



WP (MD) Nos.4534 of 2020
and 527 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)Nos.4534 of 2020
and 527 of 2022 and
WMP(MD)Nos.3866 of 2020 and 406 of 2022**

WP(MD)No.4534 of 2020

I.Mujeef Rahman

... Petitioner

Vs

- 1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 2.The Superintendent of Wakf,
No.51, Kadar Avuliya Pallivasal Shopping Complex,
Kulavanigarapuram,
Near Railway Gate,
Palayamkottai,
Tirunelveli.
- 3.The Executive Officer /
Wakf Inspector,
Islamic Cultural Association,
No.31, College Road,
Tower Junction,
Nagercoil.



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4.Mohamed Abdul Razith

... Respondents

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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 1st respondent to approve the new bye law of Islamic Cultural Association, a registered Wakf vide No.2/Ka.Kumari within a stipulated time and conduct election to the same thereafter on the basis of the new by-law.

For petitioner : Mr.A.Raja Mohamed

For Respondent : Mr.S.A.S.Alaudeen
Nos.1 to 3

For Respondent : Mr.Mehaboob Athiff
No.4

WP(MD)No.527 of 2022

I.Mujeef Rahman

... Petitioner

Vs

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

2.The Superintendent of Wakf,
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3.The Executive Officer /
Wakf Inspector,
Islamic Cultural Association,
No.31, College Road,
Tower Junction,
Nagercoil.

4.Mohamed Abdul Razith

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned order passed by the 1st respondent office vide Na.Ka.No. 1495/15/A1/Thi.Veli, dated 09.12.2021 and quash the same as illegal and consequently direct the 1st respondent to approve the new by-law submitted on 29.04.2016 for the Islamic Cultural Association a registered Wakf vide S.No.2/K.4 within a stipulated time that may be fixed by this Court.

For petitioner : Mr.A.Raja Mohamed
For Respondent : Mr.K.K.Senthil
Nos.1 to 3
For Respondent : Mr.Mehaboob Athiff
No.4

ORDER

The petitioner is a member of a Muslim Cultural Association and he has filed the writ petition in WP(MD)No.4534 of 2020 for a writ of mandamus directing the 1st respondent Wakf Board to approve the new by-law of the Islamic



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Cultural Association within a stipulated period. He has filed the other writ petition in WP(MD)No.527 of 2022 as against the order passed by the 1st respondent for conducting election as per the old by-law.

2.The learned Counsel for the petitioner submits that the old by-law for the Association was not adequate to conduct the election and therefore a proposal was made for framing of new by-law, an Executive Officer was also appointed by the Wakf Board and the Executive Officer has placed the proposal before the Wakf Board for its approval. The Wakf Board has not taken any decision on the said proposal made by the Executive Officer and therefore, the writ petition in WP(MD)No.4534 of 2020 was filed for a writ of mandamus directing the Wakf Board to take a decision on the proposal made by the Executive Officer. However, the Wakf Board by way of a notification dated 09.12.2021 had proceeded with the election for the society based on the old by-law and therefore, challenging the same, WP(MD)No.527 of 2022 has been filed.

3.The main contention of the learned Counsel for the petitioner is that the old by-law is not having adequate provisions for proper conduct of election and



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therefore, the Executive Officer appointed by the Board has realised the same and drafted new by-law. However without approving the same, the Board is proceeding with the election based on the old by-law.

4.The learned Counsel for the 1st respondent Wakf Board submits that the proposal made by the Executive Officer to the Wakf Board for the draft new by-law has been rejected by the Board and thereafter a decision was taken to proceed with the election based on the old by-law. The election has not been conducted in view of the interim order granted by this Court. The Board unanimously has taken a decision that the new by-law is not required since the existing by-law itself is sufficient to conduct election for the society.

5.The learned Counsel for the 4th respondent submits that the relief sought for in WP(MD)No.4534 of 2020 has become infructuous in view of the subsequent decision taken by the Board in the year 2021 to conduct the election with the old by-law. He further submits that WP(MD)No.527 of 2022 is filed challenging the consequential order, without challenging the original order of the Board rejecting the draft new by-law and to conduct election with the old by-law.



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The petitioner is having an appeal remedy before the Wakf Tribunal under Section 69(3) of the Wakf Act as against the orders of the Wakf Board rejecting the draft new by-law.

6.This Court considered the rival submissions and perused the materials placed on record.

7.The petitioner with a grievance that the proposed new by-law has not been approved by the Wakf Board, has filed the first writ petition in the year and also filed another writ petition for conducting election as per the new by-law.

8.The draft new by-law submitted by the Executive Officer of the Wakf Board has already been rejected by resolution number No.27.10.2021. The petitioner claims that he is unaware of the same. A copy of the order passed by Board is furnished to the learned Counsel for the petitioner and to the Court by the learned Counsel appearing for the Wakf Board.



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9.Since the decision has already been taken by the Board on 27.10.2021 to proceed with the election based on the old by-law, as the new by law is not required, the petitioner has to challenge this order dated 27.10.201 before the Wakf Tribunal under Section 69(3) of the Wakf Board.

10.Though limitation has been prescribed under the Act, this copy of the order passed on 27.10.2021 has been produced before this Court and to the learned Counsel for the petitioner only today and therefore, the period of limitation shall be calculated from today, enabling the petitioner to file an appeal before the Wakf Tribunal and the petitioner is at liberty to work out his remedy before the Wakf Tribunal.

11.These writ petitions are disposed in the above terms. No costs. Consequently connected miscellaneous petitions are closed.

09.10.2023

Internet: Yes / No
Index : Yes / No
NCC : Yes / No
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B.PUGALENDHI, J.

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