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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.12868 of 2024

M/S.Majlisul Bukharis Shareef ... Petitioner

/vs./

1.The Tamil Nadu Waqf Board,
represented by its Chairman,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar, Chennai.

2.The Chief Executive Officer,
The Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar, Chennai.

3.The Superintendent of Waqf,
Thoothukudi District,
The Tamil Nadu Waqf Board,
Office at Khadar Owlia Pallivasal Complex,
Tirunelveli.

4.The Inspector of Waqf,
Thoothukudi District,
Tamil Nadu Waqf Board,
Office at Khadar Owlia Pallivasal Complex,
Tirunelveli.

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5.The Revenue Divisional Officer,
Tiruchendur.
(R5 has been suo motu impleaded
vide order dated 18.06.2024) ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1 to 4 respondents to take appropriate action to break open the lock of the office of the petitioner's Masjid and hand over the custody of the same to the petitioner.

For Petitioner : Mr.K.Navaneetharaja
For Respondents : Mr.S.A.Ajmal Khan
Standing Counsel

ORDER

Heard Mr.K.Navaneetharaja, learned counsel for the petitioner and Mr.S.A.Ajmal Khan, learned Standing Counsel for the respondents.

2.The petitioner has filed this writ petition for a Writ of Mandamus to direct the 1 to 4 respondents to take appropriate action to break open the lock of the office of the petitioner's Masjid and hand over the custody of the same to the petitioner, without impleading the jurisdictional District Munsif/Additional District Munsif.

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3.The learned counsel for the petitioner would submit that the petitioner was appointed as Secretary represented by its Wakf. It is submitted that the election to the Wakf was held on 31.12.2023 and thereafter, the elected members were also approached by the CEO on 08.01.2024.

4.It is submitted that the previous Muthavalli has not cooperated in handing over the charge to the newly elected body. It is further submitted that the said person has also withdrawn amounts from the petitioner's Wakf without authority on 03.01.2024.

5.The learned Standing Counsel for the respondents would submit that the writ petition is without any merits, inasmuch as the petitioner has to move suitable application under Section 68(2) of the Wakf Act, 1995. That apart, it is submitted that the petitioner has also not made previous Muthawalli, namely Moosa Naina and others, who have lost the election on 31.12.2023 as parties.

6.Having considered the submissions made by the learned counsel for the

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petitioner and the learned Standing Counsel for the respondents, this Court is inclined to *suo motu* implead the Revenue Divisional Officer, Tiruchendur as fifth respondent. The petitioner is directed to file suitable application as is contemplated under Section 68(2) of the Wakf Act, 1995 before the fifth respondent.

7.It is needless to state that the petitioner shall also make the said Moosa Naina and others as respondents in the aforesaid proceeding. The fifth respondent shall dispose of the application of the petitioner, if any, and take steps in accordance with law as expeditiously as possible, preferably within a period of 30 days from the date of receipt of a copy of this order after hearing the said Moosa Naina and others. The petitioner shall file necessary charges for issuance of the order to be passed by the fifth respondent.

8.With the above directions, the Writ Petition stands disposed of. No costs.

Index : Yes / No
Internet : Yes / No

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C.SARAVANAN, J.

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