



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.03.2022**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. (MD) No.13330 of 2012

WEB COPY

S.Sheik Dawood

... Petitioner

/vs./

1.Tamil Nadu Wakf Board,
represented by its Chairman,
No.1, Jaffar Sirang Street,
Vallal Seethakathi Nagar,
Mannadi,
Chennai.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Sirang Street,
Vallal Seethakathi Nagar,
Mannadi,
Chennai.

3.The Wakf Superintendent,
South Zone Office,
Tamil Nadu Wakf Board,
Town Hall Road, Madurai.

4.A.Abdul Rahman

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Memorandum in Na.Ka.No.616/06/Aa8/Thi.Kal dated 12.09.2012 on the file of the Respondent No.2 and quash the same as illegal and consequently to direct the Respondent No.1 to declare that the Respondent No.4 is not competent to continue as the President of the Adhoc Committee of Jumma Periya Pallivasal Wakf, Batlagundu Town, Dindigul District.

For Petitioner : Mr.M.Mahaboob Fazil for
M/s.T.Lajapathi Roy

For R1 to R3 : Mr.K.K.Senthil
Standing Counsel

For R4 : Mr.D.Shanmugaraja Sethupathi



ORDER

This writ petition has been filed for a Certiorarified Mandamus to call for the records pertaining to the Impugned Memorandum dated 12.09.2012 in Na.Ka.No.616/06/Aa8/Thi.Kal on the file of the 2nd respondent and quash the same as illegal and consequently to direct the 1st respondent to declare that the 4th respondent is not competent to continue as the President of the Adhoc Committee of Jumma Periya Pallivasal Wakf, Batlagundu Town, Dindigul District.

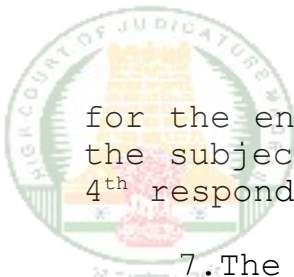
2.The learned counsel for the petitioner had on earlier occasion mentioned that the writ petition has become infructuous. However, there was an opposition by the learned counsel for the 4th respondent stating that the writ petition has not become infructuous, in view of the pendency of SLP(Civil) No.21833 of 2016 and an order of interim stay was passed thereon on 08.08.2016.

3.The facts on record now indicate that the petitioner herein has challenged the election notification dated 12.09.2012 on the file of the 2nd respondent to declare that the 4th respondent, namely, A.Abdul Rahman, is not competent to continue as the President of the Adhoc Committee of Jumma Periya Pallivasal Wakf, Batlagundu Town, Dindigul District.

4.An interim order was passed by this Court vide order dated 18.10.2012 along with W.P.(MD) No.13004 of 2012. Thereafter, W.P.(MD) No.13004 of 2012 was dismissed. Aggrieved by the order passed by the learned single Judge on 18.10.2012 in W.P.(MD) No.13004 of 2012 (since dismissed) and in W.P.(MD) No.13330 of 2012 (the present writ petition), an appeal was filed by the petitioner herein (deceased) in W.A.(MD) No.934 of 2012. The aforesaid writ appeal was taken up for final disposal along with the writ petition espousing the cause of the members of the congregation in W.P.(MD) No.22895 of 2015.

5.After considering the rival submissions, a detailed order was passed by the Division Bench of this Court on 20.01.2016. While passing the order, the Division Bench recorded that the 4th respondent herein had expressed his willingness to not to contest in the election as he is the President of the Adhoc Committee. Apart from recording the above, the Court also issued certain directions. Aggrieved by the same, the 4th respondent has filed SLP.(Civil) No.21833 of 2016.

6.The Hon'ble Supreme Court by its order dated 08.08.2016 has stayed all further proceeding pursuant to the impugned order of the Division Bench of this Court for the election of the representative. However, the Hon'ble Supreme Court has also made it clear that the interim protection shall not stand in the way of election being conducted from among the three groups by participating the entire



for the ensuing period by the 2nd respondent on 23.12.2021, which is the subject matter of W.P.(MD) No.98 of 2022, which is filed by the 4th respondent herein.

7.The said writ petition was disposed of along with W.P.(MD) No.22683 of 2021 and W.P.(MD) No.14435 of 2012. Though the present writ petition was pending, a common order was passed only in three cases, vide order dated 31.01.2022. It is noticed that the case of the petitioner is that *status quo* as ordered by the Hon'ble Supreme Court still continues. However, the office of the elected members is only for a period of 3 years. It is further noticed that the petitioner has died during the pendency of the present writ petition. The 4th respondent has been in control of the Wakf as a President of the Adhoc Committee and continuous to hold the office even the tenure of an elected persons cannot except for a period beyond 3 years.

8.I do not find any justification in keeping this writ petition on this files particularly in the light of the fact that the petitioner has himself died and since the elections were held pursuant to the directions of the Hon'ble Division Bench Hon'ble Supreme Court. If the 4th respondent has any independent right to continue, it is for the 4th respondent to initiate appropriate proceeding in accordance with law. It is not open for the 4th respondent to insist on the writ petition being kept on the file of this Court despite the fact that the petitioner, who filed a writ petition, has himself died.

9.The Writ Petition stands dismissed, accordingly. No costs.

Sd/-

Assistant Registrar (Crl.)

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/ /2022

Sub Assistant Registrar(CS)

+1 cc to Mr.D.SHANMUGARAJA SETHUPATHI, Advocate, SR.No.11383

+1 cc to Mr.K.K.SENTHIL, Advocate, SR.No.11103

+1 cc to Mr.T.LAJAPATHI ROY, Advocate, SR.No.10489

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Date:09.03.2022

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