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W.P.No.21271 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.21271 of 2024
and WMP.No.23237 of 2024

A.W.Ghazzai

...

Petitioner

vs

The Chief Executive Officer,
Tamil Nadu Wakf Board
No.1, Jaffer Syrang Street,
Vallalseethakathi Nagar,
Chennai -1.

2.The District Collector
District Collectorate Office
Thiruvarur District.

3.The Superintendent
Tamil Nadu Wakf Board
Thanjavur District.

4.Periya Pallivasl
Rep by its Shahjahan
Podakkudi, Thiruvarur – 614 103.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to conduct an inquiry against 4th respondent for undeclared social boycott within a prescribed time.



For Petitioner : Mr.A.RajaMohamed

For Respondents : Mr.R.Abdul Mubeen
Standing Counsel for R1 to R3.

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ORDER

By consent of both sides, this Writ Petition is disposed of at the stage of admission itself.

2. The case of the petitioner is that the 4th respondent is a Muthawalli Periya Pallivasal is notified under WAKF. The petitioner submits that he wanted to perform marriage to his brother's son by name Israd Ali with Sahadun Safina on 28.07.2024 at Pothakudi i.e, Groom House and invited all his family members, relatives and friends. According to custom of Islamic law, before marriage both the parties should obtain No objection certificate from concerned Jamath certifying that this is the first marriage and to get no objection from the Jamath where the father of the bridegroom is a members and now the NOC is very essential for conducting marriage. The marriage was fixed on 28.07.2024 and the groom is motherless and the father is also aged and hence, the petitioner is performing the said marriage. Initially, the 4th respondent agreed to issue NOC and later refused to issue NOC and to register the Nikkah due to personal vengeance against the members of the Sunnat Jamaath Welfare Society and issued refusal-cum-



permission letter dated 24.07.2024 for conducting the marriage outside the home town of the Bridegroom, which is against the principles of Islamic law. The Jamaath of the Bride by a letter dated 21.07.2024 granted permission to perform marriage at the Jamath of the Bridegroom. The petitioner was a member of the said Society and doing welfare activities for the local peoples, during the time of Bakrid and Ramzan the prayers are being conducted in the open ground and not in masjid. Therefore, the senior citizens, physically challenged, diabetic patients and mothers who are carrying infants found difficult to participate in the special prayers. Aggrieved by which, the Sunnathjamath Welfare Society filed WP.No.15332 of 2024, this Court by an order dated 13.06.2024 directed the local authorities and wakf board to permit the prayers either in play ground / open ground or in mosque as per the convince of the persons who offer prayers and directed the respondents therein not to create any ruckus. In spite of which, the 4th respondent created ruckus by switching off the EB and disconnecting water supply, etc,. In view of the above, the 4th respondent on personal vengeance showing his attitude by social boycotting against the petitioner and members of the Society and acted with malafide and awful intention by non issuing NOC to marriage and denying to register in the Nikha book. Hence, the petitioner made a representation to the respondents



1 to 3 on 24.07.2024, when they approached the 4th respondent, the same is not yielded any fruits. The 4th respondent has committed all such activities by invisibly declaring the undeclared ostracism against the petitioner's society. Hence, the petitioner filed the present writ petition.

3. The learned standing counsel for the respondents would submit that the first respondent / WAKF board has no direct supervision over this issue and the 3rd respondent/Superintendent, wakf board, Thanjavur District is the authorised person. The registered Muthuvalli and Kashi are persons who has to perform the marriage and the marriage will be solemnised by two persons of each side bride and bridegroom witnesses and the same will be informed to the Muthavalli who makes entries in the register and the mahar which is given by the parties will also be recorded in the register. The same will be forwarded to the Kazhi after the marriage and the same will be recorded in his records. That being the case, the WAKF board will not intervene in those aspects.

4. The WAKF Board by a Special Resolution 10/08 dated 26.08.2008 stated that there cannot be any such social boycott by the Muttavalli or the Executive Committee. The violation of fundamental rights of the Jamatars



for refusing to issue marriage registration books at the required time and refusing to bury the bodies of the deceased / not issuing death certificates and directed the Muthavalli and executive committee not to involve in the above acts. The WAKF managements must follow the order and if any failure action will be taken against the muthavalli and the Management committee who involved in the above illegal activities. Further the learned standing counsel stated that the WAKF board will look into this aspect of the dispute raised by the petitioner, with regard to social boycott and initiate appropriate action in the manner known to law.

5. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents 1 to 3 and perused the materials available on record.

6. This Court is of the view that in spite of the circular being issued by the WAKF board the Muthavalli cannot refuse to register the marriage on various other grounds, it is the duty of the Muthavalli to issue NOC for the marriage and after performing the marriage to register the same in the Registers. This Court directs the petitioner to approach the muthavalli and other Jamathars to conduct the marriage and the same should be recorded by



the Muthavalli and forward the same to the Kazhi for further registration in his records.

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7. With the above direction, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

26.07.2024.

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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Note : Issue order copy by today i.e, 26.07.2024.

To
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V.BHAVANI SUBBAROYAN, J.

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