



WP(MD)No.1017 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP (MD) No.1017 of 2024

Wasefa Kaussar

... Petitioner

Vs

- 1.The Secretary to Government,
Department of Minority Welfare,
Secretariat, Chennai - 600 005.
- 2.The Tamil Nadu Waqf Board,
represented through its Chairman,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai.
- 3.The Tamil Nadu Waqf Board,
represented through
its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Street,
Chennai.
- 4.Abdul Rahman
the Chairman,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai.
- 5.Khan Mian Pallivasal @ Shah,
represented through its Mutawalli,
Mohamed Jafar Khan Bani,
Kandiaperi Village,
Tirunelveli District,
Tamil Nadu

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 1st respondent to consider the representation dated 20.10.2023 and to restrain the 4th respondent from chairing the enquiry as per the notice dated 18.10.2023 served on the petitioner vide Na.Ka.3211/07/A1/Tirunelveli.

For Petitioner : Mr.S.Sirgeth Naina Mohamed
For Respondent : Mr.R.Suresh Kumar,
No.1 Additional Govt.Pleader
For Respondent : Mr.Haja Mohideen
Nos.2 and 3 for Mr.S.A.Ajmal Khan
Standing Counsel

ORDER

This writ petition has been filed for a writ of mandamus directing the 1st respondent to consider his representation dated 20.10.2023 and to restrain the 4th respondent from conducting the enquiry as per the notice dated 18.10.2023 issued in Na.Ka.No.3211/07/A1/Tirunelveli.

2.The case of the writ petitioner is that the Khan Mian Pallivasal and Dargah was established in



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the name of Mahan Hazrath Khan Mian by King.Vishwanatha Naicker of Naicker Dynasty vide the Telugu Copper Plate Grante Vide No.1712 of 1684. According to the proforma , the position of Mutawalli is hereditary. Accordingly, the petitioner's forefathers were the hereditary Mutawallis. While being so, on 23.11.1981 the National Waqf Board vide a resolution No.474 appointed Janab.Mohamed Haneef as the hereditary Mutawalli, which was extended till his life time. After his demise, many persons made attempts to usurp the properties belonging to the Waqf board falsely claiming to be hereditary Mutawalli of the Waqf Board. One Zafar Khan Bani, who was not a hereditary Mutawalli also tried to stake a claim for the post of Mutawalli. Under these circumstances the Waqf board conducted a detailed enquiry and appointed Janab.AR.Abdul Rasheed, the eldest son of Janab. Mohamed Haneef as Mutawalli. On 18.12.2020 Noor Khan Bani and Mohamed Jafar Khan Bani were illegally appointed as Mutawallis under the chairmanship of the 4th respondent one Abdul Rahman. As the office of the Mutawalli was hereditary in



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nature, the petitioner laid a claim for Mutawalliship over the wakf and submitted the application to the wakf board to appoint him as Mutawalli.

3.The petitioner claims that she is the grand daughter of Mohamed Haneef erstwhile Mutawalli of Khan Mian Pallivasal and Durgah. On 27.03.2023 the petitioner sent a representation for conducting an enquiry with respect to the appointment of Noor Khan Bani and Mohamed Jafar Khan Bani as Mutawallis and requested them to remove from the post of Mutawallis. The petitioner has also received a notice on 18.10.2023, which is impugned in this writ petition, requiring the petitioner for the enquiry pertaining to the request of the petitioner for appointment of the hereditary trustee in the Khan Mian Pallivasal and Durgah.

4.The petitioner is having a grievance that the 4th respondent against whom she has made a representation, is conducting enquiry which would cause great prejudice to her claim and it is against the principle of natural justice.



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5. When this writ petition is taken up for hearing the learned Counsel appearing for the respondents submits that the enquiry was already concluded on 28.11.2023 and this petitioner has also produced a copy of the proceedings dated 28.11.2023. A copy of the same is also handed over to the learned Counsel for the petitioner.

6. Since the enquiry is already concluded on 28.11.2023 itself, this writ petition is closed with liberty to the petitioner to work out her remedy in the manner known to law by challenging the proceedings dated 28.11.2023. No costs.

30.01.2024

Internet : Yes / No

DSK



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To

WEB COPY

- 1.The Secretary to Government,
Department of Minority Welfare,
Secretariat,
Chennai - 600 005.
- 2.The Chairman,
The Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
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- 3.The Chief Executive Officer,
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B. PUGALENDHI , J .

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