



W.P.No.2072 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.2072 of 2025 and
W.M.P.No.22072 of 2025

I.Jafar Sathik

... Petitioner

Vs.

The Tamilnadu Wakf Board,
Rep By Its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai-1 Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the respondent vide proceedings dated 30.10.2024 in Se.Mu.Order 936/23/B5/Trichy in so far as restricting the tenure for a period of three years and quash the same

For Petitioner : Mr.N.A.Nassir Hussain
for I.Kowser Nissar

For Respondents : Mr. Abdul Mubeen
Standing Counsel (Wakf Board)



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ORDER

The writ petition is filed challenging the order passed by the respondent in so far as the impugned order restricts the tenure of the petitioner for a period of three years.

2. The Walajah Nawab Magbara Mosque Wakf is a registered wakf under supervisory control of the respondent Board. It is not in dispute that the rule of succession to the office of Muthawalli of the wakf is hereditary. The same is recorded so in the proforma prepared by the respondent in Sl.No.10. The petitioner's forefather namely Khader Nawaz Khan Sahib was the proforma Muthawalli and after his death, the petitioner's grandfather S.Dowlath Khan succeeded to the office of Muthawalli. After death of petitioner's grandfather, being a grandson through his daughter, the petitioner succeeded to the office of Muthawalli in the year 2015. The respondent vide impugned proceedings recognised the petitioner as a hereditary Muthawalli of the wakf. However, restricted the tenure of the office for three years from 15.10.2024 to 14.10.2027.



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3. The learned counsel for the petitioner submits that once the respondent has come to the conclusion that petitioner is a descendant of the previous muthawalli and by virtue of his hereditary right, he is entitled to succeed to the office of muthawalliship of the wakf, he is not justified in restricting the term of the office for three years. In other words, it is the case of the petitioner that he is entitled to hold office for life time provided he has not incurred any disqualification as provided in Wakf Act. In support of his contentions, the learned counsel for the petitioner relied on the judgment of this Court in the case of *Apsar Peeran Shuttari Sahebulla Vs The Tamilnadu Wakf Board, Rep. By its Chief Executive Officer in W.P.No.19032 of 2023*.

4. The learned Standing Counsel (Wakf Board) appearing for the respondent, by taking this Court to the counter affidavit, submits that the concept of hereditary muthawalli is not recognized in Muslim law. Therefore, the petitioner is not entitled to claim that his term of office shall not be restricted for three years.



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5. The submission made by the learned Standing Counsel (Wakf Board) for the respondent is untenable in the light of proforma report prepared by the respondent which is included in the typed set of papers.

6. A perusal of the same would clearly indicate that the rule of succession to the post of Muthawalli is hereditary and it is a custom prevailing in the wakf. Therefore, by virtue of hereditary right, the petitioner succeeded to the office of Muthawalli. In such circumstances, he is entitled to hold the office for life unless he incurs any disqualification under Wakf Act.

7. In this regard, it would be appropriate to refer to the observations of this Court in the decision cited supra wherein this Court held as follows.:-

“3. The learned counsel appearing for the petitioner submits that once the respondent has come to the conclusion that the petitioner is entitled to be appointed as a hereditary Mutawalli, as per proforma, the respondent/Board is not justified in restricting the term of the hereditary Mutawalli for three years. In this regard, the learned counsel relied on the judgment of this Court in Subhan Vs. Executive Officer Waqf Board in W.P.No.18162 of 2000.



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the extent it restricts the term of office to three years from 15.10.2024 to 14.10.2027. The petitioner is entitled to hold the office till his life time unless he incurs any disqualification under law. It is made clear that in case the petitioner incurs any disqualification, it is open to the respondent to take action against the petitioner as per the relevant provisions of Wakf Act.

8. With this clarification, the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

29.01.2025

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

The Tamilnadu Wakf Board,
Rep By Its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai-1



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S.SOUNTHAR, J.

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