



W.P.(MD).No.9431 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.9431 of 2023

and

W.M.P.(MD).No.8419 of 2023

M.M.R.Abdul Kareem

... Petitioner

Vs.

1.The Tamil Nadu Waqf Board,
Represented by its Chairman,
No.1, 1 Jaffer Syrang Street,
Vallalseethakathi Nagar,
Chennai.

2.The Chief Executive Officer,
The Tamil Nadu Waqf Board,
No.1, 1 Jaffer Syrang Street,
Vallalseethakathi Nagar,
Chennai.

3.H.Halibullah

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order made by the first respondent in proceedings No.15957/2000/A8/Madurai dated 29.03.2023 and quash the same as illegal.



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For Petitioner : Mr.M.Mahaboob Athiff
For R-1 and R-2 : Mr.D.S.Haroon Rasheed,
Standing Counsel.
For R-3 : Mrs.H.Jasima Yasmin,
For M/s.Ajmal Associates.

ORDER

This Writ Petition is filed to quash the impugned order dated 29.03.2023.

2. The petitioner is a resident of Melur and presently serving as the Secretary of the Mohaideen Andawar Periya Pallivasal Waqf, Melur which is a notified Waqf under G.S.No.204/Madurai. The contention of the petitioner is that the petitioner was appointed as Adhoc Committee through proceedings dated 02.02.2023. The mandate given to the petitioner is as under:

மதுரை மாவட்டம், மேலூர் வட்டம், முஹையதீன் ஆண்டவர் பள்ளிவாசல் (G.S.No.204 /மதுரை) வக்பிற்குப் பாத்தியப்பட்ட பதிவு செய்யப்படாத சொத்து இருந்தால் அதனை உரிய வருவாய் ஆவணங்களுடன் தமிழ்நாடு வக்பு வாரியத்தில் வக்பு சட்டம் 1995 பிரிவு 36ன்படி உடன் பதவி செய்யுமாறு இடைக்கால குழுவிற்கு உத்தரவிடப்படுகிறது.

3. The Adhoc Committee have granted time for a period of one year which is subsisting until 01.02.2023. The third respondent was aggrieved by the appointment of the Adhoc Committee and hence submitted a representation



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to the first respondent, the Waqf Board and also filed Writ Petition in W.P.(MD).No.3347 of 2023. This Court vide order dated 14.03.2023, after considering the facts of the case has directed the Waqf Board to conduct election and complete it within a period of three months. However, the Hon'ble Court has not interfered with the appointment of the Adhoc Committee. Since the Waqf Board is not having power to conduct election, as per the judgment rendered by this Court in W.P.(MD)No.13695 of 2020 batch vide order dated 19.04.2023, the petitioner had preferred writ appeal against the order passed in W.P.(MD).No.3347 of 2023 and the same is in the SR stage.

4. The Waqf Board under the guise of considering the representation of the respondents, has cancelled the appointment of the Adhoc Committee through impugned order. Aggrieved over the same, the present Writ Petition is filed.

5. The contention of the respondents is that the Adhoc Committee ought to have been appointed under Section 18 of the Waqf Act, 1995. But the Waqf Board has appointed under Section 63 of the said Act and hence the Adhoc Committee ought to be cancelled.



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6. This Court is of the considered opinion that the wrong mentioning of provision will not vitiate the appointment and hence the contention of the respondents cannot be sustained.

7. The next contention of the respondents is that such Adhoc Committee ought to have been appointed by giving representation to each Mahallas. There are 5 Mahallas consisting of 12 Jamath for each. Now, the Adhoc Committee is representing only one Mahalla and the petitioner has not impleaded the other Jamaths in any of the proceedings. Hence, the third respondent submitted a petition to the Board objecting the appointment and prayed to give proper representation to each Mahallas. After considering the representation, the Board has passed the impugned order and the same is legally valid. But the petitioner submitted that before passing the impugned order, the Adhoc Committee was not given any notice. Even in the W.P.(MD).No.3347 of 2023, the order was passed behind the back of the petitioner.

8. After considering the rival submissions, this Court is of the considered opinion that the Waqf Board is not having power to conduct elections and hence the this Court is directing the Waqf Board to take Mohaideen Andawar



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Periya Pallivasa under its direct Management and thereafter conduct an election. The said election shall be conducted within a period of one year, without seeking any extension of time. All parties shall cooperate to conduct smooth election. After election, the Wakf Board shall hand over the management to the Managing Committee.

9. As far as the appointment of Adhoc Committee, if the properties are retrieved, it is good for the Pallivasal and hence, it cannot be found fault with. Since the adhoc committee was given a mandate until 01.02.2023 to retrieve the Waqf properties which were encumbered, hence the said noble cause shall be completed and the Adhoc Committee shall continue until 01.02.2023. After completion of the said mandate, the Adhoc Committee shall not seek any extension of time and the Board is also restrained from granting any extension. It is also made clear that the mandate granted to the Adhoc Committee cannot be extended for any other purpose as well. After completion of election, the Managing Committee shall take over the noble mandate of retrieval of the properties.



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10. For the above reasons, this Writ Petition is allowed in above terms.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

1. The Chairman,
The Tamil Nadu Waqf Board,
No.1, 1 Jaffer Syrang Street,
Vallalseethakathi Nagar,
Chennai.

2. The Chief Executive Officer,
The Tamil Nadu Waqf Board,
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S.SRIMATHY, J.

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