



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.06.2022
CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

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Writ Petition (MD) No.10716 of 2022
and
W.M.P. (MD) No.7745 of 2022

K.M.Syed Jalaludeen

.. Petitioner

Versus

1.The Chief Executive Officer of Wakf,
O/o. The Chief Executive Officer,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai.

2.The Superintendent of Wakf,
O/o. The Superintendent of Wakf,
51/80, K.A.P. Complex,
Thiruvananthapuram Road,
Kulavanikarpuram,
Palayamkottai,
Tirunelveli.

3.The Inspector of Wakf,
S/o. The Inspector of Wakf,
Kulavanikarpuram, palayamkottai,
Tirunelveli.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to set aside the election proceedings going to be conducted on 12.06.2022, by the respondents.

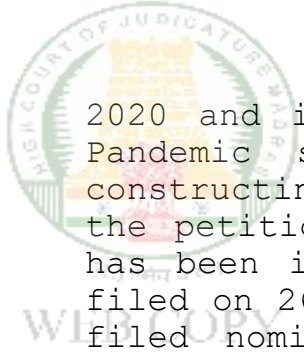
For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.D.S.Haroon Rasheed

ORDER

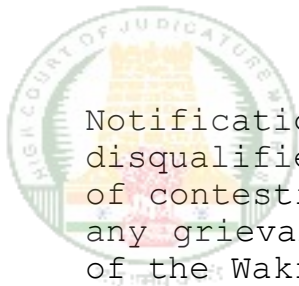
The petitioner, previous Secretary of Masjidul Mubarak Jumma Pallivasal, Sornapuram Street, Tenkasi District, has filed this Writ Petition seeking a direction to the respondents to set aside the election proceedings, which is to be conducted on 12.06.2022.

2.The contention of the petitioner is that the petitioner was serving as Secretary in the said Jamath between the years 2017 and



2020 and it has been extended by the Wakf Board due to Covid-19 Pandemic situation. The petitioner took sincere efforts in constructing shops for generating funds for the Jamath. Further, the petitioner submits that on 19.05.2022 an Election Notification has been issued. As per the said Notification, nomination to be filed on 26.05.2022 and on the same day, names of persons, who have filed nominations would be displayed. On the next day, i.e., 27.05.2022, nomination papers would be scrutinized and the eligible candidates' names would be released. The date for withdrawal of nomination has been fixed as 02.06.2022. On the same day, final candidates list would be published and symbol for the contesting candidates would be allotted. Thereafter, on 12.06.2022, election to be held. As far as the petitioner is concerned, he has filed his nomination on 26.05.2022. Thereafter, he is not aware what had happened. On 27.05.2022 when the eligible candidates' list was published, the petitioner's name was not found. For what reason, his nomination papers got rejected, is not known. The petitioner earlier questioned high-handedness of the Wakf authorities. Further, the petitioner constructed a private Mosque, which was objected by the Wakf, for which, the petitioner filed a Writ Petition against the Wakf Board, hence the Wakf authorities had animus against the petitioner for this reason, the petitioner's nomination papers were rejected without assigning any valid reason. He further contended that the election is not conducted in a fair and proper manner. The petitioner, as Secretary contributed to the welfare of the Mosque and in all possibilities he will be the successful candidate in the election. Due to rejection of his nomination his chances has been denied by coloured act of the Wakf authorities. Hence, he filed the present Writ Petition.

3.The learned counsel for the respondents submits that as per Section 72 of the Wakf Act, 1995, contributions to be made by the Secretary of every Wakf without fail. In the event of non-payment of contribution, the candidate would not be eligible for contesting the election. In this regard, a Circular has been issued by the first respondent as early as on 18.11.2021, in which, it is clearly mentioned that No Objection Certificate from the President/Secretary/Administrative Committee of Tamil Nadu Wakf Board to be issued to the effect that he/she has rendered accounts and paid contributions to the Tamil Nadu Wakf Board during his tenure as Mutawalli/Office Bearer of the Wakf to be produced along with the election nomination application. As per the Election Notification dated 19.05.2022, in clause-6, this condition has been stipulated. The petitioner as Secretary is due to the tune of Rs.2,12,779/- as on 15.07.2021. The Wakf Board sent a notice to the petitioner. In response, the petitioner paid a sum of Rs.51,581/- on 13.09.2021, Rs.36,854/- on 24.09.2021 and Rs.49,000/- on 24.09.2021, totalling to Rs.1,37,435/-. He is admittedly due to pay the Wakf Board. Further, the petitioner not submitted the accounts for the year 2019-2020 and 2021-2022. The petitioner had made himself not eligible to contest the election as per the Election



Notification. Hence, his candidature was rejected and he was disqualified. The scrutiny of nominations were conducted in presence of contesting candidates. Further, if at all the petitioner has got any grievance, he is to approach the Tribunal as per Section 83(5) of the Wakf Act.

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4. In support of his submissions, the learned counsel for the respondents relied on the judgment of the Hon'ble Supreme Court in **Board of Wakf, West Benal and another vs. Anis Fatma Begum and another** reported in **2010 (4) SCC 588**. Further produced the proceedings dated 27.05.2022, to show that the nomination papers were scrutinized in the presence of the candidates and 19 persons participated in the same.

5. Considering the said submissions and perusal of the materials, this Court finds that the election for the Wakf published on 19.05.2022 and the election to be held on 12.06.2022, prior to it, scrutiny of nominations and election process followed as per Notification. The contesting candidates, participated as could be seen from the proceedings, dated 27.05.2022. The petitioner is due to the Wakf Board while he was Secretary from the year 2017 to 2020. He has not filed the Account Statements. Further, as per clause 6 of the Election Notification and Circular, dated 18.11.2021 of the Tamil Nadu Wakf Board, if a person has any dues to the Wakf Board, he is not eligible to contest the election.

6. It is seen that election process already commenced and the election to be held on 12.06.2022. In view of the same, the petitioner's contention cannot be entertained. Hence, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

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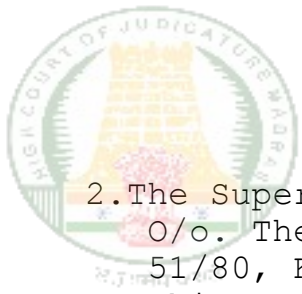
/ /2022

Sub Assistant Registrar(CS)

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To

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IM(ASO)
TR(21.06.2022) 4P 4C