

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.17389 of 2016

and WMP.Nos.14875 and 14876 of 2016

BIG MOSQUE-MASJID-E-AHLE-HADEES,
Rep. by its President S.Jamal,
No.162, Bazaar Street, Contonment,
Poonamallee, Chennai-600 056. ... Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffarcyrang Street,
Vallalseethakathi Nagar,
Chennai-600 001.
- 2.The Superintendent of Walk,
Tamil Nadu Wakf Board,
Opp. Govt. Hospital,
Poonamallee, Chennai-600 056.
- 3.The Walk Inspector, (I/c),
Tamil Nadu Wakf Board,
Thiruvallur. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the first respondent in connection with the impugned order passed in Board Resolution No.25/2016 in Na.Ka.No.7951/06/B4/TVLR dated 18.02.2016 published in the Government Gazette Notification No.12 dated 23.03.2016 and quash the same.

For Petitioner : M/s.K.Thirumalai

For Respondents : Mr.Mohamed Fayaz Ali

O R D E R

By consent, this writ petition is taken up for final disposal.

2.The petitioner, aggrieved by the impugned order of taking over the management of BIG MOSQUE-MASJID-E-AHLE-HADEES, has filed this writ petition.

3. Heard the submissions of the learned counsel appearing for the petitioner and Mr.Mohamed Fayaz Ali, learned standing counsel, who accepts notice on behalf of the respondents 1 to 3 and would submit that the petitioner is having an effective alternative remedy under Section 65(2) of the Wakf Act, 1995 and therefore, the present writ petition is not maintainable.

4. It is relevant to extract Section 65 of the Wakf Act, 1995:

"65. Assumption of direct management of certain wakfs by the Board.-

(1) Where no suitable person is available for appointment as a mutawalli of a wakf, or where the Board is satisfied, for reasons to be recorded by it in writing, that the filling up of the vacancy in the office of a mutawalli is prejudicial to the interests of the wakf, the Board may, by notification in the Official Gazette, assume direct management of the wakf for such period or periods, not exceeding five years in the aggregate, as may be specified in the notification.

(2) The State Government, may, on its own motion or on the application of any person interested in the wakf, call for the records of any case for the purpose of satisfying itself as to the correctness, legality or propriety of the notification issued by the Board under sub-section (1) and pass such orders as it may think fit and the orders so made by the State Government shall be final and shall be published in the manner specified in sub-section (1).

(3) As soon as possible after the close of every financial year, the Board shall send to the State Government a detailed report in regard to every wakf under its direct management, giving therein-

(a) the details of the income of the wakf for the year immediately preceding the year under report;

(b) the steps taken to improve the management and income of the wakf;

(c) the period during which the wakf has been under the direct management of the Board and

explaining the reasons as to why it has not been possible to entrust the management of the wakf to the mutawalli or any committee of management during the year; and

(d) such other matters as may be prescribed.

(4) The State Government shall examine the report submitted to it under sub-section (3), and after such examination issue such directions or instructions to the Board as it may think fit and the Board shall comply with such directions or instructions on receipt thereof.

5. In the light of the above said alternative remedy available, this Court is of the view that this writ petition filed against the impugned order is not maintainable. Hence, this Writ Petition is dismissed. However, the petitioner is at liberty to invoke Section 65(2) of the Wakf Act before the State Government for redressal of their grievance. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CSV)

True Copy

Sub-Assistant Registrar

jvm
To

1. The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffarcyrang Street,
Vallalseethakathi Nagar,
Chennai-600 001.

2. The Superintendent of Walk,
Tamil Nadu Wakf Board,
Opp. Govt. Hospital,
Poonamallee, Chennai-600 056.

3. The Walk Inspector, (I/c),
Tamil Nadu Wakf Board,
Thiruvallur.

+1 cc to M/s.K.Thirumalai Advocate sr.29049

aa13/06/2016

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