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W.P(MD).No.22140 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.22140 of 2022

and

W.M.P(MD).Nos.16294 and 16296 of 2022

1.Syed Ismail

2.Azeem

... Petitioners

Vs.

1.The Chief Executive Officer,
Tamil Wakf Board,
Chennai-600 001.

2.The Executive Officer,
Hasarath Bassillah Avulia Thaikka Wakf,
Nagercoil-Kottar,
Kanyakumari District.

3.The Superintendent,
Wakf Board-Tirunelveli,
Tirunelveli District.

4.The Inspector of Wakf,
Kanyakumari,
Kanyakumari District.

5.Janab Syed Ahamed Mustafa @ Ahamed,
S.P.Sha Inamdhaar,
Mohideen Andavar Dharkha,
Aranmanai, Pottal Pudoor,
Tenkasi District.

...Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 1st Respondent in செ.மு.ஆணை.14827/07/ஆ1க/குமரி, dated 13.05.2022 and to quash the same and consequently, direct the 1st Respondent to elect 3 trustees each from Pathanas, Malik Thinar Pathulamal Trust and Elankadai Muslim Trust for the administration of the Thaika Palli Trust, Nagercoil, Kanyakumari District.

For Petitioners	: Mr.N.A.Nissar Ahamed For Mr.M.R.Sreenivasan
For R1 to R4	: Mr.D.S.Haroon Rasheed Standing Counsel
For R5	: Mr.M.Mohammed Athiff

ORDER

This Writ Petition is filed challenging the impugned order, dated 13.05.2022 and consequently, direct the 1st Respondent to elect 3 trustees each from Pathanas, Malik Thinar Pathulamal Trust and Elankadai Muslim Trust for the administration of the Thaika Palli Trust, Nagercoil, Kanyakumari District.

2. The 1st Petitioner is the Secretary of the Thaikka Palli Trust of Nagercoil, Kanyakumari District and the 2nd Petitioner is the President of the Thaikka Palli Trust. It is submitted by the learned counsel for the Petitioner that Thaikka Palli Trust is a Wakf, generating an annual income of more than



Rs.50,000/- through the Wakf Properties. It is submitted that Thaikka Palli Trust is governed by a scheme framed by the Division Bench of this Court in A.S.Nos.197 and 440 of 1983, wherein, this Court was pleased to issue the following directions:

“13. In the circumstances, we direct that the Trust Board shall have nine trustees and in all, three of them being elected from Pathanas, three elected from Malik Thinar Pathulamal Trust and the remaining three from Elankadai Muslim Trust. The preliminary decree of the Court below is accordingly modified to the effect. The appeals and the cross-objections are dismissed in other respects. There will be no order as to costs.”

3. It is submitted by the learned counsel for the Petitioner, the learned Standing Counsel for the Respondents 1 to 4 and the learned counsel for the 5th Respondent that despite the above scheme, they had difficulties in implementing the scheme, namely, having three candidates each elected from three groups, namely, Pathans, Mulik Thinar Paithumal Trust and Elankadi Muslim Trust. It is submitted that Wakf Board had assumed direct management in terms of Section 65 of the Wakf Act for almost two decades, inasmuch as despite the scheme framed by this Court, it appears that there has been continuous difficulties in implementing the same. Consequently, the Wakf Board had appointed the 5th Respondent as Muthawalli in exercise of its power under Section 63 of the Wakf Act, vide order dated 13.05.2022.



4. During the course of hearing, the learned counsel for the Petitioner, the learned Standing counsel for the Respondents 1 to 4 and the learned counsel for the 5th Respondent Muthawalli would agree that endeavour must be made by the Board to ensure that the scheme is implemented. The learned Standing Counsel for the Respondents 1 to 4 submits that endeavour will be made and all efforts will be taken to conduct the election in terms of the above scheme within a period of three months but not later than six months.

5. In view of the above submission, the Respondents are directed to conduct election within a period of three months but not later than six months. If, for any reason, there is difficulty in implementing the scheme, it is open to the parties concerned to seek redressal of the grievance in the manner known to law including Section 69 of the Wakf Act. It is submitted that the 5th Respondent has been appointed under Section 63 of the Wakf Act only in view of the circumstances set out above. On implementation of the scheme, the need for continuation of the 5th Respondent under Section 63 of the Wakf Act would cease. It is made clear that this order does not interfere with the functioning of the 5th Respondent as Muthawalli in any manner in terms of the order made under Section 63 of the Wakf Act until the above exercise of implementing the scheme is completed within the timelimit mentioned above.



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6. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

04.11.2022

Index : Yes / No

Internet : Yes/ No

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To

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Tirunelveli District.

4.The Inspector of Wakf,
Kanyakumari, Kanyakumari District.

5.S.P.Sha Inamdhaar,
Mohideen Andavar Dharkha,
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MOHAMMED SHAFFIQ, J.

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