



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.NO.7844 OF 2022

M.Nazzar

.. Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by the Principal Secretary,
Fort St. George, Chennai 600 009.
2. The Chairman,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai 600 001.
3. The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai 600 001.
4. The Waqf Superintendent,
Poonamallee Zone,
Kanchipuram District.

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 3rd respondent to consider the representations dated 10.01.2022 and 07.03.2022 sent by the petitioner by placing it before the Board for enquiry, by giving opportunity to all parties to hear and to frame scheme for the Ahle Sunnathval Jamath Jamia Masjid, Sunguvarchatram, Sriperumbudur Taluk, Kanchipuram District.



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For Petitioner : Mr.A.Rajamohamed

For R1 : Mr.A.Selvendran
(Special Government Pleader)

For RR2 & 3 : Mr.C.Shankar
(Standing Counsel for Wakf Board)

O R D E R

This Writ Petition is filed by the petitioner for a direction to the 3rd respondent to consider his representations dated 10.01.2022 and 07.03.2022, by placing it before the Board for enquiry and by giving opportunity to all parties to hear and to frame scheme for the Ahle Sunnathval Jamath Jamia Masjid, Sunguvarchatram, Sriperumbudur Taluk, Kanchipuram District.

2.By consent of the learned counsel appearing for the petitioner as well as Mr.A.Selvendran, the learned Special Government Pleader, who takes notice for the 1st respondent and Mr.C.Shankar, learned Standing Counsel who takes notice for the respondents 2 and 3, the Writ Petition is taken up for final disposal at the admission stage itself.

3.According to the petitioner, he is one of the legal heirs of Hereditary trustees. In the year 1948, one Kathija Bi, wife of V.M.Khidar Mohammed executed a Wakf deed dated 21.04.1948 and endowed 2 acres and 2 cents in Survey No.365/1, Thirumangalam Village in No.136, Sriperumbudur Sub-District, the then Chengalpattu District, presently Kancheepuram District, for constructing a mosque in Sunguvarchatram for the benefit of travellers on the main road and also for local mohalla people. As per the Wakf deed, 9 trustees were appointed and they were given power to nominate their successors before vacating office. Due to passage of time, there is no nomination in respect of trustees and chain of nomination was broken. For election of trustees, the 1st respondent executed a Proforma, wherein a Rule of Succession to the office of Muthawalli has been revised for the Jamath. Subsequently, election was held for the Jamath and trustees were elected by Jamath members. The legal heirs of the erstwhile trustees also participated in the election, were elected and they hold the office of Wakf in various positions. While so, the income of the Wakf increased considerably and some evil minded persons, to usurp the entire income and property of Wakf, trying to get into the administration of the Wakf.

4.The 3rd respondent revised the Rule of Succession in Proforma in the Government Gazette dated 09.06.2021 to "Hereditary according to Waqf Deed". The 2nd respondent, without application of mind and without following due process of law,



revised Rule of Succession against the intention of Wakif. Hence, some of the Jamath members filed Review Petition before this Court, challenging the said notification and the same is pending before this Court. In view of the above facts, it has now become mandatory that scheme for the administration of the Wakf should be framed at the earliest possible time, by giving chance of hearing to all the parties in the interest of Wakf, to safeguard its properties, its value and also to preserve the intention of the Wakif.

5. Section 69 of The Wakf Act, 1995 entrusts the power on the Board to frame scheme for administration of Wakf on its own motion, if it is satisfied with the enquiry. According to the petitioner, now there are various issues in the petitioner Wakf, several complaints are made against each other, several FIR's are registered and law and order problem has arisen. In view of the same, an immediate resolution is necessary. Hence, the petitioner made a representation dated 10.01.2022 to the respondents, narrating the above facts and to frame the scheme at the earliest possible time. Since no order is passed, the petitioner made another representation dated 07.03.2022 to the respondents and has come out with the present Writ Petition.

6. From the above materials, it is seen that serious allegations are made with regard to management of Wakf and chain for nominating hereditary trustees was broken. In view of the same, the 3rd respondent is directed to consider the representation of the petitioner and place it before the Board for their consideration, within a period of three weeks from the date of receipt of a copy of this order. On such placing of representation by the 3rd respondent, the 2nd respondent is directed to consider the same and pass orders on merits and in accordance with law, within a period of four weeks thereafter.

With the above directions, the Writ Petition is disposed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Principal Secretary,
State of Tamil Nadu,
Fort St. George, Chennai 600 009.



2. The Chairman,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
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3. The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
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4. The Waqf Superintendent,
Poonamallee Zone,
Kanchipuram District.

+2ccs to Mr.A.Rajamohamed, Advocate, S.R.No.22065
+1cc to the Special Government Pleader, S.R.No.22235

W.P.No.7844 of 2022

SKM(CO)
PM/20/04/2022