



W.P.(MD)No.4773 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.4773 of 2024

and

W.M.P.(MD)No.4580 of 2024

H.Mohamed Ismail

... Petitioner

Vs.

1.The Tamil Nadu Waqf Board,
Represented by its Chairman,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

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

3.The Superintendent of Waqf,
Tamil Nadu Waqf Board,
Madurai.

4.Kamardeen

5.A.Ali Akbar

... Respondents



W.P.(MD)No.4773 of 2024

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 3 to restrain the respondents 4 and 5, to open the Hundi which is kept at the Mohaideen Andavar Dargah & Pallivasal till the disposal of the proceeding Na.Ka.No. 11006/18/Aa8/Madurai, on 17.08.2023, which is conduct by the first respondent.

For Petitioner : Mr.A.Raja Mohamed
For R-1 to R-3 : Mr.D.S.Haroon Rasheed
Standing Counsel
For R-4 : Mr.R.Ramanujam
For M/s.Gandhi Associates

ORDER

The present Writ Petition is filed praying for a Mandamus, directing the respondents 1 to 3 to restrain the respondents 4 and 5, to open the Hundi which is kept at the Mohaideen Andavar Dargah & Pallivasal till the disposal of the proceeding dated 17.08.2023, conducted by the first respondent.



W.P.(MD)No.4773 of 2024

2. The petitioner is an elected member of Mohaideen Andavar Dargah & Pallivasal and Mina Noordeen Dargah & Pallivasal, which is a public Waqf vide its G.S.No.139/MDU&G.S.No.135/MDU and the petitioner is representing Keelatheru Poorviga Jamath. The Committee which is administering the Waqf is governed by a scheme framed under Section 32 of the Waqf Act, 1995. A Committee comprising of 20 members are administering the Jamath, including 9 members selected from Melatheru Poorviga Jamath and 9 others from Keelatheru Poorviga Jamath and a Managing Trustee from each of the said jamath.

3. The petitioner is said to have been elected from Keelatheru Poorviga Jamath and respondents 4 and 5 are the managing trustee who are elected from and for Melatheru & Keelatheru Poorviga Jamath. It is submitted that the fourth respondent was occupying the post of managing trustee for the past 10 years. It was submitted that Assets running to several hundred crores has been dedicated to the subject Wakf. However, the same has not been maintained/administered properly.



W.P.(MD)No.4773 of 2024

4. Earlier, a Writ Petition in W.P.(MD)No.11339 of 2023 has been filed by a committee member viz., M.Abdul Nazeer, with a prayer to direct the respondents to consider the representation dated 07.03.2023, within a period of stipulated time and thereby conduct enquiry under Section 70 and 71 of the Waqf Act, 1995. This Court vide order dated 13.04.2023, was pleased to issue the following directions:

“This writ petition has been filed by one of the Member selected from the Melatheru Poorviga Jamath seeking for the issue of writ of mandamus directing the respondents to consider the representation dated 07.03.2023 and to take a decision within the time frame fixed by this Court.

2.Heard Mr.M.M.I.Khaleel, learned counsel appearing on behalf of the petitioner and Mr.G.Mohammed Aseef, learned Standing Counsel appearing on behalf of the respondents.

3.The case of the petitioner is that Mohaideen Andavar Dargah & Pallivasal and Mina Noordeen Dargah & Pallivasal Waqfs are public property. The Committee which is administering the Waqf is governed by a scheme framed under Section 32 of the Waqf Act, 1995 (hereinafter referred to as “the Act”). The grievance of the petitioner is that the Waqf is not being maintained properly and various irregularities have been committed by some of the members. In view of the same, a representation was made to respondents to conduct an enquiry



W.P.(MD)No.4773 of 2024

under Section 70 and 71 of the Act. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

4.In the considered view of this Court, if the petitioner is seeking for conducting an enquiry under Section 70 and 71 of the Act, the petitioner has to make a formal application in the prescribed format before the Waqf Board. The petitioner has only sent a representation to the Waqf Board. In view of the same, it is left open to the petitioner to file a proper petition before the Waqf Board in the prescribed format. On receipt of the same, the respondents shall conduct an enquiry on being satisfied with the irregularities pointed out by the petitioner after affording opportunity to all the parties concerned and take action, strictly in accordance with law. The respondents shall complete the enquiry and take appropriate action after the petition is filed by the petitioner, as expeditiously as possible.

5.This writ petition is disposed of in the above terms. No Costs” .

5. As a matter of fact, the very same petitioner had filed yet another Writ Petition in W.P.(MD)No.11089 of 2024 praying to issue a Mandamus, directing the respondents 1 to 3 therein to order the respondents 4 and 5 to ensure that the financial transactions of the Mohaideen Andavar Dargah & Pallivasal Waqf are



W.P.(MD)No.4773 of 2024

through banking channel and should be under the regular supervision of the

respondents 1 to 3. This Court vide order dated 03.06.2024, referred to the earlier order dated 13.04.2023 passed in W.P.(MD)No.11339 of 2023. It was then recorded that the Inspector of Waqf had submitted a report dated 14.08.2023. Pursuant to the report, the CEO formed a Special Committee to look into the irregularities and decision was also taken to issue show cause notice. A report was also submitted by the CEO dated 27.10.2023, pursuant to which the Board is stated to have passed a resolution dated 27.11.2023, wherein the recommendation of the CEO for direct management of Waqf was under consideration. Relevant portion of the order is extracted hereunder:

“7. Having considered the learned counsel for the petitioner and the Standing Counsel for the respondents 1 to 3 and considered the resolution of the Board dated 27.11.2023, recording the report of the Inspector dated 14.08.2023 and the report of the CEO dated 27.10.2023, in proceedings no.195 of 2023, this Court is inclined to dispose of the Writ Petition at the time of admission by directing the respondents 1 to 3 to act on the petitioner’s representation dated 22.04.2024 as expeditiously as possible, preferably within a period of 30 days from today, so that the financial transactions are streamlined irrespective of the fact that the Waqf is brought under the direct control of the first respondent or not.”



W.P.(MD)No.4773 of 2024

WEB COPY

6. The present Writ Petition which is the third round of litigation relating to the subject Waqf.

7. At this juncture, the learned Standing Counsel for the respondents 1 to 3, would submit that he would seek three months time to complete the above enquiry and the same is accepted by the learned counsels appearing for the petitioner as well as respondents 4 and 5.

8. Recording the same, this Writ Petition stands closed with a direction to the first respondent to conduct an enquiry, after issuing notice to all the necessary parties/stake holders and the parties shall extend their co-operation to ensure that the enquiry is completed within the stipulated period. No costs. Consequently, connected miscellaneous petition is closed.

19.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



W.P.(MD)No.4773 of 2024

To:

WEB COPY

- 1.The Chairman,
The Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 3.The Superintendent of Waqf,
Tamil Nadu Waqf Board,
Madurai.



WEB COPY



W.P.(MD)No.4773 of 2024

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.4773 of 2024

19.08.2024