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Writ Petition No.8272 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.03.2023

PRONOUNCED ON : 12.04.2023

Coram:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Writ Petition No.8272 of 2023

Akbar Hussain

.... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Chennai – 600 001.

3. The Superintendent of Wakf,
Wakf Bord, Cuddalore Circle,
No.152, Gandhi Road,
Panrutti – 607 106.
Respondents

....

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent herein to consider the representation of the petitioner dated 10.03.2023 and adjourn the enquiry to be conducted on 14.03.2023 with



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regard to the selection of Trustees for the Udayarkudi Periya Pallivasal Wakf and Thaikal Wakf in Kattumannarkoil Taluk, Cuddalore.

For Petitioner : Mrs.A.L.Ganthimathi, Sr. Counsel
for Mr.A.Saravanan

For Respondents : Mr.Haja Mohideen Gisthi
Standing Counsel for Wakf Board

ORDER

The petitioner has filed this writ petition for the following relief:

“for issuance of a Writ of Mandamus, directing the 1st respondent herein to consider the representation of the petitioner dated 10.03.2023 and adjourn the enquiry to be conducted on 14.03.2023 with regard to the selection of Trustees for the Udayarkudi Periya Pallivasal Wakf and Thaikal Wakf in Kattumannarkoil Taluk, Cuddalore.”

2. The petitioner in the affidavit filed in support of this writ petition has stated as under:

(i) The 1st respondent herein has called for applications with regard to election of trustees of Udayarkudi Periya Pallivasal Wakf and Thaikal Wakf in Kattumannarkoil Taluk, Cuddalore District.



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(ii) In respect of the said Wakf, a scheme has been framed by the Principal Subordinate Judge, Cuddalore in A.S.No.5 of 1956 and as per the Scheme; it has been clearly provided that there shall be five trustees to the Wakf and one of the Trustees should be a male descendant of the hereditary trustee and if the family does not supply a suitable person competent to hold the office of the Trustee, then all the five persons will have to be appointed from among the worshippers in the Mosque. The relevant clause in respect of the said scheme decree is as follows:

“Pursuant to the scheme decree, the Wakf Board has every right and authority to choose a suitable person from among the worshippers of the Mosque in the event there is no suitable person from among the family of the Wakf competent to hold the office of the Trustee to the Mosque Wakf.”

(iv) Under such circumstances, the 1st respondent herein has called for applications for selection of the Trustees for the administration of the Wakf and challenging the notice, a writ petition came to be filed before this Court in WP No.24961 of 2022, challenging the notice by the 3rd respondent dated 31.08.2022 published in Dinathanthi. The said writ petition was heard and by order dated 09.12.2022, this Court disposed of



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the writ petition observing that as the scheme decree as referred above, provide the manner in which the trustees should be appointed, the same shall be followed by the authorities while electing trustees.

(v) Applications were called for and the petitioner herein has also applied with all the required documents for selection as a Trustee. Pursuant thereto, the petitioner was also called upon to appear before the Superintendent, Panruti on 19.01.2023 and a detailed enquiry was conducted.

(vi) According to the petitioner, he has got a good reputation and there is no black mark or blemish on the part of the petitioner.

(vii) At paragraph No.5 of the supporting affidavit, it is specifically averred that the 1st respondent herein by a notice dated 07.03.2023 had requested all the 62 persons who have applied for selection as Trustees for an enquiry on 14.03.2023 with all relevant records in the possession, failing which they will be set exparte and the matter will be decided in their absence.



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(viii) The petitioner has also appeared on 09.01.2023 and it is alleged that the respondent has already selected the Trustee without holding proper enquiry and hence, he made a representation on 10.03.2023 to adjourn the enquiry to be conducted on 14.03.2023 in connection with the selection of the Trustees to the above said petitioned Wakf.

3. Heard the learned counsel for both parties and perused the documents.

4. Before this writ petition is heard and taken up for final disposal, the enquiry has been completed. The notice dated 12.01.2023 is pursuant to the orders passed by this Court on 09.12.2022 in WP No.24961 of 2022 and also there was a paper publication, calling for applications for five Trusteeship. Notice dated 13.01.2023 has been issued by the 3rd respondent herein/Wakf Superintendent, Cuddalore Region, to all the persons who have applied for the same viz., 62 persons, for the enquiry on 19.01.2023. Again another enquiry was scheduled on 14.03.2023 and the notice to such enquiry was dated 07.03.2023, sent to

<https://www.mhc.tn.gov.in/> all the 62 applicants.



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5. On 14.03.2023 enquiry, all the persons have participated; a resolution has been passed ; the board has obtained the signatures of 11 members and for balance, it is been under circulation. Hence it is contended that all the contentions raised by the petitioner herein, may be kept open if he wanted to challenge any order being passed appointing the Trustees, under Section 22 and under Section 83(1) of the Wakf Act, 1995.

6. On the date of the first hearing i.e. on 17.03.2023, the meeting was already over and the Court has taken the call after considering the facts that necessary notices have been issued before any communication calling for application, submission of record and personal enquiry, it is found that the prayer in the writ petition has become infructuous and thus, on 21.03.2023, the orders were reserved in the writ petition.

7. Subsequently, the learned counsel for the petitioner made a representation that an ante-date resolution has been projected and hence, the matter was posted on 27.03.2023, 'for clarification'.



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8. On 27.03.2023, the learned counsel for the petitioner was absent. Mr.Haja Mohideen Gisthi, learned Standing Counsel appearing on behalf of the respondent-Wakf Board would submit that the earlier representation made before the Court on the date of hearing viz., 21.03.2023, is correct and the resolution has been passed after the conclusion of the enquiry and the same is under circulation for the signature of the members of the Wakf board.

9. After going through the records and also going through the notice dated 12.01.2023 ; paper publication effected and intimation for the enquiry dated 31.01.2023; notice dated 07.03.2023 calling all the 62 applicants for the enquiry, I find that the representation dated 10.03.2023 is made by the petitioner only after he has attended the enquiry. The purpose of attending the enquiry is very much indicated in the said notice itself. Further, even after 10.03.2023 representation which is the subject matter of the writ petition, the petitioner has attended the enquiry on 14.03.2023, as could be seen from the Xerox copy of the Attendance Register produced by the learned Standing Counsel for the Wakf Board , I find that there is no merit in this case. Hence, I am not inclined to issue any direction.

<https://www.mhc.tn.gov.in/judis>



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10. Further, as the matter has already been concluded and only formalities of getting signature with regard to the appointment of Trustees, is pending, the subject matter has become infructuous. The petitioner is hereby given liberty to challenge the appointment order on any one of the grounds given therein, before the appropriate forum.

11. With these observations, the Writ Petition stands dismissed. No costs.

12.04.2023

Index : Yes/No
Speaking order / Non-speaking order
Neutral Citation: Yes/No.
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RMT.TEEKAA RAMAN,J

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Pre-delivery order in
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12.04.2023