



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:18.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)Nos.10707, 24964 and 26659 of 2019

and

W.M.P. (MD) .Nos.8198, 8199, 8200, 22965 and 22988 of 2019

W.P. (MD) .No.10707 of 2019

1.M.Mohamed Iqbal
2.Mohamed Sheikh

... Petitioners

Vs.

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

2.The Superintendent of Wakf,
54, S.N.High Road,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the order by the 2nd respondent vide **ந.க.ஐ.எஸ். 18/வ.க/தே.அ/தி.வேலி/க.குமரி/2018** dated 26.03.2019, quash the same.

For Petitioner : Mr.C.T.Perumal
For R1 & R2 : Mr.S.A.S.Alaudeen

W.P. (MD) .No.24964 of 2019

Malick Dhinar Baithulmal,
Pon Arippu Stree,t
Kottar Post, Nagercoil-2,
rep by its Secretary,
J.A.Mohammed Shiek

... Petitioner

Vs.

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



2.The Superintendent of Wakf,
No.51/80, Kadar Avulia Pallivasal Shopping Complex,
Kulavanigarpuram,
Near Railway Gate,
Palayamkottai
Tirunelveli-2.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to permit the present Executive Committee members to continue to hold their office of Malick Dhinar Baithulmal, Arippu Street, Kottar, Nagercoil, till 25.11.2021 as per the representation made by the petitioner and as per the resolutions passed in the General Body meeting held on 25.11.2016 and 01.05.2018 respectively within the time stipulated by this Court.

For Petitioner	: Mr.Veerakathiravan Senior Counsel for M/s.Veera Associates
For R1 & R2	: Mr.S.A.S.Alaudeen

W.P. (MD) .No.26659 of 2019

S.Sukarno

... Petitioner

Vs.

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

2.The Superintendent of Wakf,
Tamil Nadu Wakf Board,
Kanyakumari District,
At present Tirunelveli.

3.Malick Dhinar Baithulmal Jamath,
Rep through its Secretary,
J.A.Mohammed Shiek
Pon Arippu Street,
Kottar Post, Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2

<https://hcservices.gov.in/hcservices/>

election for MALICKDHINAR BAITHULMAL JAMATH, Pon



Arippu Street, Kottar, Nagercoil, as per respondents 1 and 2's communications dated 07.09.2018, 22.11.2018, 06.03.2019, 26.03.2019 and 30.04.2019 by considering petitioner's representation dated 29.11.2019 within the period stipulated by this Court.

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For Petitioner: Mr.Ajmalkhan
Senior Counsel
for Mr.A.Haja Mohideen
For R1 & R2 : Mr.S.A.S.Alaudeen
For R3 : Mr.Veerakathiravan
Senior Counsel
for M/s.Veera Associates

COMMON ORDER

Since the issue involved in these writ petitions is one and the same, these writ petitions are taken up for final disposal and a common order is passed.

2.The Writ petition in W.P.(MD).No.10707 of 2019 has been filed by the petitioner praying for issuance of a Writ of of Certiorari calling for the records by the second respondent vide ந.க.ஜி.எஸ். 18/வ.க/தே.அ/தி.வேலி/க.குமரி/2018 dated 26.03.2019 and quash the same.

3.According to the petitioners, one Malick Dhinar Bithulmal Jamath is a Wakf, which is now administered by an elected Executive Committee having tenure of five years. Originally, the election was held in the year 2010. While so, in the year 2013, by resolution dated 29.11.2013, the tenure of the then office bearers was extended by another five years. Therefore, Executive Meeting of the Wakf was held on 20.09.2016 wherein the Secretary was requested to continue in his position, till the next Executive Committee Meeting. But, he has resigned from the post of President. Thereafter, many meetings were held and on 17.12.2016, yet another Executive Committee Meeting was held, in which, P.Mohideen Abdul Kadhar was selected as Treasurer. It is further stated that as per Section 67(2) of the Wakf Act, 1955, the Board shall, before making any order superseding any committee, issue a notice setting forth therein, the reasons for the proposed action and calling upon the committee to show cause within such time, not being less than one month, as may be specified in the notice, as to why such action shall not be taken. In the mean while, the tenure of the Executive Committee was over and the first respondent/ Wakf Board had issued a communication dated 11.12.2018 in செ.மு.ஆணை.எண்.14604/07/ஆ1/க.குமரி appointing an interim Managing Committee for one year from 04.12.2018 to 03.12.2019. The Superintendent of Wakf, in his proceedings dated 26.03.2019 required a list of male voters of the Wakf, who have completed the age of 18 years within 15 days from the date of receipt of the said notice. The said notice was challenged.



4.The Writ Petition in W.P.(MD).No.26659 of 2019 is filed by one Sukarno, who is a Ex-Treasurer of the Wakf, for a Mandamus directing the respondents 1 and 2 to conduct the election, as per the communications dated 07.09.2018, 22.11.2018, 06.03.2019, 26.03.2019 and 30.04.2019 respectively, within the stipulated period. There is yet another writ petition filed in W.P.(MD). No.24964 of 2019, by one J.A.Mohammed Shiek, who is the Secretary of the Wakf, sought for a mandamus directing the respondents to permit the present Executive Committee members to continue to hold their office of Malick Dhinar Baithulmal, as per the resolutions passed in the General Body Meeting held on 25.11.2016 and 01.05.2018.

5.From the above writ petitions, it is clear that the said Wakf by name Malick Dhinar Baithulmal Jamath, has not conducted any election after 2010. Though it is stated that there is an election in the year 2016, later by proceedings, dated 11.12.2018, the Wakf Board had constituted a Adhoc Committee for a period of one year from 04.12.2018 to 03.12.2019, which is also over. Therefore, to regularize the administration of the Wakf, it would be incumbent upon the Wakf Board, to conduct an election for the said Wakf. Accordingly, the following orders is passed:

(i)The Secretary of the Administrative Committee constituted by the Wakf Board, whose term ended on 03.12.2019, is one J.A.Mohammed Shiek, who is the petitioner in W.P.(MD).No.24964 of 2019. The said petitioner is directed to furnish the list of voters of the said Wakf Board to the Superintendent of Wakf, who is said to be the Election Officer within a period of four weeks.

(ii)Thereafter, for any inclusion or exclusion of the voters to the final voters list, sufficient time may be given.

(iii)After the date of finalizing the voters list, election may be conducted by the Superintendent of Wakf, in accordance with law. However, the entire exercise shall be completed within a period of three months from the date of finalizing the voters list and all the petitioners as well as the members of the Wakf Board are directed to extend their fullest co-operation in the process of entire election.

6.With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Superintendent of Wakf,
Tamil Nadu Wakf Board,
Kanyakumari District,
At present Tirunelveli.

+1CC TO MR.VEERA ASSOCIATES, Advocate Sr. No. 105873
+1 CC to M/s.M/S.A.HAJAMOHIDEEN, Advocate SR-105840
+3 CC to M/s.C.T.PERUMAL, Advocate SR-105945, 105838, 105839

W.P (MD) Nos.10707, 24964 and 26659 of 2019

and

W.M.P. (MD) .Nos.8198, 8199, 8200, 22965 and 22988 of 2019

18.12.2019

KM(CO)
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