



W.A(MD)No.739 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 23.04.2025

PRONOUNCED ON : 24.06.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.739 of 2025
and
C.M.P(MD)Nos.5083 & 5118 of 2025**

Shahul Hameed

... Appellant/Writ Petitioner

Vs.

- 1.Tamil Nadu Waqf Board,
Represented by its Chairman,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 3.The Superintendent of Waqf/Election Officer,
Thoothukudi District,
Office of the Superintendent of Waqf Board,
Tirunelveli.



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4.The Inspector of Waqf,
Thoothukudi District,
Office of the Inspector of Waqf Board,
Tirunelveli District.

5.M/s.Arampannai Mohaideen Pallivasal,
Represented by its Secretary,
Arampannai,
Thoothukudi District.

6.M.Abdul Karim

7.S.Abdul Karim

8.Abdul Faiz

9.Abdul Razak

10.Abdul Wahith

11.Abusali

12.Abul Kasim

13.Ayub Khan

14.Sahul Hameed

15.Mohamed

16.Mohamed Hussain

17.Mohamed Kasim

18.Mohamed Kalith

19.Noorul Akbar

... Respondents/Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 27.02.2025 made in W.P(MD)No.204 of 2025 on the file of this Court.



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For Appellant : Mr.Isaac Mohanlal
Senior Counsel
for Mr.K.Navaneetha Raja

For RR 1 to 4 : Mr.D.S.Haroon Rasheed
Standing Counsel

For RR 5 to 19 : Mr.Mahaboob Athiff

JUDGMENT

(Judgment of the Court was delivered by J.NISHA BANU, J.)

Challenging the order passed by the Writ Court dated 27.02.2025 in W.P.(MD) No.204 of 2025, the writ petitioner, as appellant, has filed the present Writ Appeal.

2. The appellant filed a Writ Petition seeking to quash the impugned order passed by the third respondent dated 29.12.2024, wherein the third respondent declared respondents 6 to 19 as the winning candidates.



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3. The facts leading to the filing of the Writ Petition are as follows:

3.1. On 21.02.2024, the third respondent issued Election Notification No.1, publishing a draft voters' list and calling for objections. Objections were submitted on 18.03.2024. However, without considering those objections, the third respondent issued another Election Notification No.4 on 09.08.2024 and scheduled the date of election, fixing the date for filing nominations on 13.08.2024.

3.2. Aggrieved by the same, Abdul Kani and Mohammed Ali filed Writ Petitions in W.P.(MD) Nos.19317 and 19582 of 2024 before the learned Single Judge of this Court. By a common order dated 14.08.2024, the learned Single Judge disposed of the petitions, directing that all objections be considered and a fresh electoral list be published before proceeding with the election.

3.3. Pursuant to the said order, the third respondent issued a revised voters' list, adding 190 new voters, including the appellant. The appellant's name, along with his father's name and address, was listed at Serial No.1187. However,



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without affording an opportunity to the newly added voters to file their nominations, the third respondent issued Election Notification No.13 on 23.12.2024, scheduling the election on 29.12.2024.

3.4. The appellant submitted his objection to the publication of the election notification to the respondents 3 and 4, but no action was taken. The election was conducted on 29.12.2024 and the third respondent issued the impugned order on the same date, declaring the respondents 6 to 19 as the winning candidates. The appellant contends that the process was arbitrary and illegal.

4. The Writ Court, after considering the materials on record and relying on the judgment of the Hon'ble Supreme Court in *the Board of Wakf, West Bengal v. Anis Fatma Begum [2010 (14) SCC 588]*, dismissed the Writ Petition, granting liberty to the appellant to approach the Waqf Tribunal. The Tribunal was directed to decide the appellant's case on its merits and in accordance with law within a period of three months. Aggrieved by the same, the appellant has filed the present Writ Appeal.



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5. The submissions of the learned senior counsel appearing for the appellant are as follows:

5.1. The appellant, including 190 newly added members, were not given an opportunity to file their nominations, which is contrary to the fundamental principles of a fair election. This denial violates the appellant's fundamental rights under Article 14 of the Constitution of India, thereby justifying judicial intervention. The appellant was denied the right to vote due to improper preparation of the voters' list.

5. Initially, the official respondents objected to the appellant's eligibility, claiming he was neither a member nor a voter of the Jamath. However, the appellant later produced documentary evidence, including subscription receipts, payment records, and a family card, establishing his Jamath membership and nativity to Arampannai Village. Furthermore, the official respondents did not dispute his eligibility before the learned Single Judge and are therefore estopped from raising such objections now.



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5.3. The appellant's name appeared in the supplementary voters' list at Serial No.1187, with his address recorded as KTC Nagar. He submitted a rental agreement as proof of residence. He also clarified that he should not be confused with another individual named Shahul Hameed residing in Kongarayankurichi, located 17 km away. As no specific qualification was prescribed for voting eligibility, all members of the Jamath, including the appellant, were eligible to vote.

6. In support of his arguments, the learned senior counsel cited the decision of the Hon'ble Supreme Court in *Whirlpool Corporation v. Registrar of Trademarks [1998 (8) SCC 1]*, wherein it was held that the existence of an alternative remedy does not bar the filing of a Writ Petition in cases involving:

- (i) enforcement of fundamental rights;
- (ii) violation of principles of natural justice; or
- (iii) proceedings conducted wholly without jurisdiction.



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Therefore, it was argued that the denial of voting and nomination rights amounts to a violation of the appellant's fundamental rights under Article 14, and hence the Writ Petition is maintainable.

7. The submissions of the learned counsel appearing for the respondents 5 to 19 are as follows:

7.1. Arampannai Mohideen Pallivasal, a notified waqf under G.S. No.299/TNV, requires its mutawalli to be elected by the Jamath. Due to alleged irregularities by the existing office bearers, one Mohamed Hanifa filed a writ petition in W.P(MD)No.30232 of 2023 and the learned Single Judge, by order dated 19.12.2023, directed the Tamil Nadu Waqf Board to conduct elections within 12 weeks and to seek police protection if necessary.

7.2. In compliance, the election process was initiated and notifications were issued. Former office bearer challenged the process in W.P.(MD)No.19317 of 2024, requesting postponement of elections until a scheme



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for the waqf was framed. Another individual, Mohamed Ali, also filed a Writ Petition in W.P.(MD) No.19582 of 2024 challenging the notification. However, the learned Single Judge directed that elections be held after addressing objections to the voters' list.

7.3. Following the process, elections were conducted on 29.12.2024, and the respondents 6 to 19 were elected, replacing the previous office bearers. The Superintendent of Waqf (third respondent), acting as the election officer, recorded the results and recommended their approval to the Waqf Board.

7.4. The Waqf Board (second respondent) formally approved the elected committee for the term 29.12.2024 to 28.12.2027 vide order dated 13.01.2025. Challenging the Superintendent's recommendation dated 29.12.2024, the appellant filed the Writ Petition. The Writ Court, however, dismissed the Petition on 27.02.2025, granting liberty to the appellant to approach the Waqf Tribunal and the Waqf Tribunal shall decide the case of the appellant on its own merits and in accordance with law, within a period of three months.



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7.5. There were discrepancies in the appellant's identity. Although he claimed to be the individual listed at Serial No.1184, the age and address did not match the record. His Aadhaar card also contradicted his claim. The rent agreement he submitted was considered self-serving and unreliable.

7.6. Further, under Section 83 of the Waqf Act, 1995, election disputes involving a waqf must be adjudicated by the Waqf Tribunal, not under Article 226 of the Constitution. Hence, the Writ Petition was not maintainable and the learned Single Judge rightly granted liberty to the appellant to approach the Tribunal.

7.7. The Superintendent's recommendation is merely an internal communication and does not warrant writ intervention. No violation of statutory or constitutional rights was established. The challenge to the election was raised only after its conclusion, and not against the notification, implying acquiescence. With the Waqf Board's final order dated 13.01.2025, the Superintendent's recommendation merged with the final decision, rendering the challenge infructuous. Therefore, the Writ Appeal is devoid of merit and deserves to be



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8. Heard Mr.Isaac Mohanlal, learned senior counsel appearing for the appellant, Mr.D.S.Haroon Rasheed, learned standing counsel appearing for the respondents 1 to 4 and Mr.Mahaboob Athiff, learned counsel appearing for the respondents 5 to 19 and perused the materials placed before this Court.

9. The appellant's principal contention is that although his name, along with 190 others, was included in the revised voters' list, he was denied an opportunity to file his nomination due to the election notification dated 23.12.2024 being issued without sufficient notice. It is his claim that this violates Article 14 of the Constitution and the principles of natural justice.

10. The appellant further asserts that he is a valid member of the Jamath and that objections to his eligibility were not raised before the learned Single Judge, thereby precluding the respondents from doing so at the appellate stage. Reliance was placed on the judgment in *Whirlpool Corporation v. Registrar of Trademarks [1998 (8) SCC 1]*, to argue that a writ remedy is



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maintainable notwithstanding the availability of an alternative remedy, where fundamental rights and natural justice are at stake.

11. Per contra, the respondents 1 to 4 contend that the election was held in compliance with earlier court directions and the Waqf Board has since approved the elected committee for the term 2024–2027. They assert that the appellant’s claim suffers from factual inconsistencies relating to his identity and residence, and also that the appropriate forum for adjudicating such election-related grievances is the Waqf Tribunal under Section 83 of the Waqf Act, 1995.

12. Upon perusal of the materials placed and the submissions made, this Court finds no reason to interfere with the well-reasoned order of the learned Single Judge. The Supreme Court in ***Board of Wakf, West Bengal v. Anis Fatma Begum [2010 (14) SCC 588]*** has held that election-related disputes under the Waqf Act must be adjudicated before the Waqf Tribunal, which is a specialized forum with exclusive jurisdiction under the Act.



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13. We also find that the appellant, though included in the revised voters' list, did not challenge the final election notification before the election was conducted on 29.12.2024. The challenge was only to the result declared on that date. This belated challenge lends credence to the respondents' contention of acquiescence and delay.

14. The mere inclusion in the voters' list does not *ipso facto* guarantee the right to contest unless the process is shown to be vitiated by *mala fides* or illegality, which the appellant has failed to establish. Further, the Superintendent's communication dated 29.12.2024 stands merged with the Waqf Board's final order dated 13.01.2025 approving the elected committee, which has not been independently challenged.

15. In view of the above and considering that the learned Single Judge has already reserved the appellant's right to approach the Waqf Tribunal with a direction for expeditious disposal within three months, we see no infirmity or perversity in the impugned order.



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16. Accordingly, the Writ Appeal is dismissed, without prejudice to the appellant's right to approach the Waqf Tribunal under Section 83 of the Waqf Act, 1995, as already observed by the learned Single Judge. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

[J.N.B.,J.] & [S.S.Y.,J.]
24.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

- 1.The Chairman,
Represented by the Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
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Chennai – 600 001.
- 2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
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- 3.The Superintendent of Waqf/Election Officer,
Thoothukudi District,
Office of the Superintendent of Waqf Board,
Tirunelveli.
- 4.The Inspector of Waqf,
Thoothukudi District,
Office of the Inspector of Waqf Board,
Tirunelveli District.



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J.NISHA BANU, J.
and
S.SRIMATHY, J.

ps

**Pre-Delivery Judgment Made in
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24.06.2025

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