



W.P.(MD)No.18083 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)No.18083 of 2022

P.Mohamed Gani

Vs.

... Petitioner

1.The State of Tamil Nadu,
Rep.by its Principal Secretary,
Backward Classes Welfare Department,
Fort St.George,
Chennai-600 009.

2.Tamil Nadu Wakf Board,
Rep.by its President,
No.1, Jaffer Shirang Street,
Vallaleseethakathi Nagar,
Chennai-600 001.

3.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Shirang Street,
Vallaleseethakathi Nagar,
Chennai-600 001.

... Respondents



W.P.(MD)No.18083 of 2022

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the first respondent to conduct an enquiry and pass orders in accordance with law restraining the second respondent from interfering with the Management and administration of the Jamiah Pallivasal, Burma Colony, Thanjavur District, as per their customs by considering the representations dated 30.05.2022 and 17.06.2022.

For Petitioner	:	Mr.A.Mohamed Haneef
For Respondents	:	Mr.S.Kameswaran Government Advocate for R1 Mr.S.A.Ajmal Khan Standing Counsel for RR2 and 3

ORDER

This Writ Petition has been filed seeking for issuance of a writ of Mandamus, to direct the first respondent to conduct an enquiry and pass orders in accordance with law restraining the second respondent from interfering with the Management and administration of the Jamiah Pallivasal, Burma Colony, Thanjavur District, as per their customs by considering the representations, dated 30.05.2022 and 17.06.2022.



W.P.(MD)No.18083 of 2022

WEB COPY

2. The contention of the petitioner is that according to the customs of Jamiah Masjith Pallivasal, Thanjavur, the office bearers are being elected once in three years by raising their hands. On 17.06.2013, the election was held for the period upto 17.06.2016. After the expiry of the tenure of the period 17.06.2016, the election for office bearers for the ensuing period of three years (i.e.,) 18.06.2016 to 18.06.2019 was held in Pallivasal. In the said meeting, the petitioner was elected as President. Thereafter, on 22.02.2017, the petitioner and other office bearers submitted the accounts of the said Pallivasal to the Inspector of Wakf Board. While so, the second respondent herein on 22.07.2017 has sent communication to the office bearers to make arrangement for conducting election to the office bearers. On 17.07.2017, the Revenue Divisional Officer, Thanjavur, directed the petitioner to hand over the account to the Wakf Board. Thereafter, the petitioner had preferred a criminal revision in CrI.R.C(MD).No.555 of 2017 before this Court and the same was disposed of on 05.01.2018.

3. On 17.07.2017, the petitioner had sent notice to the respondents calling upon them to recognize the election of office bearers for the period



W.P.(MD)No.18083 of 2022

WEB COPY

from 18.06.2016 to 18.06.2019. Though notice was received by them, there was no reply from the respondents. Thereafter, the petitioner and other office bearers filed a Wakf Original Petition in W.O.P.No.18 of 2017 before the Sub-Court cum Wakf Tribunal, Thanjavur. In the meanwhile, the third respondent vide his proceedings dated 10.04.2018 and the second respondent vide his proceedings dated 11.05.2018 informed about the taking over of direct management of Jamiah Masjith Pallivasal, Burmah Colony, Thanjavur District. Challenging the same, the petitioner has filed W.P.(MD).No.11138 of 2018. The writ petition was disposed of on 07.11.2021. The first respondent vide his memo dated 04.03.2022, informed the third respondent to take charge over the direct management of Jamiah Masjith Pallivasal, Burmah Colony, Thanjavur for the period of six months. Challenging the same, the petitioner had filed a writ petition in W.P.(MD).No.6551 of 2022. This Court, by order dated 08.04.2022, had directed the petitioner to work out alternate remedy. In this regard, as per Section 65(2) of the Wakf Act, the petitioner had sent an appeal to the Government, however, no action has been taken by the respondents. Therefore, the petitioner has filed the present writ petition.



W.P.(MD)No.18083 of 2022

WEB COPY

4. The learned counsel appearing for the respondents 2 and 3 submits that the petitioner claiming as President, is arbitrarily acting and not adhering to the Rules and Regulations. Thereafter, the direct management was taken over by the Wakf Board and the Wakf Authorities had sent a communication, dated 04.03.2022 to the third respondent to take charge over the direct management of Jamiah Masjith Pallivasal. On 17.03.2022, taking charge over of the direct management has been displayed in the notice and the members of the Pallivasal were informed. However, the petitioner has failed to hand over the cash, accounts, Bank Book, receipts and other articles to the Wakf Authorities. Thereafter, the Inspector of Wakf had made a representation to the Revenue Divisional Officer, Thanjavur, which is pending. In the meanwhile, the petitioner had sent an appeal to the Secretary. Now, the Wakf Authorities have taken over the administration of the said Pallivasal and the Inspector of Wakf has been appointed as Executive Officer. Steps have been contemplated to hold the elections.



W.P.(MD)No.18083 of 2022

WEB COPY

5. The learned counsel appearing for the first respondent submitted that the petitioner had sent an appeal to the Principal Officer, Backward Classes, Secretariat, Chennai. However, there is no such Designation Officer in the Secretariat, Chennai. Hence, the first respondent is not aware of the petitioner's appeal.

6. Considering the submission made by both parties and the fact that the appeal of the petitioner is without provision of law, the petitioner is directed to present the appeal in the proper format disclosing the provisions of Section 65(2) of the Wakf Act along with the grounds to the Principal Secretary, Backward Classes and Most Backward Classes, Minorities Welfare Department, Fort St.George, Chennai - 600 009 within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the concerned Authorities are directed to consider the same and pass appropriate orders within a period of two months from the date of receipt of a copy of this order. It is made clear that the pendency of the appeal will in no way obstruct the Wakf Authorities in proceeding further pursuant to the taking charge over the direct Management of the Wakf.



WEB COPY



W.P.(MD)No.18083 of 2022

7. Accordingly, the Writ Petition stands disposed of. No costs.

11.08.2022

Index : Yes / No

Speaking Order : Yes / No

ssb



W.P.(MD)No.18083 of 2022

To
WEB COPY

- 1.The State of Tamil Nadu,
Rep.by its Principal Secretary,
Backward Classes Welfare Department,
Fort St.George,
Chennai-600 009.
- 2.Tamil Nadu Wakf Board,
Rep.by its President,
No.1, Jaffer Shirang Street,
Vallalseethakathi Nagar,
Chennai-600 001.
- 3.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Shirang Street,
Vallalseethakathi Nagar,
Chennai-600 001.



WEB COPY



W.P.(MD)No.18083 of 2022

M.NIRMAL KUMAR, J.

ssb

W.P.(MD)No.18083 of 2022

11.08.2022