



W.P.(MD).No.14032 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.14032 of 2023

and

W.M.P.(MD).Nos.11859, 11861 and 11862 of 2023

N.M.B.Kaja Mohideen

... Petitioner

Vs.

- 1.The Secretary,
Backward Classes, Most Backward Classes and
Minorities Welfare Department,
Secretariat,
Chennai – 600 009.
- 2.The Tamil Nadu Wakf Board,
Represented by its Chief Executive Officer,
Door No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 3.The Chairman,
Tamil Nadu Wakf Board,
Door No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 4.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Door No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.



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5.The Superintendent of Wakfs,
No.1, Town Hall Road,
Mosque Building 2nd Floor,
Madurai – 625 001.

6.Abdul Kapoor

7.Jaffer Sathik

8.Sulaiman Aarif

9.Bram Baig

10.Fareeth Baig

... 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 relating to the impugned resolution of the wakf board dated 26.10.2022 passed in வாரிசை எண்.5 , இனம் எண்.223/2022 in ந.க.எண்.13865/09/ஆ8/தி.கல்., as well as the consequential impugned order dated 03.11.2022 passed by the fourth respondent in செ.மு.ஆணை எண்.13865/09/ஆ8/தி.கல் and quash the same and consequently directing the fourth respondent to appoint regular management committee members in the Begampur Mosque and Dharga, Dindigul Town, Dindigul District within a time stipulated by this Court.

For Petitioner : Mr.S.Parthasarathy,
For Mr.M.P.Senthil

For R-1 : Mr.S.Baskaran,
Government Advocate.

For R-2 to R-5 : Mr.S.Haja Mohideen Gisthi
Assisted by,
Mr.D.S.Haroon Rasheed



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For R-6 to R-8 : Mr.H.Mohammed Imran,
For M/s.Ajmal Associates.

For R-9 and R-10 : Mr.V.R.Venkatesan

ORDER

This Writ Petition is filed to quash the impugned resolution of the Wakf Board dated 26.10.2022 as well as the consequential impugned order dated 03.11.2022 and consequently directs the fourth respondent to appoint regular management committee members in the Begampur Mosque and Dharga, Dindigul Town, Dindigul District.

2. As per the proforma, the management of the Wakf is by “Rule of Succession, Hereditary as per the Title Deed. But Civil Court decision five members are managing the Trust”. In short, the management is by selection process. There was a management committee in the said Wakf for a period from 2017-2022. After the period is over, the Wakf Board ought to have conducted selection process. But the Wakf Board has created an Adhoc Committee by appointing five members for a period of three years through the impugned order dated 03.11.2022. Aggrieved over the same the present writ petition is filed.



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3. It is seen that the impugned order is passed based on the proceedings dated 26.10.2022, wherein it is stated that 13 members list was circulated to constitute Adhoc Committee and based on the report of the Wakf Superintendent regarding the said 13 members that they are not holding any wakf property, the said list of members was considered for appointing adhoc committee. Since only five members committee can be constituted as per the Civil Court decree, the Wakf Board had constituted five members committee for a period of three years.

4. The contention of the petitioner is that any adhoc committee cannot be constituted that too for a period of three years. Instead of conducting selection process, the respondent had constituted adhoc committee and the same is illegal. The period of earlier management was over and the Wakf was brought under direct management from 04.07.2022. If the selection process was carried out, by this time the new management could have been installed.

5. At this juncture, the Wakf Board has submitted a petition seeking six months period to complete the selection process. Since it is only selection process, this Court is granting three months time to complete the selection process.



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6. In the meanwhile, the Special Officer has been appointed by the Wakf Board through proceedings dated 20.07.2023 and 07.08.2023. Therefore, the Special Officer shall conduct the day-to-day management, until the new management is installed.

7. The Wakf Board is having proposal to put up two constructions, one is Kabursthan and other one is commercial complex. The 6th and 7th respondents (hereditary trustees) and the petitioner were vehemently opposed for putting up commercial construction in the Wakf property. The Wakf Board also vehemently contended that the petitioner has no *locus standi* to oppose the construction, since it is for the welfare of the Wakf. That too the construction is put up from the donation of private parties and there cannot be any objection for the same. However, the petitioner and the 6th and 7th respondents submitted that the alleged donors would put up construction for their own benefit in the Wakf land and serious prejudice would be caused to the Wakf.

8. Since the selection process would be completed within a period of three months which is only an outer limit, this Court is passing the following orders:



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- (i) *The selection process shall be completed within a period of three (3) months as outer limit.*
- (ii) *The application shall be called from all the eligible and interested parties. Thereafter, a transparent selection process shall be conducted.*
- (iii) *As far as the construction of Kabursthanam is concerned, the Special Officer shall go ahead with the Kabursthanam construction.*
- (iv) *As far as the construction of commercial complex is concerned, since this Court has granted three months time to complete the selection process as an outer limit, the commercial complex shall be constructed after the new management is installed.*

9. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

12.09.2023

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



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S.SRIMATHY, J.

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