

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.5834 of 2016
and W.M.P.No.5180 of 2016

D.Syed Yousuff Sahib

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep.By its Secretary,
Department of Backward Class
Minorities and Wakfs,
Secretariat,
Fort St.George,Chennai - 600 009.

2.The Tamil Nadu Wakf Board,
Rep.by its Chief Executive Officer,
No.1, Jaffar Serang Street,
Vallal Seethakadhi Nagar,
Chennai - 600 001.

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

4.The Superintendent of Wakfs
The Tamil Nadu Wakf Board,
Vellore Zone, Vellore.

5.K.Rasheeth Ali
The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jaffar Serang Street,
Vallal Seethakadhi Nagar,
Chennai - 600 001.

(R5 impleaded as per order dated
10.10.2017 in WMP.No.35489/2016
in WP.No.5834/2016.)

... Respondents

Prayer:

Writ petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent's order dated 29.5.2015 made in Na.Ka.No.13535/09/Aa7/thi.Malai. to quash the same in so far as it is against the petitioner and to consequently direct the 2nd respondent to appoint a hereditary Muthavalli for Nawab Chanda Main Mosque, Thiruvannamalai, under Section 32 of the Wakf Act 1995 by way of disposing the petitioner's application dated 9.12.2013 on merits in due compliance with the order dated 01.07.2014 made by this Court in W.P.No.729 of 2014.

For Petitioner : Mr.M.N.S.Mohamed Habeeb Raja

For Respondents : Mr.D.Suriyanarayanan,
Additional Government Pleader, for R1
Mr.V.Lakshminarayanan, for R2 to R4

O R D E R

The learned counsel appearing for the petitioner after inviting the order passed by this Court in W.P.No.729 of 2014, dated 01.07.2014, submitted that the present impugned order passed by the second respondent viz., the Tamil Nadu Wakf Board, Chennai, is not in compliance of the order passed in the above writ petition and on the other hand, it was passed without considering the petitioner's application seeking for appointment of Hereditary Muthavalli in the subject matter Wakf Board.

2. In other words, it is the contention of the learned counsel for the petitioner that issuing an order for taking the Wakf under direct Management, impugned in this writ petition, is not an order passed in compliance of the order in WP.No.729 of 2014, dated 01.07.2014. He further submitted that the entire reading of the impugned order, would only show that it was passed because the other person has committed some mismanagement and therefore, the Wakf Board cannot continue the very same order, is applicable to the application filed by the writ petitioner, which is directed to dispose of the same, on merits and in accordance with law.

3. Per contra, Mr.V.Lakshminarayanan, the learned counsel appearing for the respondents 2 to 4 submitted that the subject matter Wakf Board is a public Mosque and therefore, there is no question of claiming the status of Hereditary Muthavalli, as sought for by the petitioner and therefore, the claim of the petitioner cannot be sustained. At the same time, he fairly admits, that the impugned order did not deal with such

reasoning, even though it referred to the order passed by this Court in W.P.No.729 of 2014, dated 01.07.2014. Therefore, he submitted that an order will be passed on the petitioner's application and the same will be communicated to the petitioner, within a period of three weeks.

4.The learned counsel for the petitioner seeks an opportunity of personal hearing. Since this Court has already directed the second respondent to consider the petitioner's application dated 09.12.2013 on merits and in accordance with law, no prejudice would be caused to the third respondent to give an opportunity of personal hearing to the petitioner as well.

5. Therefore, considering the above stated facts and circumstances and without expressing any view on the merits of the present impugned order, this writ petition is disposed of, by directing the third respondent to pass orders on the petitioner's application on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order, after giving due opportunity of personal hearing to the petitioner. Once an order is passed and communicated to the petitioner, it is open to him to challenge the same in the manner known to law, if the same is passed against him. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

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To

1.The Secretary,
The State of Tamil Nadu
Department of Backward Class
Minorities and Wakfs,
Secretariat,
Fort St.George,Chennai - 600 009.

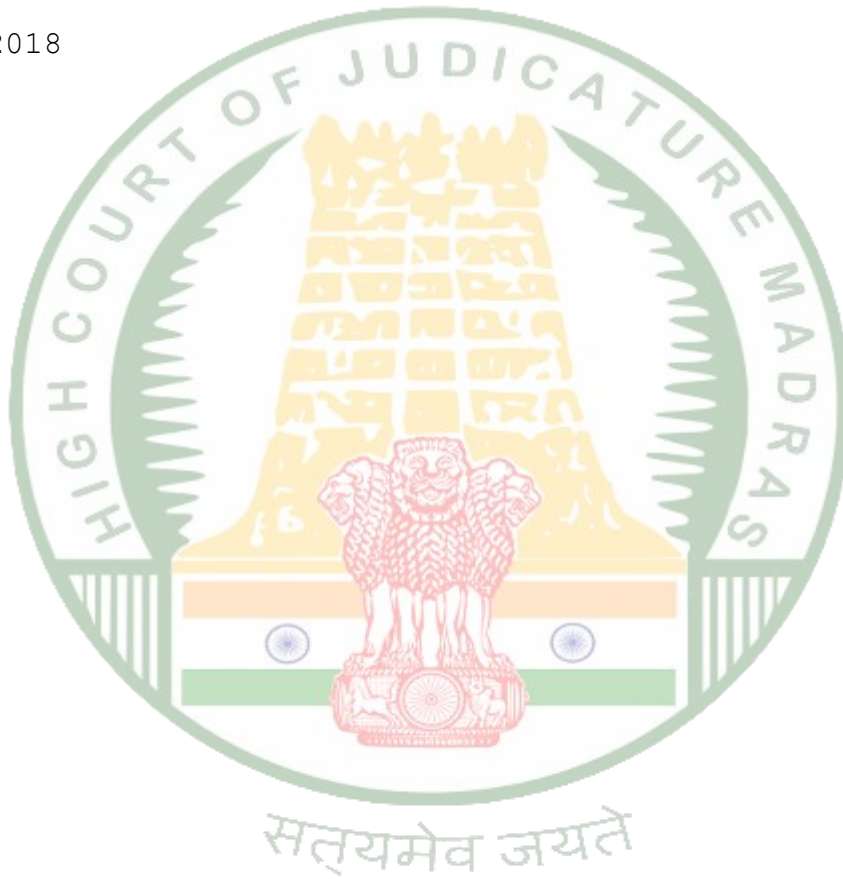
2.The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jaffar Serang Street,
Vallal Seethakadhi Nagar,
Chennai - 600 001.

3.The Superintendent of Wakfs
The Tamil Nadu Wakf Board,
Vellore Zone, Vellore.

+ 2 cc to Mr.M.N.S.Mohamed Habeeb Raja Advocate,SR.10879
+ 1 cc to The Govt.Pleader, SR.10949

Writ Petition No.5834 of 2016

rj(co)
nr 05/03/2018



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