



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2021

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WEB COPY

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD).No.19060 of 2021

A.Udhuman Kani

... Petitioner

Vs.

The Tamil Nadu Waqf Board,
Rep. by its Chief Executive Officer,
Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent to enquire into the statutory application preferred by the petitioner under Section 65 r/w 70 of the Waqf Act, 1995 within the time that may be stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Athief
for M/s.Ajmal Associates

For Respondent : Mr.D.S.Haroon Rasheed
Standing Counsel

ORDER

The petitioner seeks a direction to inquire into the application filed by him under Sections 65 and 70 of the Waqf Act, 1995.

2.The petitioner states that he is a member of Mohaideen Andavar Jumma Pallivasal Waqf, which is a notified Waqf under Section 6 of the Waqf Act, 1995. The petitioner states that an administrative committee was constituted under elections allegedly held on 24.12.2017. According to the petitioner, the tenure of the committee expired on 24.12.2020. However, it is stated that the incumbent committee has been permitted to continue in office.

3.The petitioner alleges that he has been excommunicated in spite of being a member of the Waqf. Therefore, the petitioner



submitted an application under Sections 65 and 70 of the Waqf Act, 1995 seeking an inquiry by the Wafq Board. In view of the alleged failure to take action thereon, the present writ petition is filed.

4.Mr.D.S.Haroon Rasheed, learned Standing Counsel, accepts notice on behalf of the Tamil Nadu Waqf Board. He adverts to a communication dated 27.01.2001 from the Executive Officer of the Waqf Board. In particular, he points out that condition 13 therein pertains to excommunication and makes it clear that such practices should not be resorted to. He also points out that action would be taken in the event of breach of such condition. As regards Section 65, he points out that Section 65 would come into play only if no suitable person is available for being appointed as a Mutawalli of a Waqf. In the case at hand, it is stated that a Mutawalli is in charge of the affairs of the Waqf. However, it is submitted that the petitioner's application would be considered in terms of Section 70 of the Waqf Act, 1995.

5.Section 70 of the Waqf Act, 1995 enables any person interested in a Waqf to make an application supported by an affidavit seeking an inquiry into the administration of the Waqf. As such, the petitioner has made out a case for the consideration of his application under Section 70.

6.Accordingly, W.P.(MD)No.19060 of 2021 is disposed of by directing the respondent to consider the petitioner's application seeking an inquiry and dispose of such application by a reasoned order within a period of two (2) months from the date of receipt of a copy of this order. Such reasoned order shall be issued after providing a reasonable opportunity to the petitioner and to the members of the administrative committee of the Waqf. There will be no order as to costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sjj

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 Chief Executive Officer,
The Tamil Nadu Waqf Board,
Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai.

+1 CC to M/s.D.S.HAROON RASHEED, Advocate (SR-32894[F] dated
27/10/2021)

**W.P(MD) .No.19060 of 2021
27.10.2021**

MGJ/PM(10.11.2021) 3P 3C