

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-09-2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.16114 of 2004

and

WPMP.No.19068 of 2004

Ghulam Mohammed Mehdi Khan,
197, Anna Salai,
Thousand Lights,
Chennai.

... Petitioner

-Vs-

1. The Tamil Nadu Wakf Board
Rep. by its Chief Executive Officer,
7/4, 9th Cross Street,
Indira Nagar, Chennai-600 020.

2. Sarkar-E-Abbasi Ashurkhana-E-Mubarak-Wakf,
(Also known as Thousand Lights Charities),
Rep by the President of
the Committee of Administration,
210, Anna Salai, Chennai-600 006 ... Respondents

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent comprised in R.C.No.10811/C2/01/CHE dated 19.11.2003 and quash the same and consequently direct the respondents to forthwith appoint the petitioner at Muthavalli of Sarkar-E-Abbasi Ashurkhana-E-Mubarak Waif, (also known as Thousand Lights Charities) in the place of his late father Ghulam Ahmed Khan.

For Petitioner : No appearance

For Respondents : No appearance (R1)
Mr.Ashok Kumar (R2)

O R D E R

This Writ Petition is filed challenging the order passed by the first respondent in R.C.No.10811/C2/01/CHE dated 19.11.2003 and to quash the same and consequently direct the respondents to forthwith appoint the petitioner as Muthavalli of Sarkar-E-Abbasi Ashurkhana-E-Mubarak Waif, (also known as Thousand Lights Charities) in the place of his late father Ghulam Ahmed Khan.

3. From the records, it is seen that earlier there was a suit filed in C.S.No.198 of 1868 before this Court and thereafter a scheme was also framed in C.S.No.392 of 1878, by a Judgment and Decree dated 27.11.1879 for the Management and administration of Wakf and as per the scheme, the charities are governed. It appears that there are three branches and the petitioner belongs to the branch of Janaba Hussainy Begum and is the eldest male descendant in the said branch after his father's demise. It is stated that there is no representation in his branch till today. Whiles, the petitioner states that he was appointed as Muthavalli in WAKF in the year 1997 and subsequently he was removed as a Muthavalli by the first respondent, based on the resolution dated 27.06.2001. Now, it is the grievance of the petitioner that he should be appointed as the Muthavalli of the WAKF.

4. In the counter affidavit filed by the second respondent, it is stated that the petitioner had attracted several disqualification by various acts for being considered to the post of Muthavalli. In Paragraph 12 and 13 of the counter affidavit, it is stated as follows:

"12. On 10.01.2003, the father of the petitioner died and there arose a vacancy in the office of Muthavalli. The 2nd respondent thereupon invited the male members in the family of Janab Ghulam Ahamed Askari, including the petitioner by registered letters sent to all of them personally to attend the interviews proposed to be conducted by them on 3.2.2003. The first respondent was also duly informed about the actions taken by the Thousand Lights Committee by their letters dated 28.01.2003 and 30.01.2003. In response to the interview letters, Mrs.K.Zahra Begum, the mother of the late Janab Ghulam Ahmed Askari alone had sent a letter dated 3.2.2003 that the family of late Janab Ghulam Ahmed Askari had unanimously chosen the petitioner to serve as Muthavalli. The petitioner did not appear from the interview on 3.2.2003 nor did he send any communication regarding his absence.

13. The 2nd respondent informed Mrs.K.Zahra Begum by their letter dated 4.2.2003 that they would follow the scheme settled by this Hon'ble Court in C.S.No.392 of 1878 in the matter of selection of

Muthavalli. The 2nd respondent also wrote to the first respondent on 05.02.2003 about the applicability of the clauses (h) and (i) of Sec.64 of the Wakf Act to the petitioner in the event of his being appointed as the Muthavalli and sought their clarification.

5. Further in the counter affidavit, it is stated that Muthavalli representing the branch of Khurshid Begum, Janab Khadim Hussain Khan, died on 09.02.2004 and in the said vacancy, Mr.Feroze Hussain was chosen and appointed on 28.04.2004 after an interview on 22.2.2004. Thus, as of today, there is no vacancy of Muthavalli as all the three post filled in as per the Scheme Decree of 1879.

6. In the light of the above, considering the fact that counsel for the petitioner also had reported no instructions, the relief sought for in this Writ Petition has become infructuous. Hence, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Chief Executive Officer,
Tamil Nadu Wakf Board
7/4, 9th Cross Street,
Indira Nagar, Chennai-600 020.

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GMR(CO)
rvr 10/11/2017