



W.P. No. 14386 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 14386 of 2023

Z.Mohamed Tahir Sahib

... Petitioner

-VS-

1. The Union of India,
Represented by the Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat,
Puducherry.
2. The Secretary to Government,
Department of Hindu Religious Institution an Waqf,
Government of Puducherry,
Chief Secretariat,
Puducherry.
3. The Chief Town Planner cum Member Secretary,
State Level Heritage Conservation and Advisory Committee,
Town and Country Planning Department,
Government of Puducherry,
Puducherry.
4. The District Collector cum District Magistrate,
Government of Puducherry,
Office of the District Magistrate,
Karaikal,
Puducherry.



W.P. No. 14386 of 2023

5. The Waqf Officer,
Puducherry State Waqf Board,
No. 1 and 3, Yanam Venkatachalam Pillai Street,
Puducherry – 605 001.
6. The Reconstruction Committee of Management – AUQAF,
Periya Palli Vasal,
Masthan Sahib Valiyullah Dargah Shareef,
Masthan Palli Street, Karaikal – 609 602.
7. The Director General of Archaeological Survey of India
Dharohar Bhawan,
No. 24, Tilak Marg,
New Delhi – 110 001.
8. The Director,
Archaeological Survey of India,
Room No. 328, C Wing,
Shastri Bhawan,
New Delhi – 110 001.
9. The Senior Conservation Assistant,
Archaeological Survey of India,
Puducherry Sub Circle,
No. 17, III Cross, Anna Nagar,
Nellithope,
Puducherry – 605 005.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records in Order dated 27.04.2023 bearing No. 1816/DCK/A3/2023 passed by the Fourth Respondent and quash the same as illegal.

For Petitioner : Mr. R.Vivekananthan

For Respondents : Mr. V.Vasanthakumar,
Additional Government Pleader (Puducherry)
(for R1 to R5)
Mr. T.P.Manoharan, Senior Counsel
for Mr. T.M.Naveen (for R6)



W.P. No. 14386 of 2023

ORDER

WEB COPY

Heard Mr. R.Vivekananthan, Learned Counsel for the Petitioner and Mr. V.Vasanthakumar, Learned Additional Government Pleader (Puducherry) appearing for the First to Fifth Respondents and Mr. T.P.Manoharan, Learned Senior Counsel for the Sixth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had earlier filed the Writ Petition in W.P. No. 7714 of 2023 to declare the entire course of action of the proposal to demolish the ancient Big Mosque situated at Masthan Palli Street, Karaikal Town, Karaikal from inception leading to issuance of undated Tender Notification inviting tenders for the purpose of demolition of Central Mandapam, East Wathif Mandapam and adjoining hall portion and north Mandapam and adjacent urinal block upto the ground level thereof as illegal, *void ab initio* and unconstitutional with a consequential direction to the respondents to preserve, conserve and maintain the ancient Big Mosque situated at Masthan Palli Street, Karaikal Town, Karaikal of its historical and architectural structures in its pristine and holistic from without being defied and de-sanctified, which was disposed by order dated 14.03.2023 holding as follows:-



W.P. No. 14386 of 2023

“3. In similar circumstances, when one Mr. M.I.Mohamed Bugari filed Writ Petition No. 5814 of 2023 seeking issuance of a mandamus directing the Reconstruction Committee-AUQAF, Peria Pallivasal, Masthan Sahib Valliyullah Dargah Shareef, Karaikal to complete the reconstruction /alteration work at Peria Pallivasal, Masthan Palli Street, Karaikal, this Court, finding that there is a dispute pertaining to the Waqf or Waqf property, directed the petitioner therein to approach the Waqf Tribunal holding that he cannot come to this Court by way of a writ petition under Article 226 of the Constitution of India, by order dated 27.02.2023. Therefore, when on an earlier occasion, when Mr. M.I.Mohamed Bugari had come to this Court seeking a mandamus to the fourth respondent /Reconstruction Committee to complete the reconstruction /alteration work at Peria Pallivasal, Masthan Palli Street, Karaikal, we had directed the petitioner therein to approach the Tribunal, the contra prayer made by the petitioner herein cannot be entertained as effectively, both are making allegations only against the Reconstruction Committee that they are not performing their work and /or that they are not considering the



W.P. No. 14386 of 2023

WEB COPY

heritage nature of the building. Therefore, we direct the petitioner also to approach the Waqf Tribunal to workout his remedy within a period of two weeks time.”

3. It is represented that subsequently the Fourth Respondent by Proceedings in No. 1816/DCK/A3/2023 dated 27.04.2023 had passed the following order:-

“ A direction was issued to the Re-construction Committee, AUQUF, Periya Palli Vasal, Masthan Sahib Valiyullah Dargah Shareef, Karaikal to defer any demolition/alteration activities in the Big Mosque (Periya Palli Vasal) at Masthan Pallit Street, Karaikal till the dispute resolved by Waqf Tribunal vide Order under reference cited above.

Since, the matter has been referred to the Secretary (HRI/Waqf), Puducherry, the order issued vide No. 1816/DCK/A3/2023 dated 25.04.2023 stands revoked.”

The said order is assailed in this Writ Petition.

4. As already noticed, there have been conflicting demands for demolition and preservation of the Mosque and Waqf property at Periya Palli Vasal,



W.P. No. 14386 of 2023

Masthan Sahib Valiyullah Dargah Shareef, Karaikal and this Court has directed

the rival parties to approach the Waqf Tribunal, Karaikkal to work out their rights in that regard.

5. It is informed that the vacancies in the posts of Chairperson and Members in the Waqf Tribunal at Karaikkal have been filled up by the Government of Puducherry by G.O. Ms. No. 4340/US (Waqf)/T.10/2017 dated 02.02.2024 and that the contesting parties, viz., M.I.Mohamed Bugari and Mr. Z.Mohamed Tahir Sahib have filed W.T.O.P. Nos. 1 of 2024 and 2 of 2023 respectively in furtherance to the aforesaid orders passed by the Division Bench of the Court and that the hearing of those cases has been fixed on 28.02.2024 and due notice would be sent to the concerned parties for their appearance in the matter.

6. Having regard to the earlier orders passed by the Division Bench of this Court referred supra, it shall be incumbent upon the Waqf Tribunal at Karaikkal to ensure that there are atleast two effective hearings every month showing progress of those cases and after affording full opportunity of hearing to all parties concerned following the prescribed procedure in consonance with the principles of natural justice, reasoned orders shall be passed dealing with each



W.P. No. 14386 of 2023

of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment to them. While it is needless to add here that in terms of the order dated 22.08.2023 in W.A. No. 1668 of 2023 passed by the Division Bench of this Court, there shall be no stay for the maintenance work, but no part of the subject building shall be demolished, which temporary arrangement shall continue to remain in force till any order, either interim or final, is passed in the pending cases before that Waqf Tribunal, uninfluenced and inhibited by any of the earlier orders passed by this Court, it is made clear that no view has been expressed by this Court on the merits of the controversy involved in the matter.

In the result, the Writ Petition is disposed with the aforesaid observations. No costs.

26.02.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 04.03.2024.

kv

To

1. The Chief Secretary to Government,
The Union of India,
Government of Puducherry,
Chief Secretariat,
Puducherry.



W.P. No. 14386 of 2023

2. The Secretary to Government,
Department of Hindu Religious Institution and Waqf,
Government of Puducherry,
Chief Secretariat,
Puducherry.
3. The Chief Town Planner cum Member Secretary,
State Level Heritage Conservation and Advisory Committee,
Town and Country Planning Department,
Government of Puducherry,
Puducherry.
4. The District Collector cum District Magistrate,
Government of Puducherry,
Office of the District Magistrate,
Karaikal, Puducherry.
5. The Waqf Officer,
Puducherry State Waqf Board,
No. 1 and 3, Yanam Venkatachalam Pillai Street,
Puducherry – 605 001.
6. The Reconstruction Committee of Management – AUQAF,
Periya Palli Vasal,
Masthan Sahib Valiyullah Dargah Shareef,
Masthan Palli Street, Karaikal – 609 602.
7. The Director General of Archaeological Survey of India
Dharohar Bhawan,
No. 24, Tilak Marg,
New Delhi – 110 001.
8. The Director,
Archaeological Survey of India,
Room No. 328, C Wing,
Shastri Bhawan,
New Delhi – 110 001.
9. The Senior Conservation Assistant,
Archaeological Survey of India,
Puducherry Sub Circle,
No. 17, III Cross, Anna Nagar,
Nellithope,
Puducherry – 605 005.



W.P. No. 14386 of 2023

WEB COPY

Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.
2. The Waqf Tribunal,
Karaikal,
Union Territory of Puducherry.



WEB COPY



W.P. No. 14386 of 2023

P.D. AUDIKESAVALU, J.

kv

W.P. No. 14386 of 2023

26.02.2024