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W.P.(MD)No.13187 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.13187 of 2023

and

W.M.P.(MD)Nos.11150 and 13586 of 2023

S.Jabarulla

... Petitioner

vs.

- 1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Chennai.
- 2.The Superintendent of Wakf,
Ramanathapuram Sub-Division,
Ramanathapuram.
- 3.M.S.Sheik Naina
- 4.A.Bakkir Ali
- 5.J.Ameer Ali
- 6.A.Abdul Vaheedhu
- 7.P.Mohamed Najib



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8.M.Navas Khan
9.H.Jainudeen

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the entire records pertaining to the impugned proceedings in செ.மு.ஆணை. 6486/11/ஆ3/இராம. நாள்: 31.05.2023, issued by the 1st respondent and to quash the same.

For Petitioner	: Mr.R.Anand
For R1 and 2	: Mr.N.Mohideen Basha
For R3 to 9	: M/s.H.Jasima Yasmin for M/s.Ajmal Associates

ORDER

This writ petition is filed for writ of Certiorari, to quash the impugned proceedings, dated 31.05.2023, issued by the 1st respondent.

2. In the impugned order the 1st respondent has formed an Adhoc Committee consisting of seven members. The learned Counsel for the



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petitioner submitted that in the Seven Member Committee at least four persons are contesting candidates. If the candidates are appointed as Adhoc Committee members, there will not be transparency in the election. Therefore, in order to conduct transparent election, the petitioner prayed to cancel the Adhoc Committee and to direct the respondents to conduct election directly.

3. However, the learned Counsel appearing for the Wakf Board submitted that the issue of conducting elections directly by the Wakf Board is already considered by this Court and it has been categorically held that the Wakf Board is not empowered to conduct election and when there is no jurisdiction to conduct, the claim of the petitioner cannot be entertained. The respondent relied on the order, dated 19.04.2023 rendered by a Learned Single Judge of this Court in W.P.(MD)No.13695



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of 2020 and the relevant portion of the order is extracted here under:

“20. In the light of the discussion, there is no doubt in my mind that neither the Wakf Board nor the CEO is conferred with the authority/power to conduct election or to change the mode of election as set-out in the Wakf Deed/Proforma or Custom followed in appointing the Mutawalli nor is it open to the Board/CEO to direct Superintendent to conduct elections nor can the appointment of Mutawalli be declared bad only on the premise that the same was not made in the presence of the officials of the Board. This would not preclude the Respondent Board from initiating action under Sections 65, 69 of the Act or any other provisions of the Wakf Act, if circumstances so exist warranting exercise of such power.”

4. Therefore, this Court is of the considered opinion that the 1st respondent is not empowered to conduct election and hence the plea of the petitioner to direct the Wakf Board to conduct election rejected.



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5. The next plea of the petitioner is that the Seven Member Committee at least four persons are contesting candidates, hence it will hamper to conduct free and fair election. To be more specific the respondents 5, 6, 7 and 9 have filed nominations to contest election but they have been nominated as members of the Adhoc Committee. This Court is of the considered opinion that the object of the elections itself is to form a committee in democratic manner. As rightly pointed out if the contesting candidates are forming part of adhoc committee, then there will not be free and fair election. Therefore, the impugned order is liable to be quashed and the same is quashed. The 2nd respondent is directed to form a fresh Adhoc Committee. The respondents 3, 4 and 8 shall be in the Committee. Apart from the 3 members, the respondents shall nominate and appoint four more persons in the Adhoc Committee. The respondents shall see to it that the fresh members have not filed any



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nomination and they should not occupy the present managing committee. This direction is to conduct free and fair election. With these conditions, the 1st respondent shall form a fresh Adhoc Committee and the Adhoc Committee shall conduct the election within a period of three months and complete the election.

6. With the above said observation and directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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

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