



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.18965 of 2018

and

W.M.P.(MD) Nos.16804 and 16805 of 2018

Najeer Ahmed

... Petitioner

vs.

1.The Chairman,
Tamil Nadu Wakf Board,
Office No.1, Jaffar Sirank Street,
Vallal Seethakathi Nagar,
Chennai-600 001.

2.The Tamil Nadu Wakf Board,
(represented by its Chief Executive Officer),
Office No.1, Jaffar Sirank Street,
Vallal Seethakathi Nagar,
Chennai-600 001.

3.The Superintendent,
Tamil Nadu Wakf Board,9
Thanjavur Zone,
No.27, Neethi Nagar,
Divan Street, Court Road,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus to quash the impugned resolution in Rc.No.16234/01/B7/TNJ, dated 19.06.2018 passed by the first respondent board as illegal and direct theespondents to conduct the enquiry afresh with fair and passionate manner without any biased mind to provide the reasonable opportunity to the petitioner for making petitioner's written submission in due process of law within the time stipulated by this Court.

For Petitioner : Mr.S.A.S.Alaudeen

For Respondents : Mr.K.K.Senthil

O R D E R

The petitioner is aggrieved by the conduct of enquiry by the third respondent and according to him that the procedure as contemplated under Wakf Act has not been followed and he has not been given proper opportunity to put-forth his case.



2. When the matter is taken up for hearing for admission, Mr.K.K.Senthil, learned Counsel appearing for the respondents, would submit that in case the petitioner is aggrieved, he can always invoke the jurisdiction of the Wakf Tribunal under Section 83 of the Wakf Act. In fact he would rely upon a decision of the Division Bench of this Court rendered in W.P(MD)No.11583 of 2017, dated 22.06.2017 wherein in paragraph No.6, the learned Division Bench has incorporated the ruling of the Honourable Supreme Court, which is extracted hereunder:

"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 that the Wakf Tribunal 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 are in whatever manner which arises relating to a Wakf or Wakf Property can be decided by the Wakf Tribunal."

3. This Court in fact time and again has taken a consistent view by following the above order passed by the Honourable Supreme Court of India viz., that once an effective alternative remedy is available under Section 83 of the Wakf Act and the Tribunal has all the powers to entertain the same, the petitioner ought to exhaust such remedy before the Tribunal and he cannot directly invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

4. Concurring with the submission made on behalf of the respondents, this Court is of the considered view that the writ petition is not maintainable and therefore, the same is dismissed. Consequently, the connected Miscellaneous Petitions are also dismissed. It is always open to the petitioner to approach the Wakf Tribunal by invoking Section 83 of the Wakf Act, if he is so advised. No costs.

Sd/-

Assistant Registrar(CS III)

/True Copy/

Sub Assistant Registrar(CS IV)

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2CC TO MR.S.A.S.ALAUDEEN, ADVOCATE SR 81702

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