



W.P.(MD).No.18845 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.18845 of 2023
and
W.M.P.(MD).No.15657 of 2023**

H.Najumudeen

... Petitioner

Vs.

1.The Tamil Nadu Waqf Board,
Represented by its,
The Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallaseethatkthi Nagar,
Chennai – 600 001.

2.The Ad-hoc Committee,
Represented by its President,
Jamia Masjid Waqf,
Tuticorin.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to prevent the illegal continuation of the second respondent committee and to take over direct management of the Jamiya Masjid Waqf, Tuticorin by considering the petitioner's representation dated 28.06.2023 within the time that may be stipulated by this Court in light of the orders made in W.P.(MD). No.19028 of 2022 dated 01.09.2022 and W.A.(MD).No.1124 of 2022 dated 23.11.2022.



W.P.(MD).No.18845 of 2023

For Petitioner : Mr.M.Mahaboob Athiff

For R-1 : Mr.S.A.Ajmal Khan,
Standing Counsel.

ORDER

This Writ Petition is filed for Mandamus, directing the first respondent to prevent the illegal continuation of the second respondent committee and to take over direct management of the Jamiya Masjid Waqf, Tuticorin by considering the petitioner's representation dated 28.06.2023 within the time that may be stipulated by this Court in light of the orders made in W.P.(MD).No.19028 of 2022 dated 01.09.2022 and W.A.(MD).No.1124 of 2022 dated 23.11.2022.

2. The contention of the petitioner is that the Jamia Masjid Waqf, Tuticorin is a notified Waqf and it is registered under G.S.No.269 under Section 36 of the Waqf Act, 1995. The said Wakf was brought under direct management by invoking Section 65 of the Act. Thereafter, the second respondent Adhoc Committee came to be appointed by the Board through its resolution dated 26.07.2022 for a period of 6 months and in view of the same, the direct management was revoked with effect from 03.08.2022. Under Section 18 of the Waqf Act, 1995, the Board is empowered to appoint



W.P.(MD).No.18845 of 2023

committees for any specific purpose or for any particular area for the supervision of the Waqf. The Board cannot invoke the said provisions to appoint a committee for administration of Waqf nor can it direct the Mutawali to handover the administration to such committee. Therefore, the appointment of Adhoc Committee is per se illegal. Hence, the said appointment was challenged in Writ Petition W.P.(MD)No. 19028 of 2022 and this Court vide order dated 01.09.2022 has passed an elaborate order and has rendered a finding that the Adhoc Committee shall continue until 6 months period, **which is an outer limit**. In spite of the same, the Adhoc Committee is being allowed by the first respondent to continue administration without conducting any election.

3. The further allegations against the second respondent is that the committee has misappropriated Rs.1,10,00,000/- (Rupees One Crore and Ten Lakh only). The said amount was in the bank account of the wakf and as on date the same is not available in the bank account. Moreover, the adhoc Committee changed the scheme of the wakf by exceeding its mandate. Since the adhoc committee cannot change the basis of the wakf and the name itself suggests that the committee is only adhoc, hence challenging the said change in



W.P.(MD).No.18845 of 2023

the scheme, W.P.(MD)Nos.16159 and 16157 of 2023 was filed and an order of interim stay was granted by this Court.

4. On perusing the records, it is seen that the period of Adhoc Committee was not extended by the first respondent. Moreover, there is a categorical finding in earlier Writ Petition in W.P.(MD)No.19028 of 2022 that six months period is only an outer limit. Within that period, no election was conducted and management was not formed to take over the administration of the Waqf. Therefore, this Court is of the considered opinion that the Committee cannot function beyond 03.02.2023.

5. It is seen prior to the appointment of the Adhoc Committee, the present Waqf was under direct Management. It is also seen that no suitable persons available for appointing “Mutawali” and the search of suitable person is under process. Since there will be vacuum in the institution, therefore, Section 65 of the Act the Board has power to manage the waqf under “Direct Management”. Therefore, for these reasons, the first respondent is directed to take over the Management forthwith. Further the respondent is directed to conduct election within a period of six (6) months from the date of receipt of a copy of this order.



W.P.(MD).No.18845 of 2023

WEB COPY

6. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

08.08.2023

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

To

The Chief Executive Officer,
The Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallaseethatkthi Nagar,
Chennai – 600 001.



WEB COPY



W.P.(MD).No.18845 of 2023

S.SRIMATHY, J.

Nsr

W.P.(MD).No.18845 of 2023

08.08.2023