

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.9442 of 2016

R.Ameer Basha

... Petitioner

vs.

1.The Secretary,
Backward Class and Most Backward
Class Department,
Secretariat, Fort St. George,
Chennai-9.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Sherang Street,
Vallal seethakathi Nagar,
Chennai-1.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent to conduct enquiry and consequently direct the first respondent to dispose of the appeal filed under Section 65(2) of the Wakf Act, 1995, as amended by Act No.27 of 2013 by the petitioner on 27.2.2015 within a stipulated period.

For Petitioner : Mr.R.Abdul Mubeen

For Respondents : Mr.M.Dig Vijaya Pandian,
Addl. Govt. Pleader,
for R.1

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to conduct enquiry and dispose of the appeal filed under Section 65(2) of the Wakf Act, 1995, as amended by Act No.27 of 2013 by him on 27.2.2015 within a stipulated period.

2. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is the President of the Sunnath Jamath Jumma Mosque @ Sheik Khairullah Mosque. The said Mosque is more than a century old and the office bearers of the said Mosque are elected in the general body meeting. While so, the Secretary and the Treasurer of the Mosque resigned from their posts on 24.9.2012. Thereafter, on 6.11.2012, the petitioner received an enquiry notice from the Wakf Inspector, Poonamallee attached to the office of the second respondent asking him to appear before him for enquiry on 12.11.2012 in respect of the non-payment of contribution and non-submission of the accounts and other allegations in respect of the Mosque. On 12.11.2012 itself, the petitioner replied to the said notice stating that the accounts are being audited by the local fund audit department to the Government of Tamil Nadu for the period 2004 to 2010 and 2010 to 2012 and requested further time to attend the enquiry with all the relevant records.

(b) At this juncture, the second respondent issued a show cause notice dated 19.12.2012 to the petitioner and the committee members asking them as to why action should not be taken against them for not complying with the requirements under the provisions of the Wakf Act within 15 days from the date of receipt of the show cause notice. On 8.1.2013, the petitioner had replied to the said show cause notice. He had also replied to the notice dated 15.12.2012 issued by the Superintendent of Wakfs, Poonamallee on 24.12.2012 stating that in an earlier letter dated 5.12.2012, the Mosque committee requested for an election observer to the election of the office bearers of the Mosque to be held on 22.12.2012. But, the Wakf Inspector and the Superintendent of Wakfs did not cooperate for the same and hence, the election to the Mosque was postponed.

(c) Later, the second respondent issued a notice dated 18.8.2014 to the petitioner and other members to appear before the Tamil Nadu Wakf Board on 26.8.2014. Some of the members appeared and sought time to file Vakalat through their counsel and sought time for filing their explanation for the charges levelled against the administration of the Mosque. The Chairman and members of the Tamil Nadu Wakf Board and the second respondent did not hear anything from them and simply chided away the members of the Mosque. Such an act of the Tamil Nadu Wakf Board is illegal and violative of the principles of natural justice.

(d) Aggrieved by the act of the Tamil Nadu Wakf Board and the second respondent herein, the petitioner filed a writ petition before this Court in W.P.No.4214 of 2015. During the pendency of the said writ petition, the second respondent and the Tamil Nadu Wakf Board had taken over the administration of the Mosque under their direct management in a very hasty manner under Section 65 of the Wakf Act, 1995. Immediately, the

petitioner preferred an appeal under Section 65(2) of the Wakf Act, 1995 as amended by Act No.27 of 2013 with the first respondent on 27.2.2015. But, the first respondent has not conducted any enquiry with respect to the appeal till date. Hence, left with no other alternative, the petitioner has come up with the present writ petition seeking a direction to the first respondent to conduct enquiry and dispose of the appeal filed under Section 65(2) of the Wakf Act, 1995, as amended by Act No.27 of 2013 by him on 27.2.2015 within a stipulated period.

3. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the first respondent.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim made by the petitioner, this Court directs the first respondent to dispose of the appeal dated 27.2.2015 filed by the petitioner under Section 65(2) of the Wakf Act, 1995, as amended by Act No.27 of 2013, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

sbi

s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1.The Secretary,
Backward Class and Most Backward
Class Department,
Secretariat, Fort St. George,
Chennai-9.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Sherang Street,
Vallal seethakathi Nagar,
Chennai-1.

+ 1 cc to Mr.R.Abdul Mubeen Advocate, SR 19013

+ 1 cc to Govt.Pleader, High Court, Madras SR 18822
vsn(co)
prk22/4

W.P.No.9442 of 2016