



WEB COPY



W.P.No.21968 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.21968 of 2023

and

W.M.P.Nos.21334 and 21335 of 2023

T.Nawaz

... Petitioner

VS.

1.The Tamil Nadu Waqf Board
Rep by its Chairman,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

3.The West Chinthamani Mosque Waqf,
Rep by its Executive Officer,
No.20/84, Quaide Millath Street,
Palakkarai, Trichy-8.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of



W.P.No.21968 of 2023

India, to issue a Writ of Certiorarified Mandamus, calling for records of the 1st respondent herein in Item No.136/23 vide Na.Ka.No.2949/05/AA5/Trichy dated 14.06.2023 with respect to Melachinthamani Pallivasal Waqf and quash the same as illegal, unsustainable and without jurisdiction and consequently, direct the 1st respondent to call for the property selection of Muthawalli among the hereditary of Rusthum Bi.

For Petitioner : Mr.M.M.I.Khaleel

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

ORDER

The writ petition is filed challenging the order passed by the 1st respondent dated 14.06.2023 appointing an Advisory Committee to Melachinthamani Pallivasal Waqf, Tiruchirappalli.

2. The learned counsel for the petitioner by taking this Court to the order passed in C.R.P.(MD).No.748 of 2008 submitted that only the descendants of Rustum Bi can be appointed as Muthawalli to the above said Wakf. The learned counsel also by taking this Court to Proforma maintained by the Wakf Board, submitted that the succession to the post of Muthawalli



W.P.No.21968 of 2023

is Hereditary one as per the Proforma maintained by the Wakf Board.

WEB COPY

3. It is not in dispute that the respondents/Waqf Board had taken over the management of the Waqf in the year 2022. Thereafter, in order to assist the Officer appointed to discharge the functions of the Muthawalli an Advisory Committee has been constituted by the Wakf Board.

4. The main grievance of the petitioner is that while constituting Advisory Board, the respondents failed to give representation to the descendants of the original Wakif Rustum Bi.

5. Admittedly, the management of the Wakf has been taken over by the Wakf Board. The Advisory Committee appointed by impugned order cannot be equated with Muthawalli.

6. In such circumstances, the contention raised by the petitioner that all the Members of the Advisory Board shall be from the descendants of the Wakf cannot be accepted. However, in the impugned order it is mentioned by the 1st respondent that in order to assist the Executive Officer, who is in-



W.P.No.21968 of 2023

charge of the Wakf, the Advisory Committee is constituted. Therefore, the

Advisory Committee is also having a role in the administration of the Wakf.

In such circumstances, it would be appropriate to involve the descendants of the founder of Wakf also in the Advisory Board.

7. The learned Standing Counsel appearing for the Wakf Board, on instructions, submits that 5th Member in the Advisory Board namely Janap A.Aasif is one of the descendants of the founder family and the said fact is disputed by the learned counsel for the petitioner. The Standing Counsel appearing for the Wakf Board also submits that the 1st respondent is ready to induct two more persons from the descendants of the founder family. The said statement is recorded.

8. In view of the statement made by the learned Standing Counsel for the 1st respondent, this Court is inclined to issue a direction to the 1st respondent to call for application from descendants of the founder family for appointing two more persons as Members to the Advisory Committee. The said exercise shall be finished within a period of six weeks from the date of receipt of copy of this order. The 1st respondent is expected to select the two



W.P.No.21968 of 2023

Members from the descendants of the founder family by taking into consideration their eligibility and suitability.

9. The learned counsel for the petitioner submitted that the 1st respondent is not entitled to manage the affairs of Wakf perpetually without handing over the same to the Hereditary Muthawalli. The subject matter of the writ petition is only relating to the constitution of the Advisory Committee. Therefore, a positive direction as prayed for cannot be granted. However, it is settled law the direct management of Wakf cannot be taken over by the Wakf Board for a perpetual period. It should be only for a limited period, not exceeding five years.

10. With these observations, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

01.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



WEB COPY

To

1. The Chairman,
Tamil Nadu Waqf Board
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
2. The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
3. The Executive Officer,
West Chinthamani Mosque Waqf,
No.20/84, Quaide Millath Street,
Palakkarai, Trichy-8.



W.P.No.21968 of 2023

S.SOUNTHAR, J.

dm

W.P.No.21968 of 2023

01.08.2023