

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.34592 of 2016
and
W.M.P.Nos.29793 & 29794 of 2016

M.Y.Abdul Rahman

.. Petitioner

- Vs -

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

.. Respondent

Prayer:- Writ petition filed under Section 226 of the Constitution of India for issuance of a writ of Certiorari calling for the records of the respondent vide show cause notice dated nil and quash the same.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondent : Mr.P.Tamilvanan
Government Advocate (Pondy)

O R D E R

Heard Mr.N.A.Nissar Ahmed, learned counsel for the petitioner and Mr.P.Tamilvanan, Government Advocate (Pondy) 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 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 this sole reason, this Court is inclined to interfere with the impugned show cause notice.

4. 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/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

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

+1 cc to MR.N.A.Nissar Ahmed, Advocate SR.NO. 58787
+1 cc to Government Pleader cum PP for Pondy SR.NO. 59093

W.P.No.34592 of 2016 and
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KJ1 (CO)
MMP 12.11.2016

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