



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.[MD]No.7746 of 2021

and

W.M.P.[MD]Nos.5895, 5898, 6362, 8182 & 9081 of 2021

WEB COPY

Syed Ali Akbar

... Petitioner

Vs.

1.The Principal Secretary,
Backward, Most Backward, Minority Welfare Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2.The Tamil Nadu Waqf Board,
Rep. through its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.

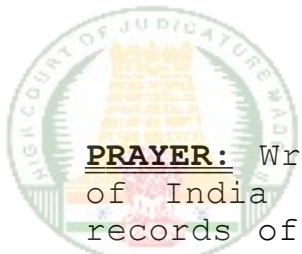
3.The Chairman,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.

4.Madarasathul Salahi-fi, Athrameel Falahi
@ M.K.N.Madharasa Trust,
Rep. through its Secretary,
Athirampattinam,
Tanjore District.

5.F.Apsar
6.B.Sahabudeen
7.M.Abdul Hadi
8.Q.M.Ansari
9.S.Mohammed Meeral Sahib
10.H.Mohammed Jan
11.A.Sahabudheen
12.S.Nijamudheen
13.A.Ahmed Anas
14.Dr.S.J.Abul Hassan
15.Haji.S.Mohammed Mohideen

... Respondents

[R14 & R15 are impleaded vide order dated 25.11.2021 in WMP(MD) Nos.8182 & 9081 of 2021 in WP(MD)No.7746 of 2021]



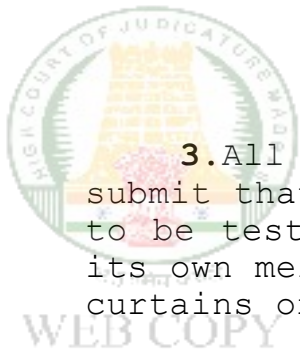
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the impugned proceedings passed by the third respondent herein in his proceedings in ந.க.எண்.16567/12/ஆ7/தஞ்சை இனம் 34/21 dated 23.02.2021 and consequential proceedings of the second respondent herein in செ.மு.ஆணை.16567/12/ஆ7/தஞ்சை dated 26.02.2021 in the matter of appointment of trustee board to the fourth respondent Trust for the period from 23.02.2021 to 23.02.2024 and quash the same as illegal.

For Petitioner	: Mr.V.Meenakshisundaram
For Respondents 1 to 3	: Mr.K.K.Senthil Standing Counsel
For Respondent No.8	: Ms.Yasmin Begum
For Respondent No.9	: Mr.ARL.Sundaresan for M/s.Veera Associates
For Respondent No.11	: Mr.Herold Singh
For Respondent No.14	: Ms.N.A.Nissar Ahmed
For Respondent No.15	: Mr.A.Ilaya Perumal
For Respondents 4,5,6,7 & 10	: No appearance

ORDER

Fulcrum of captioned main writ petition is an order dated 23.02.2021 made by Tamil Nadu Waqf Board and this order bears Reference No.ந.க.எண்.16567/12/ஆ7/தஞ்சை இனம் 34/21 [hereinafter 'first impugned order' for the sake of convenience and clarity]. This first impugned order pertains to appointment of trustees qua Madarasathul Salahi-fi, Athrameel Falahi @ M.K.N.Madharasa Trust, [hereinafter 'said Waqf' for brevity]. In and by this first impugned order, nine trustees were appointed qua said Waqf. This was followed by consequential proceedings dated 26.02.2021 bearing Reference No. செ.மு.ஆணை.16567/12/ஆ7/தஞ்சை [hereinafter 'second impugned order' for the sake of convenience and clarity] wherein the appointment of the nine trustees qua said Waqf and an adumbration of the terms and conditions of their appointment for a three year tenure from 23.02.2021 to 23.02.2021 was set out.

2. Several aspirants who did not make it qua the first impugned order and the second impugned order assailed the same but it will suffice to say that a challenge to the same by Janab A.S.Ahamed Jaleel and three others vide W.P.[MD]No.10614 of 2021 was disposed of by a Hon'ble Division Bench in and by order dated 28.06.2021, relegating the parties to alternate remedy under the Tamil Nadu Waqf Act, 1995. This Court is informed that thereafter alternate remedy had been availed and O.A.No.21 of 2021 has since been filed in the Tamil Nadu Waqf Tribunal, Chennai [hereinafter 'said Tribunal' for convenience and clarity] and the same is in seizin of the matter.



3.All the parties before me including the implead petitioners submit that the first impugned order and second impugned order have to be tested in the aforesaid proceedings before said Tribunal on its own merits and in accordance with law. This by itself draws the curtains on the captioned main writ petition.

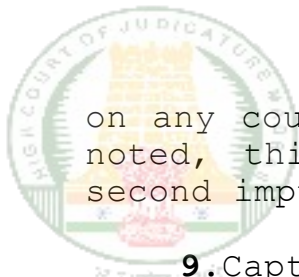
4.However, in the light of implead petitions and the same not being opposed, all the aforementioned implead petitions ie., W.M.P. [MD]Nos.8182 & 9081 of 2021 are ordered as prayed for. Registry, to carry out necessary and consequential amendments in the case file as well as the copies of the orders before uploading / furnishing the same to the parties and before despatching it to the parties concerned.

5.As far as W.P.[MD]Nos.5898, 5895 & 6362 of 2021 [interim stay, interim injunction and vacate stay] are concerned, the same stand disposed of as closed (by this order).

6.For the purpose of clarity, it is made clear that the captioned writ petition has been filed by one of the nine members of the Tamil Nadu Waqf Board regarding the manner in which the first impugned order was made and certain complaints have been articulated. It is well open to the parties or any one concerned to raise this issue also before said Tribunal and it is open to the said Tribunal to examine the same also on its own merits and in accordance with law *inter alia* by summoning the records if deemed appropriate by the said Tribunal. I refrain myself from expressing any view on this aspect of the matter as the entire *lis* is now relegated to the alternate remedy of O.A.No.21 of 2021 before said Tribunal. Any observation by this Court may either impede or act as an impetus for one party or other and therefore, I refrain myself from expressing any view in this order.

7.As a further sequitur, though obvious it is made clear that all questions including questions raised in the captioned main writ petition are left open for being canvassed before the said Tribunal in the aforementioned proceedings (now pending). It is also further made clear that this order is made as a matter of judicial discipline as a Hon'ble Division Bench has relegated the parties to alternate remedy. The proceedings before said Tribunal will now stand governed by the directives of Hon'ble Division Bench made in aforementioned W.P.[MD]No.10614 of 2021 vide order dated 28.06.2021 made therein.

8.This Court is informed that there is one more challenge to the first impugned order by one of the implead petitioners ie., petitioner in W.M.P.[MD]No.9081 of 2021 vide O.A.No.25 of 2021 in said Tribunal. It is well open to the said Tribunal to tag the matter with O.A.No.21 of 2021. This order will not act as fetters



on any course which the said Tribunal would choose to take. To be noted, this will apply to any other challenge to the first and second impugned orders (if any).

9. Captioned Writ Petition is disposed of in the aforesaid manner ie., with the aforesaid directive. Consequently, captioned Writ Miscellaneous Petitions are disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal Secretary,
Backward, Most Backward, Minority Welfare Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.
 2. The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai - 600 001.
 3. The Chairman,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai - 600 001.
- +1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-36201 dated 26/11/2021)
+1 CC to M/s.A.AJIMATHBEGAM, Advocate (SR-36011 dated 26/11/2021)
+1 CC to M/s.K.K.SENTHIL, Advocate (SR-36170 dated 26/11/2021)
+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-35985 dated 26/11/2021)
+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-36221 dated 26/11/2021)
+1 CC to M/s.SPL GP (SR-36077 dated 26/11/2021)

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