



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2021

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CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.[MD]No.1549 of 2016

and

W.M.P.[MD]No.1307 of 2016

Z.Sulthan

... Petitioner

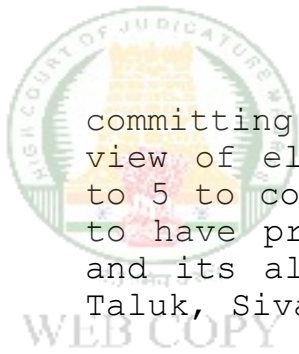
Vs.

- 1.The Chairman,
Tamil Nadu Waqf Board,
Chennai - 600 001.
- 2.The District Collector,
Sivagangai District,
Sivagangai.
- 3.The Superintendent of Police,
O/o. The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 4.The Inspector of Police,
Ilaiyankudi Police Station,
Sivagangai District.
- 5.The Waqf Superintendent,
Tamil Nadu Waqf Board,
No.159/3, Tharpayanam Salai,
Velipattinam,
Ramanathapuram - 7.

6.F.Syed Ghani.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 5 to take necessary action against the sixth respondent, who is



committing "Social Boycott" against the petitioner and others in view of election dispute and consequently direct the respondents 1 to 5 to conduct election to enable the petitioner and his villagers to have privileges and participation rights in "Hanabi Pallivasal" and its allied rights situated at Karunchuthi Village, Ilaiyankudi Taluk, Sivagangai District.

For Petitioner	: Mr.M.Mahaboob Fazil for Mr.T.Lajapathi Roy
For Respondents 1 & 5	: Mr.Mohammed Hashim for Mr.N.Mohideen Basha Standing Counsel
For Respondents 2,3&4	: Mr.M.Lingadurai Special Government Pleader
For Respondent No.6	: Mr.S.A.S.Alaudheen

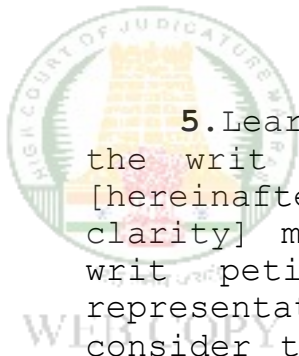
O R D E R

Mr.M.Mahaboob Fazil, learned Counsel representing Mr.T.Lajapathi Roy, Counsel on record for the writ petitioner, Mr.Mohamed Hashim, learned Counsel representing Mr.N.Mohideen Basha, learned Standing Counsel for Tamil Nadu Wakf Board on behalf of respondents 1 and 5, Mr.M.Lingadurai, learned Special Government Pleader on behalf of respondents 2, 3 & 4 and Mr.S.A.S.Alaudheen learned Counsel on behalf of sixth respondent [private respondent] are before me.

2.Captioned main writ petition pertains to a public Waqf which goes by the name 'Hanabi Pallivasal' situate in Karunchuthi Village, Ilaiyankudi Taluk, Sivagangai District [hereinafter 'said Waqf' for the sake of convenience and clarity].

3.Case of the writ petitioner is that the writ petitioner and some other members of his family have been removed from the electoral rolls of said Waqf though the term ex-communication has been used in the writ affidavit. In the light of the order I propose to make in the captioned writ petition, I refrain myself from expressing any opinion or view on this aspect of the matter.

4.The respondents have not filed a counter affidavit though the writ petition is of the year 2016. The writ petition was filed in this Court on 22.01.2016 (to be precise) and it is more than half a decade old. In two months from now it will turn six.



5. Learned Counsel for writ petitioner very fairly submits that the writ petitioner has sent a representation dated 10.12.2015 [hereinafter 'said representation' for the sake of convenience and clarity] much water has flown under the bridge, therefore if the writ petitioner is permitted to file an addenda to said representation, if there is a direction to the fifth respondent to consider the representation and pass orders that will suffice *qua* prayer of the writ petitioner. In other words, writ petitioner abridges his prayer.

6. In the light of this abridged prayer considering the time for which this captioned matter has been pending in this Court, I am adopting the course of acceding to this prayer. Before I do this it is necessary to record that learned Counsel for sixth respondent submits that the writ petitioner had started a parallel Jamath and therefore they cannot continue to vote in said Waqf. This is seriously disputed by the writ petitioner. This is clearly a factual dispute and it cannot be gone into in the captioned writ petition which is being decided on affidavits and counter affidavits. This is another reason why I am acceding to the prayer for the fifth respondent to look into the prayer. Though obvious it is made clear that I have refrained myself from expressing any opinion on this aspect (factual disputation) also so that there are no fetters *qua* fifth respondent.

7. Learned State Counsel submits that in the light of the trajectory the matter has taken, respondents 2 to 4 may not have a role at this juncture in this matter.

8. In the light of narrative, discussion and dispositive reasoning set out *supra* following order is made:

a) Writ Petitioner shall send an addenda to the 10.12.2015 representation to fifth respondent within a fortnight from today ie., on or before 13.12.2021;

b) The fifth respondent shall consider the representation dated 10.12.2015 and the addenda together after giving an opportunity to the sixth respondent (private respondent) to respond, consider the representation, addenda and the response of the sixth respondent on its own merits and in accordance with law and pass orders within six [6] weeks therefrom ie., on or before **24.01.2022 from 13.12.2021; and**

c) The order made by the fifth respondent in the aforesaid manner shall be duly served on the writ petitioner within seven [7] working days from the date of the order.

9. Captioned writ petition is disposed of in the aforesaid manner with the aforesaid directives. Consequently, captioned Writ

<https://hcservices.ecourts.gov.in/hcservices/>



Miscellaneous Petition is disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS I)

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/ /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 Chairman,
Tamil Nadu Waqf Board,
Chennai - 600 001.
- 2.The District Collector,
Sivagangai District, Sivagangai.
- 3.The Superintendent of Police,
O/o. The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 4.The Inspector of Police,
Ilaiyankudi Police Station, Sivagangai District.
- 5.The Waqf Superintendent,
Tamil Nadu Waqf Board,
No.159/3, Tharpayanam Salai, Velipattinam, Ramanathapuram - 7.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.SPL GP (SR-36471[F] dated 30/11/2021)

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-36534[F] dated 30/11/2021)

W.P.[MD]No.1549 of 2016

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