



W.P. No. 35646 of 2019 and W.P. No. 825 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

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

W.P. No. 35646 of 2019 and W.P. No. 825 of 2020

and

W.M.P. Nos. 36546 of 2019, W.M.P. Nos.21544, 996 and 997 of 2020

W.P. No. 35646 of 2019

Haji M.I.Mohammed Ali

... Petitioner

-VS-

1. The Special Officer,
Tamil Nadu Waqf Board,
No. 1, Faffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.
2. The Chief Executive Officer,
Tamil Nadu Waqf Board,
No. 1, Faffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.
3. The Superintendent of Wakf Coimbatore Zone,
Tamil Nadu Waqf Board,
15-16 Avinashi Road,
1st Floor, Upplipalayam Masjid Building,
Coimbatore - 641 018.
4. The State of Tamil Nadu
represented by Secretary to Government,
Backward Class and Minority Welfare Department,
Fort St.George,
Chennai - 600 009.



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5. The District Collector,
Coimbatore District,
Coimbatore - 641 008.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First to Third Respondents to consider the Petitioner representation dated 13.11.2019 and further direct the Respondents to prepare the electoral roll by including all the muslim men members of Coimbatore Corporation irrespective of this mother tongue and allow them to cast their votes for forthcoming administrative committee election for the Coimbatore Mettupalayam Road, Muslim burial ground (G.S. No. 95) "Hyder Ali Tippu Sulthan Dakni Sunnath Jamaatha Karbrastan (G.S. No. 98).

For Petitioner : Mr. N.R.Rajagopalan

For Respondents : Mr. S.Haja Mohideen Gisthi
(for R1 to R3)

Mr. V.Ravi,
Special Government Pleader
(for R4 & R5)

W.P. No. 825 of 2020

A.Ahmed Basha

... Petitioner

-VS-

1. The Chief Executive Officer,
Tamil Nadu Waqf Board,
No. 1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.



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2. The Election Officer/The Superintendent of Waqf

Tamil Nadu Waqf Board,
D.No. 15-16, Mosque Buildings,
Uppilipalayam,
Avinashi Road,
Coimbatore - 641 018.

3. Inspector of Waqfs

Tamil Nadu Waqf Board,
D.No. 15-16, Mosque Buildings,
Uppilipalayam,
Avinashi Road,
Coimbatore - 641 018.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of order in Na. Ka. No. 95 & 98/Covai/Va.Ka/Covai/2019 dated 25.11.2019 passed by the Second Respondent herein and quash the same and consequently direct the Respondents not to admit new persons in the electoral roll and also not to take away the voting right of life members for the forthcoming administrative committee election Petitioner's Hyder Ali Tippu Sulthan Dhakni Jamia Mosque, Khabrasthan & Iduga Waqf (G.S. No. 98), situated at S.F. No. 517 and 518/2, Subbaiah Street-Thomas Street, within 80th Ward of Coimbatore Corporation, Coimbatore by considering the Petitioner's representation dated 02.09.2019 and 26.09.2019.

For Petitioner : Mr. N.A. Nissar Ahamed,
Senior Counsel for
Mr. N.A.Nassir Hussain

For Respondents : Mr. S.Haja Mohideen Gisthi



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COMMON ORDER

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Heard Mr. N.R.Rajagopalan, Learned Counsel for the Petitioner in W.P. No. 35646 of 2019, Mr. N.A. Nissar Ahamed, Learned Senior Counsel for the Petitioner in W.P. No. 825 of 2020, Mr. S.Haja Mohideen Gisthi Learned Counsel for the First to Third Respondents in W.P. No. 35646 of 2019 and Respondents in W.P. No. 825 of 2020 and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner in W.P. No. 35646 of 2019 has sought for direction to the First to Third Respondents to dispose the representation dated 13.11.2019 made by the Petitioner to prepare the electoral roll by including all the Muslim men members of Coimbatore Corporation irrespective of their mother tongue and allow them to cast their votes for forthcoming Administrative Committee election for the Coimbatore Mettupalayam Road, Muslim burial ground (G.S. No. 95) Hyder Ali Tippu Sulthan Dakni Sunnath Jamaatha Karbrastan (G.S. No. 98).

3. The Petitioner in W.P. No. 825 of 2020 had made representations dated 02.09.2019 and 26.09.2019 stating that only existing members of the Waqf



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alone must be allowed to cast their votes, but the same has been rejected by Proceedings in Na. Ka. No. 95 & 98/Covai/ Va.Ka/Covai/2019 dated 25.11.2019. The Petitioner has filed this Writ Petition challenging the said order and has sought for consequential further direction not to admit new members of the said Waqf.

4. Learned Counsel appearing for the Waqfs has filed a Common Memo dated 13.02.2024 stating as follows:-

“1. It is submit that Hyder Ali Tipu Sulthan Dhakni Jamia Mosque, Khabarsthan and Iduga Waqf bearing G.S. No. 98 and Mettupalayam Road Muslim burial ground bearing G.S. No. 95 are a surveyed and notified Waqfs. The said Waqf is managing the Mosque, Burial Ground and Edgha which belongs to the said Waqf. The Rule of Succession to the office of the Mutawalli is “Elected by Muslim Jamath”.

2. It is submit that the Waqf Board has supervisory jurisdiction over all the Auqaf in the state to generally do all such acts as may be necessary for the control, maintenance and administration of Auqaf and to ensure that the elections are held in the Waqf institutions procedurally and democratically with



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the presence of the Waqf Officials. Hence minimum 6 months time is needed to complete the process of framing of scheme and to complete the election process based on the scheme framed.

3. *It is submit that since there is a procedural process involved in the framing of the scheme decree such as framing of the draft, calling for objection, scrutinization, and other procedural processes that are necessary for the circumstances that arise then and there for the said Waqf would take a minimum three month to complete the same and thereafter scheme decree has be framed by the board and for election process another 3(three) months would be needed. Hence, a totally of 6 months time is required to finish the entire process.*

4. *It is submit the decision of the Tamil Nadu Waqf Board regarding the 15 person Advisory Committee constituted for a period of six months from 24.01.2024 to assist the Executive Officer of the Waqf to prepare an Administrative Plan for the Coimbatore District and Circle-Hyder Ali Tippu Sultan Masjid Kab arastan and Eidka Waqf and hold an election.”*

In view of the aforesaid representation made that a scheme under Section 69 of the Waqf Act, 1995 (hereinafter referred to as 'the Act' for short) would be



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framed for the Waqf including the disputes raised by the Petitioners in both cases, nothing remains for the further consideration in these Writ Petitions. It is informed that till such scheme is framed, the direct management of the Waqf under Section 65 of the Act would continue to be in operation. It is needless to add here that the First Respondent shall ensure that the aforesaid exercise is completed expeditiously and there shall be atleast one effective hearing every month showing progress of the case and report of its outcome would be filed before the Registrar(Judicial) of this Court.

In fine, these Writ Petitions are disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

13.02.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 02.04.2024.

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To

1. The Special Officer,
Tamil Nadu Waqf Board,
No. 1, Faffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.



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2. The Chief Executive Officer,
Tamil Nadu Waqf Board,
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3. The Superintendent of Wakf Coimbatore Zone,
Tamil Nadu Waqf Board,
15-16 Avinashi Road,
1st Floor, Uppilipalayam Masjid Building,
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4. The Secretary to Government of Tamil Nadu,
Backward Class and Minority Welfare Department,
Fort St.George,
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5. The District Collector,
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P.D. AUDIKESAVALU, J.

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