



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **18.02.2020**

CORAM:

THE HONOURABLE MR. JUSTICE **T.RAJA**
and

THE HONOURABLE MR. JUSTICE **B.PUGALENDHI**
W.A. (MD) .Nos.249 and 250 of 2020
and
C.M.P. (MD) .No.1681 of 2020

M.Shahul Hameed ... Appellant/4th respondent
in both W.As

Vs.

Respondents in W.A. (MD) .No.249/2020

1.M.Abdul Rahim ... 1st respondent/petitioner

2.The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jawfar Srirang Street,
Vallal Seethagathi Nagar,
behind Customs Office,
Chennai-01.

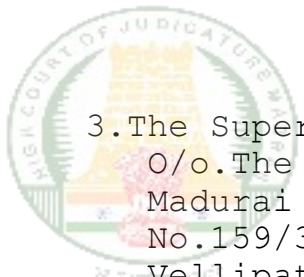
3.The Superintendent of Wakf,
O/o.The Superintendent of Wakf
Madurai @ Ramnad District (I/C)
No.159/3, Therpasayanam Road,
Vellipattinam, Ramanathapuram-623 504.

4.The Election Officer/Wakf Superintendent
Madurai @ Ramnad District (I/C)
Pudur Periya Pallivasal,
Pudur, Ilaiyankudi,
Sivagangai District. ... Respondents 2 to 4/Respondents 1 to 3

Respondents in W.A. (MD) .No.250/2020

1.T.Khaja Moideen ... 1st respondent/petitioner

2.The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jawfar Srirang Street,
Vallal Seethagathi Nagar,
behind Customs Office,
Chennai-01.



3.The Superintendent of Wakf,
O/o.The Superintendent of Wakf
Madurai @ Ramnad District (I/C)
No.159/3, Therpasayanam Road,
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4.The Election Officer/Wakf Superintendent
Madurai @ Ramnad District (I/C)
Pudur Periya Pallivasal,
Pudur, Ilaiyankudi,
Sivagangai District. ... Respondents 2 to 4/Respondents 1 to 3

PRAYER in W.A.(MD).No.249/2020: The writ Appeal filed under clause 15 of Letter Patent Act against the order passed by this Court in W.P.(MD).No.23265 of 2019, dated 05.11.2019.

Prayer in WP(MD). 23265/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Hon'ble Court Calling for the records pertaining to the impugned order passed by the 2nd respondent vide his proceedings Na.Ka.No.109/Siva/Va.Ka/Rama.Saragam/2019, dated 30.10.2019 and quash the same as illegal.

PRAYER in W.A. (MD).No.250/2020: The writ Appeal filed under clause 15 of Letter Patent Act against the order passed by this Court in W.P.(MD).No.23266 of 2019, dated 05.11.2019.

Prayer in WP(MD). 23266/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Hon'ble Court directing the 3rd respondent to include the Petitioners name in the voters list prepared by the 3rd respondent for election of Pudur Periya Pallivasal, Pudur, Ilaiyankudi, Sivagangai District on the basis of his representation dated 21.10.2019

For Appellant	: Mr.R.Rajaramani
For Respondents	: Mr.D.Saravanan for R-1 Mr.S.A.Ajmal Khan for RR-2 to 4 (in both W.As)

COMMON JUDGMENT

(Judgment of the Court was made by **T.RAJA, J.**)



this Court in W.P.(MD).Nos.23265 and 23266 of 2019, dated 05.11.2019, directing the conduct of election by the Advocate Commissioner, appointed by this Court, on the basis of the voters' list prepared by the Election Commission.

2.Learned counsel appearing for the appellant assailing the impugned order on flimsy ground pleaded before us that the appellant is aggrieved by the order of appointment of Advocate Commissioner to conduct election in Pudur Periya Pallivasal, Ilayankudi, Sivagangai District, on the basis of the voters' list prepared by the Election Commission.

3.We are unable to find any merit whatsoever in the prayer made by the appellant, the reason being that the appellant comes to this Court merely with a grievance that Advocate Commissioner would not have been appointed to conduct election in Pallivasal. If really the appellant is having any grievance that the Advocate Commissioner is having any class interest, it should be appreciated. We are indeed unable to find any merit whatsoever in these appeals.

4.We have to mention herein one thing that this Court by order dated 05.11.2019, has deemed fit on two grounds to appoint an Advocate Commissioner to conduct election in Pudur Periya Pallivasal, Ilayankudi, Sivagangai District, which are as under:-

"2.This Court, on previous hearing in the connected matter, has given various directions. A list of 326 members were directed to be included and the Election Officer was given power to remove ineligible voters after affording personal hearing. However, it is reported that 116 members were removed without issuing any notice. It is further complained that 200 more applications for admission as voters were not considered by the Election Officer. There are lot of allegations and counter allegations against the Election Officer. Despite giving directions, the second respondent is not in a position to finalise the voters list.

3.As stated supra, the rival factions bring in bulk numbers of members for inclusion in the voters list. There are also objections for inclusion. This inclusion and removal cannot be done within a short span of time. It is also crucial that removal of members shall not be made without providing an opportunity to explain.

4.Bearing all these in mind, in order to conduct free and fair election and transparent process in the conduct of election, this Court is of the considered opinion that a neutral third party should be appointed as Election Officer."



Hence, in the light of the above reasons, we are unable to disagree with the findings of the learned Single Judge of this Court. Finding that the writ appeals have been filed on frivolous ground, we are of the view that these writ appeals are not maintainable. Accordingly, the same are dismissed. Consequently, connected miscellaneous petition is also dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vs

To

- 1.The Chief Executive Officer,
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behind Customs Office,
Chennai-01.
- 2.The Superintendent of Wakf,
O/o.The Superintendent of Wakf
Madurai @ Ramnad District (I/C)
No.159/3, Therpasayanam Road,
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- 3.The Election Officer/Wakf Superintendent
Madurai @ Ramnad District (I/C)
Pudur Periya Pallivasal,
Pudur, Ilaiyankudi,
Sivagangai District.

+1 CC to Mr.S.A.AJMAL KHAN, Advocate (SR-7426[F] dated 20/02/2020)

W.A. (MD) .Nos.249 and 250 of 2020
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VB(17.03.2020) 4P 5C