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WP.No.18239 of 2025

In the High Court of Judicature at Madras

Reserved on 18.7.2025	Delivered on : 22.7.2025
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.18239 of 2025
& WMP.Nos.20427 & 24686 of 2025

Muhammed Mujeebur
Rahman, Executive
Muthavalli/Family Trustee,
Fazeelathunissa Begum
Sahiba Mosque &
Endowment, Chennai-35.

...Petitioner

Vs

1.The Tamil Nadu Wakf Board,
rep.by its Chairman, No.1,
Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.

3.Mohammed Nayeemur
Rahman

4.S.A.Riyaz Ahmed
5.K.Shajahan
6.N.Ayub Khan

...Respondents



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PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to take action against the respondent 3 to 6 for violating terms of appointment and for carrying out the directions of the Wakf Board as per Sections 64(1)(j) and 61(1A) of the Unified Wakf Management Empowerment Efficiency and Development Act, 1995.

For Petitioner	:	Mr.S.A.Nissar Ahmed for Mr.T.Karthiraj
For R1 & R2	:	Mr.R.Abdul Mubeen, Standing Counsel
For R4 to 6	:	Mr.S.R.Raghunathan for Mr.K.V.Karthik Subramanian

ORDER

The writ petition has been filed seeking for the issuance of a Writ of Mandamus directing respondents 1 and 2 to take action against respondents 3 to 6 for carrying out the directions of the Wakf Board as per the provisions of Sections 64(1)(j) and 61(1A) of the Unified Wakf Management Empowerment Efficiency and Development Act, 1995 (hereinafter called the Wakf Act) in violation of the terms of appointment.



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2. Heard the learned counsel for the respective parties.

3. The case of the petitioner is as follows :

(i) One M/s.Fazeelathunissa Begum Sahiba Mosque and Endowment is a registered wakf and it is governed by a scheme decree dated 10.2.1941 in O.S.No.63 of 1940 passed by the Sub-Court, Chengalpet. As per the scheme decree, the Wakf Board can constitute a managing committee comprising of seven trustees, of whom, three must be from the family of the founder and four must be from the general public.

(ii) Vide proceedings dated 16.12.2023, the managing trustees were selected for a period of five years from 31.5.2023 to 30.5.2028. As per the scheme decree, the seven trustees can elect one amongst themselves as the Executive Muthavalli, who can hold office for a period of three years and will be eligible for re-election. Further, as per Clause 6 of the scheme decree, the Executive Muthavalli can be removed only by the Wakf Board (which was then the Court and was substituted by the Board). The petitioner was elected as the Executive Muthavalli on 18.12.2023.

(iii) Later, it was found that one Mr.Riji was illegally occupying



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the wakf property and had illegally sublet the same to one Dr.Ayaz Akbar, who was collecting huge rents. The Managing Committee, vide minutes dated 17.3.2025, had also resolved to abide by the proceedings of the Wakf Board. Vide its resolution dated 09.4.2025, the Wakf Board resolved to accord tenancy to the said Dr.Ayaz Akbar, who came forward to pay the rents as per the market value and compensate the wakf for the loss caused and directed the wakf to execute a lease deed in favour of the said Dr.Ayaz Akbar.

(iv) The grievance of the petitioner is that in strict compliance of the orders of the Wakf Board dated 09.4.2025, though the petitioner requested the other trustees to sign the resolution dated 11.4.2025, respondents 3 to 6 declined to sign the same for the reasons best known to them. Respondents 3 to 6 are acting against the interest of the wakf. One of the family trustees also gave a complaint vide letter dated 08.4.2025 to respondents 1 and 2 seeking for removal of respondents 3 to 6 for not acting in strict compliance with the directions given by the Wakf Board by recognizing the subtenant as the tenant through proceedings dated 09.4.2025. Since the complaint given against respondents 3 to 6 was not acted upon, the petitioner is before this Court.



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4. The second respondent filed a counter affidavit for himself and on behalf of the first respondent, in which, they took the following stand :

(i) The Wakf Board passed the resolution dated 09.4.2025 by directing execution of a fresh lease deed in favour of the said Dr.Ayaz Akbar subject to payment of enhanced rent and arrears of rent. This resolution was passed keeping mind the interest of the wakf and to ensure earning regular income to the wakf. After the Wakf Board accorded such a permission, the trustees of the wakf will have to accept the same whereas respondents 3 to 6 refused to sign the resolution dated 11.4.2025 in total disregard to the directions given by the Wakf Board.

(ii) There was no procedural illegality or irregularity on the part of the petitioner. The letter dated 26.4.2025 received from respondents 4 to 6 seeking to set aside the approval of the Wakf Board dated 09.4.2025 is wholly without jurisdiction and clearly exceeds their authority. That apart, the said approval of the Wakf Board has not been put to challenge either before this Court or before the Wakf Tribunal.



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(iii) Further, the unilateral action on the part of respondents 3 to 6 in removing the petitioner from the position of the Executive Muthavalli is, ex facie, illegal and before taking such action, they should have sought for the permission of the Wakf Board. The complaint given by the petitioner against the concerned trustees is under consideration and if warranted, action would be taken as per the provisions of the Wakf Act. In fine, respondents 1 and 2 have completely supported the case of the petitioner.

5. When the writ petition came up for admission on 15.5.2025, a learned Single Judge of this Court granted an order of interim injunction in WMP.No.20427 of 2025. Pursuant to that, respondents 4 to 6 have filed WMP.No.24686 of 2025 seeking to vacate the said interim order. In the affidavit filed in support of the vacate stay petition, respondents 4 to 6 took the following stand :

(i) The post of Executive Muthavalli is only a non statutory position created purely for administrative convenience. No formal approval or recognition is required from the Wakf Board for the removal of the Executive Muthavalli. The petitioner, as the Executive Muthavalli, acted in utter disregard to the scheme decree and against



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the interest of the wakf. Apart from that, the petitioner has also unilaterally and arbitrarily executed a fresh lease deed in relation to the wakf properties for meagre rents without obtaining the prior approval of the Managing Committee. An unauthorized sub-lessee has now been recognized as a lessee by the petitioner and this action goes against the interest of the wakf and it was done without the authority, sanction or approval from the committee of trustees.

(ii) The petitioner has not been removed from the position of the Muthavalli. Rather, he continues in that position. He has only been removed from the non statutory position of the Executive Muthavalli. After due deliberation, the existing five trustees came to the conclusion that the petitioner is acting prejudicial to the interest of the wakf, which warranted his removal from the post of Executive Muthavalli. Accordingly, they sought for dismissal of the writ petition.

6. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.



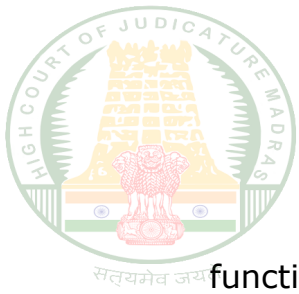
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7. The entire dispute has arisen only due to the non recognition of the said Dr.Ayaz Akbar as the lessee, when, in fact, the said Dr.Ayaz Akbar was occupying the wakf properties unauthorizedly as the sub-lessee under the said Mr.Riji.

8. On carefully going through the resolution dated 17.3.2025, it is seen that an Extraordinary General Meeting was convened by the Managing Committee and it was attended by the trustees, in which, the Managing Committee took into consideration the fact that three termination notices were issued to the said Dr.Ayaz Akbar, who was in illegal occupation and who was liable to pay a sum of Rs.6,85,000/- towards arrears of rent. The said Dr.Ayaz Akbar also expressed his willingness to pay the arrears of rent. Hence, the Managing Committee decided to wait for the orders of the Wakf Board and thereafter take a final decision.

9. Subsequently, yet another meeting was convened on 27.4.2025 to consider the continuation of the petitioner as the Executive Muthavalli. Further, five of the trustees unilaterally decided that the petitioner is acting against the interest of the wakf and is



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functioning unilaterally without consulting the Managing Committee and is also causing loss of income for the wakf. Therefore, it was decided to remove the petitioner from the post of Executive Muthavalli.

10. Respondents 4 to 6 have taken a stand that the Wakf Properties Lease Rules, 2014 prescribe a specific procedure to be followed prior to the lease of any wakf property for a period exceeding one year and Rule 5 of the said Rules must be followed by inviting bids before leasing the wakf property. However, none of the mandatory procedure was followed by the petitioner or the Wakf Board.

11. The legality or otherwise of regularising the tenancy of the said Dr.Ayaz Akbar is beyond the scope of this writ petition. This is in view of the fact that the Wakf Board had granted approval dated 09.4.2025 for a period of three years by fixing the rent. Hence, till this approval is in force, this Court cannot collaterally decide the legality or otherwise of the approval granted by the Wakf Board when it has not been put to challenge.



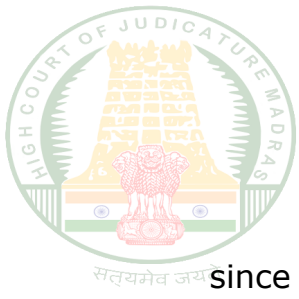
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12. The wakf was governed by the scheme decree dated 10.2.1941 in O.S.No.63 of 1940 passed by the Sub-Court, Chengalpet. In this scheme decree, Clause (6) deals with appointment of the Executive Muthavalli. It contemplated a tenure of three years and the eligibility for re-election after the expiry of the said period. The Executive Muthavalli is liable to be removed by the Court before the expiry of the term if the Court considers it desirable to do so in the interest of proper administration of the wakf. In such a case, the Muthavallis should elect another Executive Muthavalli from among themselves.

13. After coming into force of the Wakf Act, the functioning of the wakf is completely governed by it. There is no mention of the term 'Executive Muthavalli' either under Section 3(i) of the Wakf Act or under Section 64 of the Wakf Act, which deal with the removal of a Muthavalli. Admittedly, the petitioner has not been removed from the position of the Muthavalli.

14. According to the petitioner, such removal has to get the sanction of the Wakf Board after coming into the force of the Wakf Act



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since such a sanction was required from the Court (now Board) even as per the scheme decree.

15. The Wakf Board has also taken a stand in the counter affidavit that removal of an Executive Muthavalli also requires the approval of the Wakf Board under Section 64 of the Wakf Act as modified by the Second Explanation to Section 32 of the Wakf Act.

16. The learned Standing Counsel appearing on behalf of respondents 1 and 2, by placing reliance on the definition of the word 'Muthavalli' under Section 3(i) of the Wakf Act, submitted that it includes even persons appointed by a Muthavalli to perform the duties of a Muthavalli and save as otherwise provided under the Wakf Act, any person or committee for the time being managing or administering any wakf or wakf property. Therefore, it was contended that each Muthavalli will form part of the committee and if he has to be removed even from the position of the Executive Muthavalli, the sanction of the Wakf Board is required.

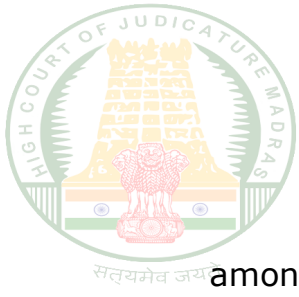


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17. Respondents 1 and 2, having taken such a stand, have opened up the issue regarding the validity or otherwise of the removal of the Executive Muthavalli without the approval of the Wakf Board. The cause of action for filing the above writ petition is only based on the representations made by the petitioner to take action against respondents 3 to 6. Incidentally, the above issue has cropped up and if the Wakf Board has taken a stand that the removal of the Executive Muthavalli requires approval of the Wakf Board, the same has to be put to test by respondents 3 to 6 by challenging the same in accordance with law. It is not necessary for this Court to render an answer on this issue in a writ petition that has been filed for a different cause of action.

18. Respondents 1 and 2 have also taken a stand that the representations made by the petitioner is under consideration for taking appropriate action under the provisions of the Wakf Act. Out of the three representations that have been relied upon, only the representation dated 18.4.2024 has been given by the petitioner. The representation dated 08.4.2025 has been given by a different trustee. The third document dated 08.5.2025 is an internal communication



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among the trustees. Therefore, only two representations dated 18.4.2024 and 08.4.2025 respectively are under consideration of respondents 1 and 2. If at all respondents 1 and 2 want to act upon and take a decision, before that, an opportunity shall be given to the private respondents and thereafter, they can proceed further in accordance with law.

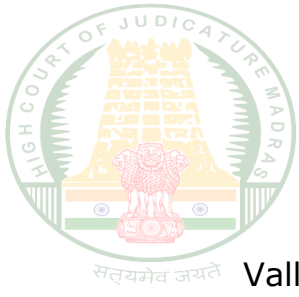
19. In so far as the issues regarding the grant of approval of the lease given in favour of the said Dr.Ayaz Akbar and the legality or otherwise of granting approval for the removal of the Executive Muthavalli are concerned, those are all issues, which can be kept open and need not be gone into in the above writ petition.

20. The writ petition is disposed of in the above terms. No costs. Consequently, the connected WMPs are closed.

22.7.2025

To
1.The Tamil Nadu Wakf Board,
rep.by its Chairman, No.1,
Jaffar Syrang Street,

13/15



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Vallal Seethakathi Nagar,
Chennai-1.

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2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.

RS



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N.ANAND VENKATESH,J

RS

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