



W.P.(MD).No.5053 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.5053 of 2023

and

W.M.P.(MD).Nos.4733 and 4734 of 2023

Syed Ali

... Petitioner

Vs.

1. Tamil Nadu Waqf Board,
Represented by its Chairman,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
2. The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
3. The Superintendent of Waqf / Election Officer,
Virudhunagar District,
Office at the Superintendent of Waqf Board,
Ramanathapuram.
4. The Inspector of Waqf,
Virudhunagar District,
Office at the Superintendent of Waqf Board,
Ramanathapuram.



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5.M/s.Sivakasi Shabashkhan Gori Mosque
And South Mosque,
Represented by its Secretary,
Sivakasi,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in Na.Ka.G.S.198 and 200/Rama/Dhe.A/Vaka/Rama/2023 dated 17.02.2023 and quash the same and consequently direct the 1 to 4 respondents to revise the list of voters and add the eligible voters in the 5th respondent Waqf after conducting proper enquiry.

For Petitioner : Mr.K.Navaneetharaja

For R-1 to R-4 : Mr.K.K.Senthil,
Standing Counsel.

For R-5 : Mr.P.Athimoola Pandian

ORDER

This Writ Petition is filed challenging the impugned order dated 17.02.2023 passed by the third respondent and consequently direct the 1 to 4 respondents to revise the list of voters and add the eligible voters in the 5th respondent Waqf after conducting proper enquiry.



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2. The impugned order in this Writ Petition is the Election Notice No.3, wherein the election authority i.e. the Waqf Board has added 17 members in the voters list. However, it has rejected the claim of 183 members. The petitioner is one among 183 members and his name is rejected, hence he is before this Court.

3. The contention of the petitioner is that he is a resident of Sivakasi and he is residing there for the past 60 years and he has his own house and hence he claims that he is entitled to be a member of the said Mosque. But the respondents stiffly rejected the claim of the petitioner by citing that the said Waqf belongs to hereditary and if any new members ought to be added, it should be according to the by-laws. The petitioner is granted the right of worship and right to enter the Mosque and also conduct marriage or any other functions in accordance to the customs. However, he is not granted membership. The learned counsel appearing for the respondents relied on the judgment rendered by this Court in the case of *the Adhoc Committee Vs K.S.Mohamed Nazar* reported in 2009 (4) CTC 129 and the relevant portion is extracted hereunder:

“20. Therefore, no person can be denied admission into a Mosque, for the purpose of offering prayers. In other words, the right of admission to a Mosque, cannot be restricted, if the purpose of entry is for offering worship.



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But the right of entry and right to worship in a Mosque, are not synonymous with the right to become a member of the Jamaath. The right to become a member of the Jamaath and the right to elect or get elected to the Executive Committee of the Jamaath, are not automatic and these rights cannot be equated to the right to offer worship in a Mosque”.

4. Therefore, following the said judgment, this Court is of the considered opinion that the right to become member of the mosque is not automatic. The petitioner's right to become member has to be scrutinized based on the by-law and evidence. Hence, this Writ Petition cannot be entertained. If at all the petitioner is aggrieved, he has an alternative remedy to file an appeal before the Board or to file a petition before the Tribunal. Therefore, petitioner is at liberty to file appropriate petition and raise all grounds that is available to him.

5. With the above observations, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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To

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Vallal Seethakathi Nagar,
Chennai – 600 001.
- 2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 3.The Superintendent of Waqf / Election Officer,
Virudhunagar District,
Office at the Superintendent of Waqf Board,
Ramanathapuram.
- 4.The Inspector of Waqf,
Virudhunagar District,
Office at the Superintendent of Waqf Board,
Ramanathapuram.



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S.SRIMATHY, J.

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