



W.P.(MD) No.25585 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.25585 of 2022
and
W.M.P.(MD) Nos.19673 and 19675 of 2022

N.Mohammed Ali Jina

... Petitioner

/vs./

- 1.The Tamil Nadu Waqf Board,
rep. by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallalseethakathi Nagar,
Chennai.
- 2.The Superintendent of Waqf/Election Officer,
Tamil Nadu Waqf Board,
Madurai Regional Office,
No.1, 2nd Floor, Town Hall Road Mosque,
Madurai District.
- 3.Maboo Batcha
(R3 has been impleaded vide
order dated 05.12.2022.)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to



W.P.(MD) No.25585 of 2022

the impugned election Notification No.1 issued by the 2nd respondent in his proceedings in Na.Ka.Reg.153/Va.Ka/They.a/Madurai/2022 dated 02.11.2022 and quash the same as illegal and consequently forbear the respondents from interfering with the selection of the mutawalli/administrative committee of the Jumma Masjid Jeeva Nagar, Madurai.

For Petitioner : Mr.M.Mahaboob Athiff

For R1 & R2 : Mr.Haja Mohideen Gisthi
Senior Standing Counsel assisted by
Mr.D.S.Haroon Rasheed
Standing Counsel

For R3 : Mr.S.Nihar Ali

ORDER

The petitioner is before this Court challenging the impugned election notice dated 02.11.2022 issued by the second respondent bearing Ref.No.Na.Ka.Reg.153/Va.Ka./They.a/Madurai/2022.

2.As per the aforesaid notice, the Wakf Board proposes to hold election on 20.11.2022. The learned counsel for the petitioner would draw attention to the order passed by this Court *on 19.10.2022 in W.P.No.18959 of 2022 (K.V.M.A.Mohammed Salahudin Vs. The Chairman, Tamil Nadu Wakf Board,*



W.P.(MD) No.25585 of 2022

Chennai -01 and others). Specifically a reference was made to para 41, which reads as under:

“41.Thus, if the election was held, duty is cast on the incoming Muthawalli to notify the same to the Waqf Board. If the election was to be held under the supervision of the Waqf Board as has been stated by the respondents, the presence of Section 42 (2) would be unnecessary under the Scheme of the Act. In this case, the election was held during November 2011. Therefore, in my view, it is not open for the Waqf Board to hold election.”

3.The learned counsel for the petitioner would also submit that the view was followed by this Court in ***Mohammed Yusuf Vs. The Tamil Nadu Wakf Board, represented by its Chief Executive Officer, Chennai and another*** reported in ***CDJ 2023 MHC 3672***. A reference was made to para 20 of the order, which reads as under:

“20. In the light of the discussion, there is no doubt in my mind that neither the Wakf Board nor the CEO is conferred with the authority/power to conduct election or to change the mode of election as set-out in the Wakf Deed/Proforma or Custom followed in appointing the Mutawalli nor is it open to the Board/ CEO to direct Superintendent to conduct elections nor can the appointment of Mutawalli be declared bad only on the premise that the same was not made in the presence of the officials of the Board. This would not preclude the Respondent Board from initiating action under [Sections 65, 69](#) of the Act or any other provisions of the [Wakf Act](#), if circumstances so exist warranting exercise of such power.”



W.P.(MD) No.25585 of 2022

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4.That apart, the learned counsel for the petitioner would submit that the order passed by this Court on 19.10.2022 in W.P.No.18959 of 2022 (***K.V.M.A.Mohammed Salahudin Vs. The Chairman, Tamil Nadu Wakf Board, Chennai -01 and others***) has now been followed by 16 other Judges of this Court and that similar view has also been taken by Andhra Pradesh High Court in ***Syed Munavvaruddin Quadri Vs. Chief Executive Officer, A.P.State Wakf Board and others*** reported in ***2007 (2) ALT 1992***.

5.Considering the above, I do not wish to deviate from the decision/order passed in W.P.No.18959 of 2022 vide order dated 19.10.2022, which has now been followed by this Court uniformly.

6.Considering the same, the Writ Petition stands allowed without prejudice to the rights of the respondents to initiate proceeding under Sections 65 and 69 of the Wakf Board Act, 1995 and without prejudice to the outcome of the judgments to be passed in W.A.(MD) Nos.2610 of 2022 and 1923 of 2023 and batch on the file of this Court.



W.P.(MD) No.25585 of 2022

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No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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07.06.2024



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W.P.(MD) No.25585 of 2022

C.SARAVANAN, J.

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W.P.(MD) No.25585 of 2022

07.06.2024