



W.P.No.19325 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19325 of 2024

And

W.M.P.No.21187 of 2024

K.Azizullah

... Petitioner

Vs.

- 1.The Chairman
Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakadi,
Mannady,
Chennai – 600 001.
- 2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakadi,
Mannady,
Chennai – 600 001.
- 3.The Superintendent of Wakf,
Big Mosque Compound,
Poonamallee Range,
Thiruvallur District.
- 4.Jumma Masjid,
Represented by its Muthavalli,
No.1, Mosques Street,
Guduvancheri,
Chengalpet District.

... Respondents



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Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 07.05.2024 vide Proc.R.C.No. 1577/24/B4/Cheng passed by the second respondent herein and quash the same and consequently direct the respondents 1 to 3 to take over the direct management of the fourth respondent Waqf under Section 65 of the Waqf Act, 1995 and consequently to conduct the election in a democratic manner after considering the request of the petitioner and the other jamathars of the Guduvancheri Jumma Mosque Waqf to define the locality limits of the fourth respondent mosque waqf and thereby draw the voters list eligible to vote in the elections to the fourth respondent mosque waqf to prevent double exercise of franchise by the residents of the locality limits of the fourth respondent mosque waqf and conduct election by way of secret ballot within a time frame a fixed by this Hon'ble Court.

For Petitioner : Mr.A.Mohamed Ismail
For Respondents : Mr.R.Abdul Mubeen for R1 to R3
Standing Counsel
R4 – No Appearance

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 07.05.2024 vide Proc.R.C.No. 1577/24/B4/Cheng



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by the second respondent and quash the same and consequently direct the respondents 1 to 3 to take over the direct management of the fourth respondent Waqf under Section 65 of the Waqf Act, 1995 and consequently to conduct election in a democratic manner after considering the request of the petitioner and the other Jamathars of the Guduvancheri Jumma Mosque Waqf to define the locality limits of the fourth respondent Mosque Waqf and thereby draw the voters list eligible to vote in the elections to the fourth respondent Mosque Waqf to prevent double exercise of franchise by the residents of the locality limits of the fourth respondent Mosque Waqf and conduct election by way of secret ballot within a time frame.

2.The learned counsel appearing for the petitioner submitted that the petitioner is one of the Jamathars of the Jumma Masjid/ fourth respondent and the fourth respondent Mosque Waqf is notified under the supervisory control of Tamil Nadu Wakf Board under S.No.283 and it is a public and religious Wakf. The rule of succession to the office of Muthavalli is elected by the Muslim Jamath by custom. The respondents did not conduct election for the fourth respondent



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Mosque

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Waqf despite repeated requests of the Jamathars and hence, the petitioner filed W.P.No.18441 of 2023 seeking direction to the respondents 1 to 3 to dispose of his representations seeking to conduct election by way of secret ballot in a democratic manner after considering the requests of the petitioner and other Jamathars of the fourth respondent Mosque Waqf for defining the locality limits of the fourth respondent Mosque Waqf and drawing eligible voters list and pursuant to the order of this Court dated 23.06.2023 made in the said writ petition, the impugned order was passed by the second respondent.

3.The learned counsel appearing for the petitioner further submitted that the fourth respondent Mosque Waqf is notified under the supervisory control of Tamil Nadu Wakf Board and election for the same can be conducted only after demarcating the territorial jurisdiction of the Wakf and by drawing the eligible voters list.

4.The learned Standing Counsel appearing for the respondents 1



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to 3 submitted that the Tamil Nadu Waqf Board has requested a list of eligible voters from the Jamath and further submitted that the legal

principles governing the electoral process for Jamath elections were clarified by this Court in the case of S.B.Sheik Azeezuddin Vs. S.Feroz Khan in CRP (NPD) No.504 of 2021 dated 16.04.2021 wherein, this Court has unequivocally determined that the boundaries of a Mohallah or locality are not static and can be extended to enhance public participation in Jamath elections. The said order underscored that imposing restrictive boundaries for electoral purposes is not legally permissible, instead a broader geographical scope should be embraced to ensure comprehensive voter inclusion, thereby allowing even those residing slightly farther from the Mosque or near another Mosque to participate fully in the electoral process.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The facts of the case is not in dispute. Till date the territorial jurisdiction of R4 was not demarcated by the respondents 1 to 3. Though the second respondent has published the eligible voters list,



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has refused to demarcate the territorial jurisdiction of R4. Without

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demarcating the territorial jurisdiction of R4, publishing the eligible voters list is not sustainable one.

7.Hence, the order dated 07.05.2024 vide Proc.R.C.No.1577/24/B4/Cheng passed by the second respondent is set aside. The respondents 1 to 3 are directed to demarcate the territorial jurisdiction of R4 Waqf forthwith and thereafter publish the eligible voters list. Such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order and within a period of six weeks thereafter, the respondents 1 to 3 shall conduct election in a democratic manner for the fourth respondent Mosque Waqf.

8.The writ petition is allowed on the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No

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Internet: Yes/ No

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