



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

W.P (MD) Nos.14351, 15245 of 2017

W.P (MD) No.14351 of 2017:-

Z.Abdulla

.. Petitioner

Vs.

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

2. The Superintendent,
The Tamil Nadu Wakf Board ,
No.12, Kilothar Street,
Trichy.

3. The Inspector,
The Tamil Nadu Wakf Board,
Trichy.

4.O.S.M.Sheik Mohamed .. Respondents
(R4 is impleaded vide Court order dated
23.08.2017 in W.M.P(MD)No.12217 of 2017)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Na.Ka.GS.No.156 & 212/Thiru/Vk/2017 dated 25.05.2017 on the file of the Superintendent of Wakfs, Tiruchirappalli Region, the second respondent herein and quash the same.

For Petitioner	: Mr.A.V.Arun
For R1 & R2	: Mr.K.K.Senthil
For R3	: Mr.M.Alagadevan, Special Government Pleader
For R4	: Mr.J.M.Hassanul Bazari



W.P(MD)No.15245 of 2017:-

O.S.M.Sheik Mohamed

.. Petitioner

Vs.

WEB COPY

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

2. The Superintendent,
The Tamil Nadu Wakf Board ,
No.12, Kilothar Street,
Trichy.

3. The Inspector,
The Tamil Nadu Wakf Board,
Trichy.

4.Z.Abdulla

.. Respondents

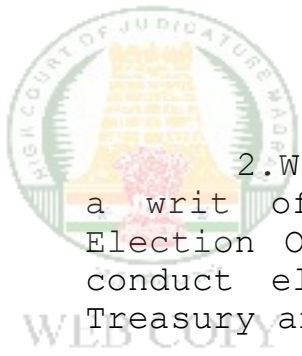
(R4 is impleaded vide Court order dated
23.08.2017 in W.M.P(MD)No.12254 of 2017)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents to appoint of Election Officer and to release to final voter list and to conduct proper election (secret polling) in front of Election Officer for the post of Jamath President, Secretary, Treasury and office bearers in Ilangakurichi Jumma Mosque, Ilangakurichi Village, Manaparai Taluk, Trichy District.

For Petitioner	: Mr.J.M.Hassanul Bazari
For R1 & R2	: Mr.K.K.Senthil
For R3	: Mr.M.Alagadevan, Special Government Pleader
For R4	: Mr.A.V.Arun

COMMON ORDER

Writ petition in W.P(MD)No.14351 of 2017 is filed questioning the impugned proceedings of the second respondent / Superintendent of Wakfs, Tiruchirappalli Region, in Na.Ka.GS.No.156 & 212/Thiru/Vk/2017 dated 25.05.2017, vide which, the Elangurichi Mosque was directed to prepare voters list to constitute an Election to the administrative/executive committee for administering the same.



2. Writ petition in W.P(MD)No.15245 of 2017 is filed seeking a writ of Mandamus, directing the respondents to appoint an Election Officer and to publish the final voters list, so as to conduct election for the post of Jamath President, Secretary, Treasury and office bearers in Elangurichi Mosque.

3. As the issue involved in both the cases are one and the same, they are disposed of by this common order.

4. According to the petitioner in W.P(MD)No.14351 of 2017, his forefathers had acted as Muthavallis for the Elangurichi Mosque and according to them, the right of Muthavalli is a hereditary one. The Administration of the wakf has been directly under their supervision, and at times through their amins. It is their case that the second respondent is attempting to conduct election in respect of administrative/executive committee of the wakf in question, for administration and as the wakf is registered under section 37 of the wakf Act as well as the rule of succession is recorded as a hereditary one, the second respondent has no jurisdiction to hold or call for election and hence, the instant writ petition came to be filed.

5. According to the petitioner in W.P(MD)No.14351 of 2017, though the term of the Jamath authorities got over, the respondents had not come forward to conduct election and aggrieved thereby, several representations have been submitted. Due to the inaction on the part of the official respondents, the instant writ petition came to be filed, with the prayer cited supra.

6. Heard the learned Counsel appearing on either side.

7. This Court is of the view that these petitions are not maintainable, since 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**, has held as follows:

"we may clarify that under the proviso to Section 83(9) of the Wakf Act, 1995 a party aggrieved by the decision of the Tribunal can approach the High Court which can call for the records for satisfying itself as to the correctness, legality or propriety of the decision of the Tribunal. This Provision make it clear that the intention of Parliament is that the party who wishes to raise any dispute or matter relating to a Wakf or Wakf property should first approach the Tribunal before approaching the High Court"

<https://hcservices.ecourt.gov.in/hcservices/> Under such circumstances, this Court is not inclined to entertain these petitions and the same are dismissed accordingly,



leaving it open to the petitioners to approach the Wakf Tribunal for appropriate relief, in the manner known law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(T&P)

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/True Copy/

Sub Assistant Registrar

To

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

2. The Superintendent,
The Tamil Nadu Wakf Board ,
No.12, Kilothar Street,
Trichy.

3. The Inspector,
The Tamil Nadu Wakf Board,
Trichy.

+ 2 ccs TO Mr.J.M.Hassanul Bazari , Advocate in SR No.80095,80096
+ 2 ccs TO Mr.K.K.Senthil , Advocate in SR No.80055,80054
+ 2 cc TO Mr.A.V.Arun , Advocate in SR No. 80208,80265
+1cc to The Special Government Pleader in SR.No.80864,80844

TA

AE/SV MMS/SAR4/03.10.2017/4P/11C

ORDER MADE IN
W.P(MD)Nos.14351 & 15245 of 2017
20.09.2017