



W.P(MD)No.25628 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.10.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25628 of 2025

and

W.M.P(MD)Nos.20063 & 20065 of 2025

Abdullah Khan Bailim Pallivasal,
Represented through its
Mutawalli,
Janawaz Baileem,
Veppangulam Village,
Tirunelveli Town and Taluk,
Tirunelveli District.

... Petitioner

Vs.

1.The Tamil Nadu Wakf Boar,
Represented through its
Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai.

2.The Superintendent of Waqf,
No.51/80, KOP Complex,
Kulavanigarouram Road,
Palayamkottai,
Tirunelveli – 627 001.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in Se.Mu.No.10876/2018/AA1/Thiveli dated 03.11.2022 and quash the same insofar as the Condition No.1 alone, restricting the period of Mutawalliship and consequently recognize the right of Hereditary Mutawalli until the lifetime or removal as contemplated under law.

For Petitioner : Mr.K.K.Udayakumar
for Mr.H.Arumugam

For Respondents : Mr.K.Jeya Mohan

ORDER

Heard both sides.

2.Thiru.Janawaz Baileem has filed this writ petition challenging the proceedings dated 03.11.2022 issued by the Tamil Nadu Waqf Board to the extent it restricts his muthavalliship for a period of three years. It is claimed that Thiru.Ghouse Baileem, the father of the writ petitioner was the Muthavalli of the petition mentioned pallivasal. He passed away on 05.07.2024. It appears that on account of old age, he chose to relinquish his Muthavalliship. Janawaz Baileem was thereafter appointed as the hereditary muthavalli vide proceedings dated



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03.11.2022. Condition No.1 of the said proceedings makes it clear that the muthavalliship of Janawaz Baileem would automatically expire on 25.10.2025. The case of the writ petitioner is that, as per the pro forma, the rule of succession to the officer of muthavalli is hereditary. A hereditary muthavalli holds office for life and his tenure cannot be restricted to any particular period. This contention of the writ petitioner finds acceptance in the order dated 23.08.2023 in **W.P.No.19032 of 2023 (Apsar Peeran Shuttari Sahebulla Vs The Tamil Nadu Wakf Board)**. A learned Judge of this Court had followed the earlier order made in W.P(MD)No.18162 of 2000 (Subhan Vs Executive Officer Waqf Board). The learned single Judge had held that once the Board is at convinced that the applicant is entitled to be appointed as hereditary muthavalli, he should be appointed for life and restricting the term of hereditary muthavalli to the period of three years has no sanction in law. This proposition is confirmed by the Hon'ble Division Bench vide order dated 07.08.2024 in **W.A(MD)No.1310 of 2024 (The Chief Executive Officer Vs G.Syed Akbar Hasan & Another)**.

3.However, I am not able to straightaway allow this writ petition as prayed for by citing the aforesaid decisions. This is because, as rightly



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contended by the learned Standing Counsel for Waqf Board, if the pro forma indicates that the eldest male member shall succeed to the office of muthavalli, then his term of hereditary muthavalli cannot be limited to any particular period. In the very nature of things, the appointment as hereditary muthavalli will have to be for one's life. But in the case on hand, even according to the pro forma, as many as 4 persons had been mentioned as hereditary muthavallies. One of them, namely, Abdullah Khan Bailim is none other than the great grandfather of the writ petitioner. Thus, apparently, there are 4 branches which can stake a possible claim on the muthavalliship. Therefore, necessarily a scheme has to be framed by the Waqf Board under Section 69 of the Waqf Act, 1995. When there are a number of persons who are equally entitled to lay claim to the office of the muthavalli through hereditaryship, in the very nature of things, the trustee will have to hold office only by rotation. In that event, the term of office will also have to be confined to a particular period. The duration for which each claimant may hold office will depend upon the number of eligible claimants. This is a matter that is left to the wisdom of the Waqf board while framing the scheme under Section 61 of the Act.



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4. One other aspect also stands against the writ petitioner. The impugned order was passed as early as on 03.11.2022, and the condition now assailed in this writ petition was very much a part of the order. If Janawaz Baileem felt aggrieved, he should have agitated the matter then and there. He chose to remain silent until the near expiry of his term.

5. However, taking into account the over all facts and circumstances of this case, it is directed that till a proper scheme is framed by the Waqf Board, Janawaz Baileem shall continue to function as the muthavalli of the petition mentioned waqf. The impugned condition is modified accordingly.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

15.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN, J.

MGA

To

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