



W.P.(MD) No.15770 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.15770 of 2023

and

W.M.P.(MD) Nos.13244 and 13247 of 2023

Janab S.Shahul Hameed

... Petitioner

/vs./

1.The Secretary,
Backward Classes, Most Backward Classes and
Minorities Welfare Department,
Secretariat,
Chennai 600 009.

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

3.The Superintendent of Wakf/Election Officer,
Ramanathapuram Sub Division,
Ramanathapuram.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for
issuance of Writ of Certiorarified Mandamus, calling for the entire records



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pertaining to the proceedings passed by 3rd respondent in G.S.No.283/Rama dated 13.02.2023 by rejecting the petitioner's candidature for the post of Office bearer in the election to be held for administrating of Nambudhalai Masjithe Taqwa @ Melpallivasal Wakf , Thiruvdanai Taluk, Ramanathapuram District and quash the same and consequently direct the 3rd respondent to qualify the petitioner as an eligible candidate for taking part in such election.

For Petitioner : Mr.R.Anand

For R1 : Mr.T.Amjadkhan
Government Advocate

For R2 & R3 : Mr.D.S.Haroun Rasheed
Standing Counsel

ORDER

The above writ petition is filed for the issue of a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the third respondent in G.S.No.283/Rama dated 13.02.2023 by rejecting the petitioner's candidature for the post of office bearer in the election to be held for administrating of Nambudhalai Masjithe Taqwa @ Melpallivasal Wakf, Thiruvdanai Taluk, Ramanathapuram District, quashing the same and directing the third respondent to qualify the petitioner as an eligible candidate for taking part in such election.



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2.It is the case of the petitioner that he is a member of the aforesaid Mosque, which has been formed way back by his forefathers. After the enactment of the Wakf Act, the Jamadh as well as the property had been taken under the control of the first respondent. The rule of succession to the office of the Muthavalli however was declared to be by-election as also the other members to the committee.

3.The petitioner would submit that for the current year, the third respondent upon the directions of the second respondent had issued the election notice No.3 dated 30.12.2022 calling upon the members to submit the details for the purpose of preparing an eligible voters list. Thereafter, under election notification No.4 dated 03.02.2023, the schedule of election was provided as per which the nomination was to be on 09.02.2023 and the election was slated on 26.02.2023. Thereafter it appears that a writ petition was filed by one of the members before this Court in W.P.(MD) No.3666 of 2023 questioning the election notification. A memo was also filed stating that the election would not take place on the scheduled date (26.02.2023) and only after preparing the voters list in entirety, the



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election process would be proceeded with. The said memo was recorded and the writ petition was disposed of on 24.02.2023.

4.The petitioner would submit that he had filed a nomination and on the date of scrutiny, his candidature was rejected on the basis of the objections from the other contestant that he had been found guilty and an order of preventive Detention was issued against him under the COFEPOSA in the year 1991. The petitioner would submit that he has not suppressed the above details. He would submit that the Act does not debar his candidature for the aforesaid reasons and the rejection order is without basis. The petitioner would submit that without affording an opportunity to him, his candidature has been rejected and therefore, the present writ petition has been filed.

5.Heard the learned counsels appearing on either side.

6.Admittedly, the petitioner has not been afforded an opportunity to put forth his case, particularly to the objections made by the others. Therefore, in the interest of justice, he ought to be given a chance to submit his



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WEB COPY explanation/clarification to the objections put forth. Therefore, the Writ Petition is allowed. The impugned order passed by the third respondent in G.S.No.283/Rama dated 13.02.2023 is set aside and the matter is remitted back to the second respondent to once again consider the candidature of the petitioner after giving opportunity to the petitioner as well as the persons opposing him to make their respective submissions and thereafter the second respondent shall pass speaking orders as to why the candidature is excepted/rejected. The said exercise shall be completed within a period of three weeks from today. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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

30.06.2023

To

The Secretary,
Backward Classes, Most Backward Classes and
Minorities Welfare Department,
Secretariat,
Chennai 600 009.



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P.T.ASHA, J.

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