



W.P.No.2229 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.2229 of 2024
and W.M.P.No.2415 of 2024

M.Gulam Khader

...

Petitioner

/vs/

1. Tamil Nadu Waqf Board,
Represented by its Chairman,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
2. The Chief Executive Officer,
The Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
3. The Superintendent of Waqf,
Tamil Nadu Waqf Board (Coimbatore Zone),
No.963, Hyder Ali Tippu Sulthan Pallivasal Premises,
Mettupalayam Road,
Coimbatore District – 641 043.
4. The Inspector of Wakf,
Tiruppur District,
Tamil Nadu Waqf Board (Coimbatore Zone),
No.963, Hyder Ali Tippu Sulthan Pallivasal Premises,



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Mettupalayam Road,
Coimbatore District – 641 043.

... Respondents

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Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records connected with the order and resolution dated 06.05.2023 passed by the first respondent in Item No.97 of 2023 in Na.Ka.No.1671/23/B2/COVAI and the consequential order passed by the second respondent dated 05.06.2023 and published in Tamilnadu Government Gazette No.34 dated 17.08.2023 and quash the same.

For Petitioner ... Mr.Y.Kaja Navas

For Respondents ... Mr.Haja Mohideen Gisthi
Standing Counsel for R1 to R4

ORDER

This Writ Petition has been filed to quash the order and resolution dated 06.05.2023 passed by the first respondent in Item No.97 of 2023 in Na.Ka.No.1671/23/B2/COVAI and the consequential order passed by the second respondent dated 05.06.2023 and published in Tamilnadu Government Gazette No.34 dated 17.08.2023.



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2. The petitioner who claims himself as the President of Masjid e Rahamath (Hanfi) Dakkni Sunnath Jamath & Madarasa e Gulam Qadariya - Sunni Wakf has submitted that the Waqf was created by his father vide Wakf Nama dated 12.10.2017.

3. Mr.Kaja Navas, the learned counsel for the petitioner, submitted that as per the Wakf Nama, the petitioner is entitled to act as Mutawalli after the demise of his father; in fact the Wakf has already been registered in Registration No.315/2022; the grievance of the petitioner is that despite the Wakf has been registered, a fresh enquiry has been called upon for registering the Wakf and while passing the orders for re-registration, the first respondent has changed the performa rules and exceeded his authority.

4. Mr.Haja Mohideen Gisthi, the learned Standing Counsel for the respondents, submitted that the enquiry has been initiated only consequential to the orders of this Court issued in W.P.No.34985/2022 filed by one Syed Jaffer; the petitioner has got an alternative remedy under Section 83(2) of the Wakf Act, 1995 and he has not exhausted the same.



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5. However the learned counsel for the petitioner submitted that since there is a patent illegality in the impugned order and hence he had filed this writ petition without invoking the appellate remedy.

6. There is no dispute in respect of the person who had created the Wakf. However as per the order of the first respondent notified in the Tamil Nadu Government Gazette, the petitioner has been appointed only as temporary Mutawalli and four other persons whom the public should accept should also be selected in accordance with Wakf Nama. However it is seen that the said rule has been amended by stating the following:

“ The legal heirs of the founder of Wakf and other Jamaths totally comprising 9 members in the ratio 2:1 should elect six persons from the founder's family and three members from the public.”

7. The petitioner's main grievance is the above amendment that has been made in the impugned order. As the above order has been passed consequent to the order of this Court, the petitioner can very well challenge the said order by way of preferring an appeal under Section 83(2) of the Wakf Act. The notification only states about the crux of the



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order and the speaking order does not form part of this record.

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8. Hence, the second respondent is directed to serve a copy of the impugned order and the resolution to the petitioner within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the petitioner is at liberty to file an appeal under Section 83(2) of the Wakf Act, within the statutory time limit.

9. With the above observations, this writ petition is disposed. No costs. Connected miscellaneous petition is closed.

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Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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R.N.MANJULA ,J.

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To:

1. Tamil Nadu Waqf Board,
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