

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P. No. 6103 of 2019

and

W.M.P. Nos. 6927, 6928 & 7009 of 2019

A.Abdul Rahman

... Petitioner

Vs.

1. The Tamil Nadu Waqf Board
Rep by its Chief Executive Officer
No.1, Jaffer Syrang Street
Mannady, Chennai - 600 001.

2. The Superintendent of Waqf
Salem Waqf Zone,
Salem.

3. The Waqf Inspector
4A &5A, Tippu Sulthan Commercial Complex
First Agraharam, Salem - 636 001.

4. Pension Line Mosque and
Ashurkhana Dharga Trust Waqf,
Gugai, Salem - 636 006.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to call for the records relating to the proceedings of the 1st respondent published in the Tamil Nadu Government Gazette Official No.VI-3 (a)/45/2019 dated 06.02.2019 issued by the 1st respondent and quash the same and consequently direct the 1st respondent to conduct election for the Pension Line Mosque and Ashurkhana Dharga Trust Waqf, the 4th respondent herein.

For Petitioner : Mrs.Hema Sampath
Senior Counsel

For M/s.A.Ajimath Begam

For Respondents: Mr.Md.Fayaz Ali [for R1 to R3]

O R D E R

The petitioner, as the Muthawalli of Pension Line Mosque and Ashurkhana Dharga Trust Waqf, Salem has filed the present writ petition and challenged the proceedings of the first respondent, published in the Tamil Nadu Government Gazette dated 06.02.2019, wherein and whereby, the Tamil Nadu Waqf Board has taken direct management of the petitioner-Waqf. Consequently, the petitioner seeks for a direction to the first respondent to conduct an election for the subject matter Waqf.

2. Heard the learned Senior Counsel appearing for the petitioner and the learned counsel appearing for respondents 1 to 3.

3. The impugned action of the Waqf Board in bringing the subject matter Waqf under the direct management is challenged mainly on the ground of violation of principles of natural justice.

4. The learned Senior Counsel appearing for the petitioner after inviting this Court's attention to the notice dated 08.01.2019, issued by the Board to the petitioner calling upon him to appear for enquiry on 09.01.2019 at 3.00 p.m., submitted that the Board has totally violated the principles of natural justice by not affording sufficient opportunity/time to the petitioner to appear and put forth his case, despite a reply given on the very same day, seeking for such time.

5. On the other hand, the learned counsel appearing for respondents 1 to 3 submitted that the impugned action of direct management was taken after issuing notice to the petitioner. However, he is not disputing the fact that the resolution was passed by the Waqf Board on 09.01.2019 itself, which was published in the Government Gazette on 06.02.2019.

6. Perusal of the notice dated 08.01.2019 would show that it was served on the petitioner on the same day through the Inspector of the Waqf, that too at 6.05 p.m. Immediately, the petitioner sent his reply on the very same day through the very same Inspector, who served the notice and sought for sufficient time to appear, specifically by stating that the Committee members were not in station at the relevant point of time. The Waqf Board having served the notice through the Inspector cannot deny the receipt of such reply sent by the petitioner, through the very same Inspector. Therefore, there is every reason to believe that before passing the impugned order of taking direct management, the reply submitted by the petitioner seeking time, was already made available before the Board. However, without granting sufficient time, the Board hurriedly passed the

impugned order of direct management on the very next day viz., 09.01.2019 itself and made such resolution gazetted on 06.02.2019.

7. Therefore, this Court is convinced to hold that the principles of natural justice has been violated by the Waqf Board before passing the impugned order. As this Court is convinced to set aside the impugned proceedings on the grounds of violation of principles of natural justice, other contentions raised on the merits are not necessary to be considered at this stage.

8. Therefore, this Writ Petition is allowed and the impugned order is set aside. However, it is open to the Waqf Board to proceed afresh, if so warranted in accordance with law by following due procedure. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mayasni

To

1. The Chief Executive Officer
The Tamil Nadu Waqf Board
No.1, Jaffer Syrang Street
Mannady, Chennai - 600 001.
2. The Superintendent of Waqf
Salem Waqf Zone,
Salem.
3. The Waqf Inspector
4A & 5A, Tippu Sulthan Commercial Complex
First Agraharam, Salem - 636 001.

+1cc to M/s.A.Ajimath Begam, Advocate sr.21556

W.P.No.6103 of 2019

jp(co)
nr 09/04/2019