



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **26.10.2015**
CORAM
THE HONOURABLE **MR. JUSTICE R. SUBBIAH**

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W.P(MD) .No.19169 of 2015

T.A.S.Rajkapoor

... Petitioner

Vs.

1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Sirang Road,
Vallal Seethakathi Nagar, Mannadi,
Chennai.

2.The Superintendent of Wakf,
No.12, Kelathur Street,
Trichy District,
Trichy.

... Respondents

This Writ Petition has been filed under Article 226 of Constitution of India praying for a Writ of Mandamus, directing the respondents to conduct the election to the post of Muthavalli for Jamia Masjid, Chinthamanipatti, Karur District and to implement the order of the first respondent in his proceedings Na.Ka.No.12555/11/A5/Karur, dated 03.03.2015 by considering the petitioner representation dated 11.06.2015 within the time that may be stipulated by this Court.

For petitioner : Mr.M.Natarajan

For Respondents : Mr.K.K.Senthil

Government Advocate

ORDER

The Writ Petition has been filed praying for a Writ of Mandamus, directing the respondents to conduct the election to the post of Muthavalli for Jamia Masjid, Chinthamanipatti, Karur District and to implement the order of the first respondent in his proceedings Na.Ka.No.12555/11/A5/Karur, dated 03.03.2015 by considering the petitioner representation dated 11.06.2015 within the time that may be stipulated by this Court.

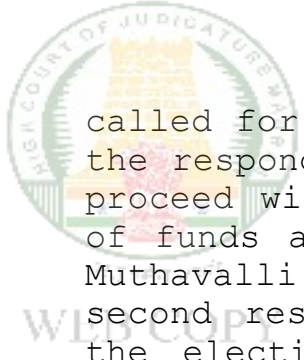
2. Mr.K.K.Senthil, learned counsel takes notice for the respondents.

3. By consent, this Writ Petition itself is taken up for final disposal.



4. In the affidavit filed in support of the Writ Petition, it has been averred that the petitioner is a resident of Chinthamanipatti Village. The total population of Chinthamanipatti Village would be around 5000. Out of which 1000 people are Muslims. In the said village there is a Jamia Masjid, where everyday five times prayers are being conducted regularly. The said Masjid was established about 100 years back. Initially one Mr.K.M.Kasim Rowther was functioning as a Muthavalli of the said Masjid and he was effectively managing the properties of Masjid making avenue for augmentation of the income. After the demise of K.M.Kasim Rowther, one Mr.P.Kathiralayam was appointed as Muthavalli on the basis of being the elder member of the community in the village. After his demise, his son Mr.P.K.K.Samsudeen, propagated himself as Muthavalli of the Masjid. The said Mr.P.K.K.Samsudeen had no relation with the Wakf. However, using his father name, he continues to function as Muthavalli of the Masjid and has been squatting on the property of Wakf giving room for mismanagement of Wakf. The Wakf is created for the benefit of beneficiaries.

5.It is further stated that the petitioner as the member of the Masjid, made a representation on 31.10.2011 to the respondent requesting him to look into the matter and conduct Election to the post of Muthavalli to the Masjid once in 3 years and include the property of the Masjid in the Wakf Board for the effective proper utilization of Wakf and to fulfill the intend of the Wakf. But the same was not considered. Hence, the petitioner has filed a writ petition in W.P.(MD)No.8765 of 2012 seeking a writ of mandamus directing the respondent to consider the representation, dated 31.10.2011 seeking to conduct election to the post of Muthavalli at Jamia Masjid, Chinthamanipatti. This Court, by the order, dated 28.06.2012 disposed of the writ petition directing the respondent Wakf Board to consider his representation within a period of twelve weeks. The petitioner communicated the same to the respondents. After a period of six months, the second respondent by proceedings, dated 30.01.2013 in Na.Ka.No.gs.188/Va Ka/The A/Trichy 2013 issued a notice for conducting fresh administrative committee for the said Pallivasal and called for the members of the eligible voters. Thereafter, no action was taken with regard to conducting of election. Hence, the petitioner has made a repeated request for conducting election. All his efforts turned futile. As the election was not conducted as per the proceedings, dated 30.01.2013, the petitioner again filed a writ petition in W.P.(MD)No.5590 of 2013. This Court, by an order dated 04.06.2013 disposed of the writ petition by recording the submission of the respondent therein that appropriate decision will be taken regarding the conduct of election based on the representation of the petitioner within a period of six weeks. Thereafter, the second respondent issued a notice and called for nomination. Thereafter, the respondent by his proceedings, dated 26.04.2013



called for the eligible voters. Thereafter, no action was taken by the respondents. The petitioner has again made a representation to proceed with election and to initiate action for misappropriation of funds and grabbing the properties of Wakf against the present Muthavalli. But to the shock and surprise of the petitioner, the second respondent by his notice, dated 16.08.2013 informed that the election was postponed as per the proceeding of the first respondent in R.C.No.12555/11/B5/Karur, dated 14.08.2013. The said order is only an inter departmental communication and it was not served on the petitioner. Hence, on 28.01.2014 and 03.02.2014 the petitioner has made representations to the respondents to initiate action against the Muthavalli and to conduct election. Since, no action was taken, again the petitioner has approached this Court by way of writ petition in W.P.(MD)No.4663 of 2014. This Court, by the order dated 20.06.2014 disposed the writ petition by recording the submission of the respondents therein that appropriate decision will be taken regarding the conduct of election. Thereafter, the first respondent issued notice to the petitioner and the present Muthavalli P.K.K.Samsudeen. The petitioner gave a detailed explanation. After receiving the explanation, the first respondent by his communication, dated 04.06.2015 sent a resolution copy in proceedings Na.Ka.No.12555/11/A5/Karur, dated 03.03.2015 to the effect that the properties related to the Chinthamanipatti Jamia Masjid Wakf was illegally transferred to Arabic College Trust and hence directed to cancel the said registration and to mutate the records in the name of Chinthamanipatti Jamia Masjid Wakf. Even after the said resolution, dated 03.03.2015, the respondents did not take any steps to implement the proceedings. Hence, the petitioner has made another representation on 11.06.2015. Having received the same, no steps were taken till now.

6.The learned counsel appearing for the petitioner submitted that inspite of several representations and directions given by the Court in various writ petitions, till date, the first respondent is not conducting the election and hence, the petitioner has filed the present writ petition for the above stated relief.

7. Considering the facts and circumstances of the case, without going into the merits of the claim made by the petitioner, this Court directs the first respondent to consider the representation of the petitioner, dated 11.06.2015 by affording an opportunity of hearing to all the necessary parties and pass appropriate orders on the same, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any opinion on the merits of the claim made by the petitioner and it is for the first respondent to consider the same purely on merits.



8. With the above direction, the Writ Petition is disposed of.
No Costs.

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Sd/-

Assistant Registrar(CS-II)

Sub Assistant Registrar

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To

1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Sirang Road,
Vallal Seethakathi Nagar, Mannadi,
Chennai.

2.The Superintendent of Wakf,
No.12, Kelathur Street,
Trichy District,
Trichy.

+1cc to Mr.M.Natarajan, Advocate SR No.62383

+1cc to Mr.K.K.Senthil, Advocate SR No.62346

W.P (MD) .No.19169 of 2015
26.10.2015

RG/AN-MP/SAR-II 05.11.2015 4P/5C.