

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 11661 of 2014 (G)

PETITIONER :

**AHAMEDKUTTY T.K., AGED 65 YEARS
S/O.MOHAMMED KUTTY, PARAKKAL HOUSE, KOORADU
MALAPPURAM-679339.**

**BY ADVS.SRI.T.H.ABDUL AZEEZ
SRI.T.B.HOOD**

RESPONDENT(S) :

- 1. KERALA STATE WAKF BOARD
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER
V.I.P. ROAD, KALOOR, KOCHI-682017.**
- 2. THE CHIEF EXECUTIVE OFFICER
KERALA STATE WAKF BOARD, V.I.P.ROAD, KALOOR
KOCHI-682 017.**
- 3. ABDUL HAMEED
MANJAPETTY, KOORAD P.O., MALAPPURAM-679339.**
- 4. V.M.MOOSAKUTTY
VELLAYUR MADATHIL HOUSE, MANJAPETTY, KOORAD P.O.
MALAPPURAM-679339.**

**R1 & R2 BY ADV. SRI.K.SHIBILI NAHA, SC
R3 & R4 BY ADVS. SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.P.J.VINOD KUMAR
SRI.KANDAMPULLY RAHUL
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS :

- EXHIBIT-P1:** TRUE COPY OF THE CERTIFICATE OF REGISTRATION ISSUED BY THE DISTRICT REGISTRAR AND REGISTRAR OF SOCIETIES, MALAPPURAM.
- EXHIBIT-P2:** TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF MANJAPETTY AL-MADRASATHUL ISLAMIYA MANAGING COMMITTEE.
- EXHIBIT-P3:** TRUE COPY OF THE ORDER DATED 15.05.2013 ISSUED BY THE DISTRICT REGISTRAR AND REGISTRAR OF SOCIETIES, MALAPPURAM.
- EXHIBIT-P4:** TRUE COPY OF THE ORDER DATED 04.07.2013 IN W.P.(C) NO.15322/2013.
- EXHIBIT-P5:** TRUE COPY OF THE ORDER DATED 12.03.2014 IN W.P.(C) NO.15322/2013 REVIVING AND EXTENDING THE INTERIM ORDER.
- EXHIBIT-P6:** TRUE COPY OF THE ORDER DATED 21.11.2012 ISSUED BY THE DISTRICT EDUCATIONAL OFFICER, VANDOOOR APPROVING THE APPOINTMENT OF THE PETITIONER AS THE MANAGER OF THE SCHOOL.
- EXHIBIT-P7:** TRUE COPY OF THE ORDER DATED 16.12.2013 ISSUED BY THE ADDITIONAL DIRECTOR OF PUBLIC INSTRUCTIONS (GENERAL) REJECTING THE PETITION FILED BY THE 4TH RESPONDENT.
- EXHIBIT-P8:** TRUE COPY OF THE ORDER DATED 13.02.2014 ISSUED BY THE GOVERNMENT STAYING EXT.P7 ORDER OF THE ADDITIONAL DIRECTOR OF PUBLIC INSTRUCTIONS (GENERAL).
- EXHIBIT-P9:** TRUE COPY OF THE ORDER DATED 28.03.2014 IN W.P.(C) NO.9154/2014.
- EXHIBIT-P10:** TRUE COPY OF THE NOTICE DATED 17.09.2013 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT-P11:** TRUE COPY OF THE EXPLANATION DATED 07.10.2013 SUBMITTED BY THE PETITIONER.
- EXHIBIT-P12:** TRUE COPY OF THE DOCUMENT NO.2512/1992 OF VANDOOOR SUB REGISTRAR OFFICE.

RESPONDENT(S)' EXHIBITS :

- EXT. R4(a)** COPY OF THE RELEVANT PORTION OF THE REGISTRATION OF WAKF RELATING TO AL-MADARASATHUL ISLAMIA.

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- EXT. R4(b) COPY OF THE WAKF DEED NO. 1508/1960 OF SRO, WANDOOR.**
- EXT. R4(c) COPY OF THE GO (MS) NO. 99/84/G.EDN. DATED 6/7/1984.**
- EXT. R4(d) COPY OF THE CONCOCTED AND FORGED MINUTES OF THE
PURPORTED GENERAL BODY DATED 30/4/2012 AND 30/5/2012.**
- EXT. R4(e) COPY OF THE MEDICAL CERTIFICATE PRODUCED BY THE
PETITIONER BEFORE THE REGISTRAR REGARDING THE AILMENT OF
SHRI. MUTHU KOYA THANGAL.**
- EXT. R4(f) COPY OF THE LETTER DATED 2/4/2013 SENT BY THE DISTRICT
REGISTRAR TO MOULANA HOSPITAL.**
- EXT. R4(g) COPY OF THE REPLY DATED 9/4/2013 SENT BY MOULANA HOSPITAL
TO THE DISTRICT REGISTRAR.**
- EXT. R4(h) COPY OF THE REPORT SUBMITTED BY WAKF INSPECTOR RELATING
TO THE WAKF.**

//TRUE COPY//

P.A. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

W.P.(C) No.11661 of 2014

Dated this the 9th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"(i) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent Chief Executive Office of the Wakf Board to forbear from taking any further action on the basis of Ext.P10 notice.

(ii) Declare that only the Wakf Board has power under Section 32 of the Wakf Act, 1995 to adjudicate and decide the issues covered by Ext.P10 notice and the Chief Executive Office of the Board has no power or authority to take any decision on the issues covered by Ext.P10 notice.

(iii) Issue a writ in the nature of mandamus or any other writ, order or direction commanding the 1st respondent to complete the proceedings on the basis of Ext.P10 notice following the procedural formalities prescribed in the Wakf Act, 1995, Wakf Rules, observing the principles of natural justice and affording sufficient opportunity to the petitioner to meet the allegations against him.

(iv) Pass such other order or direction as this Hon'ble Court may deem fit and proper on the facts and circumstances of the case."

2. The learned Standing Counsel for the first respondent points out that, Ext.P10 is only a notice and as such, the writ

petition itself is not maintainable, as the petitioner can very well appraise the position before the Board, by way of appropriate proceedings.

3. The learned counsel for the petitioner points out that, the petitioner already filed Ext.P11 in response to Ext.P10, simultaneously adding that the petitioner was constrained to approach this Court because of the fact that the Office of the first respondent was lying vacant. It is brought to the notice of this Court that, the Office of the first respondent has now been filled up and reconstituted and that the matter can be disposed of, with notice to all concerned.

4. Heard the learned counsel appearing for respondents 3 and 4, who submits that a time limit might be specified, so as to have a finality at the earliest.

5. In the above circumstances, the first respondent is directed to consider Ext.P11 submitted by the petitioner in response to Ext.P10 and pass appropriate orders in accordance with law, after affording an opportunity of hearing to the petitioner and also respondents 3 and 4 at the earliest, at any rate, within 'three months' from the date of receipt of a copy of

this judgment. All issues are left open.

Petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the first respondent, for further steps.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE**

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