



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WRIT PETITION NOS.24892 AND 27052 OF 2021
AND W.M.P.NOS.26199, 26201, 28512 AND 28514 OF 2021

S.Showkath Ali

.. Petitioner in both Wps.

Vs.

1. The Chief Executive Officer
Tamil Nadu Wakf Board
No.1, Jaffar Syrang street
Vallal Seethakathi nagar
Chennai-600 001.

2. The Tamil Nadu Wakf Board
Represented by Chairman
No.1, Jaffar Syrang street
Vallal Seethakathi nagar
Chennai-600 001.

.. Respondents 1 and 2
in both W.Ps.

3. The Superintendent of Waqfs Cuddalore/
Executive Officer, Hazarath Noor Mohamedsha
Aulia Dargha Wakf, Panruti,
Cuddalore District.

.. 3rd respondent in
W.P.No.27052 of 2021

Prayer in W.P.No.24892 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for records of the 1st respondent dated 13.10.2021 in Rc.No.16379/B10/92/Cuddalore and quash the same.

Prayer in W.P.No.27052 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for records of the 1st respondent



dated 25.11.2021 in Proc.No.16379/92/B10/Cuddalore and 3rd respondent dated 01.12.2021 in Na.Ka.G.S.143/The/Aa/Ni/Aa/Cuddalore/2021 and quash the same.

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In both WPs.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents : Mr.S.Haja Modhideen Gisthi
Standing Counsel (Wakf Board)

COMMON ORDER

W.P.No.24892 of 2021 is filed challenging the notice of the 1st respondent dated 13.10.2021.

W.P.No.27052 of 2021 is filed challenging the orders of the 1st respondent dated 25.11.2021 and 3rd respondent dated 01.12.2021.

W.P.No.27052 of 2021:

2.The petitioner is one of the Committee members of Hazarath Noor Mohamed Sha Aulia Dargha Wakf and was appointed on 28.09.2018 for five years along with three other members and one Tajudeen as President. According to the petitioner, the said Committee took action for eviction of encroachers in the Wakf. Therefore, encroachers gave complaint against the Committee members. The 1st respondent, by order dated 30.09.2021, suspended the Committee. The petitioner filed Writ Petition No.22368 of 2021, challenging the said order. The said suspension order was revoked by the proceedings dated 13.10.2021 and hence, the said Writ Petition was dismissed as infructuous. The 1st respondent, on 21.10.2021, served a show cause notice dated 13.10.2021 to the petitioner and other Committee members. The charges mentioned in the show cause notice are vague. Hence, the petitioner has filed Writ Petition No.24892 of 2021 challenging the said show cause notice.

2(i) When the Writ Petition came up for hearing on 26.11.2021, this Court permitted the 1st respondent to proceed with enquiry and held that if any final order is passed, that will be subject to result of the Writ Petition. The 1st respondent, by the notice dated 15.11.2021, called upon the petitioner and others for enquiry on 25.11.2021. The petitioner, through his counsel, appeared and informed that Writ Petition No.24892 of 2021 filed challenging the show cause notice is pending. The 1st respondent, without furnishing any document and



conducting any enquiry, passed impugned order dated 25.11.2021, removing the petitioner and other Committee members. Challenging the said impugned order, the petitioner has come out with Writ Petition No.27052 of 2021.

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3.The learned counsel appearing for the petitioner contended that 1st respondent passed the impugned order without any authority and without giving any opportunity to the petitioner and others. The 1st respondent has not conducted any enquiry on the charges levelled and without examining any witness and without producing any documents, has passed impugned order, which is in violation of principles of natural justice and prayed for allowing both the Writ Petitions.

4.The 1st respondent filed counter affidavit and denied all the allegations made in the affidavit.

5.The learned Standing Counsel appearing for the respondents contended that the petitioner and other Committee members have committed various irregularities and illegalities and misappropriated huge amounts of Hazarath Noor Mohamed Sha Aulia Dargah Wakf. Many complaints were received against the petitioner, other Committee members and President of Dargah, with regard to mismanagement and alienation of Wakf property. The 2nd respondent has appointed a Sub Committee, which inspected the Dargah and enquired with the President and other Committee members. The President was requested to submit records to the 3rd respondent, but he failed to produce the documents called upon by the respondents. The petitioner and others have not submitted any explanation to the show cause notice and on the date of enquiry i.e. on 25.11.2021, the petitioner did not appear. On the other hand, the counsel for the petitioner appeared and he except stating that the petitioner has filed Writ Petition No.24892 of 2021 challenging the show cause notice, has not given any explanation and submission on the charges levelled against the petitioner. The 1st respondent considered all the documents produced before it and by a reasoned order, removed the petitioner and others from the post of Committee members. The 1st respondent has acted as per the provisions of the Wakf Act and order removing the petitioner and others is valid and legal and prayed for dismissal of both the Writ Petitions.

6.Heard the learned counsel appearing for the petitioner as well as the learned Standing Counsel appearing for the respondents and perused the entire materials on record.

7.From the above rival contentions, it is seen that petitioner is one of the Committee members of Hazarath Noor



Mohamed Sha Aulia Dargha Wakf. Certain complaints with regard to alleged irregularities, misappropriation of funds and mismanagement of Dargah were made against the President and other Committee members, including the petitioner. The 1st respondent issued show cause notice dated 13.10.2021 to the President and members of the Committee, including the petitioner, levelling various charges and called upon them to submit their explanation within 15 days. The petitioner, without submitting his explanation, filed Writ Petition No.24892 of 2021 challenging the show cause notice on the ground that the same is vague and without authority. According to the petitioner, due to vagueness of the show cause notice, he could not submit any explanation. While the said Writ Petition was pending, the 1st respondent fixed enquiry on 25.11.2021 and called upon the President, petitioner and other Committee members to appear for enquiry. The petitioner counsel appeared on that day, but no explanation was submitted on behalf of the petitioner. The learned counsel appearing for the petitioner submitted that the petitioner has filed Writ Petition No.24892 of 2021 challenging the show cause notice dated 13.10.2021 and the same is pending. The 1st respondent, on 25.11.2021 itself, has passed the order removing the President, petitioner and other members of the Hazarath Noor Mohamed Sha Aulia Dargha Wakf from the Committee. The petitioner filed Writ Petition No.27052 of 2021 challenging the said order.

8.From the impugned order dated 25.11.2021 made in the Writ Petition No.27052 of 2021, it is seen that on that date, no witness was examined and no document was marked. The 1st respondent, in the impugned order has stated that records were perused and based on the records, charges levelled against the President and other Trustees are proved and resolved to remove the President and other Trustees from the management of Hazrath Noor Mohamed Sha Aulia Dargah with effect from 25.11.2021, under Section 64 and bring the Wakf under the Direct Management of Tamil Nadu Wakf Board for a period of 6 months and has appointed Superintendent of Wakfs, Cuddalore as the Executive Officer to assume charge over the Wakf and to take control over the properties and records of the Wakf. The 1st respondent relied on the report of Sub Committee and resolution of 2nd respondent. The 1st respondent has not furnished copies of the documents relied on by them to the petitioner. Without conducting any enquiry as per law, the 1st respondent has passed impugned order, which is in violation of principles of natural justice. For the above reasons, the impugned order dated 25.11.2021 is liable to be quashed and is hereby quashed. Accordingly, Writ Petition No.27052 of 2021 is allowed.



W.P.No.24892 of 2021:

9.As far as Writ Petition No.24892 of 2021 is concerned, the petitioner and others are directed to submit their explanation to the show cause notice issued by the 1st respondent dated 13.10.2021, within a period of two weeks from the date of receipt of a copy of this order. The 1st respondent is directed to hold an enquiry as per law and prove the documents relied on by them in the said enquiry. The 1st respondent is directed to give an opportunity to the petitioner, President and other members to putforth their case with regard to documents relied on by them. With the above directions, Writ Petition No.24892 of 2021 stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Executive Officer
Tamil Nadu Wakf Board
No.1, Jaffar Syrang street
Vallal Seethakathi nagar
Chennai-600 001.
2. The Chairman
The Tamil Nadu Wakf Board
No.1, Jaffar Syrang street
Vallal Seethakathi nagar
Chennai-600 001.
3. The Superintendent of Waqfs Cuddalore/
Executive Officer, Hazarath Noor Mohamedsha
Aulia Dargha Wakf, Panruti, Cuddalore District.

+2ccs to M/s.N.A.Nissar Ahmed, Advocate, S.R.No.19394, 19395
+1cc to M/s.S.Haja Modhideen Gisthi, Advocate, S.R.No.19314

W.P.Nos.24892 and 27052 of 2021
and W.M.P.Nos.26199, 26201,
28512 and 28514 of 2021

GPL (CO)

RLP (01/04/2022)