



W.P.(MD) No.10339 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.10339 of 2023

and

W.M.P.(MD) No.9179 of 2023

G.Syed Kutharathulla,
President,
Kazimar Peirya Pallivasal Haqdargal Jamath,
No.6A/3, Kazimar Street Main Road,
Madurai-625 001.

.. Petitioner

Vs.

1.The Chairman,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.

2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 1st respondent to change the venue of enquiry scheduled to be taken place on 28.04.2023



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at 12.00 noon in the office of Tamil Nadu Waqf Board at D.No.1, Jaffar Syrang Street, Vallal Seethakathi Nagar, Chennai to any other place chosen by him at Madurai and on any date subsequent to the said date as fixed by the 1st respondent in connection with the process of framing a scheme for the administration of Kazimar Periya Pallivasal, Madurai and its properties in the light of the order passed by this Court in W.P.(MD) No.5190 of 2023 dated 10.03.2023.

For Petitioner : Mr.R.Anand

For Respondents : Mr.Hajamohideen Gisti
for Mr.S.A.Ajmal Khan
Standing Counsel

ORDER

This writ petition has been filed invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for a Mandamus directing the first respondent to change the venue of enquiry, which is scheduled to be held on 28.04.2023 at the office of the first respondent at Chennai to any place at Madurai on a subsequent date to be fixed by the first respondent.

2. The brief fact as deduced from the documents to dispose of this writ petition is that this Court by its order dated 27.1.2023 in W.P.(MD)



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Nos.24409, 25763 and 25792 of 2022 passed the following order:

“33. For all the above reasons, I am inclined to set aside the impugned Scheme. It was submitted by the Counsel for the Respondent Board that liberty may be given to frame a fresh/new Scheme and time line may be stipulated by this Court. Recording the above, the respondents are directed to frame the Scheme in compliance with directions of this Court in C.R.P.No.491 of 2006, Cont.P.(MD) No.4 of 2009 and W.P.(MD) No. 2705 of 2016 and provision of Section 32(2)(d) and 69 of the Act within a period of 12 weeks from the date of receipt of a copy of this order.

34. Accordingly, the impugned Scheme framed by the Respondent Board dated 12.07.2022 is set-aside and these Writ Petitions are disposed of with the above directions.”

Pursuant to this order, a draft Scheme was published. This was challenged in W.P.(MD) No.5190 of 2023 stating that the notice issued by the first respondent was contrary to the orders passed in W.P.(MD) Nos.24409, 25736 and 25792 of 2022, since despite orders of this Court to frame a fresh Scheme, the notice calling for the parties for an enquiry had displayed the draft Scheme, which had been set aside in the earlier writ petitions. Therefore, this Court had allowed the writ petition by its



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order dated 10.03.2023 directing the respondent/Board not to display the draft Scheme and to invite suggestions from interested parties and members of the concerned Waqf to submit their suggestions for drafting the Scheme. This Court had directed that the suggestions should reach the Board Court on or before 03.04.2023 and thereafter, the Board should issue a notice for personal enquiry on 28.04.2023 and formulate a Scheme. In keeping with the order of this Court dated 10.03.2023, the Board has now called for a personal enquiry on 28.04.2023 vide their notice dated 17.04.2023 stating that the suggestions for drafting the Scheme would be heard at the office of the first respondent at Chennai.

3. The writ petitioner would submit that since most of the members are at Madurai, a mandamus may be issued to shift the venue. This Court had asked the learned counsel for the petitioner to state as to how a writ petition for mandamus is maintainable seeking such a direction.

4. The learned counsel for the petitioner would rely upon Section 17 of the Waqf Act, 1995 which says that the Board can meet for the



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transacting of business as such time as may be provided by the Regulations. He would submit that one of the businesses that the Board is required to do under Section 32(3)(d) of the Waqf Act is to settle Schemes of management for waqfs. Regulation No.6(1)(f) of the Tamil Nadu Waqf (General) Regulations, 2019 (hereinafter referred to as “the Regulations”) says that the Chair Person could fix date, time and venue for the next meeting. From a reading of Section 17 of the Waqf Act and Regulation No.6 of the Regulations, it appears that the Board can decide the time, date and venue for their meeting which is also stated in Regulation 3(2) of the Regulations.

5. Be that as it may, the learned Standing Counsel for the Board would submit that the petitioners and the other Haqdars already have a history of violence during the meetings held earlier and if the meeting is shifted to Madurai, then it would be a question of 'free for all' and no meeting could be transacted. He had also produced certain photographs which show persons indulging in violent activities whom the counsel stated were Haqdars and this statement was not seriously refuted by the



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others. Therefore, the shifting of the venue to Madurai may not be in the interest of the Waqf and there is every chance of the meeting being disturbed and no business being transacted. Therefore, this Writ Petition is dismissed. However, the learned counsel for the petitioner would submit that the Court could consider postponing the date of the meeting, since the time scheduled for the meeting is very short. This request was also agreed to by the learned Standing Counsel for the Board. Therefore, the meeting which is scheduled for 28.04.2023 stands adjourned to 15.05.2023. Since the learned counsel appearing for the petitioner submits that he is appearing for all the Haqdars, this Court takes it that the intimation about the meeting being postponed to 15.05.2023 would be communicated by the learned counsel for the petitioner to the Haqdars. No costs. Consequently, connected miscellaneous petition is closed.

27.04.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

- 1.The Chairman,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.
- 2.The Chief Executive Officer,
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P.T.ASHA, J.

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