



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2021

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WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10172 of 2019
and
W.M.P. (MD)No.16696 of 2020

M.Noorul Amen

... Petitioner

Vs.

1.The Government of Tamilnadu,
Rep. by Secretary to the Government,
Department of Backward Classes and Wakf,
Fort St.George, Chennai-600 009.

2.The Chief Executive Officer,
Tamilnadu Wakf Board,
Mannadi, Chennai-1.

3.The Executive Officer,
Zonal Superintend of Wakf,
Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to consider the petitioner's representation dated 01.04.2019 to appoint the administrative committee of Majid Baharsha Oliyulla Mosque, Mahilambooo Thaikkal, Rajakiri, Papanasam Taluk, Thanjavur District.

For Petitioner : Mr.P.Muthusamy

For Respondents : Mr.B.Bhagavathi,
Government Advocate for R1
Mr.T.S.Mohamed Mohideen for R2 & R3

ORDER

Heard the learned counsel on either side.

2.The issue pertains to appointment of Mutawalli for the petition mentioned Waqf.



3.As rightly pointed out by the learned standing counsel for the second and third respondents, the issue has to necessarily adjudicated only before the Waqf Tribunal.

4.The Hon'ble Supreme Court in the decision reported in 2011 (1) CTC 636 (SC) (Board of Wakf, West Bengal and Another Vs. Anis Fatma Begum and Another) has held follows:-

"Thus, the Wakf Tribunal can decide all disputes, questions or other matters relating to a Wakf or Wakf property. The words "any dispute, question or other matters relating to a Wakf or Wakf property" are, in our opinion, words of very wide connotation. Any dispute, question or other matters whatsoever and in whatever manner which arises relating to a Wakf or Wakf property can be decided by the Wakf Tribunal. The word 'Wakf' has been defined in Section 3 (r) of the Wakf Act, 1995 and hence once the property is found to be a Wakf property as defined in Section 3 (r), then any dispute, question or other matter relating to it should be agitated before the Wakf Tribunal."

5.In view of the above, the writ petition has been necessarily relegated to avail alternative remedy under the statute.

6.Leaving open the petitioner's rights, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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:

The Secretary,
Department of Backward Classes and Wakf,
Fort St.George,
Chennai-600 009.

W.P (MD) No.10172 of 2019
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