



WP(MD)No.6116 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6116 of 2024

M.Abdul Raheem

... Petitioner

Vs.

- 1.The Revenue Divisional Officer,
Melur, Madurai District.
- 2.The Tahsildar, Madurai East Taluk,
Madurai District.
- 3.The Advocate Commissioner,
Mr.A.Sivaji, Advocate
Enrollment No.248/1974,
No.36, Lawyer Chamber,
Madurai Bench of the Madras High
Court, Madurai.
- 4.The Inspector of Police,
Silaiman Police Station,
Silaiman, Madurai District.

5.xxxxx

(5th respondent was deleted
from the array of parties vide
order dated 03.04.2024)

6.Abdul Kadar

... Respondents

(6th respondent impleaded vide
court order dated 03.04.2024)



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Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondent No.3/Advocate Commissioner to conduct the election for AL Jamina Jumma Masjith Sunnathul Jamath, LKB Nagar, Sakkimangalam, Madurai on the basis of this Court order in Crl MP(MD)No.2765 of 2019 in Crl OP(MD)No.3845 of 2016 dated 29.03.2019 in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.R.Prakash

For Respondents : Mr.N.GA.Nataraj, Government Advocate
for R1 & R2

Mr.Albert James,
Government Advocate (crl.side) for R4

* * *

ORDER

The case on hand pertains to AL Jamina Jumma Masjith Sunnathul Jamath, LKB Nagar, Sakkimangalam, Madurai. The petitioner herein had earlier filed Crl OP(MD)No.3845 of 2016. In the said Crl OP, Crl MP(MD)No.2765 of 2019 was filed for appointing Advocate Commissioner to conduct election for the jamat. The M.P was allowed vide order dated 29.03.2019 in the following terms :



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"4.Today, the learned counsel on either side, in unison, accepted for appointing an Advocate Commissioner to conduct the election for the subject Mosque, so as to amicably settle the issue. Accordingly, a senior member of the Bar Mr.A.Sivaji, Advocate (Enrol No.248/1974), No.36, Lawyer Chamber, Madras High Court Madurai Bench, Madurai (Mobile No.94433 43717) is appointed as Commissioner with consensus and his remuneration is fixed at Rs.50,000/- (Rupees Fifty Thousand Only), apart from incidental expenditures. The remuneration to the Commissioner should be given directly to him by the jamath funds.

5.The Advocate Commissioner is directed to visit the place after issuing notice to both the parties and discharge his duties as that of election officer and conduct election in the first week of May, 2019, in a peaceful manner and in accordance with law. After conducting the election, the Advocate Commissioner shall file a detailed report containing the list of elected candidates."

Subsequently, the criminal original petition was disposed of on 02.03.2020 in the following terms :

"3.This Court, on 19.03.2019 has suggested to conduct election for administering the mosque in the presence of Advocate Commissioner. The said suggestion was accepted by either side and Mr.A.Sivaji, Advocate was



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appointed as Commissioner for conducting election to the petitioner's mosque.

4.In the said circumstances, this Court is of the view that this criminal original petition can be disposed of with a direction to the respondents 1 and 2 to give appropriate protection for the Advocate Commissioner, if he requires for his peaceful conduct of the election to the petitioner's mosque.”

The present writ petition has been filed on the ground that the direction given by this Court has not been complied with.

2.Thiru.A.Sivaji, the learned counsel, who was appointed as Advocate Commissioner brought to my notice that he had already filed a memo for discharging him as he was unable to perform the duties on account of the practical difficulties encountered by him. He had in fact endeavored to return the remuneration received by him. But the postal cover containing the cheque was also returned. The memo filed by the learned Advocate Commissioner is taken on record and his explanation is accepted and he is discharged.

3.It is stated that those persons who are residents of LKB Nagar and who have paid Vari to the Jamat are entitled to be voters. The



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voters' list will have to be finalised. I appoint Ms.M.Benazir Begum, Advocate (Enrolment No.2821/2010, Cell – 9444700768) as Advocate Commissioner to finalise the voters list and also conduct election for the petition mentioned Jamat. The Advocate Commissioner shall bear in mind the stated principles and procedures while carrying out the function entrusted by this Court. She shall be paid a sum of Rs.25000/- as initial remuneration from out of the Jamat funds. The petitioner shall ensure that this is immediately carried out. The Advocate Commissioner is also entitled defray all other incidental expenses such as publication, printing etc., from out of the Jamat funds. The entire exercise shall be completed by the Advocate Commissioner within a period of two months from the date of receipt of copy of this order.

4.This writ petition is allowed. No costs.

03.04.2024

Index : Yes / No
Internet : Yes/ No
Skm

Note : Issue order copy on 05.04.2024



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- 2.The Tahsildar, Madurai East Taluk, Madurai District.
- 3.The Inspector of Police, Silaiman Police Station,
Silaiman, Madurai District.



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G.R.SWAMINATHAN, J.

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