



W.P.(MD) No.3071 of 2023.

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2023

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.3071 of 2023

J.Mohamed Ismail

... Petitioner

/vs./

- 1.The Tamil Nadu Waqf Board,
represented by its Chairman,
No.1, Jaffer Syrang Street,
Vallalseethakathi Nagar,
Chennai.
- 2.The Chief Executive Officer,
The Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallalseethakathi Nagar,
Chennai.
- 3.The Superintendent of Waqf,
Tirunelveli Division,
Tamil Nadu Waqf Board,
Khadar Owlia Pallivasal Complex,
Tirunelveli.
- 4.The Majilisul Bhuhari Sheriff Waqf,
represented by the Inspector of Waqf,



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Kayalpattinam,
Tuticorin District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to take over direct management of the Majilisul Bhuhari Sheriff Waqf, Kayalpattinam under Sec 65 of the Waqf Act 1995 by considering the petitioner's representation dated 10.01.2023 within a time stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Athiff

For R1 to R3 : Mr.S.A.Ajmalkhan

For R4 : Mr.M.Ajmalkhan
Senior Counsel

ORDER

The writ petition has been filed for issue of a Writ of Mandamus to the first respondent to take over the direct management of “Majilisul Bhuhari Sheriff Waqf, Kayalpattinam” under Section 65 of the Waqf Act, 1995, by considering the petitioner's representation dated 10.01.2023.

2.The petitioner claiming to be a resident of Kayalpattinam, Thoothukudi District and a Member of the fourth respondent Waqf has approached this Court



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for issue of a Mandamus directing the first respondent to take over the direct management of the fourth respondent Waqf under Section 65 of the Waqf Act, 1995 by considering the petitioner's representation dated 10.01.2023 within the time to be stipulated by this Court.

3.The dispute centers around the fact that the Office Bearers have not been elected as per the procedure. It is the case of the petitioner that certain individuals, who have been squatting over the administration, were issued with a notification that in view of the expiry of the tenure of the previous Committee, a new Committee would be selected on 19.12.2022 and the notification gave the members just two days. However, it is the contention of the petitioner that the selection has been made without obtaining prior permission of the Board or on intimation to the third respondent. Since the said selection was not in accordance with the Rules, the Superintendent of Waqf, namely, the third respondent by his proceedings dated 05.01.2023, had recorded that the selection was farce and the same cannot be recognized. He had also suggested that interim body could be appointed to take over the management till the Office Bearers are elected.



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4.The learned counsel for the petitioner would submit that despite their not being recognized, these persons, who claim to be elected, are collecting contributions from the devotees privately and not accounting the same into the Waqf. Therefore, a representation has been made to take over the management.

5.Today, when the matter had come up, two orders were produced for the scrutiny of this Court. One was the order dated 06.03.2023 issued by the first respondent, wherein the Chief Executive Officer has informed the parties that based on the report of the third respondent, the Board would recommend for holding the election at the earliest.

6.The learned Senior Counsel representing the learned counsel for the fourth respondent would contend that the petitioner has deliberately shown the Inspector of Waqf as the person representing the Waqf, when there are Office Bearers, who have been selected. He would submit that a petition has been filed in W.M.P.(MD) No.5097 of 2023 for substituting these persons in the place of Inspector of Waqf. He would submit that the orders that have been now produced



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are passed without hearing these elected persons and therefore, they must be given an opportunity of being heard.

7.However, the learned counsel appearing for the respondent Waqf would submit that the election itself has been questioned, since the procedure had not been followed and the third respondent has also recommended that this selection should not be approved by the Board, before whom the approval was pending. In fact, the learned counsel had produced a notice dated 20.02.2023 issued by the first respondent to these persons, who claim to have been elected as Office Bearers stating that he intended to hold an enquiry on 28.02.2023 for constituting an Adhoc committee and this meeting had been attended by all of them. Therefore, it is crystal clear that these members are also aware that their election as Office Bearers is yet to be approved and that there was proposal to appoint the Adhoc Committee.

8.In these circumstances, this Court feels that in the interest of the Waqf, the election has to be held forthwith as recommended by the first respondent in their proceedings dated 06.03.2023 bearing Na.Ka.No.1158/23/Aa1/Tiveli.



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Therefore, the Writ Petition is disposed of directing the first respondent to conduct the election of the Office Bearers to the fourth respondent Waqf as per the following schedule.

i) The voters list shall be published in the notice board of the Waqf on or before 27.03.2023.

ii) The objection to the voters list shall be made on or before 03.04.2023.

iii) Nomination shall be invited by 10.04.2023.

iv) The scrutiny of nomination shall be concluded on 12.04.2023 and the final list of candidates will be published on the same day itself.

v) The election will be held on 28.04.2023. Till such time as the new Office Bearers are elected, the third respondent shall take charge of the fourth respondent Waqf.



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vi) It is made clear that the Superintendent is clothed with the power only to run the day-to-day management of the Waqf and he shall not permitted to take any major decision with regard to the said Waqf.

However, there shall be no order as to costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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