



WEB COPY



W.P. No.712 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2024

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.712 of 2017
and
W.M.P. Nos.753 of 2017 and
21978 of 2017

A. Jafarullah

... Petitioner

Versus

1. The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallalar Seethakathi Nagar,
Chenani – 600 001.

2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallalar Seethakathi Nagar,
Chenani – 600 001.

3. The Superintendent,
Tamil Nadu Wakf Board,
No.1, Second Floor, Pallivasal Complex,
Town Hall Road,
Madurai – 1.

4. The Secretary,
Masjid Madarasa Paripalana Sabai,
Keeanur – 624 617,
Palani Taluk,
Dindigul District.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order, dated 16.06.2016 passed by the 4th respondent and consequently direct the respondents 1 to 3 to manage and control the affairs relating to the 4th respondent.

For Petitioner : Mr.T.K.S. Gandhi
For Respondents : Mr.Mohd. Fayaz Ali
for RR1-3
R4 – No appearance

ORDER

This writ petition has been filed to call for the records pertaining to the impugned order, dated 16.06.2016 passed by the 4th respondent and consequently direct the respondents 1 to 3 to manage and control the affairs relating to the 4th respondent.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 to 3. Despite service of notice, there is no representation on the side of the 4th respondent. Since no adverse orders is going to be passed as against the 4th respondent, this writ petition is taken up for hearing, today.

3. It is the case of the petitioner that he was appointed as Member of Masjid, Madarasa Paripalana Sabai (MMPS), which was registered under the Societies Registration Act. The said Society was incharge for the



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administration of the Mosque at Keeranur. While so, due to non-renewal of the said Society, the same was declared as Defunct and thereafter, the affairs of the Mosque were taken over by the Tamil Nadu Wakf Board. At this juncture, the petitioner being a Member of MMPS raised various queries with regard to the present administration of the above MMPS. While things stood thus, another Trust viz., Matharasthul Kamaria formed by the petitioner's ancestors was handed over to the Management of MMPS and thereafter necessary permission was obtained from the Wakf Board, but the aforesaid act was done, without obtaining any consent from the petitioner. Thereafter, aggrieved over the order of the Wakf Board, dated 12.12.2010, the petitioner filed Original Petition before the Principal Sub-Court at Dingidul. Pursuant to the judgment, dated 19.06.2016, the orders of the Wakf Board was set aside and thus the decreetal order held in favour of the petitioner. Further, the petitioner was appointed as Mutawali of the Matharasthul Kamaria. As against the judgment, dated 19.06.2016, the 4th respondent filed CRP viz., CRP (PD) No.2066 of 2014 and this Court granted stay of the above said order and thus the CRP is pending. Further, it is the contention of the petitioner that the said MMPS has not filed annual return for the past 13 years, which is contrary to the provisions of Tamil Nadu Society Registration Act, 1975 and in the above regard, he



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submitted representation, dated 04.10.2016 to the 3rd respondent. In the interregnum, the impugned order, dated 16.06.2016 was passed by the 4th respondent by removing the petitioner from the Membership of the MMPS. Challenging the same, this writ petition has been filed.

4. Learned counsel for the petitioner submitted that the impugned order, dated 16.06.2016 was passed by the 4th respondent without affording any opportunity to the petitioner and therefore, the same is arbitrary. He further submitted that MMPS has now become defunct and therefore, the MMPS cannot pass any orders based on the bye-law of the defunct Society. He also stated that the MMPS was taken over by the Wakf Board and hence the Wakf Board is the authority to administer the day-to-day affairs of the MMPs and its activities. In view of the above, passing of the impugned order i.e., expulsion of the petitioner from MMPS is unsustainable and prays before this Court for setting aside the said order as well as for issuance of consequent directions to the 4th respondent.

5. The learned counsel for the respondents 1 to 3 submits that as against the removal of Membership, which was challenged by the petitioner in this writ petition, there was an effective remedy available to the petitioner to approach the Wakf Tribunal in the manner known to him



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under law. Therefore, this Court may issue necessary directions in the above regard.

6. From the submissions made by the learned counsel for the petitioner, it reveals that the MMPS has now become defunct and therefore the 4th respondent order, which is impugned herein is non-est in law. However, there is an effective remedy available to the petitioner to approach the Wakf Tribunal to readdress his grievances. Without approaching the same, knocking the doors of this Court is unsustainable.

7. In view of the above, this Court is not inclined to grant the prayer sought for by the petitioner and accordingly, this writ petition is dismissed. However, liberty is granted to the petitioner to approach the Wakf Tribunal to seek his remedy in the manner known to him under law. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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M.DHANDAPANI, J.

vsi2

To

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