



W.P.No.38660 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.03.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.38660 of 2024
and W.M.P.Nos.41859 and 41860 of 2024

Madarasa Majide-Imayathia,
Kovilpalayam,
Sathy Main Road,
Sarkarsamakulam,
Coimbatore - 641 107.
Rep. by its President,
Haleel Mohamed Gouse,
S/o.Mohamed Gouse

.. Petitioner

Versus

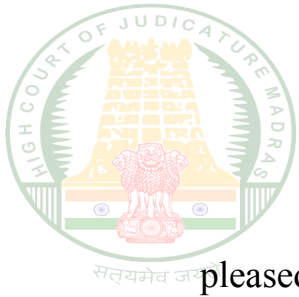
1. The Chief Manager,
Canara Bank,
Sarkarsamakulam Branch,
Sathy Main Road,
Sarkarsamakulam,
Coimbatore - 641 107.

2. Abdul Samath

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,

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pleased to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned letters in REF: SSKULAM/CRM/01/2024, dated 23.09.2024 and REF: SSKULAM/CRM/01A/2024, dated 18.11.2024 on the file of the 1st respondent quash the same and direct the 1st respondent to permit the operation of the account viz. Madarasa Majide-Imayathia (SB A/C 1034101017358) by the President and Muthavalli of the petitioner till regular treasurer is appointed.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.R.Sreedhar, for R1

: Mr.R.Babu, for R2

ORDER

This Writ Petition is filed calling for the records relating to the impugned letters issued by the first respondent on 23.09.2024 and 18.11.2024 and quash the same and to direct the first respondent to permit the operation of the account viz., Madarasa Majide-Imayathia (SB Account No.103410107358) by the President and Muthavalli of the petitioner till the regular treasurer is appointed.



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2. The case of the petitioner is that the second respondent was the treasurer. While so, there were also charges and Disciplinary Proceedings were taken against him. This apart, the second respondent was convicted by the learned Judicial Magistrate No.V, Coimbatore in C.C.No.348 of 2016 and was sentenced to undergo an imprisonment of two years. In view thereof, as per bye-law No.11 of the petitioner Masjid, the membership terminates and therefore, when the letter has been given to the first respondent bank to operate the bank account by the petitioner and the Muthavalli, the same is rejected by the bank. Hence the Writ Petition.

3. *Mr.R.Sreedhar*, learned Counsel for the first respondent bank would submit that the second respondent gave an objection letter stating that his removal is illegal and it is not properly done and therefore, he is objecting to the request made by the petitioner as the bank is not the appropriate authority to adjudicate the same. He would further submit he parties were



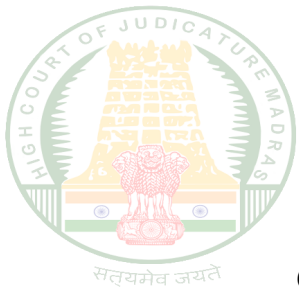
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directed to approach the appropriate Court of law and only on production of orders, the bank account can be operated.

4. *Mr.R.Babu*, learned Counsel for the second respondent would submit that as far as the conviction by the Court is concerned, the petitioner filed a Criminal Appeal and the sentence was also suspended. The learned Counsel would further submit that not only regarding the conviction, there are other charges framed and even without giving proper opportunity to the second respondent and even without hearing his version and even without properly conducting the meeting, the second respondent is removed. Not even enough quorum of persons signed in the meeting. Therefore, his removal is illegal and the prayer of the petitioner, cannot be granted.

5. I have considered the rival submissions made on either side and perused the material records of the case.



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6. The removal of the petitioner from the post of Treasurer, on various other charges, is not gone into by this Court in these proceedings. It may be the grievance of the second respondent that the removal was not done in the manner known to law or such procedure was not followed and it is for the second respondent to contest against the removal order. However, the fact remains that the second respondent, as on date, stands convicted by the judgment of the learned Judicial Magistrate No.V, Coimbatore in C.C.No.348 of 2016. Even though an appeal is said to have been filed, the conviction is not stayed, but, it is only the sentence that is suspended. As on date, the conviction stands.

7. In that view of the matter, by-law No.11 is extracted hereunder for ready reference:-

"11. Removal of members:

If any membership is in arrears of the subscription for more than six months shall automatically cease to be a member of the association.

A member's connection with the society shall terminate in anyone of the following ways:-

(a) By cancellation of his/her membership due to non-



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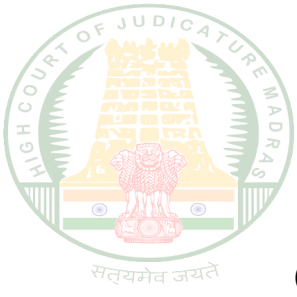
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- payment of subscription.
(b) By withdrawal/resignation.
(c) By conviction by a Court of Law.
(d) Declared as insolvent."

Therefore, it is something different from the removal of the petitioner on other charges.

8. When the second respondent gets automatic disqualification on account of the conviction by the Court of law, the second respondent cannot still claim that he will continue to operate the bank account. Needless to mention that the second respondent will be entitled to question the order of removal by way of separate proceedings and this Court is not commenting upon the same. Again, if the disqualification disappears in the event of conviction being set aside, that would give rise to a fresh cause of action for the second respondent to again claim the rights. But, as on date, the conviction is there.

9. Therefore, this Writ Petition is disposed of on the following terms:-



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(i) The impugned letters in REF: SSKULAM/CRM/01/2024, dated 23.09.2024 and REF: SSKULAM/CRM/01A/2024, dated 18.11.2024, shall stand set aside;

(ii) The first respondent bank shall permit the petitioner and the Muthavalli of the Wakf to operate the bank account Madarasa Masjide-Imayathia (SB A/C 1034101017358);

(iii) The first respondent bank shall act upon a web-copy of this order without waiting for a certified copy of this order;

(iv) There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

03.03.2025

Neutral Citation : no
grs

To

The Chief Manager,
Canara Bank,
Sarkarsamakulam Branch,

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