

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cont. P.No.541 of 2019

D. Syed Yousuff Sahib ... Petitioner

Vs.

1. Anwhar Raajhaa,
Chairman,
Th Tamil Nadu Waqf Board,
D-Block, Bharathiar Nagar,
Ramanathapuram District.
2. N.S. Mohamed Aslam,
The Chief Executive Officer,
The Tamil Nadu Waqf Board,
No.1, Jaffer Serang Street,
Vallal Seethakathi Nagar,
Chennai 600 001.
3. K.A.M.Mohammed Abu Bucker,
Member,
The Tamil Nadu Waqf Board,
AL SALYNN WOOD-B-3,
26, E.V.K. Sampath Road,
Vepery, Chennai 600 007.
4. Dr. Haja K. Majeed,
Member,
The Tamil Nadu Waqf Board,
24 (New NO.4) 12th Cross Street,
Shastri Nagar, Adyar,
Chennai 600 020

5. A. Sirajudeen,
Member,
The Tamil Nadu Waqf Board,
449, Law Chambers,
High Court of Madras,
Chennai 600 104.
6. Amatul Aatifa,
Member,
The Tamil Nadu Waqf Board,
No.18, Buddi Begum Street,
Thousand Lights,
Chennai 600 086.
7. M.A. Siddique, I.A.S.,
Member,
The Tamil Nadu Waqf Board,
Secretary,
Department of Finance (expenditure),
Secretariat,
Fort. St. George,
Chennai 600 009.
8. K. S. Masthan, M.L.A.,
Member.
The Tamil Nadu Waqf Board,
No.59, Desurpattai Salai,
Krishnapuram,
Gingnee Town 604 202.
Villupuram District.
9. Syed Ali Akbar,
Member,
The Tamill Nadu Waqf Board,
18/43, Jani Jan Khan Road,
Royapettah,
Chennai 600 014.
10. M. Ajmal Khan,
Member,
The Tamil Nadu Waqf Board,
No.4/370, Lake Area,
Melur Road,
Near Mattuthavani Bus Terminal,
Madurai 625 107.

11. A. Tamil Magan Hussain,
Member,
The Tamil Nadu Waqf Board,
No.27, Premier Studio Street,
Meenakshipuram,
Nagercoil.

12. A.S. Fathima Muzaffer,
Member,
The Tamil Nadu Waqf Board,
New No.123, Old No.76,
Peters Road,
Royapettah,
Chennai 600 014

... Respondents

PRAYER : Petition filed under Sections 20 of the Contempts of Courts Act 1971 to punish the respondents 1 to 12 for committing contempt of the order dated 12.02.2018 in W.P.No.5834 of 2016.

For Petitioner : Mr. M.N.S.Mohamed Habeeb Raja
For Respondents : Mr. V. Lakshminarayanan

सत्यमेव जयते
ORDER

The contempt petition has been filed alleging that the order passed by this Court on 12.02.2018 in W.P.No.5834 of 2016 has been willfully disobeyed by the fourth respondent.

2. According to the petitioner, earlier the petitioner filed a writ petition in W.P.No.729 of 2014,

wherein this Court by an order dated 01.07.2014 directed the Wakf Board to consider the petitioner's claim to appoint him as Hereditary Muthavalli. But without considering the order passed by this Court, the respondent-Wakf Board ordered a direct management on 29.05.2015. Challenging the above order passed by the second respondent-Wakf Board, the petitioner filed W.P.No.5834 of 2016, on the ground that the second respondent has passed the order without considering the petitioner's claim and without appointing him as hereditary Muthavalli. This Court, after considering the rival submissions, by an order dated 12.02.2018, directed the Wakf Board to consider the petitioner's application on merits and in accordance with law within a period of 3 weeks from the date of receipt of a copy of this order after giving opportunity to the petitioner. The relevant portion of the order reads as follows :-

*" 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. "

Pursuant to the order passed by this Court, the respondents-Wakf Board passed an order dated 27.09.2018, thereby appointing an Adhoc committee consisting of 10 members to manage the affairs of the Wakf. Alleging that the above said order has been passed without considering the petitioner's application to appoint him as a hereditary Muthavalli, and it is in total disobedience of the order passed by this Court on 12.02.2018 , the present contempt petition has been filed.

3. The learned counsel for the petitioner would submit that when the petitioner's earlier application seeking to appoint him as a hereditary Muthavalli was not considered, this Court in W.P.No.729 of 2014 dated 01.07.2014, has specifically directed the respondent-Wakf Board to consider the petitioner's application and pass orders on merits. However, without considering that order, earlier the Wakf Board has passed an order dated 29.05.2015 ordering direct management. When that order has been put to challenge by the petitioner, this Court directed the respondent- Wakf Board to pass orders on the petitioner's application on merits after giving due opportunity of personal hearing to the petitioner. Once again, now the respondent-Wakf Board, without considering the petitioner's claim for appointing them as hereditary Muthavalli, simply appointed an another committee, which is nothing, but wilful disobedience of the order passed by this Court.

4. The learned counsel also relied upon the judgment of the Hon'ble Supreme Court reported in **AIR 2007 SCC 3100(1)** (**The Commissioner, Karnataka Housing Board /vs/ C. Muddaiah**) , wherein the Hon'ble Supreme Court has held that

once a direction has been issued by the Court, the competent authority, is bound to obey the order, in failure, it will amounts to contempt.

5. Per contra, the learned counsel for the respondents would submit that pursuant to the order passed by this Court, an enquiry was conducted by the Wakf Board, wherein the petitioner has appeared through a counsel and submitted his objection. After considering the petitioner's objection only the Wakf Board passed the order dated 27.09.2018, thereby appointed a committee on the ground that, the Wakf has vast extent of property and it has been mis-managed by some private individuals, in order to regulate the administration and also to recover the possession of the properties belonging to the Wakf, the Wakf Board appointed a Managing Committee to manage the Wakf, there is no wilful disobedience of the order passed by this Court. As the petitioner's application has been duly considered by the Wakf Board, the order passed by this Court has been complied with.

6. I have considered the rival submissions and perused the materials available on record.

7. The primordial contention of the learned counsel for the petitioner is that, even though the petitioner made a

request to the Wakf Board to appoint him as a hereditary Muthavalli, without considering his claim as to whether the petitioner is entitled to be appointed as Muthavalli or not, the Wakf Board passed the order appointing Adhoc Committee, which is wilful disobedience of the order passed by this Court.

8. A perusal of the order passed by this Court dated 12.02.2018, it could be seen that the Wakf Board was only directed to consider the petitioner's application on merit and in accordance with law and pass suitable orders on merits after giving opportunity of personal hearing to the petitioner. As per the order passed by this Court in W.PNo.729 of 2014, an enquiry was conducted and the petitioner was represented by a counsel in the enquiry, and the Wakf Board has considered his application. Likewise, there are some other persons also filed petitions before the Wakf Board for appointing the Adhoc committee. The Wakf Board, after considering the materials available on records, came to a conclusion that, the above Wakf has vast extent of property and it has been mis-managed, hence in order to regulate the administration and also to recover the property, thought it fit to appoint an adhoc committee for a period of one year alone. From the order, it could

be seen that an opportunity was given to the petitioner before passing the order, Whether the order passed by the Wakf Board is correct or not is different issue. If the petitioner has any grievance over the order passed by the Wakf Board, it is always open to him to challenge the order in the manner known to law. As the Wakf Board has passed the order after considering the petitioner's application and after giving an opportunity to the petitioner, at any rate, it cannot be held the Wakf Board has wilfully disobeyed the order passed by this Court. Hence, I find no merit in the contempt petition and the same is liable to be dismissed.

9. Accordingly, the Contempt Petition is dismissed. No costs.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

mrp

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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