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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Petition No.3514 of 2022

Syed Badru Zaman

.. Petitioner

Vs.

1. Chief Executive Officer
Tamil Nadu Wakf Board
No.1, Jaffar Syrang street
Vallal Seethakathi nagar
Chennai-600 001.
2. The Superintendent of Wakf
North Zone, Tamil Nadu Wakf Board
No.139, Dr.Besant road
Ice House, Chennai-600 005.
3. Inspector of Wakf
Tamil Nadu Wakf Board
No.139, Dr.Besant road
Ice House, Chennai-600 005.
4. Syed Mazheruddin
Interim Chief Hereditary Trustee/Muthawalli
Hazarath Syed Moosa Sha Khaderi Dargah
residing at 'Z' House, No.116
Bells Road, Chepauk (Near cricket stadium)
Chennai-600 005.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 1st respondent to consider the petitioner's representation dated 28.10.2021 and release Rs.1,13,844/- (Rupees One lakh Thirteen Thousand Eight Hundred and Forty Four only), which is his share of Hundial collections of Turn Holding periods.

For Petitioner : Mr.H.Mohamed Ghouse

For R1 to R3 : Mr.C.Shankar
Standing Counsel (Wakf Board)

For R4 : Mr.N.A.Nissar Ahmed



O R D E R

Writ Petition is filed for issuance of a Writ of Mandamus directing the 1st respondent to consider the petitioner's representation dated 28.10.2021 and release a sum of Rs.1,13,844/- (Rupees One lakh Thirteen Thousand Eight Hundred and Forty Four only), which is his share of Hundial collection of Turn Holding periods.

2.Heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent and perused the entire materials on record.

3.According to the petitioner, he is one of 71 Turn Holding Hereditary Trustees of Hazarath Syed Moosa Sha Khaderi Dargah. The petitioner's turn as a Hereditary Trustee will be for 13 or 14 days i.e. 4 days in March, 7 or 8 days in November and 4 days in July month of succeeding year. The petitioner is entitled to Hundial collection of that period after deducting contribution and other expenses. The 4th respondent was appointed as temporary Chief Hereditary Trustee on the death of his father. According to the petitioner, all the Turn Holding Hereditary Trustees including the petitioner gave their consent letter for appointment of 4th respondent as temporary Chief Hereditary Trustee. After appointment of 4th respondent as temporary Chief Hereditary Trustee, the 2nd respondent insisted the petitioner to get a confirmatory signature of the temporary Chief Hereditary Trustee identifying the petitioner as a Turn Holding Trustee. According to the petitioner, the interim Chief Hereditary Trustee need not identify a Turn Holding Hereditary Trustee as Wakf Board knows their identity. It is not the practice that lower officials of the Wakf Board demanded the identification of one Mujawar i.e. Hereditary Trustee by another Hereditary Trustee for allotting the turn management, which is against the principles of natural justice. The petitioner was permitted to perform his turn as Hereditary Trustee in the presence of 4th respondent. After counting the Hundial collection, instead of paying share of the petitioner, the said amounts were deposited in the Wakf Board. The petitioner is entitled to a sum of Rs.1,13,844/- as his share of Hundial collection, which was made during his Turn Holding period. The petitioner gave a representation dated 28.10.2021 to the 1st respondent to hand over his share. The 1st respondent has not considered his representation and has not paid his share of Hundial collection. Hence, the petitioner has come forward with the present Writ Petition.



4.From the materials on record, it is seen that the petitioner is one of the Turn Holding Hereditary Trustees, which is not denied by the respondents. The grievance of the petitioner is that there is no necessity to get confirmatory signature from the 4th respondent, who is also one of the Hereditary Trustees. Though the petitioner is seeking larger relief of releasing his share of Hundial collection to the tune of Rs.1,13,844/-, at the time of hearing, the learned counsel appearing for the petitioner restricted his relief that a direction may be issued to the 1st respondent to consider the representation of the petitioner dated 28.10.2021 and pass orders.

5.Considering the above submission of the learned counsel appearing for the petitioner, the 1st respondent is directed to consider the representation of the petitioner dated 28.10.2021 and pass orders on merits and in accordance with law, after giving opportunity to the petitioner as well as 4th respondent, within a period of eight (8) weeks from the date of receipt of a copy of this order.

6.With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

kj

To

1. Chief Executive Officer
Tamil Nadu Wakf Board
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Chennai-600 001.
2. The Superintendent of Wakf
North Zone, Tamil Nadu Wakf Board
No.139, Dr.Besant road
Ice House, Chennai-600 005.



3. Inspector of Wakf
Tamil Nadu Wakf Board
No.139, Dr.Besant road
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+1cc to M/s.H.Mohamed Ghose, Advocate, S.R.No.19614

+1cc to M/s.C.Shankar, Advocate, S.R.No.19085

W.P.No.3514 of 2022

PMK (CO)
SU(06/04/2022)