



W.P.(MD) No.13409 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.13409 of 2024
and
W.M.P.(MD) No.11825 of 2024**

O.U.Haja Mydeen

... Petitioner

/vs./

- 1.The Tamil Nadu Waqf Board,
represented by its Chairman,
Chennai.
- 2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
Chennai.
- 3.The Superintendent of Waqf,
Durga Building,
No.54, S.N.High Road,
Sripuram, Tirunelveli.
- 4.The Muthawalli,
Keezhatheru Naina Mohammed Jumma Pallivasal,
Kadayanallur,
Tenkasi District.



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5.Keela Muhalla Melakatchi Muslim Jamath,
represented by its President,
Kadayanallur,
Tenkasi District.

6.M.S.Mohammed Hanifa

7.S.A.Uthuman Mohaideen

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 to 5 to prepare the eligible voters list in respect of the 5th respondent Jamath and conduct the election under the supervision of the 4th respondent for the office of the 5th respondent Jamath, so as to elect the office bearers for the 5th respondent Jamath and a representative for the 4th respondent Pallivasal within the time fixed by this Court.

For Petitioner : Mr.J.Barathan

For R1 to R3 : Mr.D.S.Haroon Rasheed
Standing Counsel

For R7 : Mr.V.Meenakshi Sundaram

ORDER

Heard Mr.J.Barathan, learned counsel for the petitioner, Mr.D.S.Haroon Rasheed, learned Standing Counsel for the respondents 1 to 3 and Mr.V.Meenakshi Sundaram, learned counsel for the 7th respondent.



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2.The petitioner has filed this writ petition for a Writ of Mandamus to direct the respondents 1 to 5 to prepare the eligible voters list in respect of the 5th respondent Jamath and conduct an election under the supervision of the 4th respondent for the office of the 5th respondent Jamath, so as to elect the office bearers for the 5th respondent Jamath and a representative for the 4th respondent Pallivasal.

3.The case of the petitioner is that the petitioner is a member of a Wakf, namely Keezhatheru Naina Mohammed Jumma Pallivasal. The aforesaid Wakf is constituted by four different Jamaths, namely Melakatchi Jamath, Keelakatchi Jamath, Thangal Katchi Jamath and Kottathu Katchi Jamath. The petitioner belongs to Melakatchi Jamath.

4.It is the case of the petitioner that as per the Scheme governing the aforesaid Wakf, the President is to be elected/nominated from Keelakatchi Jamath. As far as the Secretaries to the aforesaid Jamath are concerned, they have to be nominated from other three Jamaths by rotation.



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5.It is the case of the petitioner that the Muthawalli and the Office Bearers were last selected as per the Scheme on 21.03.2023 and that the Secretary from Melakatchi Jamath, namely Janab A.S.Sheik Meeran after being selected as the Secretary for a period of 3 years unfortunately died on 10.11.2023.

6.It is submitted that in his place, the 7th respondent, namely S.A.Uthuman Mohaideen has been selected by a group headed by O.M.S.Hasan Magdoom Alim Shahib. It is submitted that the selection of the 7th respondent was without following the democratic principles, as unilaterally the name of the 7th respondent has been recommended by the Group headed by O.M.S.Hasan Magdoom Alim Shahib.

7.It is therefore submitted that the election should be held, so that only a proper representative for Melakatchi Jamath is nominated in the place of the deceased A.S.Sheik Meeran. Incidentally, the 7th respondent is the brother of late.A.S.Sheik Meeran.



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8.The learned Standing Counsel for the respondents 1 to 3, on the other hand, would submit that a representation was received from the sixth respondent, M.S.Mohammed Hanifa and pursuant to the directions of this Court in W.P.(MD) Nos.8407 of 2023 dated 22.06.2023, the CEO has placed the issue before the Board as to whether the selection of the 7th respondent is to be considered as a true representative of the Melakatchi Jamath.

9.It is also submitted that the writ petition is premature and in any event, it is open for the petitioner to give suitable representations to the Board, which is seized of the issue. In case, the petitioner's submission is correct, the Board can take suitable action under the provisions of the Wakf Act, 1995.

10.Having considered the submissions made by the learned counsel for the petitioner, learned Standing Counsel for the respondents 1 to 3 and the learned counsel for the 7th respondent, I am inclined to dispose of this writ petition at the time of admission after dispensing with the notice on the private respondents, namely respondents 4 to 7, as no adverse orders are proposed to be passed at this stage.



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11. There shall be a direction to the first respondent/the Wakf Board to hear the petitioner before acting on the recommendation of the Chief Executive Officer of the Wakf, dated 28.02.2024 in his proceedings bearing Ref.Proc.RC.No. 16721/02/B1/TNV. In case, the grievance of the petitioner is accepted by the Board, the Board may order suitable steps to be taken for ameliorating the situation.

12. This exercise shall be carried out by the first respondent within a period of four weeks from the date of receipt of a copy of this order. It is needless to state that the petitioner's representation shall be taken on file and the petitioner shall also be heard before fresh orders are passed.

13. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

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