



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.15135 of 2022
and
W.M.P.No.14332 of 2022

K.Sahib Basha

... Petitioner

Vs.

1. The Tamil Nadu Waqf Board,
Represented by its Chief Executive Officer,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.

2. The Ameerunnisa Begum Sahiba's Endowments,
Represented by its President,
No.165/76, Bharathi Salai,
Triplicane, Chennai - 600 005.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents culminating in the impugned order of the second respondent dated 15.03.2021, quash the same and direct the respondents to reinstate the petitioner with back wages.

For Petitioner : Mr.T.A.Shagul Hameed

For Respondents : Mr.V.Raghavachari, Senior
For R1 for Mr.V.Lakshminarayanan

ORDER

Mr.V.Lakshminarayanan, learned counsel takes notice on behalf of the first respondent. Heard the learned counsel for the petitioner and the learned counsel for the first respondent.

2. The petitioner has challenged the impugned order dated 15.03.2021 passed by the second respondent removing the



petitioner from the services of the second respondent.

3. This Writ Petition is being disposed at the time of admission itself, by dispensing with notice and counter of the private respondent/second respondent, as no adverse orders are proposed to be passed against the private respondent/second respondent at this stage in this writ petition.

4. The case of the petitioner appears to be that the petitioner is remediless and therefore the writ petition is against the order of the second respondent is maintainable.

5. Opposing the prayer, the learned counsel for the first respondent would submit that no doubt the second respondent is governed by the provisions of the Wakf Act, 1995, however, private arrangement between the second respondent and its employees is not a matter which is to be decided under the provisions of the Wakf Act, 1995. It is submitted that if the petitioner is removed from the services of the second respondent Wakf, the petitioner has to workout his remedy before a competent Civil Court.

6. The learned counsel for the petitioner has however placed reliance on the decision of the Hon'ble Supreme Court in Punjab Wakf Board Vs Sham Singh Harike & Another, CDJ 2019 SC 146. A reference was made to Paragraph 52 of the order, which reads as under:-

"52. Coming to Section 83 which relates to bar of jurisdiction of Civil Court, the relevant words are "any dispute, question or other matter relating to a wakf or wakf property" which is required by or under this Act to be determined by the Tribunal. Thus, bar of jurisdiction of Civil Court is confined only to those matters which are required to be determined by the Tribunal under this Act. Thus, Civil Court shall have jurisdiction to entertain suit and proceedings which are not required by or under the Act, 1995 to be determined. Thus, answering the question of jurisdiction, question has to be asked whether the issue raised in the suit or proceeding is required to be decided under the Act, 1995 by the Tribunal, under any provision or not. In the event, the answer is affirmative, the bar of jurisdiction of Civil Court shall operate."

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the first respondent and perused the provisions of the Wakf Act, 1995.



8. The above decision cited by the learned counsel for the petitioner was rendered in the context of declaration that the property belongs to the Wakf.

9. No doubt, the second respondent is governed by the provisions of the Wakf Act, 1995, however the powers of the Board under Section 32 of the Act would not include any private arrangements between the second respondent and its employees.

10. Conditions of employments are purely a private arrangement between the petitioner and the second respondent. Therefore, writ petition challenging the termination from service is not justifiable under Article 226 of the Constitution of India.

11. In view of the above, I am inclined to dismiss this writ petition. It is open for the petitioner to workout his remedy before the competent forum in accordance with law.

12. This Writ Petition stands dismissed with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

arb

Note: Registry is directed to return the original impugned order to facilitate the petitioner to file a civil suit.

To:

The Chief Executive Engineer,
The Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.

Copy to:

The Section Officer,
E.R. Section (Writ), High Court, Madras.

+1cc to Mr.T.A.Shagul Hameed, Advocate, S.R.No.36644

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.36843

W.P.No.15135 of 2022
and W.M.P.No.14332 of 2022

JPL (CO)
UMA (28/06/2022)