



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **23.09.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **M.GOVINDARAJ**

W.P. (MD)No.18656 of 2019

and

W.M.P. (MD)Nos.15022 and 15023 of 2019

A.Sharafath Ali

: Petitioner

Vs.

1.The Secretary to Government,
Backward Classes,
Most Backward Classes and
Minorities Welfare Department,
Secretariat, Chennai.

2.Tamil Nadu Waqf Board Rep. By its
The Chief Executive Officer,
No.1 Jabar Siras Street,
Vallal Seethakathi Nagar,
Excise House Back Side,
Chennai.

3.The Superintendent,
Tamil Nadu Waqf Board,
No.12, Kilaithar Street,
Trichy-2.

4.A.Ayubkhan,
S/o.M.Abdul Rasheed,
The Secretary,
Sheik Ismail Subedhar Pallivasal Mahalla Committee,
No.29, Thiruthanthoni Road,
Woraiyur,
Trichy-3.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order in G.O.(D)No.51, dated 16.08.2019 issued by the first respondent and quash the finding insofar as Para No.6 alone.



For Petitioner	: Mr.B.Prasanna Vinoth
For Respondent No.1	: Mrs.J.Padmavathi Devi, Special Government Pleader
For Respondent No.2	: Mr.S.A.S.Alaudeen
For Respondent No.3	: Mr.N.Mohideen Basha
For Respondent No.4	: Mr.N.Anandakumar

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ORDER

The limited objection to the impugned order is that the fourth respondent, who was the Secretary of the erstwhile Committee, is directed to be continued in administration for carrying out the day-to-day affairs of the Mosque. Originally, the second respondent passed an order, directing the third respondent to take over the management and conduct the election in a time bound manner. The fourth respondent preferred an appeal against the order of the Wakf Board to the first respondent, who upheld the order of conducting election in a time bound manner and directed the Committee to coordinate with the third respondent and complete the election, within a period of two months.

2. According to the petitioner, though the third respondent has issued an election notification on 10.09.2019 and called for addition, deletion, or correction of the voters, a rider has been attached, stating that anybody who wants to get included in the voters list should get no objection from the fourth respondent/Secretary of the present Committee.

3. From the consideration of the submissions, it is seen that for conduct of free and fair election, the third respondent, who is the Superintendent of Wakf, should be given a free hand. If he is forced to coordinate with a one particular group, there may be allegations, by the rival group, of bias against the third respondent. Even though the first respondent considered the efficiency of the fourth respondent in administering the Wakf, it can be rewarded only when they are duly elected to administer the Wakf. At the time of conducting election, unnecessary allegations should be avoided. Retaining the erstwhile Committee to continue in administration will pave way unnecessary allegations as stated *supra*.

4. The learned counsel appearing for the fourth respondent would submit that since the fourth respondent is having inclination to contest the election, if he is removed, it will cause a stigma against him, which will affect his prospects.

5. This Court is of the considered opinion, in fact, the fourth respondent by standing aside from the administration during election would set a good example for others in future for conducting free and fair elections. No stigma will be attached against him.



Therefore, the third respondent is directed to act independently without bias, give opportunity to all the parties, and conclude the election, within a period of two months, as specified in the impugned order passed by the first respondent dated 16.08.2019. The direction to the present Committee to administer the day-to-day affairs of the Wakf till the completion of the election alone is set aside. In respect of all other aspects, the impugned order of the first respondent dated 16.08.2019, is confirmed. The third respondent is directed to complete the election, within a period of two months, that is to say, on or before 10.11.2019.

6. The Writ Petition is ordered with the above observation. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

To

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Most Backward Classes and
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Excise House Back Side, Chennai.

3. The Superintendent,
Tamil Nadu Waqf Board,
No.12, Kilaithar Street, Trichy-2.

+1 CC to M/s.B.PRASANNA VINOTH, Advocate SR-88825[F] dated 24/09/2019
+1 CC to M/s.N.ANANDA KUMAR, Advocate (SR-88910[F] dated 24/09/2019

Order made in
W.P. (MD)No.18656 of 2019
Dated: **23.09.2019**

SML
MS/01.10.2019/3P.6C