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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.28668 of 2019

and

W.M.P.NOs.28427 & 28430 of 2019

Haji M. Naiyar Mohammed

...Petitioner

Vs

- 1.The Government of Tamil Nadu,  
Rep by the Secretary to Government,  
Backward Class, Most Back Ward Class &  
Minority Welfare Department.  
Chennai-600 009.
- 2.Tamil Nadu Wakf Board,  
Rep by its Chairman,  
No.1, Jaffar Srirang Street,  
Vallal Seethagathi Nagar.  
Behind Custom Office,  
Chennai-600 001.
- 3.The Chief Executive Officer,  
Tamil Nadu Wakf Board,  
No.1, Jaffar Srirang Street,  
Vallal Seethagathi Nagar.  
Behind Custom Office,  
Chennai-600 001.
- 4.The Superintendent of Wakf,  
Office of the Superintendent of Wakf,  
Upstair of townhall Road Pallivasal,  
Madurai-625001.
- 5.The Director,  
Vigilance and Anti-Corruption Department,  
Greenways Road,  
Raja Annmalaipuram,  
Chennai-600 028.
- 6.Janab M. Sarbudeen.

...Respondents



PRAYER: Petition under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 24.01.2019 in petition No.492/2019/Wakf/MIJ passed by the 5<sup>th</sup> Respondent and to quash the same, consequently direct the 5<sup>th</sup> Respondent to take appropriate action against the 6<sup>th</sup> Respondent for the misappropriation of Wakf fund and maladministration of Wakf of Periyur Muslim Jamath Pallivasal, Peraiyur, Madurai District forthwith.

For petitioner : Mr.C.Prabakaran  
For 1<sup>st</sup> Respondent : Mr. U. Baranidharan,  
Government Advocate  
For Respondents 2 to 6 : No Appearance.

#### ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 24.01.2019 in petition No.492/2019/Wakf/MIJ passed by the 5<sup>th</sup> Respondent and to quash the same, consequently direct the 5<sup>th</sup> Respondent to take appropriate action against the 6<sup>th</sup> Respondent for the misappropriation of Wakf fund and maladministration of Wakf of Periyur Muslim Jamath Pallivasal, Peraiyur, Madurai District forthwith.

2. The case of the petitioner is that he is the member of the Peraiyur Jamath, Pallivasal, Peraiyur Taluk, Madurai District in which the 3<sup>rd</sup> Respondent had appointed the administrative committee for a period of three years for which the 6<sup>th</sup> Respondent was appointed as President. While being so, the 6<sup>th</sup> Respondent misappropriated jamath funds to the tune of Rs.2 crores and had also constructed the buildings on behalf of the jamath without obtaining proper permission from the official respondents and had also rented out some of the properties for which no proper accounts are maintained. Aggrieved by the act of 6<sup>th</sup> Respondent, the petitioner made several representations to the 5<sup>th</sup> Respondent to take action against the 6<sup>th</sup> Respondent subsequent to which the 3<sup>rd</sup> Respondent issued a general circular dated 17.04.2017 to all the Wakfs in Tamil Nadu for fixing rental/ lease amount in respect of Wakfs Property and direction was also given to collect all the arrears payable by the tenants. Despite the same, no action was taken by the 5<sup>th</sup> Respondent.



3. Further, the petitioner made a complaint on 12.01.2019, for which the 5<sup>th</sup> Respondent had sent a reply vide impugned order dated 24.01.2019 stating that all the documents related to jamath needs to be verified by the concerned Department and that the allegations are general in nature and are not coming under the purview of Prevention of Corruption (Amendment) Act, 2018 and that the 2<sup>nd</sup> Respondent is the Competent Authority to act on the petitioner's representation. Hence, the petitioner left with no other remedy, has filed the present Writ Petition seeking the above relief.

4. Learned counsel for the petitioner submits though very many representations have been made by the petitioner to the 5<sup>th</sup> Respondent, no action has been taken on the same and the 6<sup>th</sup> Respondent had misappropriated huge amounts of Wakf funds and is still continuing his malpractices with regard to Wakf properties. Therefore, appropriate action has to be taken against the 6<sup>th</sup> Respondent and submits that this Court may issue direction to the 5<sup>th</sup> Respondent to act upon the petitioner's representation within a particular time frame fixed by this Court.

5. Heard the learned counsel on the either side and perused the materials available on record.

6. A perusal of the materials available on record reveals that the allegations made by the petitioner are general in nature and are not coming within the purview of the Prevention and Corruption (Amendment) Act, 2018 and therefore, the 5<sup>th</sup> Respondent is not competent to take action in the matter. Further, as per section 32(g) of the Wakf Act, the 2<sup>nd</sup> Respondent is the competent authority to act upon the petitioner's representation. Therefore, the petitioner may work out his remedy before the competent Authority.

7. Though the petitioner has made several representations to the 5<sup>th</sup> Respondent with regard to the misappropriation alleged to have been committed by the 6<sup>th</sup> Respondent herein, however, the relevant materials have to be verified by the competent Authority to establish the allegations levelled against the 6<sup>th</sup> Respondent. It is the stand of the 5<sup>th</sup> respondent that the Competent Authority to deal with the same is the 2<sup>nd</sup> Respondent herein who is the Chairman of the Wakf Board.

8. In such view of the matter, this Court without going into the merits of the case, directs the petitioner to file the representation along with a copy of this order to the 2<sup>nd</sup> Respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of a copy of this



order and on receipt of the said representation, the 2<sup>nd</sup> Respondent shall consider the representation and pass appropriate orders in accordance with law, after affording opportunity to the 6<sup>th</sup> Respondent, within a period of twelve weeks thereafter.

9. This Writ Petition is disposed of accordingly with the aforesaid direction. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

NHS

To

- 1.The Secretary to Government,  
The Government of Tamil Nadu,  
Backward Class, Most Back Ward Class &  
Minority Welfare Department.  
Chennai-600 009.
- 2.The Chairman,  
Tamil Nadu Wakf Board,  
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Vallal Seethagathi Nagar.  
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Office of the Superintendent of Wakf,  
Upstair of townhall Road Pallivasal,  
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5.The Director,  
Vigilance and Anti-Corruption Department,  
Greenways Road,  
Raja Annmalaipuram,  
Chennai-600 028.

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+1cc to Mr.C.Prabakaran, Advocate SR. No.58725  
+1cc to Mr.V.Raghavachari, Advocate SR. No.58890  
+1cc to Government Pleader SR. No.59410

W.P.NO.28668 of 2019  
and

W.M.P.NOs.28427 & 28430 of 2019

SR(CO)  
PR (11/01/2022)