



W.P.No.2932 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.2932 of 2023

and

W.M.P.Nos.3032 and 3033 of 2023

Captain Mohammed Yaseen Rowther

... Petitioner

Vs.

1.Tamil Nadu Wakf Board
rep. by its Chief Executive Officer,
No.1, Jaffar Sarang Street,
Vallal Sethakathi Nagar,
George Town,
Chennai - 600 001.

2.The Registrar of Societies,
Chennai Central Registration District,
No.182, Bharathi Salai,
I floor,
Royapettach,
Chennai- 600 009.

3.Masjid -E- Javeed - G.S.No.37/1975
represented by its Secretary,
Door No.5 and 6, H - Block,
III Avenue,
Anna Nagar East,
Chennai - 600 102.



W.P.No.2932 of 2023

4. Anna Nagar Islamic Centre
represented by its Secretary,
Door No.5 and 6, H - Block,
III Avenue,
Anna Nagar East,
Chennai - 600 102.

5. Madarasa Subulus Salam
rep. by its Secretary,
Door No.5 and 6, H - Block,
III Avenue,
Anna Nagar East,
Chennai - 600 102.

6. M. Mohammed Yousuf,
Secretary,
Anna Nagar Islamic Centre,
No.37, Emerald Street,
Viveganandha Nagar,
Kolathur,
Chennai - 600 099.

7. M.K. Mohammed Ameen,
Treasurer,
Anna Nagar Islamic Centre,
105, Y -Block, V Street, Anna Nagar,
Chennai - 600 040.

8. F. Mohamed Batcha,
Assistant Secretary,
Anna Nagar Islamic Centre,
84, R- Block, Anna Nagar,
Chennai - 600 040.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to take over the management of the respondents 3 to 5 and to file appropriate criminal complaint



W.P.No.2932 of 2023

before appropriate law enforcing authority against the respondents 6 to 8 for misappropriation and diversion of funds of the 3rd respondent and also to conduct election / selection in free and fair manner in the 3rd respondent in accordance with law.

For Petitioner : Mr.Rajeshkumar

For Respondents : Mr.Abdul Mubeen for R1

Ms.R.Anitha,
Special Government Pleader for R2

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the 1st respondent to take over the management of the respondents 3 to 5 and to file appropriate criminal complaint before appropriate law enforcing authority against the respondents 6 to 8 for misappropriation and diversion of funds of the 3rd respondent and also to conduct election / selection in free and fair manner in the 3rd respondent in accordance with law.

2.It is the case of the petitioner that the funds of the 3rd respondent have been illegally diverted by the respondents 6 to 8 to the respondents 4 and 5. Hence, the petitioner's father filed W.P.No.23262 of 2021 seeking for a direction to the Wakf

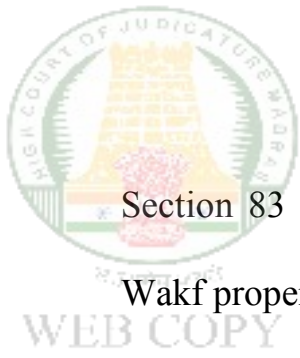


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Board to dispose of the representation dated 21.04.2021 and this Court directed the 1st respondent to consider the representation of the petitioner's father. Thereafter, the 1st respondent passed an order stating that the Board Official of Wakf Board were not present during the selection and the selection of the respondents 6 to 8 was illegal. Thereafter, without informing the Waqf Board, Anna Nagar Islamic Centre which is having all the funds belonging to the 3rd respondent is being shifted to the house of the 6th respondent and steps have been taken to terminate Anna Nagar Islamic Centre and transfer the Bank accounts to some other Association. Therefore, the petitioner sent representations on 09.01.2023 to the respondents to intervene in this matter and to stop the Annual General Meeting to be conducted on 22.01.2023, but the respondents did not take any steps. Hence, this Writ Petition has been filed.

3.The main grievance of the petitioner is that the Society has been run by the illegal committee and the funds of the 3rd respondent have been illegally diverted by the respondents 6 to 8 to the respondents 4 and 5. Till date no steps have been taken against the respondents 4 and 5.

4.The learned counsel appearing for the 1st respondent would submit allegations are disputed facts therefore Writ Petition is not maintainable and as per



Section 83 of the Act, for the determination of any dispute relating to a Wakf or Wakf property, such application is to be made before the Wakf Tribunal.

5.The 1st respondent has passed an order dated 18.05.2022 which is extracted hereinbelow:

"The contention of both the Writ Petitioner and the Secretary of the Wakf Institution are considered and the following order is passed accordingly.

- The Existing Committee is directed to register the Waqf Institution with the Tamil Nadu Waqf Board under Section 36 of the Waqf Act, 1995, within 15 days from the date of receipt of this order.*
- The Senior Accounts Officer, Tamil Nadu Wakf Board is directed to audit the accounts of the above Wakf Institution for the past 10 years and submit report on or before 30.06.2022.*
- After registration of the Wakf Institution and based on the findings of the Senior Accounts Officer, Tamil Nadu Wakf Board necessary directions shall be issued for the formation of*



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W.P.No.2932 of 2023

*the administrative committee to the above Wakf Institution
under the provisions of the Waqf Act, 1995.*

6. In view of the above, since orders have already been passed by the Wakf Board for the very same issue, the Writ Petition is nothing but a pre-mature one. If there is any misuse of funds by the Mosque the 1st respondent will take necessary action as per law. If there is any dispute relating to the transfer of funds, the petitioner can approach the Wakf Tribunal under Section 83 of the Wakf Act.

7. Accordingly, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

06.02.2023

Index : Yes/No

Neutral Citation : Yes/No.

Speaking Order / Non-Speaking Order
mps

To

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Vallal Sethakathi Nagar,
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W.P.No.2932 of 2023

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