



W.P.(MD)No.20031 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 20031 of 2023

and

W.M.P(MD)No.16510 of 2023

Shajahan

... Petitioner

Vs.

- 1.The Tamil Nadu Waqf Board
Rep by its the Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai.
- 2.The Inspector of Waqf
Tamilnadu Waqf Board,
Madurai Regional Office,
No.1, Town Hall Road,
Madurai.
- 3.Kalifullah
- 4.Sabibulla
- 5.Sheiksikkandar
- 6.Sheik Mydeen
- 7.Sheik Abthaheer



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- 8.Mohammedaniba
- 9.Sheik Oli
- 10.Ayupkhan
- 11.Jahir Usain
- 12.Ameer
- 13.Abdhul Rahman
- 14.Sheik Mohamed
- 15.Thulkarunai
- 16.Sheik Zahir Hussain
- 17.Sathik Ali
- 18.Ahamed Atham
- 19.Syed Oli
- 20.Muhamadu Siddik
- 21.Hakkim
- 22.Asmadeen
- 23.Abdul Salam
- 24.Mubarak Ali
- 25.Ajees
- 26.Sauckathali
- 27.Sikkandar
- 28.Mohammed Aniba
- 29.Abubakar
- 30.Umar Shakubar



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31.Shajahan

32.Abbas

33.Mohammed Kajamaitheen

34.Sheikazarudeen

35.Raja Usen

36.Mohammed Yusuf

37.Sikkanthar

38.Ahmadhali

39.Shajagan

40.Sheik Ismail

41.Asan Muhammad

42.Mohammed Abdul Kadar

43.Sheik Abdulla

44.Soukkatali Pitchai

45.Kalangium

46.M.Abthaagir

47.M.Sheik Abdhul Kathar

48.Hakkeem

49.Sheik Saleem

50.Mohamed Batcha

... Respondents

(Respondents 3 to 50 are impleaded vide Court order dated 31.08.2023 passed in W.M.P.(MD)No.17815 of 2023)



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records relating to the impugned election notification issued by the 2nd respondent in his proceedings in Na.Ka.No.Pathivu /No.305/V.A.Thi.Kal/2023 dated 02.08.2023 and quash the same as illegal.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.D.S.Haroon Rasheed - for R1 & R2
Standing Counsel
Mr.S.Arjun - for R3 to R50

ORDER

This writ petition is filed to quash the impugned election notification, dated 02.08.2023.

2. Heard Mr.M.Mahaboob Athiff, the Learned Counsel appearing for the petitioner, Mr.D.S.Haroon Rasheed, the Learned Standing Counsel appearing for the respondents 1 & 2, Mr.S.Arjun, the Learned Counsel appearing for the respondents 3 to 50 and perused the material documents available on record.



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3. The petitioner submitted that the Governing Committee / Muthavalli was selected in the year 2022 and the tenure of the present office bearers will expire only on 02.04.2025. When the fact being so, the 2nd respondent has issued the impugned election notification, dated 02.08.2023 in the Notice Board of the Waqf. The contention of the petitioner is that 2nd respondent Inspector of Waqf is not having any power to conduct election, since Wakf Board has not power to conduct elections as held vide judgment dated 19.04.2023 by the learned Single Judge in W.P.(MD)No.13695 of 2020 batch. Therefore the impugned election notification is beyond the provisions of Laws.

4. However, the Learned Standing counsel appearing for the respondents 1& 2 refuted the contention of the petitioner and stated that the impugned notification is only to select the Governing Committee and not for conducting election. The contention of the respondents 1 and 2 cannot be accepted since when the present waqf has already selected the Governing Committee and the present Governing Committee period is subsisting until 02.04.2025, then the 2nd respondent cannot interfere in the administration of the present Governing Committee until the period is over.



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5. But the Learned Standing counsel appearing for the respondents 1 & 2 submitted that they had received several complaints against the present Governing Committee. If that is so, the 2nd respondent is having power to conduct enquiry in the said complaints, but straightaway cannot cancel the Governing Committee. The 2nd respondent is directed to conduct enquiry on the complaints after issuing notice to all the parties, including the members of present Governing Committee and thereafter pass a speaking order. It is made clear that the 1 and 2 respondents shall grant effective hearing and conduct the enquiry in accordance to law.

6. With the above terms, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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

31.08.2023



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Represented by its the Chief Executive Officer,
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- 2.The Inspector of Waqf,
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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 20031 of 2023**

31.08.2023