



W.P.(MD) Nos.4988 and 4989 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2023

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) Nos.4988 and 4989 of 2023

and

W.M.P.(MD) Nos.4652, 4653, 4672 and 4674 of 2023

W.P.(MD) No.4988 of 2023:-

1.Showkath Ali

2.A.M.Jamaludeen

... Petitioners

/vs./

- 1.The Chairman,
Tamil nadu Wakf Board,
No.1, Jafar Sirang Road,
Vallal Seethakathi Nagar,
Custom House Back Side,
Chennai 600 001.
- 2.The Chief Executive Officer,
Tamil nadu Wakf Board,
No.1, Jafar Sirang Road,
Vallal Seethakathi Nagar,
Custom House Back Side,
Chennai 600 001.



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3.The Superintendent of Wakf,
Tamil nadu Wakf Board,
Trichy Region,
No.8/124, 2nd Floor,
Qaide Millath Road,
Palakkarai,
Trichy -8.

4.A.Allahbaksh @ Mohammed Ghouse

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the 2nd respondent in Na.Ka.No.15274/22/Aa5/Trichy, dated 08.02.2023 and quash the same.

For Petitioners : M/s.J.Anandhavalli

For R1 to R3 : Mr.D.Haroon Rasheed
Standing Counsel

W.P.(MD) No.4989 of 2023:-

Jamal Mohammed

... Petitioner

/vs./

1.The Chairman,
Tamil nadu Wakf Board,
No.1, Jafar Sirang Road,
Vallal Seethakathi Nagar,
Custom House Back Side, Chennai 600 001.



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2.The Chief Executive Officer,
Tamil nadu Wakf Board,
No.1, Jafar Sirang Road,
Vallal Seethakathi Nagar,
Custom House Back Side,
Chennai 600 001.

3.The Superintendent of Wakf,
Tamil nadu Wakf Board,
Trichy Region,
No.8/124, 2nd Floor,
Qaide Millath Road,
Palakkarai,
Trichy -8.

4.A.Allahbaksh @ Mohammed Ghouse

5.Janab. Rahamudeen

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the 2nd respondent in Na.Ka.No.15274/22/Aa5/Trichy, dated 08.02.2023 and quash the same.

For Petitioners : M/s.J.Anandhavalli

For R1 to R3 : Mr.D.Haroon Rasheed
Standing Counsel



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COMMON ORDER

The petitioners in these two writ petitions seek to challenge the notice issued by the second respondent in Na.Ka.No.15274/22/Aa5/Trichy dated 08.02.2023 and to quash the same.

2.The facts briefly narrated, which is common in both the writ petitions, are herein below set out.

3.The petitioners are the Muthavallis of Chan Masthan Dargah and Kabarsthan Wakf. The Wakf had been created under a settlement deed dated 23.09.1985 and the properties had also been given to the Wakf. There are 11 settlees in number and the settlement deed contained the terms for the administration of the Wakf, which clearly stipulated that only the family members were to be in the seat of administration. From the date of its inception, the Wakf has been administered as per the desire of the Wakf.

4.While so, in the year 1998, the first respondent had selected 11 persons for the administration of the Wakf. Since these persons all belong to the family,



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there was no necessity to challenge the interference of the first respondent in the process of selecting the persons to constitute the Administrative Committee. The persons so selected were to hold office for a period of 3 years from 27.01.2003 to 26.01.2006. One M.Z.Mohammed Jalaudeen was appointed as President of the Committee.

5.The petitioners would submit that when they have been so appointed by the order of the 1st respondent, the 4th respondent appears to have approached the respondents 1 and 2 to appoint an Adhoc Committee for the administration of the Wakf for a period of 1 year and he had put forward the names of 7 persons for appointment as Muthavallies. He had thereafter approached the Principal Seat of this Court in W.P.No.35240 of 2022 for issuance of a Mandamus. By order dated 05.01.2023, the writ petition was disposed of directing the respondents 1 and 2 to take action on the 4th respondent's representation within a period of 12 weeks. Based on the orders of this Court, the 2nd respondent has issued a notice for enquiry calling upon the petitioners to appear and submit their objections. It is only then that the petitioners have come to know about the writ petitions, since the trustees had not been made parties to the proceedings.



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6.Further, it is the contention of the petitioners that the fourth respondent is literally a passer-by. He is not a member of the petitioners' Wakf and simply on a statement that there is mismanagement and inaction, proceedings have been initiated. The petitioners are aggrieved by the fact that a stranger has sought to interfere in the administration of the Wakf in a rather clandestine manner. Therefore, the above writ petitions have been filed challenging the enquiry notice.

7.Heard the learned counsels appearing on either side.

8.At the out set, this Court is conscious of the fact that the enquiry notice has been prompted only on account of earlier orders of this Court in W.P.No. 35240 of 2022 dated 05.01.2023. However, a perusal of this order clearly shows that the petitioners have cleverly and clandestinely moved the Principal Seat when the Wakf in question is situate at Trichy, which falls within the jurisdiction of the Madurai Bench of Madras High Court. In order to obtain orders, the petitioners have moved the Principal Seat only by impleading the respondents 1 and 2, who have their office at Chennai within the jurisdiction of the Madras High



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WEB COPY Court. Further, if the petitioners or other trustees have been brought on record, the true facts would have been placed before this Court and this Court would not have passed the orders in question. This Court may not have ordered the writ petition without hearing the other interested parties. Therefore, I am proceeding to consider these writ petitions now pending before me.

9.The only argument that has been put forward by the learned counsel appearing for the fourth respondent is that the fourth respondent has a Wakf, which is situate near the Chan Masthan Dargah and Kabarsthan Wakf and therefore, he is interested in the Wakf in question. He is neither a member of this Wakf nor a part of the Administrative Committee. He, as rightly pointed out by the petitioners, is merely a passer-by. If such representations are entertained and the respondents 1 and 2 are respond to these representations, then any person could challenge the working of any Wakf. The Wakf in question has been created by a settlement and the terms of the settlement have also set out the manner in which it has to be administered. In case of any maladministration or mismanagement, it is for the members of the Wakf to approach the authorities concerned and not a stranger to the said Wakf. Therefore, the notice issued by the



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second respondent pursuant to a representation of the stranger has to necessarily be quashed and is accordingly quashed.

10.In the result, these Writ Petitions are allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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

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P.T.ASHA, J.

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