



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.4334 of 2022

and

W.M.P.Nos.4448, 4449 & 9601 of 2022

Suhail Hyder Khan

... Petitioner

Vs.

The Government of Tamil Nadu,
Represented by the Principal Secretary,
Backward Classes, Most Backward Classes &
Minorities Welfare (T1) Department,
Fort St. George, Secretariat,
Chennai - 9.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, calling for the records of the respondent dated 04.02.2022 in G.O(2D).No.02, Backward Classes, Most Backward Classes and Minorities Welfare (T1) Department and quash the same.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondent : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.A.Selvendran
Special Government Pleader

ORDER

Mr.J.Ravindran, learned Additional Advocate General assisted by Mr.A.Selvendran, learned Special Government Pleader takes notice on behalf of the respondent.

2. After hearing the learned counsel for the petitioner and the learned Additional Advocate General for the respondent and a perusal of the counter affidavit filed on behalf of the



respondent, I am inclined to dispose this writ petition.

3. The learned Additional Advocate General for the respondent has submitted that the petitioner had obtained a qualification to the effect that the Certificate given to the petitioner was nothing more than an encouragement and that the second thing is the Vali Asr Arabic College was primarily a Non-Government College and the Certificate is not important in any Government Department cannot be the basis for passing an order without hearing the petitioner in person, particularly, when Section which mandates a hearing.

4. The learned Additional Advocate General for the respondent has relied on the decision of the Hon'ble Supreme Court in Union of India and another Vs Jesus Sales Corporation, (1996) 4 SCC 69. A specific reference was made in Paragraph 5, wherein, it has observed that the Courts cannot insist that under all circumstances and under different statutory provisions personal hearings have to be afforded to the persons concerned. If this principle of affording personal hearing is extended whenever statutory authorities are vested with the power to exercise discretion in connection with statutory appeals, it would lead to chaotic conditions.

5. I am unable to apply the aforesaid ratio with the facts of the present case, as it was rendered in the context of failure on the part of an assessee to pre-deposit the mandatory amount required for entertaining the appeal. The challenge was to the dismissal of the appeal. It was in that context, the Hon'ble Supreme Court has given the above ratio. The above ratio cannot be applied to the facts of the present case particularly in the light of the expression under Section 20(1) (b) of the Wakf Act, 1995, which reads as under:-

"20. Removal of Chairperson and Member:-

(1) The State Government may, by notification in the Official Gazette, remove the Chairperson of the Board or any member thereof if he-

(a)

(b) refuses to act or is incapable of acting or acts in a manner which the State Government, after hearing any explanation that he may offer, considers to be prejudicial to the interests of the [auqafs]".

6. In the light of the above observations, the impugned order dated 04.02.2022, is hereby quashed and the matter is



remitted back to the respondent, to pass appropriate orders, after giving an opportunity of hearing to the petitioner as is contemplated under Section 20(1)(b) of the Wakf Act, 1995, within a period of one month from the date of receipt of a copy of this order. However, the period undergone by the petitioner shall be treated as a period of suspension. All the issues are left open to be canvassed by the petitioner to the respondent.

7. This Writ Petition stands disposed of in terms of the above observations. No costs. Consequently, connected W.M.P.No.9601 of 2022 is hereby dismissed and other connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To

The Principal Secretary,
Government of Tamil Nadu,
Backward Classes, Most Backward Classes &
Minorities Welfare (T1) Department,
Fort St. George, Secretariat,
Chennai - 9.

+1cc to Mr.N.A.Nissar Ahmed, Advocate SR.No.34486
+1cc to the Government Pleader, SR.No.34589

W.P.No.4334 of 2022
and

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SKM(CO)
CB(05/07/2022)