IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.8571 of 2004

Dhakni Sunnath Jammath Big Mosque
Rep. by its Secretary,
M.S.Jalaludheen ... Petitioner

Vs.

Tamil Nadu Wakf Board,
rep. by the Chief Executive Officer,
No.7, 9 Cross Street,
Indira Nagar,
Chennai – 600 020. ... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to Resolution having Rc.12407/C4/2002/NGS dated 06.02.2004 passed by the Respondent and quash the same and consequently direct the Respondent to amend clause 4 of Scheme framed for administration of the Dakhni Sunnath Jammath Big Mosque, Coonoor, Nilgiris District having reference No.20413/82-C8/NGS dated 20.07.1986 in exercise of power under Section 69(4) of the Wakf Act, 1995 so as to include only Dakhni Urudu Speaking Muslims as members of the Committee of management of Dakhni Sunnath Jammath Big Mosque, Coonoor, Nilgiris District.

For Petitioner : M/s.Gladys Daniel
For Respondent : No Appearance

O R D E R

This writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records pertaining to Resolution having Rc.No.12407/C4/2002/NGS dated 06.02.2004 passed by the Respondent and quash the same and consequently, direct the Respondent to amend Clause 4 of Scheme framed for administration of the Dakhni Sunnath Jammath Big Mosque, Coonoor, Nilgiris District having reference No.20413/82-C8/NGS dated 20.07.1986 in exercise of power under Section 69(4) of the Wakf Act, 1995 so as to include only Dakhni Urudu Speaking Muslims as members of the Committee of management of Dakhni Sunnath Jammath Big Mosque, Coonoor, Nilgiris District.

2.The brief facts of the case are as follows: The petitioner made a representation seeking to amend the Scheme framed for administration of the Wakf. That was not decided. Hence, the petitioner was forced to file a writ petition in W.P.No.30221 of 2003 before this Court and this Court vide order dated 30.10.2003, passed an order directing the petitioner to make a representation to the Tamil Nadu Wakf Board and further directed the Tamil Nadu Wakh Board to consider the said representation and to pass orders. Thereafter, as per the direction of this Court, the respondent passed the impugned resolution on 06.02.2004 rejecting the claim of the petitioner.

3.The learned counsel appearing for the petitioner fairly concedes that there is an appeal remedy available under Section 69(3) of the Wakf Act before the Tamil Nadu Wakf Tribunal and the petitioner without exhausting the alternative remedy available, has approached this Court under Article 226 of the Constitution of India and it is not permissible.

4.It is useful to extract hereunder Section 69(3) of the Waqf Act:

> **"69(3) Every order made under sub-section (2) shall be published in the prescribed manner, and, on such publiction shall be final and binding on the *mutawalli* and all persons interested in the waqf:**
>
> **Provided that any person aggrieved by an order made under this section may, within sixty days from the date of the order, prefer an appeal to the Tribunal and after hearing such appeal, the Tribunal may confirm, reverse or modify the order:**
>
> **Provided further that the Tribunal**

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shall have no power to stay the operation of the order made under this section."

5.Accordingly, this writ petition is disposed of with liberty to the petitioner to file an appeal before the Tamil Nadu Wakf Tribunal, within a period of three weeks from the date of receipt of a copy of this order. No costs.

30.06.2017

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

Tamil Nadu Wakf Board,
rep. by the Chief Executive Officer,
No.7, 9 Cross Street,
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Chennai – 600 020.

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