



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.(MD)No.12800 of 2015

Alhaj T.S.Ahamed Ibrahim

... Petitioner

Vs.

1.The Principal Secretary to Government
Backward/Most Backward Class and
Minorities Welfare Department,
Government of Tamil Nadu,
Fort. St.George, Chennai.

2.Tamil Nadu Stae Wakf Board,
Rep by its Chief Executive Officer,
1,Jaffar Sirang Street,
Vallal Seethakathi Nagar, Mannady, Chennai

3.M.S.S.Wakf Board College
Rep by its Secretary / Chief Executive Officer (I/C)
Wakf Board,
K.K.Nagar, Madurai - 625 020.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent 1 and 2 to take steps forthwith to constitute the governing body in terms of G.O.Ms.No.1127 dated 09.09.1978 for the proper management and administration of the third respondent.

For Petitioner	: M/s.G.R.SWAMINATHAN Senior Counsel for M/S. M.Suresh Kumar
For R1	: Mr.M.Murugan Government Advocate
For R2 and R3	: Mr.K.K.Senthil

O R D E R

This writ petition has been filed for a Writ of Mandamus directing the respondent 1 and 2 to take steps forthwith to constitute the governing body in terms of G.O.Ms.No.1127 dated 09.09.1978 for the proper management and administration of the third respondent.

2.The petitioner is the member of the third respondent college. The third respondent college was founded in the year 1968. It is a minority institution. The administration of the college is governed by the terms of the revised constitution, as approved by the Government in G.O.Ms.No.1127, dated 09.09.1978. As per the said constitution, the administration of the college vested with its governing body. The governing body shall consist of the following eleven members:-



- 1.The Chairman of the Tamil Nadu State Wakf Board.
- 2.A nominee of the Tamil Nadu State Wakf Board (either from amongst its members or an expert from outside)
- 3.A member of the family of the original donor (Sirguro family) as nominated by the family.
- 4.The Principal of the College Ex-office.
- 5.A representative of the Madurai University.
- 6 to 9. Four members elected from among the members of the executive committee; and
- 10 and 11. Two nominees of the State Government.

3.The said constitution contemplates that the fresh election shall be held in once in three years. The term of the said body expired in November, 2012 itself. Therefore, it is the statutory duty of the respondents 1 and 2 to take steps to constitute the governing body. In this regard, the petitioner has submitted a representation, dated 22.01.2015, calling upon the respondents 1 and 2 to take steps for immediate constitution of the governing body of the third respondent college. But till date, no action has been taken. Hence, the petitioner has come forward with this writ petition.

4.When the matter is taken up for hearing, the learned counsel for the petitioner, by inviting the attention of this Court to the earlier order passed, has submitted that when the similar situation arose in the year 2006, this Court in W.P.(MD)No.10569 of 2005, dated 17.03.2006 directed the Government to constitute a governing body within four weeks and in any event not later than six weeks from the date of receipt of a copy of that order. Thus, the learned counsel for the petitioner submitted that even in the present writ petition, the same direction could be given.

5.The learned counsel for the respondents submitted that a writ is not maintainable as against the wakf board and therefore, such direction cannot be given. He would further submit that since the representation is pending before the respondents, a direction could be issued to consider the same.

6.In view of the submission made on either side, this Court is constrained to pass the following order:-

"The first respondent is directed to consider the representation of the petitioner, dated 22.01.2015, within a period of eight weeks from the date of receipt of a copy of this order. While considering the said representation, the first respondent is also directed to consider the earlier order passed by this Court in a similar situation in W.P.(MD)No.10569 of 2005, dated 17.03.2006 and pass appropriate orders. No costs."

Sd/-
Assistant Registrar

/True Copy/



1. The Principal Secretary to Government
Backward/Most Backward Class and Minorities Welfare Department,
Government of Tamil Nadu, Fort. St. George, Chennai.
2. The Chief Executive Officer, Tamil Nadu Stae Wakf Board,
1, Jaffar Sirang Street, Vallal Seethakathi Nagar, Mannady, Chennai
3. The Secretary / Chief Executive Officer (I/C)
M.S.S. Wakf Board College
Wakf Board, K.K. Nagar, Madurai - 625 020.

+1cc to M/S. M. Suresh Kumar, Advocate in SR.No 45126

+1cc to M/S. K.K. Senthil, Advocate in SR.No 44949

+1cc to Special Government Pleader in SR.No. 45201.

TS/13.08.2015/3P - 7C

W.P. (MD) No. 12800 of 2015

07.08.2015