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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No.7180 of 2019

Sheik Moinudeen

...Petitioner

Versus

1. The Chairman
Tamilnadu Wakf Board
Jaffar Seerang Street,
Vallal Seethakadhi Nagar
Chennai.
2. The Chief Executive Officer
Tamilnadu Wakf Board
Jaffar Seerang Street,
Vallal Seethakadhi Nagar,
Chennai.
3. The Superintendent of Wakf
Tamilnadu Wakf Board
512, Gandhi Road
Panruti
Cuddalore District
4. M.Gaznafar Ali
5. S.Sheik Ahmad
6. K.Shaik Dawood
7. Abdul Khader
8. A.Meeran Moideen

...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents 1 and 2 to conduct an enquiry and to pass orders on the Representation dated 31.10.2018 sent by the petitioner within a stipulated period of time.

For Petitioner	:	Mr.P.Nagaraju
For R 1 to R3	:	Mr. V. Ragavachari
For R4 to R8	:	Mr. A. Saravanan



O R D E R

The case of the petitioner is that 'Udaiyarkudi Big Mosque and Thaikka Wakf' situated at Udaiyarkudi Village, Kattumannarkoil, Cuddalore is under the control of the Respondents Board and it is registered with Tamilnadu Wakfs Board under G.S.No. 67 and 68 issued by the 1st Respondent. The Board of Trustees of the said Mosque are appointed for the purpose of administration of the properties of the said mosque based on the Scheme decree. Based on the Scheme decree (i) Janab Kipayathullah, (ii) Janab Nisar Ahamed, (iii) Janab Ferozkhan, (iv) Janab Khaleelullah Khan and (v) Janab Kamaludeen were appointed for a period of 5 years from 2005 to 2010 and subsequently, one Janab Sheik Ahamed was inducted in the Trust Board. The Board was re-constituted on 16.06.2016 by an order issued by the first respondent in view of the voluntary resignation of Janab Khalleelullah Khan and due to the death of Janab Kipayathullah by inducting Janab Sheik Dawood and Janab Meera Maideen. The tenure of the new Board of Trustees was also extended from 18.02.2016 to 17.12.2018 for administering the properties of the said mosque. According to the petitioner, when the tenure of the above said Board of Trustees is in existence, the 3rd Respondent arbitrarily passed an order dated 11.10.2017 nominating a new Board of Trustees consists of (i) Janab Sheik Ahamed, (ii) Janab Sheik Dawood, (iii) Janab Meeran Maideen, (iv) Janab Abdul Khader and (v) Janab Kaznabar Khan for a period of 5 years from 11.10.2017 to 10.10.2022. It is the contention of the petitioner that the third respondent has no power to nominate the new Board of Trustees during the tenure of earlier Board of Trustees and the same is nothing but abuse of powers on the part of the 3rd Respondent.

2. The learned counsel for the petitioner would contend that one Thamisudeen had sent a representation dated 11.10.2017 to the second respondent raising various allegations against the newly appointed Trust Board and requested to take action thereof. However, no action was taken thereof by the respondents 1 and 2. Similarly, the petitioner also sent a representation on 31.10.2018 stating that the Board of Trustees are nominated and appointed without following the procedure mentioned in the scheme decree and that their selection is not transparent. However, there was no action taken thereof by the respondents 1 and 2 and therefore, the petitioner has filed this writ petition seeking to issue a Writ of Mandamus directing the respondents 1 and 2 to conduct an enquiry on the basis of the representation dated 31.10.2018 of the petitioner.

3. The learned counsel for the respondents 1 and 2 would only contend that even before the respondents 1 and 2 could conduct an enquiry, the petitioner has filed this writ petition.



The respondents 1 and 2 will act upon the representation dated 31.10.2018 of the petitioner in accordance with law.

4. The learned counsel for the respondents 1 to 3, placing reliance on the report of the 3rd respondent, submits that the erstwhile Board of Trustees have not submitted their income and expenditure accounts for the period from 1996-97 to 2006 - 07 and for the period from 2009 - 10 to 2014 - 15 and they have also failed to submit their budget proposals for the year 2015 - 16 to the Respondent Board. It is against the law and procedure to retain the members who failed to submit the income and expenditure account. The order of extension of tenure and the subsequent appointment of the new Trustees is in accordance with law and procedure. It is also mentioned in the report of the 3rd respondent that the then Board of Trustees have not performed satisfactorily in removing the encroachers who have illegally occupied the properties of Wakf board and due to the lack of efforts on the part of the committee members, Wakf board has suffered huge loss of income. According to the counsel for the third respondent, the Trustees of the erstwhile Board of Trustees are unfit and not eligible to continue their positions for administration of the said mosque. The previous Board of Trustees have benefited by misusing the wakf funds by letting out the said properties to third parties illegally and by not furnishing true and fair accounts for the same. One Mr.Thamisudeen sent a Representation dated 11.11.2017 to the 2nd Respondent with the details of allegations against the newly then Board of Trustees and thereby requesting him to take appropriate action against the above said Board of Trustees.

5. The counsel for the third respondent also contended that the Board of Trustees of Wakf were nominated and appointed without following the procedure mentioned in the scheme. The selection process is also not transparent one. Therefore, the petitioner sent a Representation dated 31.10.2018 to the Respondents 1 and 2 requesting them to modify the scheme decree and appoint the Board of Trustees and to take proper action to safeguard the wakf properties. But, not action has been taken till date by the respondents 1 and 2.

6. Today, when the matter is taken up for hearing, the learned counsel for the petitioner submitted that it is suffice if the petitioner's representation dated 31.10.2018 is considered by the respondents 1 and 2 on merits, within a reasonable time to be fixed by this Court.

7. Considering the submissions made by the learned counsel on either side, this Court directs the respondents 1 & 2 to consider the representation of the petitioner dated 31.10.2018 and pass appropriate orders, on merits and in accordance with



law, after affording an opportunity of personal hearing to the petitioner, third respondent and others concerned. Such an exercise shall be completed within a period eight weeks from the date of receipt of a copy of this order.

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8. This Writ Petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

av/rsh

To

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3. The Superintendent of Wakf
Tamilnadu Wakf Board
512, Gandhi Road
Panruti
Cuddalore District

+2 CC to Mr.P.Nagaraju, Advocate, Sr.No. 31490,31683.

+1 CC to Mr.V.Raghavachari, Advocate, Sr.No. 31558.

WP No. 7180 of 2019

GPL(CO)
LS(26/08/2021)