



WEB COPY



Writ Petition No.19032 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.08.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition No.19032 of 2023
and W.M.P.No.18269 of 2023

Apsar Peeran Shuttari Sahebulla

... Petitioner

Vs

The Tamil Nadu Wakf Board,
Rep by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 1.

... Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the respondent vide proceedings dated 03.06.2022 in Se.Mu.Order 5781/95/B2/Salem, in so far as restricting the tenure for a period of three years and quash the same.

For Petitioner : Mr.N.A.Nassir Hussain

For Respondent : Mr.G.Mohammed Aseef
Standing counsel



Writ Petition No.19032 of 2023

ORDER

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The writ petition is filed challenging the order passed by the respondent appointing the petitioner as a Hereditary Mutawalli of Jagir Ammapalayam and Chetti Chavadi Waqf restricting his tenure as three years.

2. The petitioner is aggrieved by the impugned order restricting the term of hereditary Mutawalli for three years.

3. The learned counsel appearing for the petitioner submits that once the respondent has come to the conclusion that the petitioner is entitled to be appointed as a hereditary Mutawalli, as per proforma, the respondent/Board is not justified in restricting the term of the hereditary Mutawalli for three years. In this regard, the learned counsel relied on the judgment of this Court in ***Subhan Vs. Executive Officer Waqf Board in W.P.No.18162 of 2000.***



4. The learned counsel appearing for the respondent/Board submits that the term of the petitioner was restricted to three years only to enable the respondent/Board to review the performance of the petitioner. The learned counsel further submitted that in case of any mismanagement by the petitioner, the respondent will be in a position to have a re-look after three years. Therefore, respondent is justified in restricting the term.

5. The contention made by the learned counsel appearing for the respondent is not acceptable to this Court. Once the respondent is convinced that the petitioner is the hereditary Mutawalli entitled to be appointed he should have been appointed for his life. The condition in the impugned order restricting the term of the hereditary Mutawalli to a period of three years has no sanction in law.

6. As far as the contention raised by the learned counsel for the respondent is concerned, in case the respondent/Board receives any complaint against the style of management by the petitioner, it is always open to the respondent/Board to take action against him in accordance with law. In fact, under Section 64 of Waqf Act, the respondent/Board is entitled



Writ Petition No.19032 of 2023

to remove the Mutawalli under various circumstances enumerated therein.

In these circumstances, the restriction imposed in the impugned order restricting the term of office to three years need to be set aside.

7. Accordingly, the condition imposed by the impugned order restricting the term of the petitioner to three years from 31.05.2022 alone is set aside. The petitioner is entitled to hold office of Mutawalli for his life., however, subject to right of the respondent to remove him under Section 64 of Waqf Act on specific grounds enumerated thereunder.

8. With this clarification, this writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

23.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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