



W.P(MD)No.2903 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.2903 of 2024

S.K.Mohamed Ibrahim

... Petitioner

Vs

1.The Tamil Nadu Waqf Board,
Rep by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallalseethakathi Nagar,
Chennai.

2.The Inspector of Waqf,
Tirunelveli Division,
Khader Owlia Pallivasal Complex,
Palayamkottai,
Kulavanikarpuram,
Tirunelveli.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to revoke the direct management in respect of Naina Mohamed Tholugai Pallivasal, N.S.No.31/TNV, by considering the petitioner's representation, dated 21.11.2023 in the



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light of Section 65(1) of the Waqf Act, 1995 within the time that may be stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Athiff
For Respondents : Mr.D.S.Haroon Rasheed,
Standing Counsel

ORDER

The petitioner is a member of Naina Mohamed Tholugai Pallivasal. This Waqf was administered by one Muthavalli, namely, U.T.Mohamed Gani. On certain allegations as against the said Muthavalli, Waqf Board has taken action as against him and removed him by order dated 31.12.2008 and the said Pallivasal was taken into direct administration of the Waqf Board. Now the learned counsel by referring to Section 65 of the Waqf Act,1995 submits that the Waqf Board is not supposed to continue the direct management beyond the period of five years. By referring the provision under Section 65, the petitioner has submitted his representation dated 02.11.2024 and filed this writ petition for a Mandamus, directing the respondents to consider his representation in the light of the provision under Section 65(1) of the Waqf Act.



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2.The learned counsel appearing for the petitioner submits that Waqf Board has taken action as against the then Muthavalli for certain allegations and the then Muthavalli, against whom the action was taken also died. The order of removal of the then Muthavalli was passed in the year 2008. The Waqf Board is in continued administration for more than fifteen years. As per Section 65 of the Waqf Act, 1995, the Waqf Board is not supposed to continue the direct management beyond a period of five years.

3.Mr.D.S.Haroon Rasheed, learned Standing Counsel takes notice for the respondents and submits that the order of Waqf board, dated 31.12.2008 was challenged by the then Muthavalli before this Court by way of a writ petition and the same was allowed. However, on the appeal filed by the Waqf Board, the decision of the waqf Board was upheld by this Court and therefore, there is no reason to interfere with the order.



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4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The then Muthavalli of the Naina Mohamed Tholugai Pallivasal was removed on certain allegations and therefore the waqf Board has taken direct administration of the said Pallivasal in the year 2008. According to the petitioner as per the provision under Section 65(1) of the Waqf Act,1995, the Waqf Board is not supposed to continue the direct management beyond the period of five years.

The relevant provision is extracted as under:-

Section 65(1) in The Wakf Act, 1995

(1)Where no suitable person is available for appointment as a mutawalli of a waqf, or where the Board is satisfied, for reasons to be recorded by it in writing, that the filling up of the vacancy in the office of a mutawalli is prejudicial to the interests of the waqf, the Board may, by notification in the Official Gazette, assume direct management of the waqf for such period or periods, not exceeding five years in the aggregate, as may be specified in the notification.



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6.In the light of the above, this writ petition is disposed of with a direction to the respondents to consider the representation of the petitioner in the light of the provision under Section 65(1) of the Waqf Act,1995 within a period of eight weeks from the date of receipt of a copy of this order. No costs.

09.02.2024

NCC: Yes/No
Index:Yes/No
Internet:Yes
vrn

To

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Order made in
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