



CONT P.(MD).No.1644 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

CONT P(MD).No.1644 of 2023

1.M.Bilal Mohamed

2.M.Raja Mohamed

... Petitioners

vs.

1.Mr.A.B.Rafiulla, M.Sc(Ag).,
The Chief Executive Officer,
Tamil Nadu Wakf Board,
Door No.1, Jafar Sirang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.

2.Mr.Kadhar Sarif,
The Superintendent of Wakf,
Tamil Nadu Wakf Board,
Madurai District,
Madurai-625 001.

3.Mr.Nijam,
The Inspector of Wakf,
Tamil Nadu Wakf Board,
Madurai-625 001.

.. Respondents



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PRAYER: Contempt Petition filed under Section 11 of Contempt of Court Act, to punish the respondents for his willful non-compliance on the order of this Court passed in W.P.(MD)No.3347 of 2023 dated 14.03.2023.

For Petitioners : Mr.A.Haja Mohideen

For Respondents : Mr.G.Chandra Sekar,
Standing Counsel

ORDER

This contempt petition is filed to punish the respondents for his willful non-compliance on the order of this Court passed in W.P.(MD)No.3347 of 2023 dated 14.03.2023.

2. Heard the learned Counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondents and perused the materials available on record.

3. The first respondent has already initiated proceedings, called for objections from the interested parties in order to frame modalities for conducting election. Therefore, this Court has recorded the said contention and directed the respondents to conduct election within a period of three months.



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However, in W.P.(MD)No.13605 of 2020 vide judgment dated 19.04.2023, it has been held that the Waqf Board is not having power to conduct election. Hence this Court has recorded the same in W.P.(MD)No.9431 of 2023 vide order dated 06.07.2023 and directed the first respondent Waqf Board to take Mohaideen Andawar Periya Pallivasal under direct management and thereafter conduct an election within a period of one year without seeking any further extension.

4. In the order it was also held that the Adhoc Committee was appointed to retrieve the wakf properties and was given mandate until 01.02.2024. After completion of the said period the adhoc committee shall not seek any extension and the Board is restrained from granting any extension of period of adhoc committee. The relevant portion of this is extracted hereunder:

8. After considering the rival submissions, this Court is of the considered opinion that the Waqf Board is not having power to conduct elections and hence the this Court is directing the Waqf Board to take Mohaideen Andawar Periya Pallivasa under its direct Management and thereafter conduct an election. The said election shall be conducted within a period of one year, without seeking any extension of time. All parties shall cooperate to conduct smooth election. After election, the Wakf Board shall hand over the management to the Managing Committee.



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9. *As far as the appointment of Adhoc Committee, if the properties are retrieved, it is good for the Pallivasal and hence, it cannot be found fault with. Since the adhoc committee was given a mandate until 01.02.2023 to retrieve the Waqf properties which were encumbered, hence the said noble cause shall be completed and the Adhoc Committee shall continue until 01.02.2023. After completion of the said mandate, the Adhoc Committee shall not seek any extension of time and the Board is also restrained from granting any extension. It is also made clear that the mandate granted to the Adhoc Committee cannot be extended for any other purpose as well. After completion of election, the Managing Committee shall take over the noble mandate of retrieval of the properties.*

4. Because of the proposition held in W.P.(MD)No.13605 of 2020 vide judgment dated 19.04.2023 that the Wakf Board has no power to conduct election, based on this Judgment this Court had passed an order in W.P. (MD)No.9431 of 2023 vide order dated 06.07.2023, hence the order passed in W.P.(MD)No.3347 of 2023 could not be complied by the respondent. Therefore, there is no contempt as alleged. Even if the case of petitioner ought to be accepted, subsequent judgment rendered in W.P.(MD)No.13605 of 2020 has settled the issue of validity of law, hence the judgment rendered in W.P. (MD)No. 3347 of 2023 would be against law. Therefore, from any angle there is no contempt as alleged.



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5. Hence, this Contempt Petition is closed. There shall be no order as to costs.

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Index : Yes / No
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