



W.P.No.32211 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.32211 of 2024 and
W.M.P.No.34985 of 2024**

All Minorities Welfare Association,
Rep.by its President S.Basheer,
No.54, 8th Cross Street,
Kurinji Nagar, Lawspet,
Puducherry-605 008.

... Petitioner

Vs.

1. Union of India,
rep. by its Secretary to Government,
Ministry of Social Justice and Empowerment,
Room No.636, "A" Wing, Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi-110 001.

2.The State represented by
The Secretary to Government (HRI & Wakf),
Puducherry.

3.The Under Secretary (Wakf),
Department of HRI and Wakf,
Government of Puducherry.

4.A.Syed Ahamed Mohideen

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Qua Warranto, to call upon the fourth respondent to show cause to this Court by what authority he holds the post of Advocate Member of the Union Territory of Puducherry State Wakf Board, who was declared as a member of the said Board by the third respondent and consequently, to cancel his membership and also direct the third respondent to conduct fresh steps to conduct an election under Section 14(1)(b)(iii) of Wakf Act, 1995.

For Petitioner : Mr.K.Mohamed Hussen

For Respondents : Mr.K.Srinivasamurthy for R1
Mr.V.Vasanthakumar,
for R2 and R3
R4-Dispensed with

ORDER

This Writ Petition has been filed to call upon the fourth respondent to show cause to this Court as to how he holds the post of Advocate Member of the Union Territory of Puducherry State Wakf Board, and cancel his membership and direct the third respondent to take steps to conduct election under Section 14(1)(b)(iii) of Wakf Act, 1995.



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2. The learned counsel appearing for the petitioner submits that the petitioner is the President of All Minorities Welfare Association in Puducherry. Puducherry State Wakf Board is being under the administrative control of the Department of Hindu Religious Institutions and Wakf, and on 14.08.2020, the office of the Commissioner-cum-Secretary (Wakf) cum-Election Authority published an Election notification No.16/PSWB/CEO/2016-20(1) dated 14.08.2020, intending to elect a member under Advocate category to Puducherry State Wakf Board. Pursuant to the same, election was held on 29.08.2020 and the respondent No.4 herein, who is not a Muslim member of the bar Council of Tamil Nadu and Puducherry at present or in the past and possessed only 4 years and 9 months experience in the advocate field, was selected in the election held for Advocate member. Moreover, the respondent No.4 does not have the requisite qualification to contest in the election and has filed a nomination for the election and subsequently, he was elected as a member of the Wakf board which is in violation of Section 14(1)(b)(iii) of the Wakf Act. He would further submit that the names of the Muslim Advocate published in



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the final electoral roll issued by the 3rd respondent under Notification No. 16/PSWB/CEO/2016-2020 have been obtained from the Local Bar Association rather than obtaining it from the Secretary of the state Bar Council as legally required. Therefore, the petitioner had made representations on 29.01.2024, 26.02.2024 and 01.05.2024, before the respondent Nos.2 and 3, however, no action has been taken. Therefore, the present Writ Petition has been filed.

3. Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and the learned Additional Government Pleader appearing for the respondent Nos.2 and 3.

4. Since no adverse order is going to be passed against the respondent No.4, notice to the respondent No.4 is dispensed with.



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5. The main grievance of the petitioner is that the fourth respondent, who is not possessing the requisite qualification and is not having experience, was declared as Advocate Member of the Wakf Board, in violation of Section 14(1)(b)(iii) of the Wakf Act. However, the issue raised in this writ petition has to be adjudicated only before the Election Tribunal. Instead of approaching the Election Tribunal, the present writ petition filed by the petitioner seeking for the aforesaid relief is not sustainable one. Hence, the relief sought for in the present writ petition cannot be granted. However, liberty is granted to the petitioner Association to work out their remedy in the manner known to law.

6. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
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To

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M.DHANDAPANI,J.

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