



W.P.(MD).No.22826 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2022

CORAM

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.22826 of 2019

and

W.M.P.(MD).Nos.19595 of 2019 and 13302 of 2020

M.K.M.Mohammed Shaffi

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Backward Classes, Most Backward Classes,
And Minority Welfares Department,
Fort St.George,
Chennai.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Jaffer Syrang Street,
Vallalseethakadi Nagar,
Chennai.

3.The Inspector of Wakf,
O/o the Superintendent of Wakf,
Kadharolia Pallivasal Complex,
No.51/80, K.A.P. Compound,
Thiruvanadhapuram Road,
Kulavanikapuram,
Palayamkottai,
Tirunelveli District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Prohibition, prohibiting the respondents



W.P.(MD).No.22826 of 2019

from holding or proceeding with the enquiry in the subject matter of the proceedings of the 3rd respondent in Na.Ka.G.S.No.765 and 667/Tvl/VaAa/Tvl/2019 dated 20.09.2019 as being illegal and without jurisdiction.

For Petitioner : Mr.M.Mahaboob Athiff
For R-1 : Mr.M.Siddharthan,
Additional Government Pleader.
For R-2 and R-3 : Mr.D.S.Haroon Rasheed

ORDER

This Writ Petition is filed for a Writ of Prohibition prohibiting the 3rd Respondent from proceeding with the enquiry pursuant to the notice issued in Na.Ka.G.S.No.765 and 667/Tvl/VaAa/Tvl/2019 dated 20.09.2019.

2. It is submitted that the impugned proceedings is bad inasmuch as any enquiry against the Muthavalli relating to irregularities etc., has to be made in terms of Section 64(3) of the Wakf Act, 1995 only by the Board, which reads as under:

“(3) No action shall be taken by the Board under sub-section (1), unless it has held an inquiry into the matter in a prescribed manner and the decision has been taken by a majority of not less than two-thirds of the members of the Board.”



W.P.(MD).No.22826 of 2019

3. Though Section 64(3) of the Act appears to suggest that it is the Board which would conduct an enquiry, it is submitted by the learned counsel for the Respondents placing reliance upon Section 71 of the Tamil Nadu Wakf Act, which enables the Board to authorise the Chief Executive Officer or any other officer under Sub Section (3) of Section 64 of the Act and thus the submission of the learned counsel for the petitioner that the impugned order passed by the 3rd Respondent is without jurisdiction may not be sustainable.

4. To a pointed question whether there is any authorisation which has been issued by the Board, it is submitted by the learned counsel for the Respondents that the present notice may be set aside with liberty to take fresh action after obtaining the necessary sanction/approval.

5. In view of the same, the impugned proceedings is set aside with liberty to the Respondents to initiate action in accordance with law. This Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

11.10.2022

Index : Yes / No
Internet : Yes/ No
Lm



W.P.(MD).No.22826 of 2019

To

WEB COPY

1. The Secretary,
The Government of Tamil Nadu,
Backward Classes, Most Backward Classes,
And Minority Welfares Department,
Fort St.George,
Chennai.
2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
Jaffer Syrang Street,
Vallalseethakadi Nagar,
Chennai.
3. The Inspector of Wakf,
O/o the Superintendent of Wakf,
Kadharolia Pallivasal Complex,
No.51/80, K.A.P. Compound,
Thiruvananthapuram Road,
Kulavanikapuram,
Palayamkottai,
Tirunelveli District.



WEB COPY



W.P.(MD).No.22826 of 2019

MOHAMMED SHAFFIQ, J.

Lm

**W.P.(MD).No.22826 of 2019
and
W.M.P.(MD).Nos.19595 of 2019 and 13302 of 2020**

11.10.2022