



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2017

CORAM:

WEB COPY

**THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**

**W.P. [MD].No.11583 of 2017
and
W.M.P (MD) .No.8926 of 2017**

M.Abdul Majeed

: Petitioner

Vs.

The Tamil Nadu Wakf Board,
Rep by its Chief Executive Officer,
No.1, Jaffer Strong Street,
Vallal Sethakadhi Nagar,
Chennai 600 001.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring the order of the respondent Board, dated 12.06.2017 and made in R.C.No.16567/12/B7/TNJ and made in item 8 and 244/15 as illegal and without jurisdiction and consequently to publish the order of the respondent Board dated 03.03.2016 and made in Na.Ka.No.16567/12/A7/Thanjai and made in Item No.244/15 for the purpose of selection of Trustees to the M.K.N.Madarassa Trust, Athirampattinam, Thanjavur District.

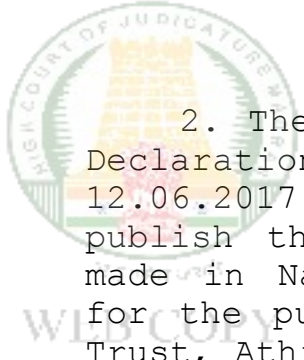
For Petitioner : Mr.A.Manikandan

For Respondent : Mr.K.K.Senthil
Standing Counsel

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.A.Manikandan, learned counsel for the petitioner and Mr.K.K.Senthil, learned Standing Counsel appearing for the respondent. By consent, the Writ Petition is taken up for final disposal at the stage of admission itself.



2. The petitioner is before this Court seeking for a Writ of Declaration to declare the order of the respondent Board dated 12.06.2017 as illegal and without jurisdiction and consequently publish the order of the respondent Board dated 03.03.2016 and made in Na.Ka.No.16567/12/A7/Thanjai and made in Item No.244/15 for the purpose of selection of Trustees to the M.K.N.Madarassa Trust, Athirampattinam, Thanjavur District.

3. The Trust has been dragged into a series of litigation with regard to the selection of trustees and ultimately, a Division Bench of this Court in **W.A. (MD) No.1100 of 2015 etc., batch, dated 26.11.2015**, passed a comprehensive order covering all disputes. The operative portion of the direction issued by the Division Bench reads as follows:-

"We have already extracted paragraph 73 of the order passed on 19.06.2014 by the Division Bench of this Court. As per the said order, the Wakf Board shall proceed with the elections. We do not want to burden the Wakf Board with an obligation to publish a fresh advertisement. Since the advertisement has already been issued and also since the applications have already been received from all the three branches, no fresh applications need be entertained. On the applications already made, if Board shall conduct an enquiry after giving an opportunity of hearing to both objections as well as the persons whose applications are objected to their own innocence or other party's guilt. Based upon such documents and the presentation made, the Wakf Board on or before 31.12.2015. If any party does not co-operate in the enquiry, they will forfeit the opportunity to challenge on the ground of violation of principles of natural justice. We also clarify that any decision taken whether accepting the application or challenging the same on the ground of disqualification will be open to the trustees. All parties having objections about the candidature of others will submit the same within a period of one week from the date of receipt of a copy of this order."

4. Even after the above order, there were other Writ Petitions filed claiming for varied reliefs and a Division Bench of this Court, in which one of us, [T.S.SIVAGNANAM, J] was a party, heard those Writ Petitions and disposed of the Writ Petitions by passing the following order:-

"21. One more submission, which was made by the learned Senior Counsel was by contending that couple of couples who had attended the enquiry are no more and some of them have left abroad. This would have no impact on the decision making process as the Division



Bench in its Judgment, dated 26.11.2015, made it clear that the Board is under no obligation to publish fresh advertisement and since the applications have already been received from all the three branches, no fresh applications need be entertained. Therefore, even assuming that some of the applicants have left abroad, it would have no bearing on the absence of the applicants, who had already attended the enquiry. Thus, for all the above reasons, we are of the considered view that the prayer sought for in W.P.(MD) No.9591 of 2017 is thoroughly misconceived and no relief can be granted to the petitioner therein.

22. Accordingly, the writ petition in W.P.(MD) No.9591 of 2017 is dismissed. The order of interim injunction granted on 24.05.2017 is dismissed. Consequently, connected miscellaneous petitions are dismissed.

23. In the light of the above order, W.P.(MD) No.10260 of 2017 is disposed of with a direction to the respondent - Board to proceed with the matter as per the schedule fixed in their agenda. No costs".

5. The case of the petitioner is that the declaration of the Board of Trustees by the respondent Wakf Board, dated 12.06.2017, pursuant to the direction issued in W.P.(MD) No.9591 of 2017 is illegal, as there is already a decision/Judgment rendered by the Wakf Board, which according to the petitioner, was on 03.03.2016. In our considered view, the petitioner is not justified in approaching this Court for such a relief, though he may contend that the action of the Wakf Board is without jurisdiction, as the petitioner has effective remedy under Section 83 of the Wakf Act, 1995.

6. The Hon'ble Supreme Court in the case of **Board of Wakf, West Bengal and another, Vs, Anis Fatma Begum and another**, reported in **2011 (1) CTC 636**, held the Wakf Tribunal can decide all the disputes, questions or other matters relating to a Wakf of Wakf property. The words "any dispute, question or other matters relating to Wakf or Wakf property are, in our opinion, words of very wide connotation. Any dispute, question or other matters whatsoever and in whatever manner which arises relating to a Wakf or Wakf property can be decided by the Wakf Tribunal.

7. Therefore, the prayer sought for by the petitioner is not maintainable before this Court and more so, for the reasons assigned in the earlier order passed by the Division Benches. Thus, the relief sought for by the petitioner is misconceived and



therefore, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(RTI)

WEB COPY

/True Copy/

Sub Assistant Registrar

+1 cc to MR.A.Manikandan , Advocate in SR.No. 61541
+1 cc to Mr.K.K.Senthil , Advocate in SR.No. 61787

NB/rsb
AE/MR/KKR/SAR3/06.07.2017/4P/3C

ORDER MADE IN
W.P. [MD] .No.11583 of 2017
22.06.2017