



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2021

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD)No.17433 of 2021

and

WMP(MD).Nos.14307 and 14308 of 2021

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A.M.H.Abdul Hakeem

... Petitioner

Vs.

1.Tamil Nadu Wakf Board,
Rep. by its Chairman,
No.1, Jaffer Syrang Street,
Valla Seethakathi Nagar,
Chennai-1.

2.The Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Valla Seethakathi Nagar,
Chennai-1.

3.The Election Officer,
Superintendent of Wakfs,
Trichy Zone,
No.8/124, Kayeethemillath Salai,
Palakarai, Trichy-8.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in pertaining to the impugned proceeding of the third respondent No.Nil dated 15.09.2021, and quash the same as illegal consequently direct the third respondent to accept the petitioner's nomination of Jamath election scheduled to be held on 26.09.2021 for the Masjeethe umar Jamad at Varaganeri, Trichy.

For Petitioner : Mr.T.Vadivelan
For Respondents : Mr.D.S.Haroon Rasheed,
Standing Counsel.

O R D E R

The petitioner challenges a communication dated 15.09.2021 by which his nomination in relation to the elections for the Masjeethe umar Jamad at Varaganeri, Trichy was rejected.

2.The petitioner states that he is not an office bearer of the Wakf. Pursuant to the election notification dated 07.09.2021, he

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submitted a nomination to participate in the said election. Such nomination was rejected by the impugned communication on the ground that he had not produced the accounts relating to the Wakf. The petitioner asserts that only the office bearers are under an obligation to submit the accounts and that his nomination has been unlawfully rejected on account of the infighting between the different factions of the Wakf. It is also stated that an application has been filed in this regard before the Wakf Tribunal.

3.Mr.D.S.Haroon Rashid, learned Standing Counsel, accepts notice on behalf of all the respondents. He draws reference to the election notification and points out that Clause-20 of the Rules pertaining to the elections stipulates that the nominations of members of the administrative committee would be rejected if they do not furnish the accounts of the Wakf. He also points out that the election officer functioned in a non-discriminatory manner and rejected the nominations of seven persons, including the petitioner, for failure to submit the accounts. Therefore, he states that the impugned communication is not liable to be interfered with. He adds that the petitioner was the Secretary during the years 2016-2017 and therefore the contention that he was not an office bearer is not correct.

4.These contentions are refuted by learned counsel for the petitioner. Learned counsel for the petitioner submits that the petitioner had submitted accounts relating to the year 2016-2017 whereas he is not in possession of accounts relating to the current period.

5.From the rival contentions, it is evident that there are disputed questions of fact relating to the rejection of the petitioner's nomination. Such disputed questions of fact cannot be conveniently adjudicated in proceedings under Article 226 on the basis of affidavit evidence. The petitioner has already submitted an application/appeal to the Chairman of the Wakf Board. Therefore, the said application/appeal should be disposed of expeditiously. Needless to say, the outcome of the election would also be subject to the appeal filed by the petitioner.

6.Accordingly, without entering any findings on the merits of the disputes, the first respondent is directed to consider the petitioner's application/appeal dated 16.09.2021 and dispose of the same within a period of two months from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner and any others who would be affected by such decision.



7.W.P.(MD)No.17433 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P.(MD).Nos.14307 and 14308 of 2021 are closed.

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// True Copy //

Sd/-

Assistant Registrar (CS II)

/ /2021

Sub Assistant Registrar(CS)

To

- 1.The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Valla Seethakathi Nagar,
Chennai-1.
- 2.The Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Valla Seethakathi Nagar,
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- 3.The Election Officer,
Superintendent of Wakfs,
Trichy Zone,
No.8/124, Kayeethemillath Salai,
Palakarai, Trichy-8.

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RS (04.10.2021) 3P 4C