

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.29119 of 2016

and

W.M.P. Nos. 25164 & 25165 of 2016

K. Abul Kalam Azad

.. Petitioner

Versus

1.The TamilNadu Wakf Board,
Rep.by its Chief Executive Officer,
No.1, Jaffer Syras Road,
Vallal Seethakadhi Nagar,
Chennai 600 001.

2.The Superintendent,
The TamilNadu Wakf Board,
Office of the Wakf Inspector,
Ramnad District.

3.The Wakf Inspector,
The Office of the Wakf Inspector,
Ramnad District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the impugned notice Na.Ka.No.105/Va.Ka/Rama/2016 dated 03.08.2016 issued by the third respondent and quash the same and issue consequential direction not to convene any meeting affecting the administration of the Hyrathul Jamalia East Muslim Mosque till the disposal of this petition.

For Petitioner : Mr. K. Shahul Hameed
For Respondents : Mr. V. Lakshmi Narayanan

O R D E R

With the consent of counsel for both side, the Writ Petition itself is taken up for final disposal at the admission stage.

2. The petitioner claims that he is a Member of Hyrathul Jamalia East Muslim Mosque, Paramakudi. In the year 2013, according to the petitioner, an unrecognised committee has taken

over the management of the mosque against which he filed W.P. No. 7481 of 2013 before this Court for issuance of a Mandamus to direct the respondents therein to form an adhoc committee and to direct the Wakf Board to take over the management of the aforesaid Mosque. Pending WP No. 7481 of 2013, the petitioner came to know that election for the mosque is scheduled to be conducted on 21.06.2013 for electing new Executive Members. Challenging the proposal to conduct election, the petitioner once again filed WP No. 31508 of 2013 contending that when WP No. 7481 of 2013 is pending before this Court in which he sought for a direction to the Wakf Board to take over the affairs of the management, election to the Mosque need not be conducted. During the pendency of the writ petition No. 31508 of 2013, the first respondent passed an order dated 29.10.2013 approving the constitution of the Executive Committee, which according to the petitioner is contrary to Section 25 of the Wakf Act, whereby, the first respondent is only empowered to pass an order either approving or disapproving the executive committee of the Wakf, but not according approval of the constitution of the Executive Committee. According to the petitioner, the term of the office of the members of the Executive Committee comes to an end on 25.08.2016 and to this effect, a notice dated 03.08.2016 was displayed in the notice board of the mosque directing the members to attend a meeting on 19.08.2016. It is this notice dated 03.08.2016 issued by the third respondent is challenged in this writ petition on the ground that the proposal to conduct even a meeting for selection of the committee members or office members of the Wakf need not be considered inasmuch as he has filed two writ petitions before this Court as mentioned above and they are pending. While challenging the notice dated 03.08.2016, the petitioner also sought for a consequential direction to the respondents to forbear them from convening any meeting affecting the administration of the Hyrathul Jamalia East Muslim Mosque till the disposal of this petition.

3. The learned counsel for the petitioner would only contend that when the writ petitions filed by the petitioner is pending before this Court, the impugned notice ought not to have been issued by the third respondent.

4. The learned standing counsel appearing for the respondents would only contend that the writ petition is not maintainable. If the petitioner is aggrieved by the conduct of any meeting to elect the members of the Executive Committee or Office bearers to the Wakf, the remedy open to him is to file an appeal before the Wakf Board. The pendency of the two earlier writ petitions filed by the petitioner has nothing to do with the convening of the meeting to elect the members to the Executive Committee of the mosque and therefore, the learned counsel for the respondents prayed for dismissal of the writ petition.

5. I heard the learned counsel for the petitioner as well as the learned Standing counsel appearing for the respondents. Admittedly, as against the notice dated 03.08.2016, which is impugned in this writ petition, there is an alternative remedy available before the Wakf Board by filing appropriate application. When such a remedy is available to the petitioner, the petitioner, without exhausting such remedy ought not to have filed the present writ petition. Further, when there are disputed question of facts involved, this Court, in exercise of powers under Article 226 of The Constitution of India, cannot grant the relief as prayed for in this writ petition.

6. Accordingly, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The TamilNadu Wakf Board,
Rep.by its Chief Executive Officer,
No.1, Jaffer Syras Road,
Vallal Seethakadhi Nagar,
Chennai 600 001.

2.The Superintendent,
The TamilNadu Wakf Board,
Office of the Wakf Inspector,
Ramnad District.

3.The Wakf Inspector,
The Office of the Wakf Inspector,
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