



W.P.(MD)Nos.4385 and 23397 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)Nos.4385 and 23397 of 2024

and

W.M.P.(MD)Nos.4221, 4222, 19798, 19799, 23346 of 2024

W.P.(MD)No.4385 of 2024:

1.Biram Baig

2.A.Mohamed Farith Baig

...Petitioners

Vs

1.The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffer Sarangi Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Sarangi Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

3.The Superintendent,
Tamil Nadu Wakf Board,
Town Hall Road,
Mosque 2nd Floor,
Madurai – 625 001.



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4.Janab.A.Samyal Baig @ John Baig

5.M.Abdul Gafoor

6.M.Sulaiman Arif

7.K.E.S.Imam Ahmed Hussain

... Respondents

(R-4 is suo motu impleaded vide Court Order dated 11.07.2024 in W.P. (MD)No.4385 of 2024)

(R-5 to R-7 are impleaded vide Court Order dated 29.01.2024 in W.M.P. (MD)No.23343 of 2024 in W.P.(MD)No.4385 of 2024)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents resulting in the second respondent's impugned order dated 13.02.2024 passed in Se.Mu.Aanai. 13865/Aa8/Thi.Kal which is passed pursuant to the resolution dated 21.12.2023 passed by the first respondent in No.330/23, Na.Ka.No. 13865/09/Aa.8/Thi.Kal (not communicated) and quash the same in so far as it affects the petitioners and consequently to appoint 1st of the petitioners as Member in the 5 Members Committee to administer the Begambur Mosque and Dhargah Properties and its Administration and thereupon, to appoint the 1st of them as Muthavalli/Secretary and 2nd of them as Treasurer for the period of 5 years from the year 2024 as per the Court's scheme and the resolution of the Board dated 17.03.2003.



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For Petitioner : Mr.V.R.Venkatesan
For R-1 to R-3 : Mr.Abdul Mubeen
For Mr.D.S.Haroon Rasheed
For R-4 : Mr.P.Veerapandi

W.P.(MD)No.23397 of 2024:

N.M.B.Kaja Mohideen

...Petitioner

Vs

- 1.The Tamil Nadu Wakf Board,
Represented by its Chief Executive Officer,
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 of Waqf,
No.1, Town Hall Road,
Mosque Building,
2nd Floor, Madurai - 625 001.
- 4.Shri M.Abdul Rahman,
Former Chairman,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallalseethakathi Nagar,
Chennai – 600 001.



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5.A.Mohamed Farid Baid

6.A.Samayal Baig

7.K.E.S.Imam Ahmed Hussain

8.M.Sulaiman Arif

9.M.Abdul Gafoor

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents relating to the impugned order made by the second respondent in his proceedings no. 13865/09/A8/D.KL dated 13.02.2024 and quash the same as illegal and consequently forbear the respondents from interfering into any facet of administration of the Begampur Pallivasal and Dargah Waqf.

For Petitioner : Mr.M.Mahaboob Athiff

For R-1 to R-3 : Mr.Abdul Mubeen
For Mr.D.S.Haroon Rasheed

For R-4 and R-5 : No Appearance

For R-6 : Mr.P.Veerapandi

For R-7 to R-9 : Mr.A.Syed Abdul Khader



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COMMON ORDER

Heard learned counsels on either side.

2. The Writ Petition in W.P.(MD)No.4385 of 2024 has been filed challenging the order of the second respondent dated 13.02.2024 passed in Se.Mu.Aanai.13865/Aa8/Thi.Kal which is passed pursuant to the resolution dated 21.12.2023 passed by the first respondent in No.330/23, Na.Ka.No.13865/09/Aa.8/Thi.Kal (not communicated) and to consequently appoint 1st of the petitioners as Member in the 5 Members Committee to administer the Begambur Mosque and Dhargah Properties and its Administration and thereupon, to appoint the 1st of them as Muthavalli/Secretary and 2nd of them as Treasurer for the period of 5 years from the year 2024 as per the Court's scheme and the resolution of the Board dated 17.03.2003.

3. The Writ Petition in W.P.(MD)No.23397 of 2024 has been filed challenging the order of the second respondent dated 13.02.2024 and to consequently forbear the respondents from interfering into any facet of administration of the Begampur Pallivasal and Dargah Waqf.



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4. The contention of the learned counsel appearing for the respective petitioner is that the appointment of board of management for Begampur Pallivasal and Dhargah has been made without properly considering the qualifications of the appointed individuals. It is the case that there are 34 applicants seeking to be appointed to the board of Waqf for its management. However, without assigning any reasons as to how the appointed persons were suitable, the impugned orders have been passed. The impugned order seems to have been passed based on the resolution of the Waqf Board. They would contend that the Waqf Board acting on the recommendation of the Superintendent of the Waqf who had filed a report, had appointed 5 individuals. There is no reasoning as to why the application of the petitioners or the others have not been found suitable. That apart, they would contend that neither the resolution nor the impugned order does not reflect how the persons appointed are suitable.

5. Mr.Abdul Mubeen, learned counsel appearing for the Waqf Board would contend that the Waqf would be managed by a 5-member board. As a large number of applications were received, the applicants



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were called for interactions. Based on these interactions, it was decided to appoint the individuals named in the impugned order. He would submit that no reasons need to be assigned for rejecting a candidature, as it may have civil consequences. Since the Waqf Board has the authority to appoint as per the proforma, it has, in its wisdom, found the five named individuals suitable. Therefore, he would submit that no interference is required to be made by this Court as the petitioner has an efficacious alternative remedy by approaching the Waqf tribunal.

6. In reply to the contention of the learned counsel appearing for the Waqf Board, the learned counsel appearing for the petitioner had placed heavy reliance upon the judgment of this Court made in CRP(MD)No.964 of 2022 etc., dated 25.01.2023 and contend that the reason for preferring the appointees as against unsuccessful applicants would have to be recorded in the order by considering the *inter-se-merit* or otherwise the Court cannot form an opinion as what had prompted the authority to appoint. Hence, he would seek interference of this Court.



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7. I have considered the submissions made on either side and perused the materials available on record.

8. A reading of the recommendation of the resolution of the Waqf Board the impugned order and the counter filed by the Waqf Board does not indicate the parameters on which such appointments were made. It is also an admitted case that for the 5 posts there are 34 applications. When more number of applications have been received, it is the duty of the Waqf Board to ascertain the suitability on certain parameters or they could chose some other suitable method for appointing such candidates which may not cause aspiration on the applicants whose case has been rejected. This Court need not dwell upon the reasons as to why the reason should be given. The learned Judge of this Court in the judgment relied upon by the learned counsel for the petitioner had clearly held that reasons have to be attributed. For better appreciation, the relevant paragraphs of the order dated 25.01.2023 made in C.R.P.Nos.964, 1311 and 1333 of 2022 are extracted hereunder:

“24. Once the order passed by the Wakf Board appointing a person to the trusteeship is open to challenge it means such an order must be a speaking



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order. It is settled law, giving reasons to the conclusion reached

by the authority, whose order is open to challenge in a superior forum, is recognized as a 3rd principle of natural justice. Unless reasons are given in support of the conclusions reached by the authority, the superior authority before whom the conclusions are challenged cannot take a decision, whether the conclusions reached by the original authorities are correct or not.

25. In the case on hand, the second respondent appointed respondents 3 to 11, overlooking the claim for appointment made by the petitioners and other unsuccessful applicants. Unless, the reason for preferring the present appointees as against unsuccessful applicants are recorded in the order by considering the inter-se merit, when the same is challenged in revision, this Court cannot form an opinion as to what prompted second respondent to appoint the respondents 3 to 11 as against the claim of others. The Division Bench of this Court in the order mentioned above clearly directed the Wakf Board to appoint trustees in accordance with the directions contained under the deed of trust and also keeping in mind the manner in which the Civil Court had handled the question of appointment in the past.

26. Once a direction is given to the first



respondent to appoint trustees by keeping in mind the manner in which the Civil Court had handled the question of appointment in the past, it is necessary that brief reasons must be recorded in the order of appointment. An order appointing a person as a trustee by rejecting the claim of other applicants results in civil consequences and hence the order of appointment must be a speaking one. In the case on hand, the order passed by the second respondent is a non speaking order and consequently, the same is liable to be set aside.”

9. Since neither the resolution nor the order impugned nor the counter provides any parameters that were fixed for selecting the five persons, the same would have to be interfered with by this Court.

10. In fine, the impugned order is set aside and the matter is remitted back to the Waqf Board. The Board shall first establish parameters or a suitable mechanism for cases where the number of applicants exceeds the available posts. Thereafter, the Board shall consider the claims of the 34 applicants in the present case and make appointments in accordance with the established parameters or mechanism, as deemed fit.



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WEB COPY 11. With the aforesaid direction, the Writ Petitions are allowed.

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

29.01.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

- 1.The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffer Sarangi Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Sarangi Street,
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Tamil Nadu Wakf Board,
Town Hall Road,
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K.KUMARESH BABU, J.

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