



W.P.(MD) No.6226 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.6226 of 2023

and

W.M.P.(MD) Nos.5921 and 5922 of 2023

Gani

.. Petitioner

Vs.

- 1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Jaffar Sarang Street,
Valal Seethakathi Nagar,
Chennai-600 001.
- 2.The Wakf Superintendent,
O/o. Waqf Superintendent,
Tiruchirappalli Division,
8/124, 2nd Floor, Kaithai Millath Road,
Palakarai, Tiruchirapalli.
- 3.The Wakf Inspector,
O/o. Waqf Superintendent,
8/124, 2nd Floor, Kaithai Millath Road,
Palakarai, Tiruchirapalli.
- 4.The Special Committee,
Ramalan 2023,
Jumma Pallivasal & Sevalur Pallivasal,



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Manaparai,
Trichy District.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order in proceedings RC No.120/46/09/A5/Trichy dated 14.03.2023 on the file of the Wakf Board, the first respondent herein and quash the same and consequently direct the respondents 1 to 3 to conduct the Ramzan Nombu Kanji at Jumma Pallivasal and Sevalur Pallivasal by the members of the Jamath as conducted in the earlier years.

For Petitioner : Mr.A.V.Arun

For RR1 to 3 : Mr.Mohideen Basha
Standing Counsel

ORDER

Challenging the appointment of a Committee for the distribution of the porridge (Nombu Kanji) during the Ramadan Fast at the Jumma Mosque and the Sevalur Pallivasal, the petitioner is before this Court for the issue of a writ of certiorarified mandamus, calling for the records relating to the proceedings in RC No.120/46/09/A5/Trichy, dated 14.03.2023 of the first respondent-Board, quash the same and direct



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respondents 1 to 3 to take over the distribution by the members of the Jamath in the above two Mosques.

2. The writ petition has been filed with the following facts:

The petitioner would state that he is a resident within the jurisdiction of Jumma Mosque and Sevalur Mosque of Manaparai, Trichirappalli District having right to participate in the election. It is his case that these two Mosques are situate near each other and come within the supervisory control of the first respondent. The two Mosques come under the same Management Committee. In the elections conducted in the year 2006, 15 members were elected and they were to hold office for a period of three years which ended in the year 2009. However, after the period, these members continued in management of both the Sevalur as well as the Jumma Mosque till the year 2020. No elections have been held and these persons continued to remain in the helm of affairs. The public have been making several requests to the first and second respondents to hold the election for the Management Committee. After repeated requests, the second respondent had issued a notification dated



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19.07.2021, notifying the election for the new members. At this juncture, one Janab Doulat Hussain Khan, claiming to be the Hereditary Muthavalli, challenged the notification and obtained an order of stay on 24.11.2021 and thereafter, the writ petition was dismissed and he was appointed as Muthavalli and the appeal preferred in W.A.(MD) No.947 of 2022 is still pending.

3. The petitioner would further submit that during the month of Ramzan, fasting and prayers are conducted in both the Mosques by the Imams, who would come from different places everyday for the special prayers and they would hold the prayers along with the permanent Imams of the local Mosques. Further, everyday, the fast is broken with the consumption of the porridge. Since, there was no Managing Committee for arranging these special prayers and serving porridge, the members of the Jamath had collected money, materials, etc., for preparing the porridge and for serving it during the day. Amounts were also collected for paying the Imams. Further, the amount collected and the expenditure made was submitted to the second respondent. This was the arrangement



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in the year 2022 and the second respondent had also acknowledged the receipt of the accounts on 03.06.2022. Even for this year's Ramzan, the general public have collected money for spending on the purchase of raw food material and paying the Imams etc. It is in this background, the impugned order came to be passed by the first respondent, wherein once again the first respondent has sought to nominate the very same persons who have continued in management much after the term had come to end. It is this order, that is sought to be challenged. In the impugned order, the first respondent has nominated the two Mosques viz., Jumma Mosque as well as Sevalur Pallivasal and issued a common order appointing the very same persons for the two Mosques.

4. When the matter had come up for admission, this Court had suggested that the first and second respondents would consider reconstituting the Committee and the matter was directed to be listed today. Today, the Court's attention was drawn to an order made by this Court in C.R.P.(PD) (MD) No.443 of 2011, wherein, this Court has recognised Doulat Hussain Khan to be the Muthavalli of not only the



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Jumma, but also its Kabrasthan. In fact, the Board recognised his Muthavalliship only to the Dargah. This Court vide its order dated 12.11.2019, allowed the revision and had stated that the said Doulat Hussain Khan was the Muthavalli for the Mosque as well as the Kabrasthan and in case, the Board felt that he was acting against the interest of the Waqf, then they have to remove him by following due process of law.

5. It is admitted that the said Doulat Hussain Khan has not been removed from the post of Hereditary Muthavalli of the Jumma Masjid. Therefore, when the Hereditary Muthavalli is available, there is no necessity to constitute a Committee for the distribution of the Nombu Kanji. Therefore, the distribution of the Nombu Kanji at the Jumma Mosque would be done by the said Doulat Hussain Khan. As regards the Sevalur Pallivasal, on the earlier occasion, the same had been done by the Imam of the Jamath and this practice can once again be adopted for this year also.



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6. In the result, this Writ Petition is allowed, the impugned order is set aside and the distribution of the Nombu Kanji at the Jumma Mosque would be done by Doulat Hussain Khan. As regards the Sevalur Pallivasal, the same shall be done by the Imam of the Jamath. No costs. Consequently, connected miscellaneous petitions are closed.

23.03.2023

Note: Upload the order on 27.03.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

- 1.The Chief Executive Officer,
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Valal Seethakathi Nagar,
Chennai-600 001.
- 2.The Wakf Superintendent,
O/o. Waqf Superintendent,
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P.T.ASHA, J.

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3.The Wakf Inspector,
O/o. Waqf Superintendent,
8/124, 2nd Floor, Kaithai Millath Road,
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