



W.P.(MD)Nos.21140, 23934 and 24512 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.21140, 23934 and 24512 of 2018

and

W.M.P.(MD)Nos.21652 and 22221 of 2018

W.P.(MD)No.21140 of 2018

Babu Hussain

... Petitioner

versus

1. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Sirang Street,
Vallal Seethakadhi Nagar,
Chennai – 600 001.
2. The Superintendent of Wakfs,
Office of the Wakf Superintendent,
Khader Avulia Pallivasal Campus,
No.51/80, Trivandrum Road,
Palayamkottai, Tirunelveli District.
3. The Wakf Inspector,
Office of the Wakf Superintendent,
Khader Avulia Pallivasal Campus,
No.51/80, Trivandrum Road,
Palayamkottai, Tirunelveli District.



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4. Malik Dinar Baithulmal,
A Registered Wakf under the Wakf Act, 1995
(Regn.No.(46(1).No.G.S.18/K.K./A2/AG-1957))
Rep. by its President M.Mohamed Iqbal
Having Office at Arippu Street,
Kottar, Nagercoil – 629 002.
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents 1 to 3 to pass appropriate orders to the fourth respondent Jamath to finalize the voters list, after giving voting right to all the members without any discrimination based on sex or partiality as to place of residence, before conducting election for the Malik Dinar Baithulmal, the fourth respondent Wakf, in consonance with the communication dated 07.09.2018 between the first and third respondents, by allowing the writ petition.

For Petitioner : Mr.G.Aravinthan

For R1 to R3 : Mr.K.K.Senthil
Standing Counsel

For R4 : No appearance

W.P.(MD)No.23934 of 2018

Najeema Banu

... Petitioner

versus



W.P.(MD)Nos.21140, 23934 and 24512 of 2018

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1. The Chief Executive Officer,
Tamilnadu Wakf Board,
1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 1.
2. The Superintendent of Wakf,
54, S.N.High Road,
Tirunelveli.
3. Kottar Elankadai Muslim
Samudhaya Trust,
Rep. by its President,
Kottar,
Nagercoil.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents to provide woman members of the 3rd respondent Trust voting right in the Executive Committee election and also allow woman members to offer prayers in the mosques attached with the 3rd respondent Trust.

For Petitioner : Mr.C.T.Perumal
For R1 and R2 : Mr.K.K.Senthil
Standing Counsel
For R3 : No appearance



W.P.(MD)Nos.21140, 23934 and 24512 of 2018

W.P.(MD)No.24512 of 2018

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Mumtaj Begum

... Petitioner

versus

1. The Chief Executive Officer,
Tamilnadu Wakf Board,
1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 1.

2. The Superintendent of Wakf,
54, S.N.High Road,
Tirunelveli.

3. M.Mohamed Iqbal,
The President,
Malick Dhinar Baithulmal,
Pon Arippu Street,
Kottar,
Nagercoil.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Mandamus, to direct the
respondents to provide voting right to the women members of Malick
Dhinar Baithumal, Pon Arippu Street, Kottar, Nagercoil.

For Petitioner : Mr.C.T.Perumal

For R1 and R2 : Mr.K.K.Senthil
Standing Counsel



W.P.(MD)Nos.21140, 23934 and 24512 of 2018

For R3 : Mr.A.Hajamohideen

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COMMON ORDER

W.P.(MD)No.21140 of 2018 has been filed for a Mandamus, directing the Wakf Board to pass appropriate orders to the Malik Dinar Baithulmal Jamath, Kottar, Nagercoil, to finalize the voters' list and to provide voting right to all members without any discrimination based on their sex or partiality as to the place of residence, before conducting election for the Jamath.

2. W.P.(MD)No.23934 of 2018 has been filed for a Mandamus directing the Wakf Board to provide voting right to the women members of the Kottar Elankadai Muslim Samudhaya Trust, Kottar, Nagercoil and allow the women members to offer prayers in the mosques attached with the Trust.

3. W.P.(MD)No.24512 of 2018 has been filed for a Mandamus, directing the Wakf Board to provide voting right to the women



W.P.(MD)Nos.21140, 23934 and 24512 of 2018

members of Malick Dhinar Baithulmal, Kottar, Nagercoil.

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4. The issue involved in these writ petitions are pertaining to the conduct of election for Malick Dhinar Baithulmal Jamath, Kottar, Nagercoil and voting right of the women members in the Jamath. Therefore, all the writ petitions are taken up for final disposal and disposed of by way of a common order.

5. The petitioners have taken a plea that women members also to be provided with voting right in the election for the Malick Dhinar Baithulmal Jamath.

6. The President of the Malick Dhinar Baithulmal Jamath has taken a specific stand that as per their by-laws, women members are not entitled for voting right in the administration of the Jamath. He also states that throughout India, women are not permitted to vote in the Jamath.



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WEB COPY 7. The learned counsel appearing for the Wakf Board also submits that the issue with regard to the right of women for voting in the Jamath and for offering prayers in the mosque is now pending before the Hon'ble Supreme Court in ***W.P.(Civil) No.472 of 2019 (Yasmeen Zuber Ahmad Peerzade and another vs. Union of India and others)***.

8. Since the issue with regard to the right of women for voting in the Jamath and for offering prayers in the mosque is pending before the Hon'ble Supreme Court and as on date, as per their by-laws, there is no voting right conferred on the women, the petitioners in W.P.(MD)Nos. 23934 and 24512 of 2018 shall work out their remedy based on the outcome of the orders of the Hon'ble Supreme Court in ***W.P.(Civil) No. 472 of 2019 (Yasmeen Zuber Ahmad Peerzade and another vs. Union of India and others)***.

9. The petitioner in W.P.(MD)No.21140 of 2018 has also taken a



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plea that there was a discrimination based on the sex and partiality as to the place of residence in enrolling the members for voting in the election for Jamath. As per clause 5(1) of the by-law, the members, who are above 18 years, are entitled to vote in the election, subject to the approval of the General Body. In view of the same, the President of Malik Dinar Baithulmal Jamath, Kottar, Nagercoil, is directed to consider the case of the petitioner in W.P.(MD)No.21140 of 2018 to enrol him as a member of the Jamath.

10. Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

05.01.2024

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.



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To
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2. The Superintendent of Wakfs,
Office of the Wakf Superintendent,
Khader Avulia Pallivasal Campus,
No.51/80, Trivandrum Road,
Palayamkottai, Tirunelveli District.
3. The Wakf Inspector,
Office of the Wakf Superintendent,
Khader Avulia Pallivasal Campus,
No.51/80, Trivandrum Road,
Palayamkottai, Tirunelveli District.
4. The Superintendent of Wakf,
54, S.N.High Road,
Tirunelveli.
5. The President,
Kottar Elankadai Muslim Samudhaya Trust,
Kottar,
Nagercoil.
6. The President,
Malick Dhinar Baithulmal,
Pon Arippu Street,
Kottar, Nagercoil.



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B.PUGALENDHI, J.

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