

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33665 of 2016

&

W.M.P.Nos.29053 and 29054 of 2016

S.Abdul Salam Maricar .. Petitioner

Vs

The Chief Executive Officer cum Secretary  
Puducherry State Wakf Board  
No.1, Yanam Venkatachalam Pillai Street  
Puduchery-605001 .. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for records of the respondent vide show cause notice dated nil and quash the same.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondent :Ms.D.Reena Iswariya, AGP (Puducherry )

ORDER

Heard Mr.N.A. Nissar Ahmed, learned counsel for the petitioner and Ms.D.Reena Iswariy, AGP (Puducherry) accepting notice on behalf of the respondent.

2. Earlier, the petitioner had come before this court praying for issuance of writ of certiorari to quash the order passed by the respondent dated 01.07.2016, which is a proceeding initiated under Section 67 of the Wakf Act. The said writ petition was partly allowed and the order was set aside and the matter was once again remanded to the respondent to follow the proviso to Section 67(2) of the Wakf Act, 1995. However, it appears that the respondent has given a go by to the said direction and has issued the impugned notice stating as if it is in compliance with the direction issued by this Court in the earlier writ petition.

3. At the first blush, the impugned notice appears to be a notice setting out the reasons as to why the petitioner should be called upon to show cause. But, however, on a closer reading, it shows that it is an outcome of total non

application of mind, what the respondent has done is extracted Section 64(1) and ticked three of the sub-clauses viz., g,h and k and directed the petitioner to appear for an enquiry. The impugned notice is an classic example of how an authority should not act. Section 64(1) of the Act to give power for the respondent to take action for violation committed therein. If the respondent is of the view that violations have been committed then the show cause notice should state as to why the respondent is prima facie satisfied that action should be initiated. The manner in which impugned show cause notice has been issued cannot be appreciated. For the sole reason, this Court is inclined to interfere with the impugned show cause notice.

Accordingly, writ petition is allowed. Impugned show cause notice is set aside. However, liberty is granted to the respondent to issue fresh notice if circumstance warrant. No costs. Connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Chief Executive Officer cum Secretary  
Puducherry State Wakf Board  
No.1, Yanam Venkatachalam Pillai Street  
Puduchery-605001

1 cc to M/s.N.A.Nissar Ahmed, Advocate, sr.54827  
1 cc to Government Pleader Cum Senior Public Prosecutor,  
Pondicherry, sr.55196

ala co  
kra 19.10.2016

W.P.No.33665 of 2016