



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition (MD) No.11130 of 2019

and

W.M.P.(MD) Nos.8494, 8495 & 15573 of 2019

WEB COPY

S.G.Azaam Ali

... Petitioner

Vs

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

2.The Superintendent of Waqf,
No.1, Town Hall Road, Madurai.

3.The Revenue Divisional Officer,
K.Pudur, Madurai - 625 007.

4.A.H.Ibrahim

5.M.Musthafa Ali

6.A.Aynul Yakheen

7.S.A.K.Ibrahim

8.G.Syed Rashid Hussain

9.Dr.M.Syed Kasim Ali Hussaini

10.S.G.Mohideen Hussaini

... Respondents

[R4 to R6 are impleaded vide order dated 26.07.2019,
made in W.M.P.(MD)No.10494/2019]

[R7 to R10 are impleaded vide order dated 26.07.2019,
made in W.M.P.(MD)No.13316/2019]

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to impugned notification issued by the first respondent in RC.No.13575/02/B8/MDU, dated 26.03.2019, published in the Tamil Nadu Government Gazette on 03.04.2019 and quash the same as illegal.



For Petitioner : Mr.T.Cibi Chakraborty
For R1 & R2 : Mr.S.A.Ajmalkhan
For R3 : Mr.M.Prakash
Additional Government Pleader
For R4 to R6 : Mr.AL.Kannan
For R7 to R10 : Mr.N.Dilipkumar

ORDER

This Writ Petition has been filed for a Writ of Certiorari, to call for the records relating to the impugned Notification dated 26.03.2019 of the first respondent in RC.No.13575/02/B8/MDU, published in the Tamil Nadu Government Gazette on 03.04.2019 and quash the same as illegal.

2.The challenge to the impugned Gazette Notification of the first respondent is primarily on the ground that indefinite period has been given to the first respondent Board to manage the affairs of the Khazimar Peria Pallivasal, Madurai, indefinitely from 05.03.2019 till framing of scheme, conduct of election and handing over of charge to new committee.

3.The learned counsel for the official respondents submits that there was a power struggle between the male descendants and the other descendants through the female descendants of Kazi Syed Thajuddeen, who is supposed to be a male descendant of Prophet Muhammed. It is submitted that the Pallivasal is an ancient Pallivasal and it has been constructed way back in 1284 A.D. It is submitted that there were repeated attempts of the Board to take over the management under Section 65 of the Wakf Act, 1995 from time to time by the petitioner and the earlier Mutawalli and several writ petitions came to be filed.

4.It is submitted that earlier, Notifications was issued on 22.01.2014 to take over the management/affairs of the said Wakf for a period of two years under Section 38 of the Wakf Act, 1995. Thus, thereafter, a further extension was obtained for a period of one year and thereafter, two years. However, this attempt was disturbed by the then Mutawalli M.Syed Gulam Dastagir Hussain by filing writ petition before this Court.

5.It is submitted that ultimately an order came to be passed in W.P.(MD)Nos.2705 and 4566 of 2016 on 05.04.2016. The Writ Petitions filed by Janab S.A.Fakrudeen Ibrahim were dismissed by this Court. The further appeals before the Division Bench was also dismissed by the Division Bench on 25.09.2018 in W.A.(MD)Nos.702 and 703 of 2016. It is submitted that during the interregnum, due to granting of interim stay by the Division Bench of this Court, vide its order dated 25.04.2016, delay has occurred.



6.The learned counsel for the official respondents further submits that against the order of the Division Bench dated 25.09.2018, S.L.P. was also filed by the petitioner before the Hon'ble Supreme Court in S.L.P. (Civil) No.41530 of 2018 and that the Hon'ble Supreme Court was pleased to dismiss the S.L.P. on 07.03.2019. It is pursuant to the above said order, an attempt has been made to complete the process, which was undertaken in the year 2014 vide Gazette Notification, dated 22.01.2014, as detailed above.

7.The learned counsel for the official respondents submits that the petitioner had refused to hand over possession of the Wakf property and the management to the Wakf Board, despite the dismissal of S.L.P. on 07.03.2019 and that pursuant to a contempt petition filed by the fourth respondent herein, the petitioner handed over possession to the Wakf on 02.12.2021 and that on 16.03.2022 the parties namely, the so-called direct male descendants and indirect descendants of Prophet Muhammed through female of Kazi Syed Thajuddeen have submitted a draft scheme before the Board. However, both the parties have not appeared before the Board, as cases are pending against each other and they are not in a position to see eye to eye. While the dispute between the feuding groups may continue, nothing precludes the Board from framing the scheme in accordance with the time line prescribed under Section 65 of the Wakf Act.

8.Considering the fact that the Board has no other impediment from framing a scheme, I direct the first respondent Board to endeavour to frame a scheme as expeditiously as possible, within a period of one year, preferably within a period of six months from the date of receipt of a copy of this order after considering the draft schemes submitted by the respective feuding groups. In case the feuding groups fail to co-operate with the first respondent Board, the first respondent Board shall prepare a scheme based on available records by keeping the interest of the members of the Jamath.

9.This Writ Petition is disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

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

2.The Superintendent of Waqf,
No.1, Town Hall Road, Madurai.

3.The Revenue Divisional Officer,
K.Pudur, Madurai - 625 007.

+1 CC to M/s.T.CIBI CHAKKARABORTHY, Advocate (SR-12881[F] dated 18/03/2022)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-13084[F] dated 18/03/2022)

+1 CC to M/s.SPL GP (SR-12982[F] dated 18/03/2022)

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RS(29.03.2022) 4P-7C