



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 25.07.2016
CORAM

THE HONOURABLE MR. JUSTICE M.VENUGOPAL

W.P(MD)No.20861 of 2015
and
M.P(MD)Nos.1 and 2 of 2015

Najimudeen

... Petitioner

Vs

1.Tamil Nadu Wakf Board,
Through its Chief Executive Officer,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001

2.The Superintendent of Wakfs,
No.54, S.N.High Road,
Tirunelveli.

3.The Inspector of Wakfs / Executive Officer,
Jamiya Masjid Pallivasal
W.G.C.Road,
Tuticorin.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 1st respondent herein in Na.Ka.No.813/08/Aa1/Thookudi, dated 30.10.2015 and quash the same and further direct the Respondents herein to hold the election for the Administrative Council of Jamiya Masjid Pallivasal, Tuticorin, as early as possible after framing the scheme.

For Petitioner : Mr.M.Vallinayagam,
Senior Counsel
For Mr.D.Nallathambi

For Respondents : Mr.K.K.Senthil

ORDER

Heard Both sides.

2. By consent, the main Writ Petition itself is taken up for final disposal.

3. No counter is filed on behalf of the Respondents.

4. According to the Petitioner, he is one of the Jamathars of the Pallivasal, having interest in the affairs and proper administration of the 'Jamiya Masjid Pallivasal', at Tuticorin, and its properties. As a
<https://hcservicescourts.gov.in/services/> an Administrative Committee of the 'Jamiya Masjid Pallivasal' was prevailing in the past. In fact, the Wakf Board had also approved the Administrative Council so constituted, comprising of



nearly 18 persons. There is no approved Scheme or Bye-laws for the election of the Administrative Council and Administration of the Pallivasal and its properties. In reality, the then Administrative Committee has framed Byelaws for the 'Jamiya Masjid Pallivasal', and sent the same to the Wakf Board. In spite of the numerous remainders, the stand of the Petitioner is that the First Respondent / Tamil Nadu Wakf Board had not either approved or rejected the same till date. However, the fact of the matter is that the Administrative Council of the Pallivasal was constituted in the aforesaid fashion and the Committee has been approved by the Board.

5. It comes to be known that the First Respondent / Tamil Nadu Wakf Board had passed a Resolution in its meeting, dated 18.08.2015, for taking over the Management of the Pallivasal under its direct control and appointed the Third Respondent / Inspector of Wakf, as the Executive Officer. Moreover, the Wakf Board had directed the Third Respondent to administer the Pallivasal, as per the provisions of the Wakf Act and empowered him to do all acts necessary for its proper administration and further directed him to submit a draft scheme with regard to administration of the Pallivasal to the Board. Thereafter, it directed the Second Respondent / Wakf Superintendent of Tirunelveli, to conduct election by secret voting method, for constituting new Administrative Committee, as per the Resolution, dated 18.08.2015. The said Resolution and proceedings were duly notified in the Tamil Nadu Government Gazette.

6. The grievance of the Petitioner is that the Third Respondent / Inspector of Wakf / Executive Officer of 'Jamiya Masjid Pallivasal' is to act in furtherance of the direction of the Board in the matter of framing the draft scheme. To the shock and surprise, the First Respondent / Tamil Nadu Wakf Board, Chennai, had directed the Second Respondent / Superintendent of Wakf Board, Tirunelveli, to conduct an election by secret vote process for Administrative Council of the Pallivasal and report the same to the Board. In fact, the Wakf Board itself initiated the proceedings dated 30.10.2015 directing the Second Respondent to conduct election to the Administrative Council of the Pallivasal against its own Resolution, dated 18.08.2015.

7. The core stand of the Petitioner is that the direction, dated 30.10.2015, issued by the First Respondent / Tamil Nadu Wakf Board, Chennai, directing the Second Respondent / Superintendent of Wakf Board, Tirunelveli, to conduct election to the Administrative Committee of the Pallivasal without framing the scheme, as per the Resolution, dated 18.08.2015 is an improper and illegal one. At this stage, the Learned Senior Counsel for the Petitioner brings it to the notice of this Court that on 02.06.2015, the principal Executive Officer of the First Respondent / Tamil Nadu Wakf Board had issued an urgent remainder No.2, addressed to the Wakf Superintendent, Tirunelveli (with a copy being marked to the Wakf Inspector, Tuticorin / Administrative Executive Officer of 'Jamiya Masjid Pallivasal', Tuticorin, inter alia stating that the election proceedings would have to be undertaken without delaying the matter any further.

<https://hcservices.ecourts.gov.in/hcservices/>

8. As far as the present case is concerned, it cannot be lost sight of the Third Respondent / Inspector of Wakf / Executive Officer, 'Jamiya



Masjid Pallivasal', Tuticorin, has not yet submitted ' The Draft Scheme' for the administration of the Pallivasal. Furthermore, the order of the First Respondent, dated 30.10.2015, directing to hold election is against his own Resolution, dated 18.08.2015, which unhearingly speak of framing of new draft scheme in respect of the Pallivasal in issue. Apart from that, if any election is held without any scheme being framed and approved by the First Respondent, naturally, it will lead to formation of a body to administer the Wakf in an improper manner and certainly, it would cause hardship to the Jamathars and would also result in valuable rights of the administration of the Pallivasal in no uncertain terms in the considered opinion of this Court.

9. In view of the forgoings, the impugned order of the First Respondent / Tamil Nadu Wakf Board, dated 30.10.2015, is held to be invalid in the eye of Law. Accordingly, this Court interferes with the said order, dated 30.10.2015 of the First Respondent / Tamil Nadu Wakf Board and quashes the same in furtherance of the substantial cause of justice. Consequently the Writ Petition is allowed. Further, the Respondents are directed to conduct election in respect of Administrative Council of 'Jamiya Masjid Pallivasal', at Tuticorin, at an early date, of course, after framing the scheme. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/

Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001

2.The Superintendent of Wakfs,
No.54, S.N.High Road,
Tirunelveli.

3.The Inspector of Wakfs / Executive Officer,
Jamiya Masjid Pallivasal
W.G.C.Road,
Tuticorin.

+1cc to M/S.D.Nallathambi, Advocate in SR.No.39353

+1cc to M/S.K.K.Senthil, Advocate in SR.No.39339

W.P (MD) No.20861 of 2015
25.07.2016

MPK

PA/SK-SKN/SAR I/03.08.2016/3P/6C