



WP (MD) Nos.28377,28631,29735
and 29784 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) Nos.28377,28631,29735and 29784 of 2017
and

WMP (MD) Nos.24418, 24420,24708, 24710,
25668, 25669, 25702, 25707 of 2017

M.Mah Jabeen	... Petitioner in WP (MD) No.28377 of 2023
S.Rabiudeen	... Petitioner in WP (MD) No.24708 of 2023
Shahul Hameed	... Petitioner in WP (MD) No.29735 of 2023
Mohamed Ismail	... Petitioner in WP (MD) No.29784 of 2023

Vs

- 1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.
- 2.The Wakf Superintendent,
Office of Wakf Superintendent,
Tiruchirappalli Division,
8/124, 2nd Floor, Kaithai Millath Road,
Palakarai,
Tiruchirappalli.



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3.The Wakf Inspector,
Office of Wakf Superintendent,
8/124, 2nd Floor, Kaithai Millath Road,
Palakarai, Tiruchirappalli.

... Respondents in all cases

PRAYER in WP(MD)No.28377 of 2023: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorafified mandamus calling for the records relating to the election notification No.2 dated 23.11.2023 in Na.Ka.GS.No.207/Trichy/Wa.Ka.A/2023 issued by the 2nd respondent herein and the rejection order dated 23.11.2023 passed in Na.Ka.GS.No.207/The.A/WA/Thiru 2023 by the 2nd respondent herein and quash the same and consequently direct the respondents to redraft the voter list by including the Muslim Women in the voters list of the Sivalur Mosque Wakf before conducting election for the management committee.

PRAYER in WP(MD)Nos.28631 and 25668 of 2023: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiori calling for the records relating to the election notification No.2 dated 23.11.2023 in Na.Ka.GS.No.207/Trichy/Wa.Ka.The.A/2023 issued by the 2nd respondent herein and the consequent rejection order dated 23.11.2023 passed in Na.Ka.GS.No.207/The.A/WA/Thiru 2023 by the 2nd respondent herein and quash the same and consequently issue fresh voter list in accordance with law.



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PRAYER in WP (MD) No. 25702 of 2023: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records relating to the election notification No. 2 dated 23.11.2023 in Na.Ka.GS.No.207/Trichy/Wa.Ka.The.A/2023 issued by the 2nd respondent herein and quash the same and consequently issue fresh voter list in accordance with law.

For petitioner : Mr.A.V.Arun
in WP (MD) Nos. 28377 & 28637 of 2023
: Mr.D.Rameshkumar
in WP (MD) Nos. 29735 & 29784 of 2023
For Respondents : Mr.N.Mohideen Basha

in all cases

ORDER

All these writ petitions are filed as against the notification for conducting election for the Manapparai Jumma Big Mosque alias Sivalur Pallivasal Wakf.

2.The case of the petitioners is that the persons who belong to various other mosques are included in the final voters list. The petitioners pointing out the same has submitted a representation and without considering the same the respondents are proceeding with the election.



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Further women have not been provided representation in the election.

3. The learned Counsel for the petitioner by referring a judgment of the Calcutta High Court reported in 2019 (1) SCC page 16 submits that women are also appointed as Muthavalli.

4. In response to all these writ petitions the learned Counsel for the Wakf Board submits that this jamadh was established in the year 1955 and till 2006 Muthavalli was appointed by way of an election. From the year 2009 election was not conducted for this jamadh. This Jamadh is under the control of the Wakf Board and the Wakf Board in order to give quietus to this issue has proposed to conduct election. Therefore the voters of the said Jamadh have been identified and voter list was prepared on 31.10.2023, calling upon objections from the members of the Jamadh. Thereafter final voters list was published on 23.11.2023 and on the same day election notification was also published. The dates for (i) nomination was 05.12.2023,



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(ii) Scrutiny was 06.12.2023, and (iii) publication of final contestants list was 07.12.2023. The election is scheduled to be held on 17.12.2023.

5. The learned Counsel for the Wakf Board submits that all these writ petitions have been filed intentionally in order to stall the election. All these writ petitions were filed only after issuance of the election notification. The learned Counsel has relied on the Judgment of a Division Bench of this Court in Medical Council of India Vs The Registrar / Returning Officer, Tamil Nadu Dr.MGR Medical University, reported in CDJ 2013 MHC 561, wherein it has been held that once election process is commenced, it cannot be interfered with by the Courts.

6. This Court considered the rival submissions made on either side and perused the materials placed on record.

7. The petitioners, being members of the the Manapparai Jumma Big Masque alias Sivalur Pallivasal Wakf, have approached the Wakf Board with a grievance that the voters



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list was not finalised in a proper manner. The petitioner in WP (MD) No. 28631 of 2023 has filed a typed set of papers with details that members of other jamadh were also added in the final voters list. The petitioner has raised objections before finalisation of the final voters list, however, the respondents without considering the same, have published the final voters list.

8. The case of the other writ petitioners is that women also have to be given sufficient representation. According to the learned Counsel for the Wakf Board giving representation to the women would only be applicable to the hereditary trustees and it cannot be taken as a general condition. Further as per the practice of this Jamadh, women are not having any voting right in the Jamadh election. If the petitioners are desirous of women representation, they have to approach the Wakf Board in this regard.

9. It appears that the election was not conducted for this Jamadh from the year 2009. All these writ petitions



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are filed after the election notification dated 23.11.2023.

Therefore this Court is not inclined to interfere with the election process. However the petitioners can very well raise their objections with regard to the voting right of the women in their jamadh, to the election officer with relevant materials and in the event if any relevant materials are placed, the election officer shall consider the same and pass suitable orders. If the petitioners are still having any grievance, they are at liberty to file a suit and get their remedy.

10. Accordingly, all these writ petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

15.12.2023

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WEB COPY

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B.PUGALENDHI, J.

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