



W.P.(MD).No.9634 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 12.08.2024**

**CORAM**

**THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

**W.P.(MD).No.9634 of 2024**

**and**

**W.M.P.(MD).No.8726 of 2024**

G.Fasel Basha

... Petitioner

**Vs.**

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

2.Syed Ibrahim

...Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the 1<sup>st</sup> respondent in Proc.RC.No.14447/10/B8/MDU dated 26.02.2024 and quash the same as illegal, arbitrary and passed in gross error of jurisdiction.

For Petitioner : M/s.A.Ajimath Begam

For R-1 : Mr.S.A.Ajmal Khan

Standing Counsel

For R-2 : M/s.N.Gayathri



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## **ORDER**

WEB COPY The present Writ Petition is filed challenging the impugned proceedings passed by the first respondent dated 26.02.2024 pursuant to the directions of this Court in W.P.(MD).No.19618 of 2023 dated 14.08.2023, considering the representation of the petitioner therein/second respondent herein dated 15.07.2023, that there were several irregularities/malpractices since the appointment of the present Managing Committee.

2. The petitioner herein, the writ petitioner in W.P.(MD).No.19618 of 2023/second respondent herein and one Babu Jan, the seventh respondent therein were called for enquiry by the first respondent on 12.10.2023, wherein, a preliminary enquiry was made into the allegations of misappropriation, alienation of the Wakf properties and falsification of accounts. The first respondent considered the explanation offered by the petitioner that the Wakf accounts have been maintained properly, contributions were made without any default till date and that the Managing Committee is ready and willing for Government Audit at any point of time.

3. After recording the above contentions of either parties, the first respondent issued a direction to the Senior Accounts Officer of the Tamil Nadu



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Wakf Board to verify the accounts and submit a report. The petitioner submitted the relevant documents to the Senior Accounts Officer, who was thereafter directed to audit the accounts of the Wakf institution and submit a report on or before 30.01.2024. The Senior Accounts Officer, pursuant to the above directions of the first respondent, submitted a detailed report, wherein, it was found that the present Managing Committee had not submitted the accounts for the period 2000 to 2012 and that there were discrepancies in income and expenditure apart from improper maintenance of the Wakf's finances.

4. On the basis of the above report of the Senior Accounts Officer, the first respondent herein, vide impugned communication dated 26.02.2024, referred the matter to the Board for its consideration inasmuch as the power of removal of Mutawallis is vested with the Board in terms of Section 32(2)(g) of the Wakf Act.

5. It is submitted by the learned counsel for the petitioner that the petitioner is aggrieved by the following findings recorded in the impugned order:

*“Therefore, the subject matter is referred to the Board for its consideration and issue show cause notice to the present Managing committee under Section 64 of the Waqf Act, 1995.”*

6. It was further submitted that had the first respondent stopped with



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referring the matter to the Board for consideration, there may not have been any legitimate grievance. However, the first respondent has proceeded to direct the Board to issue show cause notice to the present Managing Committee under Section 64 of the Wakf Act.

7. The learned Standing counsel for the Board submitted that the Board would apply its mind independently to the materials on record and take appropriate action, if required, in accordance with law.

8. Considering the above submissions, this Court is of the view that the above communication is not happily worded and in any view, in terms of Section 25(1) of the Act, it would be evident that the first respondent would act on the basis of the directions of the Board and not vice versa/converse. If one takes a look at the above observations/findings in the impugned order, this Court is of the view that the expression “issue show cause notice” could not be understood as a positive direction or a mandate to the Board by the first respondent. All that the impugned proceeding does is place before the Board, the material, which *prima facie* in the view of the first respondent, warrants action by the Board. Recording the submission of the learned Standing Counsel for the respondent Board, the Wakf Board is directed to apply its mind



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independently to the material on record and if warranted, take appropriate action in accordance with law. The impugned proceedings passed by the first respondent dated 26.02.2024 are set aside.

9. With the above observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

**12.08.2024**

Index : Yes / No  
Internet : Yes/ No  
Lm



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**MOHAMMED SHAFFIQ, J.**

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