



W.P(MD).No.11814 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.06.2022

C O R A M

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

**W.P(MD).No. 11814 of 2016 and
WMP(MD).No.9067 of 2016**

P.K.K. Samusudeen

.. Petitioner

Vs.

**1.The Chairman,
Tamil Nadu Wakf Board,
No.1 Jaffer Sirang Street,
Vallal Seethakadhi Nagar,
Chennai – 600 001.**

**2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1 Jaffer Sirang Street,
Vallal Seethakadhi Nagar,
Chennai – 600 001.**

**3.The Superintendent of Wakf,
No.12, Kelathur Street,
Trichy District,
Trichy.**

4.T.A.S.Rajkapoor.

... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuing a Writ of Certiorarified Mandamus calling for the records



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relating to the impugned order in Se.Mu.Order.No.12555/11/AA5./ Karur, dated 03.06.2016 on the file of the 2nd respondent and quash the same and further directing the 1st respondent to recognize the Managing Committee that was elected during the General Body Meeting o the Jammiya Masjid held on 26.09.2015.

For Petitioner : Mr.G. Prabhu Rajadurai
For R1 to R3 : Mr. S. Haroon Rasheed
Senior Counsel
For 4th respondent : Mr.R. Rajesh
for Mr. Natarajan

ORDER

This Writ Petition has been filed to call for the records relating to the impugned order, dated 03.06.2016 made in Se.Mu.Order.No. 12555/11/AA5./ Karur, on the file of the 2nd respondent and quash the same and further direct the 1st respondent to recognize the Managing Committee that was elected during the General Body Meeting of the Jammiya Masjid held on 26.09.2015.

2. The contention of the petitioner is that he is the Muthavalli of Moydeen Syed Abdul Rahim Jailani Mosque also known as Jammiya



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Masjid, which is situated in the Chintamanipati Village and there are 150 Muslim Families in the village. The said Mosque is a very ancient of 400 years old. The General Body Meeting of Mosque is convened as per the custom prevailing followed by their ancestors for the past 100 years and the Committee Members of the Mosque are elected once in three years. The rule of succession to the post of Muthavalli and the other committee members is by nomination by the Muslims of the Village, which is the the custom prevailing in these parts.

3. The learned counsel for the petitioner further submitted that this practice is recognized, as it can be seen from the the proforma report which has been issued by the 2nd respondent, especially, Clause 10 of the proforma report that the rule of succession to the post of Muthavailli is by nomination by the Muslims of the locality and it is a custom prevailing in that area and hence, the customs has to be continued. Further, the impugned order issued by the second respondent is contrary to the customs. He has challenged the same by way of filing earlier W.P. (MD).No.12599 of 2013, wherein, the directions were issued to the respondents 1 and 2 to consider the petitioner's representation. Thereafter, what had happened to the representation and what decision was taken by



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the respondents are not known.

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4. The learned counsel appearing for the 4th respondent submitted that earlier he has also filed WP(MD).No.19169 of 2015 stating that election to be conducted to the post of Muthavalli for Jamia Masjid, Chinthamanipatti, Karur District and the same was disposed of directing the respondents to consider the petitioner's representation, dated 11.06.2015 by affording an opportunity to the petitioner and the necessary parties. Thereafter, only an enquiry was conducted and the grievance of the parties were heard. He would further submit only following the orders of this Court in W.P(MD).No.19169 of 2015, the second respondent has passed the impugned order, dated 03.06.2016, calling for elections.

5. The learned counsel appearing for the official respondents 1 to 3 submitted that the 2nd respondent had issued a notice based on the direction of this Court, dated 26.10.2015 made in W.P(MD).No.19169 of 2015 and hence, the further contention of the petitioner cannot be considered on his own admission that the executive committee earlier selected during 25.08.2012 by the General Body of the Mosque within themselves and there is no official from the Wakf, most obviously, the fact



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is that any election or selection to be conducted in the presence of Wakf Board authorities. He further submitted that the three year period since lapsed. As per the Wakf Act, Election to be held in the presence of the Election Officer and the respondents 1 and 2 have over all control to ensure proper administration of Wakf and its properties. The petitioner cannot claim exclusive right to have selection among themselves, without the presence of the Wakf Board authorities, more so, after the Wakf Act come into force. The election or selection to be held in the presence of Wakf Board officials to be held democratically in a transparent manner. In view of the same, this Court finds that there is no force in the petitioner's claim.

6. Hence, this Writ Petition is dismissed with a direction to Wakf Board authorities to take steps to start the Selection / Election process of Muthavalli without delay. No costs. Consequently, the connected Miscellaneous Petition is closed.

17.06.2022

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Index : yes / No

Internet: yes/No



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