



W.P.(MD) No.16219 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.16219 of 2024

A.M.S.Sihabudeen

... Petitioner

Vs.

1.The Chairman,
TN Wakf Board,
No.1, Jaffer Syrang Street,
Chennai – 600 001.

2.The Chief Executive Officer,
TN Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

3.S.Mohamed Mohideen,
4.M.Sarfudeen,
5.S.Musthakeen,
6.S.Sabeek,
7.S.Mohameed Aslam,
8.S.Abdul Hadi,
9.S.Mohamed Idiris,
10.S.Mohamed Jaleel,
11.M.Thasleem Ariff,



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12.M.Mohamed Javid,
13.S.J.Abul Hassan,
14.A.Shakeel Ahmed,
15.S.Mohamed Ansari,
16.A.Thenees,
17.A.Hatheem,
18.A.Abdul Hadi,
19.A.Faisal,
20.A.Irshath,
21.S.Mohamed Meerasahib.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the first respondent to consider the representation dated 04.07.2024 with regard to the appointment of trustees for the administration of Madarsathul Salahi fi Falahi (MKN Trust), Adiramapattinam.

For petitioner : Mr.A.V.Arun

For respondents : Mr.D.S.Haroon Rasheed
Standing Counsel for R1 & R2

ORDER

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents 1 and 2.

2. This Writ Petition has been filed to consider and pass appropriate orders on the petitioner's representation dated 04.07.2024 with regard to the appointment of trustees for the administration of Madarsathul Salahi fi Falahi



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(MKN Trust), Adiramapattinam.

3. It is submitted that as per the Scheme Decree, for governing the aforesaid Waqf, six members have to be nominated from three branch of families (two members each) and three members from General Muslims from the Athirampurattinam, Thanjavur District.

4. The learned counsel for the petitioner submits that earlier, one Writ Petition was filed by one N.Ahmed Ansari in W.P.(MD)No.18137 of 2020, wherein, this Court had found that some of the trustees from the three branche of the families had acted contrary to the interest of the Waqf and the Court had observed as under:

“Mr.M.Thasleem Ariff, namely, the 11th respondent is personally present before this Court as Party-in-Person. Mr.I.Abran Mohammed Abdullah, learned counsel takes notice on behalf of respondents 13, 18 and 20.

2. Mr.Mohideen Basha, who is the Standing Counsel for Waqf Board would submit that since he is already appearing in Athirampurattinam matter, which is the subject matter of a Trust, he is not in a position to take notice on behalf of the Wakf Board. Hence, this Court directs Mr.T.S.Mohammed Mohideen, to take notice on behalf of the respondents 1 and 2.

3. It is seen from the records that Late Mr. Justice K.Sampath, acted as Administrator of the Trust and filed a third



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report, which is found place at Page Nos.262 and 263 of the typed set of papers as well as fourth report, found place at Page No.264 of the typed set of papers. The fourth report had been filed by Late Mr.Justice K.Sampath, dated 14.07.2015, stating as to how the Trust properties have been taken away in the individual names by sale deeds and assignment.

4. Therefore, this Court suo motu impleads (i) the Secretary to Government, Revenue Department, Fort St. George, Chennai 9, (ii) the District Collector, Thanjavur, (iii) the Tahsildar, Athiramapattinam, (iv) the Revenue Divisional Officer, Pattukottai, (v) the Inspector of Police, Athiramapattinam as respondents in this writ petition.

5. With regard to the report, what is the action taken on behalf of the Wakf Board as well as by the State Government, the same has to be filed by way of a status report.

6. It is stated that already an enquiry was conducted by the Police in Crime No.103/2019 by the Athiramapattinam Police and the Police is said to have found that what has been stated by Late Mr.Justice K.Sampath is not correct.

7. Therefore, this Court is curious to know as to how the police has closed the matter giving the finding that what has been stated by Late Mr. Justice K.Sampath is incorrect.

8. Further, in the fourth report filed by Late Mr.Justice K.Sampath, the property wise documents have been given. Therefore, the State Government as well as the Wakf Board have to give the report with regard to the same.

9. The petitioner shall take notice to the other respondents including the newly impleaded respondents, through Court as well as privately, including Speed Post, Courier and E-mail, returnable by 17.12.2020. The Registry is directed to carry out necessary amendments in the cause title.

10. Post on 17.12.2020 in the motion list.”

5. It is submitted that subsequently, the Writ Petition was dismissed due to



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efflux of time as the period of the appointment had come to an end, vide order dated 04.08.2023 with the following observations:

“2. It is now stated before this Court that the Board of Trustees to the said wakf were appointed and such appointments were under challenge before the Wakf Tribunal and thereafter in a writ petition filed by the aggrieved persons before this Court. It is also stated that the matter is pending before the Hon'ble Supreme Court.

3. In view of the subsequent developments, the prayer in this writ petition has become infructuous. Accordingly, the Writ Petition is dismissed as infructuous. No costs. Connected miscellaneous petitions are also dismissed”

6. It is submitted that now, the Waqf Board has issued a paper publication on 02.07.2024 calling for the applications for appointment of Trustees as per the Scheme Decree in O.S.No.21 of 1952 dated 10.03.1954 as modified in O.S.No.6 of 1970 dated 30.08.1978.

7. It is submitted that the petitioner has given a representation on 04.07.2024, wherein, the petitioner has requested the second respondent not to entertain any applications from the family of the S.M.S.Sheik Jalaludeen (19 members), whose names have been attached in the earlier representation dated 14.12.2023 on account of the past misdeeds committed by them.



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8. The learned Standing Counsel for the respondents 1 and 2 submits that the petitioner's representation is under due consideration. However, there cannot be any embargo for not entertaining the applications from the family of S.M.S.Sheik Jalaludeen as was represented by the petitioner's representation dated 04.07.2024 and the earlier representation dated 04.12.2023.

9. It is submitted that the selection will be made after due scrutinizing the applications.

10. It is submitted that it is open for the petitioner to give any particulars that may be relevant for Waqf Board to take a decision as to whether the Waqf Board has to act upon the aforesaid representations of the petitioner. The submission of the learned Standing Counsel for the respondents 1 and 2 is fair.

11. Under these circumstances, the Court is inclined to dispose of this Writ Petition by dispensing with the notice of the private respondents/respondents 3 to 21, as no adverse orders are proposed to be passed in this stage against them. Suffice to state that in case any applications are received from the family



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members of the said S.M.S.Sheik Jalaludeen/respondents 3 to 21, past conduct of the concerned applicant shall be kept in mind. Appointment shall be strictly in accordance with the Scheme Decree and only persons without any blemish alone shall be appointed.

This Writ Petition is disposed of, with above directions. No costs.

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

apd

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