

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.23646 of 2016
and W.M.P.Nos.20244 & 20245 of 2016

M.A.Haja Sirajudheen

... Petitioner

Vs.

1.The Chief Executive Officer
cum Secretary,
Puducherry State Wakf Board,
No.1, Yanam Venkatachalam Pillai Street,
Puducherry- 605 001.

2.S.Haja Mougammadou

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for records of the 1st respondent vide proceedings No.14/PSWB/CEO/2016 dated 01.07.2016 and quash the same.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents: Mr.A.Tamilvanan,,
Government Advocate (Pondy) [R1]
Mr.J.Srinivasa Mohan [R2]

O R D E R

The petitioner claims to be a Secretary of Mohideen Abdul Kadhira Jeelani Jamia Mosque would state that the first respondent had appointed a committee of seven members for managing the Wakf, vide proceedings dated 14.05.2015, for a period of three years and the committee is administering the wakf to the fullest satisfaction of one and all, without giving room for any complaint of any sort whatsoever. The grievance expressed by the petitioner is that the first respondent without adhering to the mandatory provisions viz., Section 67 of the Wakf Act 1995, had superseded the committee without any notice or enquiry, vide impugned proceedings dated 01.07.2016 and challenging the legality of the same, came forward to file this writ petition.

2. The learned counsel appearing for the petitioner has drawn the attention of this Court to the impugned proceedings as well as Section 67 of the Wakf Act, 1995 and would submit that as per the proviso to Sub Section 2 of Section 67 of the

said Act, the Board before making any order superseding any committee, shall issue a notice setting forth therein the reasons for the proposed action and calling upon the committee to show cause within such time, not being less than one month, as may be specified in the notice, as to why such action shall not be taken and admittedly, the mandatory provisions has not been complied with and therefore, prays for appropriate orders.

3. Per contra, Mr.A.Tamilvanan, learned Government Advocate (Pondichery) who accepts notice on behalf of the first respondent would submit that after fully complying with all the procedure, the impugned proceedings came to be passed.

4. The learned counsel appearing for the second respondent would submit that only few of them had started espousing the cause of the petitioner and in the light of the development took place, the impugned proceedings are perfectly in order and prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. It is relevant to extract Section 67 (2) the Wakf Act, 1995:

"(2) Notwithstanding anything contained in this Act and in the deed of the wakf, the board may, if it is satisfied, for the reasons to be recorded in writing, that a committee, referred to in sub-section (1) is not functioning properly and satisfactorily, or that the wakf is being mismanaged and that in the interest of its proper management, it is necessary so to do, by an order, supersede such committee, and, on such supersession, any direction of the wakf, insofar as it relates to the constitution of the committee, shall cease to have any force:

Provided that the Board shall, before making any order superseding any committee, issue a notice setting forth therein the reasons for the proposed action and calling upon the committee to show cause within such time, not being less than one month, as may be specified in the notice, as to why such action shall not be taken."

7. A perusal of the impugned proceedings would clearly reveal that the proviso to Section 67(2) have not been followed and on the sole ground the impugned order warrants interference.

8. In the result, this Writ Petition is partly allowed and the impugned proceedings of the first respondent dated 01.07.2016 is set aside and the matter is once again remanded to the first respondent, who shall follow the proviso to Section 67(2) of Wakf Act, 1995 and give a disposal as expeditiously as possible and not later than eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the second respondent. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vsm

To

The Chief Executive Officer cum Secretary,
Puducherry State Wakf Board,
No.1, Yanam Venkatachalam Pillai Street,
Puducherry- 605 001

+1cc to M/s. N.A. Nissar Ahmed, Advocate, S.R.No.39090
+1cc to Mr.J. Srinivasan, Advocate, S.R.No.38928

SCD(CO)
EU(04/08/2016)

Writ Petition No.23646 of 2016
and
W.M.P.Nos.20244 & 20245 of 2016

सत्यमेव जयते

WEB COPY