



W.P.(MD)Nos.31318 of 2023 and 58 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 13.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.31318 of 2023 and 58 of 2024
and W.M.P.(MD)Nos.26863 of 2023 and 45 of 2024

W.P.(MD)No.31318 of 2023

M.Mohammed Najmudeen

... Petitioner

versus

1. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
2. The Superintendent,
Tamil Nadu Wakf Board,
Door No.1, Town Hall Road,
Madurai – 625 001.
3. Haji. M.Akbar Ali
S/o.Late Mohammed Mohiteen,
The Secretary,
Madurai Managar Kallampattarai Theru
Sungam Pallivasal Muslim Uravinmurai Jamath,
No.6, Sungam Pallivasal Street,
Madurai – 625 001.



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4. A.Kaja Mohideen,
S/o.Late Abdul Wahab,
The President,
Madurai Managar Kollampattarai Theru
Sangam Pallivasal Muslim Uravinmurai Jamath,
No.6, Sungam Pallivasal Street,
Madurai – 625 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the 1st and 2nd respondents to constitute a separate committee to conduct election in Madurai Managar Kollam Pattarai Theru Sungam Pallivasal Muslim Uravinmurai Jamath, as per by-law, on or before 30.01.2024, based on the petitioner's representation dated 26.09.2023 and 08.12.2023 by following the earlier order of this Court in W.P.(MD)No.22509 of 2019 dated 23.10.2019.

For Petitioner : Mr.J.Jeyakumaran
For R1 and R2 : Mr.S.A.Ajmalkhan
For R3 and R4 : Mr.Mahaboob Athiff

W.P.(MD)No.58 of 2024

A.Jahir Hussain
S/o.Ali Akbar,
Elected Management Committee Member,
Sungam Palli Jamath,
No.13, Quide Millath Nagar,
4th Line, East Velli Street,
Madurai – 625 001.

... Petitioner



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versus

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1. The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
3. The Superintendent,
Tamil Nadu wakf Board,
Madurai Zone,
Town Hall Road,
Madurai – 625 001.
4. A.Kaja Mohideen
5. M.Akbar Ali
6. J.Raj Kapoor @ Sultan Alavudeen
7. S.Tajdeen
8. Hatheem Raja
9. J.Syed Abdul Kadar
10. M.Mohammed Najmudeen



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11. S.Kaja Najmudeen

12. S.Abuthageer

13. K.Ahamedraja

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus for the following relief:-

(i) to direct the respondents 1 to 3 to take immediate and necessary steps to bring the management of the Madurai Managara Kollam Pattarai Theru Sungam Pallivasal, under its direct control and supervision by invoking its powers conferred under Section 65(5) & 67(2) of the Waqf Act, 1995,

(ii) to practically take necessary steps to truly implement the various orders passed by the 2nd respondent time and again vide his proceedings in R.C.No.17133/04/BB/MDU, (or) to strictly take further legal steps against the persons not complying with the same, by invoking Section 73(4) of the Waqf Act, 1995;

(iii) to take immediate and necessary steps for conducting the management committee election to the Madurai Managara Kollam Pattarai Theru Sungam Pallivasal, for the year 2024-2027 in a fair and proper manner by strictly adopting to the procedures laid down by this Court in W.P.(MD)No.2843 of 2010, vide its order dated 15.12.2011.

For Petitioner : Mr.K.Hemaraj



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For R1 to R3 : Mr.Mohideen Basha
For R5 : Mr.Mahaboob Athiff
For R10 to R13 : Mr.Jeya Kumaran

COMMON ORDER

The petitioners are Administrative Committee Members of Madurai Managar Kollapattarai Theru Sungam Pallivasal Muslim Uravinmurai Jamath. According to them, this Pallivasal was established 300 years ago and it owns several valuable properties. The Administrators/Muthavallis of this Jamath are being elected by conducting an election once in three years.

2. The learned counsel for the petitioners, by relying on the earlier orders of this Court passed in W.P.(MD)No.2843 of 2010 dated 15.12.2011 and W.P.(MD)Nos.21208 and 22509 of 2019 dated 23.10.2019, submit that the elections for this Jamath were conducted only on the intervention of this Court and also by appointing Commissioners. According to the petitioners, the term of the present



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Office Bearers has come to end on 31.01.2024 and the present Office Bearers, namely, the respondents 3 and 4 in W.P.(MD)No.31318 of 2023 and the respondents 4 to 13 in W.P.(MD)No.58 of 2024, have not taken any steps to conduct the election for this Jamath.

3. Since both the writ petitions are connected with the affairs of the administration of the very same Jamath, these writ petitions are taken up together and disposed of by way of a common order.

4. Mr.Mahaboob Athiff, learned counsel appearing for the respondents 3 and 4 in W.P.(MD)No.31318 of 2023 fairly submits that the present office bearers have no hesitation in conducting the election for this Jamath and they are ready to conduct the election by appointing Advocate Commissioners. He has also filed a memo to that effect.

5. The learned counsel for the petitioners have expressed their grievance as against the present Office Bearers that they have not



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maintained the account properly. The Bank Account for this Jamath has been opened only recently. The learned counsel further submits that they have lodged a complaint as against the present Office Bearers to the Wakf Board to conduct an enquiry and the same is also pending.

6. This Court considered the rival submissions and the also perused the materials placed on record.

7. A perusal of the record would disclose that several writ petitions have been filed on the affairs of the administration of this Jamath. The previous election was also conducted by the Hon'ble Mr.Justice K.N.Basha, (Retd), by order of this Court dated 23.10.2019 passed in W.P.(MD)Nos.21208 and 22509 of 2019.

8. This Court, in the said writ petition, has appointed the Hon'ble Judge as Election Officer to conduct the election for this Jamath. The election was conducted by the Hon'ble Judge with an assistance of an



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Advocate. The then Returning Officer, Mr.Mohaideen Basha, learned counsel is now appearing for the Tamil Nadu Wakf Board in these writ petitions and he expressed the difficulties faced by them during the previous election.

9. The parties to these writ petitions have agreed for conducting the election through a common person. This Court has suggested Mr.Ajmal Khan, learned Senior Counsel as the Election Officer and Mr.Mohammed Mohideen, the former Additional Government Pleader, as the Returning Officer for conducting the election. The counsel on either side have readily accepted the same. Mr.Ajmal Khan, learned Senior Counsel and Mr.Mohammed Mohideen, who are present before this Court, have also agreed to this task as a service to the Jamath.

10. However, considering the volume of time and energy required for conducting the election, this Court fix a honorarium of Rs.1,00,000/- to Mr.Ajmal Khan, learned Senior Counsel and



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Rs.50,000/- to Mr.Mohammed Mohideen.

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11. It is reported that Ramadan fasting commences from 11.03.2024 and therefore, during the Ramadan period, there cannot be any election. The parties have also agreed for the interim management of the Jamath, till the elections are concluded and office bearers are elected. The petitioners as well as the contesting respondents have filed their memos to that effect.

12. In view of the same, these writ petitions are disposed of with the following directions:

(i) Mr.Ajmal Khan, learned Senior Counsel and Mr.Mohammed Mohideen are appointed as interim Administrators of this Jamath pending the election and they shall take charge of the Jamath and its account from tomorrow onwards (i.e. on 14.02.2024).

(ii) The respondents 3 and 4 in W.P.(MD)No.



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WEB COPY 14. Though Mr.Ajmal Khan, learned Senior Counsel and Mr.Mohammed Mohideen have refused to take any honorarium from the Jamath for their services which has to be rendered by them, this Court directs the Jamath to pay a sum of Rs.1,00,000/- p.m. to Mr.Ajmal Khan, learned Senior Counsel and Rs.50,000/- p.m. to Mr.Mohammed Mohideen, learned counsel, as honorarium, till the elections are concluded and office bearers are elected. The Administrators can draw this amount from the nomination funds and wakf funds. The Inspector of Police of the Jurisdictional Police Station shall extend their co-operation to the Administrators, if any problem arises. No costs. Consequently, connected miscellaneous petitions are closed.

13.02.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

Note: Issue order copy on 20.02.2024

11/13



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3. The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
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Tamil Nadu Wakf Board,
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B.PUGALENDHI, J.

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