



W.P.No.1187 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.1187 of 2023

&

W.M.P.Nos.1215 and 1217 of 2023

Dr.K.M.Kalifa Masthan Sahib

Kadiri Nagore Dargah Hereditary Trustee and

Dargah Kalifa Nagore

D.No. 9 Thalaimattu Street

Nagore 611 002

Nagapattinam District

... Petitioner

Vs.

- 1 Tamil Nadu Wakf Board
Rep by its Chief Executive Officer
No. 1 Jaffer Syrang Street Mannady
Chennai - 600001.
- 2 Alhaj Haja Noordeen Sahib @
Dr. S.Syed Kamil Sahib D.No. 19
Maideenpalli Street Nagore - 611 002
Nagapattinam District.
- 3 S.Sulthan Kalifa Sahib alias
Kannu Vappa Sahib Santha Sahib Street
Nagore - 611 002 Nagapattinam District.
- 4 Muhalli Muthavalli Haja Naju
mudeen Sahib D. 7 Manavara North Street
Nagore - 611 002 Nagapattinam District.



W.P.No.1187 of 2023

- 5 Haji Mohalli H.K. Syed Yusoof
Sahib Nagore Dargah Tank East Bund Street
Nagore 611 002
Nagapattinam District
- 6 Haji N.S. Syed Abul Fathah
Sahib Nagore Dargah Hereditary Trustee
D.No. 14 Dargah East Bund Street
Nagore Town
Nagapattinam District
- 7 Haji Kaji S.A. Shaik Hassan
Sahib D.No. 4/14 Thalaimattu Street
Nagore Town Nagapattinam District
- 8 M.S.Muhammed Backer Sahib
Nool Kadai Street Nagore Town
Nagapattinam District
- 9 H.N. Syed Haja Muhaideen Sahib
D.No. 43 Syed Palli street
Nagore Town
Nagapattinam District
- 10 Haji S.M. B.Sulthan Kabeer Sahib
D.No. 34 Manavara North Street
Nagore Town Nagapattinam District
- 11 S.Syed Muhammed Kaji Hussain Sahib
D.No. 02/18 Manavara North street
Nagore Town Nagapattinam District
- 12 Syed Mohammed Kalifa Sahib Quadiri Hashmi
Kalifathul quadri of Nagore Sheriff
Having office at Kalifa Manzil
No.3 Kalifa Sahib Street
Nagore, Nagapattinam Taluk and dist
Pin-611 002



W.P.No.1187 of 2023

13 B.T. Noordeen Sahib
No. 6/56 Mubarak colony
Chemaraikadai Street
Nagore 611 002
Nagapattinam District

14 Yaseen Moulana
68 Muduku Thalai Street
Nagore 611 002
Nagapattinam District.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus calling for the records relating to the impugned proceedings of the 1st respondent in R.C. No. 13548/ 15/ B7/ TNJ dated 20.12.2022 quash the same and consequently direct the respondents not to interfere with the petitioners right to hold office as Kalifa of Nagore Dargah.

For Petitioners : Mr.D.Selvaraj
for
Mr.D.Jayasingh

For Respondents : Mr.Lakshminarayan for R1

Mr.P.V.Balasubramanian, Senior Counsel
for
Mr.K.Muruganantham for R2

Mrs.Ajimath Begum for R3 to 11

ORDER

This writ petition has been filed to call for the records relating to the



W.P.No.1187 of 2023

impugned proceedings of the 1st respondent in R.C. No. 13548/ 15/ B7/ TNJ

dated 20.12.2022 quash the same and consequently direct the respondents not to interfere with the petitioners right to hold office as Kalifa of Nagore Dargah.

2. It is the case of the petitioner that Nagore Dargah is administered in terms of a Scheme framed by this Court in A.S.No.289 of 1948 and A.S.No.576 of 1948 dated 16.03.1955. As per the Scheme Decree the management and administration of the Dargah is vested in eight hereditary trustees representing eight families. Trustees hold office for life and the trusteeship devolves on the male heir in accordance with the custom. One among the trustees elected as the Managing Trustee. There is an Advisory Board also consisting of 11 members and one among them is elected as President. The 8th Trustee died without any lineal descendant. The dispute arose as to the authority competent to declare the successor in office in the event of conflicting claims. On 08.06.2018 in W.A.No.1640 of 2016, the Division Bench of this Court held that successor to the officer of the 8th Trustee can be decided only by the Civil Court. Petitioner has filed O.S.No.829 of 2022 on the file of the District Court at Nagapattinam. The



W.P.No.1187 of 2023

same was returned as against which the CRP also filed. The 12th respondent son of the 2nd respondent is the President of the Advisory Board has filed O.S.No.71 of 2020 before the Wakf Tribunal, Chennai falsely claiming that petitioner's father has nominated him as the Kalifa. Respondents 2 and 12 have been attempting to represent themselves as important functionaries of the Dargah. In fact the 1st respondent falsely claimed to be the Chief Priest of the Dargah. The 12th respondent has filed a suit before the Wakf Tribunal making such a false claim. The 1st respondent by impugned proceedings in R.C.No.13548/15/B7/TNJ dated 20.12.2022 passed an order stating that the Dargah is to be administered in accordance with the Scheme Decree. The 1st respondent has held that under the Scheme Decree the Trustees appoint the Kalifa and therefore the Trustees have power to take action against the petitioner. According to the petitioner, the Scheme Decree is maliciously interpreted as if the Trustees have been given the power to appoint the Kalifa and the Kalifa is appointed by the Trustees. The Wakf Board can exercise only those powers which are available to the Wakf Board under the Act and Rules. The Wakf Board has no authority to pass the impugned order and give directions to the Trust Board. Hence, the impugned order is challenged.

3. Learned counsel appearing for the petitioner would mainly contend



W.P.No.1187 of 2023

that Chief Executive Officer has no power to pass a direction to the Trustees to take action. According to him he can exercise those powers confined U/s.

25 of the Wakf Board, other than that he has no powers.

4. Mr.Lakshmi Narayan, learned counsel appearing for the Wakf Board would submit that pursuant to the directions of this Court, the Chief Executive Officer conducted enquiry and passed an order based on the Scheme Decree. Thereafter, the Board of Trustees also passed an order removing the petitioner. In such view of the matter, if the petitioner is aggrieved, the same has to be challenged before the Wakf Tribunal by filing a suit and not by way of filing a Writ Petition.

5. Learned counsel appearing for the respondents 3 to 11 also adopted the submissions made by the learned counsel for the 1st respondent.

6. I have perused the entire materials.

7. The order impugned is passed pursuant to the directions of this



W.P.No.1187 of 2023

Court in W.P.No.24486 of 2022, wherein this Court directed the 3rd

respondent, the Chief Executive Officer of the Wakf Board to conduct the enquiry and pass appropriate orders on merits on certain allegations raised against the petitioner. Based on that the orders have been passed by the Chief Executive Officer in R.C.No.13548/15/B7/TNJ dated 20.12.2022. In a detailed order taking to the various allegations raised against the petitioner, directed the Trustees of Nagore Dargah to take action. Since the Trust is covered by the Scheme Decree. Accordingly, a direction is given to the Wakf Board.

8. Pursuant to the directions, now it appears that by order dated 09.01.2023, the petitioner has been removed from the Kalifa. It is relevant to note that what is impugned in the Writ Petition is only the order of the Chief Executive Officer dated 20.12.2022. Pursuant to the orders of the Chief Executive Officer, the petitioner is removed by the Trustees by resolution dated 09.1.2023 on certain allegations.

9. In such view of the matter, this Court is of the view that Writ Petition to challenge the Executive Officer order is not maintainable. The



contention of the learned counsel that Chief Executive Officer has no power to give such direction to the Wakf Board. It is relevant to note that Sec.25 of the Wakf Board Act, 1995 deals with the duties and powers of the Chief Executive Officer Sub clause (c) empowers the Chief Executive Officer to do generally of such acts as may be necessary for the control, maintenance and superintendence of Wakfs. The Chief Executive Officer taking into various allegations and also considering the Scheme Decree which governs the management of the Trust directed the Trustees to take action.

10. In such view of the matter, the contention of the petitioner that Chief Executive Officer has no power to issue such direction has no legs to stand.

11. As the final order has been passed removing the petitioner, the remedy of the petitioner lies before the Wakf Tribunal U/s. 83. It is also relevant to note that Chief Executive Officer has passed an order on 20.12.2022. The above order has been stayed till 06.01.2023 by the Wakf board on the limited ground till such festival is over. Taking advantage of the same, according to the respondents, the petitioner is still interfering with the



W.P.No.1187 of 2023

affairs of the management of the Wakf. At any event as the final order has been passed Writ Petition in respect of various factual aspects, which also disputes cannot be maintained. If the petitioner if so adviced can challenge the same before the Wakf Tribunal.

Writ Petition is dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

19.01.2023

kpr
Index:Yes/No
Speaking/Non-speaking order
Neutral citation:Yes/No

To
The Chief Executive Officer
Tamil Nadu Wakf Board
No. 1 Jaffer Syrang Street
Mannady
Chennai - 600001.

N. SATHISH KUMAR, J.

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W.P.No.1187 of 2023

W.P.No.1187 of 2023
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