



W.P.No.27013 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.27013 of 2023

Sabeer

...Petitioner

Vs.

1. The Chairman,
Tamil nadu Wakf Board,
No.1, Jaffer Shreong Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Shreong Street,
Vallal Seethakathi Nagar,
Chennai 600 001.
3. The Superintendent of Wakf,
Vellore Division,
Vellore.
4. The Inspector of Wakf,
Vellore Division,
Vellore.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the third respondent herein to conduct the election pursuant to the election notice vide Na.Ka.Ji.S.No.359/T.A/W./V/2022 dated 15.12.2022 within a stipulated period of time prescribed by this Court.

For Petitioner : Mr.R.Sunil Kumar

For Respondents : Mr.R.Abdul Mubeen
Standing Counsel

ORDER

The petitioner herein seeks a direction to the third respondent to conduct election pursuant to the election notification vide Na.Ka.Ji.S.No 359/T.A/W./V/2022 dated 15.12.2022 within a stipulated period.

2. The issue involved in this Writ Petition is squarely covered by the decision of this Court in the case of ***KVMA Mohammed Salahudin Vs. The Chairman Wakf Board and 7 others in W.P.No.18959 of 2022, dated 19.10.2022***, wherein it has been held that the Wakf Board has no role to play for conducting election to Wakf. The relevant portion in the above said case reads as follows:



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“48. The General Body is supreme, the Wakf Board is merely required to exercise the power under the Act and has power of superintendence only. Thereafter, it was for the Wakf Board to merely recognise the elected body. It is not open for the Wakf Board to meddle with the internal affairs of the Wakf as they are to be sorted by the Wakf itself.

“49. The only exercise which the Wakf Board can take as to recognize the elected body in the general body meeting to see whether they enjoy the confidence of law in the Jamadar. In case, the Wakf Board comes to a conclusion that in the interest of the majority of the General Body is not going to be served they may refuse to recognize such elected body in which case the elected member aggrieved by such decision of Wakf Board can work out their remedy before the Tribunal under Section 83 of the Wakf Act, 1995.

50. In my view, elections to the Managing Body of a Wakf is an internal affair.

51. If any elections held are not proper, the aggrieved party has to approach Wakf Tribunal under Section 83 of the Wakf Act, 1995.

52. In case, a person is aggrieved by election conducted, doors of the Wakf Tribunal is always open to challenge the same. Only remedy for an aggrieved party by an election held



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is to invoke the jurisdiction of the Court under Section 83 of the Waqf Act, 1995”.

3. The same view was taken by another learned Judge of this Court in ***Mohammed Yusuf Vs. The Tamil Nadu Wakf Board represented by its Chief Executive Officer and other in W.P.(MD).Nos.13695 of 2020, 11081, 24058 of 2018, 23455, 14084, 22535, 25021 of 2022 dated 19.04.2023.*** The relevant portion in the above said case reads as follows:

"20. In the light of the discussion, there is no doubt in my mind that neither the Wakf Board nor the CEO is conferred with the authority/power to conduct election or to change the mode of election as set-out in the Wakf Deed/Proforma or Custom followed in appointing the Mutawalli nor is it open to the Board/ CEO to direct Superintendent to conduct elections nor can the appointment of Mutawalli be declared bad only on the premise that the same was not made in the presence of the officials of the Board. This would not preclude the Respondent Board from initiating action under Sections 65, 69 of the Act or any other provisions of the Wakf Act, if circumstances so exist warranting exercise of such power.



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21. In view of the conclusion that the Board/ CEO does not have the power / authority to conduct elections and that the mode of appointment ought to be conformity with the Proforma of the Wakf Deed and the intentions of the Wakif or in accord with the Custom /Usage the following orders/directions are made:

a. The impugned notification in W.P.(MD) No. 24058 of 2018 dated 16.11.2018 in Na.Ka.No.G.S.26/Va.Ka./P.A/Thi.Veli/2018 calling for elections is set-aside. The present administrative committee/Mutawalli shall take steps for appointment of the Administrative committee/Mutawalli in accordance with the Proforma /Wakf Deed i.e., by Selection within a period of 12 weeks from the date of receipt of a copy of this Order.

b. In W.P.(MD). No. 11081 of 2018, the impugned notification dated 08.02.2018 in Proc.No.1837/14B3/VNR calling for elections is set-aside."



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4. Since the issue involved in this Writ Petition is squarely covered by the decision of this Court in the above said cases, this Court is not inclined to entertain the prayer sought for. The election to the wakf is its internal affairs and the same has to be conducted as per the proforma. Therefore, the direction sought for in this Writ Petition cannot be granted.

5. Accordingly, this Writ Petition is dismissed. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
dna



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S.SOUNTHAR, J.
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