 2003 (4) JCR 122 Jhr, Hon'ble Jharkhand High Court has held that-

“36. The Societies Registration Act therefore cannot be invoked for purposes of management of a mosque/religious places as this falls within the exclusive domain of the Waqf Board. Thus the Order of the minister (Annexure-1 of C.W.J.C. No. 4323 of 1998) authorizing the Society which was registered under the provisions of the Societies Registration Act, 1860 under the presidentship of the Respondent No. 8 to manage the Eqra Mosque and properties appertaining thereto, is wholly without jurisdiction. Following the well known legal principle of *Generalia Specialibus Non Demgant*, a registration made under the provisions of the special law, namely, The Waqf Act, 1954, could not have been upset by operation of the general law, i.e. the Societies Registration Act, 1860. Therefore, both the impugned Orders in both the Writ Applications are held to be illegal and without jurisdiction.

Consequently, it is held that by applying the provisions of the Societies Registration Act, 1860 upon the Committee headed by the Respondent No. 8, which was registered under the provisions of the said Act, it is held that the Respondents and specially the Respondent No. 2 acted illegally and without jurisdiction while passing the Order dated 12.05.1998 setting aside Annexures-3 and 4 appended to CWJC No. 4323 of 1998. Consequently, the Order of the Minister (Respondent No. 2 therein) giving recognition to that society is held to be illegal and it is accordingly set aside.”

The above settled law indicates that registration of religious society is precluded under the Societies Registration Act, 1860 (Act No. 21 of 1860) with a simple reasons that there will be no difference whether register under the said Act or not towards the religious activities although adverse observation is delivered in **Iqra Masjid Welfare Society And Ors. vs Managing Committee Of Iqra Mosque** decided on 27 February, 2004 and reported in 2004 (52) BLJR 636, 2004 (2) JCR 390 Jhr.

If I am in a position to add more, I deeply and sincerely wish the UPC of Mizoram to success in their zeal of mission for the gospel of Almighty whether in the pinching way or amongst the roses by giving priority to Him alone not by paying importance to themselves or their organization as they

are purely the 'means' but the 'end' is Almighty alone Who never betray justice at all times if they fails to rejoin hands with the plaintiff. It is He who never oblivious on the wholehearted prayer of creatures for their best benefits but mostly not in accordance with their own understandings and perceptions.

Very exhorting that Ellis L. Scism who sowed the seed of United Penticostal Church in Mizoram on 19<sup>th</sup> Feb., 1950 concluded his Chapter IX titled "History of Christianity in Lushai Hills, Assam" in his book – 'India Calling' that –

"And last but not the least, the United Penticostal Church is the most rapid - Sprung denomination in Mizo District.....

In less than five years, the United Penticostal Church, the number are no less than 5,000 members. As the rapid increasing of the member or number, the temptation is also pressing hard. Though the Vain, selfish men disturb the church, it would not check the increase. Praise the Lord. We are proud Our Church in the Christ. Let God make great and consolidate the church ever. AMEN, HALLELUIJAH AMEN."

It is therefore the very best wishes of this court to rejoin their right hands of the plaintiff and defendants 5-7 by far away from any temptation like chaos amongst themselves unlike the ravenous and selfish leaders and to work together for the mission of Almighty now and forever.

Due to peculiarities of the case, no order as to costs of the suit. The case shall stand disposed of

Give this copy to all concerned including decree.

Given under my hand and seal of this court on this 9<sup>th</sup> August, 2011 Anno Domini within the premises and during the working hours of this court and is pronounced in an open court.



**Dr. H.T.C. LALRINCHHANA**

Senior Civil Judge- 2

Aizawl District: Aizawl

Memo No. CS/6/1996, Sr. CJ (A)/

Dated Aizawl, the 9<sup>th</sup> August, 2011

Copy to:

1. United Penticostal Church, North East India Registered under the Societies Registration Act, 1860. Having its Headquarters at Jinking,

Shillong- Meghalaya Through the General Superintendent, United Pentecostal Church, North East India through Mr. W. Sam Joseph, Advocate

2. The State of Mizoram Through the Chief Secretary to the Government of Mizoram through Mr. R. Lalremruata, AGA
3. The Secretary to the Govt. of Mizoram, Excise & Taxation/Taxation i/c Registration of Firms & Societies, Aizawl- Mizoram through Mr. R. Lalremruata, AGA
4. The Registrar of Firms and Societies, Govt. of Mizoram, Mizoram- Aizawl through Mr. R. Lalremruata, AGA
5. The Under Secretary to the Govt. of Mizoram, Excise and Taxation Department/Taxation Department, i/c Registration of Firms & Societies, Aizawl- Mizoram through Mr. R. Lalremruata, AGA
6. Mr. Vanlalsipaia S/o Mr. Zaikunga, District Secretary of Unregistered newly formed and Self Styled United Penticostal Church, Mizoram- Chhinga Veng, Aizawl through Mr. L.H. Lianhrima, Advocate
7. Mr. Lalthlamuana Hnamte S/o Smt. Hrangchhungi, District Treasurer of Unregistered newly formed and Self Styled United Penticostal Church, Mizoram- Chaltlang, Aizawl through Mr. L.H. Lianhrima, Advocate
8. Mr. R.T. Saihnuna, District Pastor of Unregistered newly formed and Self Styled United Penticostal Church, Mizoram- Aizawl through Mr. L.H. Lianhrima, Advocate
9. P.A. to Hon'ble District & Sessions Judge, Aizawl Judicial District- Aizawl
10. The District Magistrate, Aizawl District: Aizawl
11. The Superintendent of Police, Aizawl District- Aizawl
12. Case record

PESKAR

**IN THE COURT OF SENIOR CIVIL JUDGE- 2  
AIZAWL DISTRICT: AIZAWL**

**DECREE**

CIVIL SUIT NO. 06 OF 1996

*Plaintiff:*

United Penticostal Church  
North East India  
Registered under the Societies Registration Act, 1860  
Having its Headquarters at Jinking, Shillong- Meghalaya  
Through the General Superintendent  
United Pentecostal Church  
North East India

*By Advocates*

: 1. Mr. W. Sam Joseph  
2. Mr. F. Lalenglina

*Versus*

*Defendants:*

1. The State of Mizoram  
Through the Chief Secretary to the  
Government of Mizoram
2. The Secretary to the Govt. of Mizoram  
Excise & Taxation  
i/c Registration of Firms & Societies  
Aizawl- Mizoram
3. The Registrar of Firms and Societies  
Govt. of Mizoram  
Mizoram- Aizawl
4. The Under Secretary to the Govt. of Mizoram  
Excise and Taxation Department  
i/c Registration of Firms & Societies  
Aizawl- Mizoram
5. Mr. Vanlalsipaia  
S/o Mr. Zaikunga  
District Secretary  
of Unregistered newly formed and Self Styled  
United Penticostal Church, Mizoram  
Chhing Veng, Aizawl
6. Mr. Lalthlamuana Hnamte  
S/o Smt. Hrangchhungi  
District Treasurer

of Unregistered newly formed and Self Styled  
United Penticostal Church, Mizoram  
Chaltlang, Aizawl

7. Mr. R.T. Saihnuna

District Pastor

of Unregistered newly formed and Self Styled  
United Penticostal Church, Mizoram

*By Advocates*

For the defendants 1-4

: 1. Mr. R. Lalremruata, AGA  
2. Miss Bobita Lalhmingmawii, AGA

For the defendants 5-7

: 1. Mr. L.H. Lianhrima  
2. Mr. Lalhriatpuia

Date of Judgment & Order

: 09 -08 -2011

Date of Decree

: 09 -08-2011

### **BEFORE**

Dr. H.T.C. LALRINCHHANA, Sr. CJ- 2

This suit coming on this 9<sup>th</sup> August, 2011 for final disposal before Dr. H.T.C. Lalrinchhana, Senior Civil Judge - 2 in the presence of Mr. W. Sam Joseph & Ors Advocates for the plaintiff and of Mr. R. Lalremruata, AGA & Ors. for the defendants 1-4 and of Mr. L.H. Lianhrima & Ors., Advocates for the defendants 5-7, it is ordered and decreed that it is hereby declared that the society applied by the defendants 5-7 to the defendant no. 3 to be registered as United Penticostal Church, Mizoram or United Penticostal Church of Mizoram is identical with/too nearly resembles the names of the plaintiff and the same cannot be registered under the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) as the then in force law and also under section 11 of the Mizoram Societies Registration Act, 2005 (Act No. 13 of 2005).

And for giving effect of the findings in various issues, it is further declared that the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 is null and void and the same cannot be given effect to.

And further decreed that the defendants 1 to 4 are also restrained from giving effect to the letter No. B. 14011/2/92- RFS/93, Dated Aizawl, the 22<sup>nd</sup> December, 1995 and the defendants 1 to 4 are further restrained from registering the United Penticostal Church, Mizoram/of Mizoram applied by the defendants 5 to 7 due to the reasons already discussed above either under the Societies Registration (Extension to Mizoram) Act, 1976 (Act No. 3 of 1977) as the then in force law or under the Mizoram Societies Registration Act, 2005 (Act No. 13 of 2005). The Registrar of Societies, Govt. of Mizoram as defendant No. 3 is directed to examine the matter and will permit defendants nos. 5-7 to change its name, if so desired, within a period of (3) three months from the date of this order. A requisite order may be passed with the object to solve the problem to the satisfaction of both sides,

bearing mind that plaintiff had its name registered earlier to get a preference.

Given under my hand and seal of the Court, this 9<sup>th</sup> day of August, 2011.

Seal of the court



Judge