



W.P.(MD) No.9652 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.9652 of 2024
and
W.M.P.(MD) No.8743 of 2024**

G.Syed Akbar Hasan

... Petitioner

/vs./

1.The Tamil Nadu Waqf Board,
rep. 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.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the 2nd respondent vide proceedings dated 02.11.2018 in Se.Mu.Order No.7046/93/AA5/TRY, in so far as restricting the tenure of the hereditary trustee for a period of 5 years and quash the same.



WEB COPY

W.P.(MD) No.9652 of 2024

For Petitioner : M/s.A.Ajimath Begum

For Respondents : Mr.K.Jeyamohan
Standing Counsel

ORDER

Heard M/s.A.Ajimath Begum, learned counsel for the petitioner and Mr.K.Jeyamohan, learned Standing Counsel for the respondents.

2.The writ petition has been filed for a Writ of Certiorari to call for the records of the second respondent vide proceedings dated 02.11.2018 bearing Ref. Se.Mu.Order No.7046/93/AA5/TRY and to quash the same.

3.*Prima facie*, the restrictions contained in the impugned order dated 02.11.2018 restricting the tenure of the office of the petitioner as the hereditary trustee of Hazarath Thable Alam Badhusa Nathar Vali Dargah Waqf is contrary to the resolution of the Wakf Board dated 13.06.2017.

4.Although the writ petition has been filed belatedly, it appears that the petitioner has been repeatedly sending representations stating that there is no



W.P.(MD) No.9652 of 2024

scope for restricting the tenure of the hereditary trustee to a particular period in the absence of any Clause in the documents governing the Wakf.

5.The learned counsel for the petitioner has also drawn attention to the decision of this Court rendered in W.P. No.19032 of 2023 (***Apsar Peeran Shuttari Sahebulla Vs. The Tamil Nadu Wakf Board, represented by its Chief Executive Officer, No.1, Jaffer Syrang Street, Vallal Seethakathi Nagar, Chennai -1***) dated 23.08.2023, wherein following the views of the Court in ***Subhan Vs. Executive Officer Waqf Board in W.P.No.18162 of 2000***, this Court has held as follows:-

“6. As far as the contention raised by the learned counsel for the respondent is concerned, in case the respondent/Board receives any complaint against the style of management by the petitioner, it is always open to the respondent/Board to take action against him in accordance with law. In fact, under Section 64 of Waqf Act, the respondent/Board is entitled to remove the Mutawalli under various circumstances enumerated therein. In these circumstances, the restriction imposed in the impugned order restricting the term of office to three years need to be set aside.

7. Accordingly, the condition imposed by the impugned order restricting the term of the petitioner to three years from 31.05.2022 alone is set aside. The petitioner is entitled to hold office of Mutawalli for his life., however, subject to right of the respondent to remove him under Section 64 of Waqf Act on specific grounds enumerated thereunder.



W.P.(MD) No.9652 of 2024

WEB COPY

8. *With this clarification, this writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.”*

6.Considering the above, I am of the view that the impugned order of the second respondent passed bearing Ref. Se.Mu.Order No.7046/93/AA5/TRY dated 02.11.2018 is un-sustainable. Therefore, this Writ Petition is allowed at the time of admission. However, it is made clear that this order shall govern only the hereditary trustees and not the trustees appointed from the public.

7.Accordingly, the Writ Petition stands allowed. The impugned order passed by the second respondent bearing Ref.Se.Mu.Order No.7046/93/AA5/TRY dated 02.11.2018 is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
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22.04.2024



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W.P.(MD) No.9652 of 2024

C.SARAVANAN, J.

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W.P.(MD) No.9652 of 2024

22.04.2024