



W.P.(MD) No.695 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.695 of 2025
and
W.M.P.(MD) No.468 of 2025**

1.Dhastagir Ahmed

2.S.Saleem

... Petitioners

/vs./

1.The Tamil Nadu Waqf Board,
rep by its Chairman,
Jaffar Syrang Street,
Vallalseethakathi Nagar,
Chennai 01.

2.The Chief Executive Officer,
The Tamil Nadu Waqf Board,
Jaffar Syrang Street,
Vallalseethakathi Nagar,
Chennai-01.

3.The Chief Administrative Officer,
The Tamil Nadu Waqf Board,
Jaffar Syrang Street,
Vallalseethakathi Nagar, Chennai-01.



W.P.(MD) No.695 of 2025

WEB COPY

4.The Inspector of Waqf,
O/o. the Superintendent of Waqf,
Madurai Region,
No.1, Townhall Road,
Madurai.

5.Sajan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order made by the 2nd respondent in Proc.R.C.No.11238/24/B8/Mdu. dated 18.11.2024 and quash the same as illegal.

For Petitioners : Mr.M.Mahaboob Athiff
For R1 to R4 : Mr.D.S.Haroon Rasheed

ORDER

The writ petition has been filed challenging the order passed by the second respondent predominantly on the ground that the second respondent did not have the authority to pass orders.

2. The learned counsel appearing on behalf of the petitioners would submit that the petitioners had originally filed a writ petition in W.P.(MD) No.24916 of 2023, wherein he had sought for a direction to the respondents 1 and 2 therein to register the Waqf, namely the Umar (Rail) Jummah Masjid Pallivaasal, in which a



W.P.(MD) No.695 of 2025

WEB COPY

direction was issued by this Court to consider the representation of the fifth respondent dated 29.09.2023 within a period of 3 months.

3. When that be so, the fourth respondent herein had issued a notice calling upon the Managing Administrators of the Waqf for an enquiry. The said notice came to be challenged by the second petitioner in W.P.(MD) No.21666 of 2024. In the said writ petition, this Court after analyzing in detail the provisions of the Waqf Act held that the fourth respondent did not have any authority to issue a show cause notice and the same was in excess of authority and set aside the show cause notice issued by the fourth respondent.

4. Thereafter, by proceedings dated 17.10.2024, the second respondent herein had issued a show cause notice. The same came to be challenged before this Court in W.P.(MD) No.25391 of 2024 and by order dated 14.11.2024, this Court disposed of the said writ petition by holding that for an enquiry under Section 36 of the Waqf Act, 1995, there is no delegation of power under Section 40 by the Board in favour of the second respondent and recording the submissions of the learned standing counsel for the Waqf Board had directed the



W.P.(MD) No.695 of 2025

WEB COPY

second respondent to place a report before the first respondent and the Waqf Board was directed to hear the parties concerned before passing any orders. However, the present impugned order had been passed by the second respondent on 18.11.2024 without referring to the order passed by this Court on 14.11.2024 and proceeded to pass orders contrary to the statements made on behalf of the respondents. Hence, he would submit that the order impugned is in violation of the orders passed by this Court in W.P.(MD) No.25391 of 2024 dated 14.11.2024.

5. The learned standing counsel appearing for the respondents 1 to 4 on the other hand would submit that the second respondent after the disposal of the writ petition in W.P.(MD) No.21666 of 2024 had passed orders and that the same also need not be set aside. The said order can be treated as a report made by the second respondent, which shall be considered by the first respondent and orders thereafter be passed.

6. I am not inclined to accept the contention of the learned standing counsel for the respondents 1 to 4. By order dated 14.11.2024 in W.P.(MD) No.25391 of 2024, this Court had specifically held that the second respondent do not have the



W.P.(MD) No.695 of 2025

WEB COPY

authority to deal with the powers vested under Section 36 of the Act with the second respondent, as Section 40 of the Act does not permit any such delegation by the Board in matters relating to registration of Waqfs. However, taking into account that the notice had been issued to the second respondent permitting him to conduct an enquiry and file a report to the Wakf Board for passing orders, by recording the statements made by the learned counsel appearing for the Waqf Board, the second respondent had thereafter in contravention of the order passed by this Court had passed the order impugned in this writ petition. Therefore, the same is liable to be set aside.

7. However, considering the fact that the second respondent had violated the orders, which were passed based on the statements made by the learned standing counsel appearing for the first respondent, I am inclined to direct the first respondent to take on record the application filed by the fifth respondent and after conducting proper enquiry by affording an opportunity to all the persons interested including the petitioners herein pass appropriate orders on merits and in accordance with law without being influenced by the order impugned herein independently.



W.P.(MD) No.695 of 2025

WEB COPY

8. In fine, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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09.01.2025



WEB COPY



W.P.(MD) No.695 of 2025

K.KUMARESH BABU, J.

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W.P.(MD) No.695 of 2025

09.01.2025