



W.P.(MD) No.26690 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.26690 of 2024

Mohamed Dhaha

... Petitioner

/vs./

- 1.The District Collector,
O/o. The District Collector,
Tenkasi District.
- 2.The Superintendent of Police,
O/o. the Superintendent of Police,
Tenkasi District.
- 3.The Deputy Superintendent of Police,
O/o. the Deputy Superintendent of Police,
Puliyangudi Sub Division,
Tenkasi District.
- 4.The Inspector of Police,
O/o. the Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.
- 5.The Chief Executive Officer,
Tamil Nadu Wakf Board,



W.P.(MD) No.26690 of 2024

WEB COPY

No.1 Jaffer Syrag Street,
Vallal Seethakkathi Nagar,
Chennai.

6.The Superintendent of Wakf,
O/o. Wakf Superintendent,
No.54, High Road,
Tirunelveli 627 001.

7.A.I.K.Muhammed Ibrahim

8.Magthu Kani

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent No.1, 5 and 6 to permit the petitioner and his family members to execute burial of the petitioner's deceased mother, namely Ismail Beevi aged 70 years following their fait from Quran and Hadees and Offering prayers in Pettai Kadhar Muhaideem Guthba Pallivasal burial ground which is used as a burial ground to buried their members and consequently direct to provide adequate protection to the petitioner and his family members.

For Petitioner : Mr.G.Sujeeth

For R1 : Mr.R.Suresh Kumar
Additional Government Pleader

For R5 & R6 : Mr.D.S.Haroon Rashed

For R2 to R4 : Mrs.M.Aasha
Government Advocate (Crl.side)



W.P.(MD) No.26690 of 2024

WEB COPY

ORDER

The present writ petition had been filed seeking for a direction to the respondents 1, 5 and 6 to permit the petitioner and his family members to carry on the burial of the petitioner's deceased mother, namely Ismail Beevi, at Pettai Kadhar Muhaideem Guthba Pallivasal burial ground and to provide adequate protection to the petitioner and his family members.

2. It is the case of the petitioner that the respondents 7 and 8, who are in management of the said burial ground, are denying the permission to bury his mother in the said place. He would also place on record a resolution passed by the Tamil Nadu Wakf Board dated 14.02.2024, wherein the Wakf Board had taken a decision, particularly that the Sunnath Jamadh shall not insist upon following their rituals in the burial of the deceased belonging to others, who are practising the rituals other than the Sunnath Jamadh rituals. He would also submit that such resolution was made pursuant to the decision of this Court in W.P.(MD) No.17424 of 2022 etc., dated 29.09.2023. Since the respondents 7 and 8 are prohibiting the petitioner from carrying on the ritual of his deceased mother, he had approached this Court for grant of urgent orders.



W.P.(MD) No.26690 of 2024

WEB COPY

3. Considering the urgency of the matter and also the earlier order passed by this Court in the very same issue, notice to the respondents 7 and 8 is dispensed with.

4. It is an unfortunate case, where the last rites of the deceased is being denied on the ground of ritual practise. This Court by its order dated 29.09.2023 in W.P.(MD) No.17424 of 2022 etc., after hearing various parties, had directed the State Government to address the issue by enacting a comprehensive legislation to ensure that all are to be treated equally in the matter of last rites of the deceased persons. The Tamil Nadu Wakf Board was also directed to make an interim arrangement, pending such legislation.

5. The Tamil Nadu Wakf Board had taken a decision to permit burials in the burial grounds, which are maintained by a particular Jamadh and deceased persons who did not belong to the said Jamadh and who were not following the ritual that is being followed by the said Jamadh. This decision could be traced to the powers vested with the Board under Section 32(2)(c) of the Wakf Act, 1995



W.P.(MD) No.26690 of 2024

which enables the Board to issue such directions for the administration of the Wakf. Admittedly, the respondents 7 and 8 are the registered Wakfs with the Wakf Board and are bound by the decision of the Tamil Nadu Wakf Board.

6. Considering the fact that the petitioner's mother had died on 05.11.2024 and that the rituals are not being permitted by the respondents 7 and 8, which is contrary to the directions issued by the Wakf Board, which they are bound, this Court is inclined to issue the following directions:

a) The respondents 7 and 8 shall not object the burial of the petitioner's mother, namely Ismail Beevi in the Pettai Kadhar Muhaideem Guthba Pallivasal burial ground.

b) The respondents 5 and 6 shall take necessary action against the seventh respondent for not complying with the directions issued by it on 14.02.2024.

c) The fourth respondent shall provide police protection, if requested by the petitioner for carrying out the ritual of his deceased mother.

d) The fifth respondent shall ensure that no such incidents are reported and shall take appropriate steps to advise the regional officers to enquire into such complaints and take immediate action to redress such grievances.



W.P.(MD) No.26690 of 2024

WEB COPY

7. With the aforesaid directions, the Writ Petition stands disposed of. No costs.

Index : Yes / No
Internet : Yes / No
mm

06.11.2024

Note :
issue order copy on 06.11.2024

To

- 1.The District Collector,
O/o. The District Collector,
Tenkasi District.
- 2.The Superintendent of Police,
O/o. the Superintendent of Police,
Tenkasi District.
- 3.The Deputy Superintendent of Police,
O/o. the Deputy Superintendent of Police,
Puliyangudi Sub Division,
Tenkasi District.
- 4.The Inspector of Police,
O/o. the Inspector of Police,
Kadayanallur Police Station, Tenkasi District.

6/7



WEB COPY



W.P.(MD) No.26690 of 2024

K.KUMARESH BABU, J.

mm

W.P.(MD) No.26690 of 2024

06.11.2024