



W.P.(MD).No.22941 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.22941 of 2023

and

W.M.P.(MD).Nos.19157 and 19158 of 2023

Mohamed Yusuf

... Petitioner

Vs.

- 1.The Tamil Nadu Waqf Board,
Rep. by its Chief Executive Officer,
No.1, Jafer Syrang Street,
Vallalseethakathi Nagar,
Chennai.
- 2.The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.
- 3.Akbar Ali,
The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.
- 4.The Superintendent of Wakf,
Tamil Nadu Wakf Board,
Thanjavur Division,
Diwan Nagar,
Court Road,
Thanjavur.
- 5.Syed Thasthaheer,
Former Executive Committee Member,



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The Mohaideen Aandavar Pallivasal,
Pattukottai,
Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order made by the 2nd respondent in his proceedings in P.V.03/2023/A3 dated 13.09.2023 and the consequential impugned proceedings of the 4th respondent in Na.Ka.No.416/V.K/Thanjai/2023 dated 14.09.2023 and quash the same as illegal.

For Petitioner	: Mr.M.Arsathul Hameed
For R-1 & R-4	: Mr.D.S.Haroon Rasheed, Standing Counsel
For R-2	: Mr.R.Suresh Kumar, Additional Government Pleader
For R-3	: Mr.E.Marees Kumar
For R-5	: Mr.A.Nawaz Khan for M/s.Ajmal Associates

ORDER

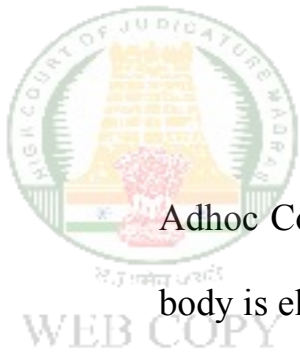
This Writ Petition is filed for Writ of Certiorari, to quash the impugned order passed by the second respondent, dated 13.09.2023, and consequential impugned proceedings, dated 14.09.2023.



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2. Heard Mr.M.Arsathul Hameed, the Learned Counsel appearing for the petitioner, Mr.D.S.Haroon Rasheed, the Learned Standing Counsel appearing for respondents 1 and 4, Mr.R.Suresh Kumar, the Learned Additional Government Pleader appearing for 2nd respondent, Mr.E.Marees Kumar the Learned Counsel appearing for the 3rd respondent and Mr.A.Nawaz Khan, for M/s.Ajmal Associates appearing for 5th respondent and perused the materials available on record.

3. The petitioner is a secretary of the Mohaideen Aandavar Pallivasal, Pattukottai, Thanjavur District. The said Waqf has various properties which generates income. The 5th respondent was one of the Administrative Committee Member under the Muthavalliship of one Amanullah. The allegation against the said Amanullah is that he is occupying the Muthavalliship for several years and he is misappropriating the funds and illegally alienating the wakf properties for his individual profit. Hence, the proceeding was initiated under Section 64 of the Waqf Act, 1995, for removing him from the member of the Committee. After a detailed enquiry, the Board found him guilty, removed him from Muthavalliship vide order, dated 09.01.2019 and he was disqualified for a period of five years. Thereafter the Wakf Board had taken over the administration under direct management. Thereafter, vide order, dated 01.04.2022, in furtherance of the resolution of the Board dated 31.03.2022, an



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Adhoc Committee was appointed for the period from 17.02.2022 until a lawful body is elected for the Waqf. The said order of the Board is still in force.

4. The contention of the petitioner is that the petitioner is the Secretary of the Adhoc Committee, which Committee has also initiated action for retrieving the lands illegally alienated by the said Amanullah and the 5th respondent. In the meanwhile, the said Amanullah started creating various issues in the waqf to prevent the action. The petitioner further submitted that the 3rd respondent herein, is the Revenue Divisional Officer of Pattukottai and is none other than the brother-in-law of the 5th respondent. The 3rd respondent RDO is interfering into the administration and threatening the Adhoc Committee to drop action against the said Amanullah and the 5th respondent. The 3rd respondent is also threatening the Adhoc Committee to resign from the Mosque Administration. When the Adhoc Committee has not resigned and did not heed to request of the said RDO are threatening the Adhoc Committee with dire consequences. The first respondent Board accepting the application for recovery of the property illegally alienated by the said Amanullah, issued proceedings under Section 51 of the Act to take action against the illegal alienations. Immediately, sensing that the 5th respondent and the said Amanullah would be liable for action, on 08.09.2023, the 5th respondent, Amanullah and his men had undertaken a road roko protest in the petitioner's area, demanding the Wakf Board to take over



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direct management. Immediately, citing the same, the 3rd respondent who is the brother-in-law of the 5th respondent swing into action, and called for a peace committee meeting on 13.09.2023 and has forced the Adhoc Committee to hand over the administration to the Waqf Board or to the said Amanullah. When they refused, the Revenue Divisional Officer has directed the said Waqf to take action under Section 65.

5. The further contention of the petitioner is that the Revenue Divisional Officer has no power to issue direction to have over the management to the Wakf Board. The 3rd respondent along with the 5th respondent and the said Amanullah had planned to conduct road roko and under the guise of peace committee meeting, the 3rd respondent has initiated the proceedings and directed to hand over the management.

6. After hearing the rival submissions, this Court is of the considered opinion, without jurisdiction the 3rd respondent has passed the impugned order. Therefore, the impugned order is liable to be quashed. The board is directed to conduct election within a period of five months (5) from the date of receipt of a copy of this order. The Adhoc Committee shall continue with its mandatory duty of retrieving the properties of the Waqf. The District Collector is directed under Section 52 of the Wakf Act to cooperate with the Adhoc Committee for recovery



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of properties of the waqf. However, the District Collector shall not depute the 3rd respondent, shall depute some other officer to assist the Adhoc Committee for retrieving the properties. The parties are directed to cooperate with the election and the Adhoc Committee management. The District Collector shall also consider to transfer the 3rd respondent from the present District to some other District.

7. In view of the above, this Writ Petition is allowed in above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

25.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Sml

To

The Revenue Divisional Officer,
Pattukottai,
Thanjavur District.



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S.SRIMATHY, J.

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