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W.P.(MD)NO.14552 OF 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14552 of 2025 AND
W.M.P.(MD)Nos.10771 & 10774 of 2025

S.Sharfudeen,
S/o.Sheik Dawood,
President,
Anaiyur Muslim Jamath Pallivasal
@ Anaiyur Mohideen Andavar Pallivasal,
Vazhi Abiramam,
Ramanathapuram District,
Anaiyur – 623 601.

... Petitioner

Vs.

1. The Tamil Nadu Waqf Board,
Rep. by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai – 1.
2. The Superintendent of Wakfs,
Ramanathapuram Circle,
O/o.the Superintendent of Wakfs,
Tamil Nadu Wakf Board,
176/11, First Floor, Thoppa Sayanam Road,
Vellipattinam, Ramanathapuram – 623 504.
3. Ad Hoc Committee,
Rep. By
 - a) A.Peer Mohammed
 - b) A.Akbar Hussain
 - c) R.Syed Moosa Khadir
 - d) S.Anwar Hussain
 - e) A.Saleem
 - f) M.Ismath



g) A.Mathana Meeran
Anaiyur Muslim Jamath Pallivasal
@ Anaiyur Mohideen Andavar Pallivasal,
Vazhi Abiramam,
Ramanathapuram District,
Anaiyur – 623 601.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent in Se.Mu.Aanai. 14668/24/Aa11/Rama dated 04.04.2025 and quash the same as illegal.

For Petitioner : Mr.Nissar Ahmed,
Senior counsel,
for M/s.L.Kowser Sulthana.

For Respondents : Mr.D.S.Haroon Rasheed for R-1 & R-2.

Mrs.A.Ajimath Begam for R-3.

* * *

ORDER

Heard both sides.

2. Vide order dated 04.04.2025, Tamil Nadu Waqf Board had appointed an Adhoc Committee to manage the affairs of the petition-mentioned Waqf.



3. The order reads that as per the proforma, the office bearers of the Waqf have to be elected. The third respondent herein Thiru.A.Peer Mohammed submitted representation dated 24.10.2024 calling upon the Waqf Board to recognise the committee containing a list of office-bearers said to have been elected. After rejecting the said request, the Waqf Board proceeded to appoint an Adhoc Committee by invoking power under Section 63 of the Waqf Act, 1995. Interestingly, Thiru.A.Peer Mohammed was included as one of the members.

4. Section 63 of the Waqf Act, 1995 reads that when there is vacancy in the office of the Mutawalli of a Waqf and there is no one to be appointed under the terms of the Waqf deed or where the right of any person to act as Mutawalli is disputed, the Board may appoint any person to act as Mutawalli for a period specified in the order.

5. In the case on hand, according to the writ petitioner, election for the petition-mentioned Waqf was concluded on 15.02.2024 and that an application was submitted under Section 42(2) of the Waqf Act, 1995 for approval. It is the specific case of the



writ petitioner that no order was passed by the Waqf Board on the application, instead the Waqf Board proceeded to announce fresh election on 20.09.2024. This was put to challenge in W.P.(MD) No. 21524 of 2024.

6. By that time, the writ petition could be taken up for final disposal, the Waqf Board itself withdrew the proceedings. Recording the said development that no election was conducted on 20.09.2024, the writ petition was closed. This Court had already held that Waqf Board has no power to meddle with the internal affairs of the Waqf and that it has no authority to hold any election as such. Probably in view of declaration of law, the Waqf Board recalled its earlier stand. It was only thereafter, Mr.A.Peer Mohammed sent the aforesaid representation on 24.10.2024 calling upon the Waqf Board to recognise the committee. The learned Senior counsel appearing for the writ petitioner would harp on the fact that the representation of Mr.A.Peer Mohammed followed the termination of the writ petition filed by the writ petitioner.



7. The learned Judge of this Court vide order dated

19.10.2022 in W.P.No.18959 of 2022 (K.V.M.A.Mohammed

Salahudin Vs. The Chairman, Tamil Nadu Wakf Board, Chennai)

had held as follows:-

“38. In my view, it is not mandatory for election to be held under the supervision of the Waqf Board. If election were to be held under the supervision of the Waqf Board, Section 42 would have not been there in the Waqf Act, 1995. For the sake of clarity, Section 42 of the Waqf Act is reproduced below:

Section 42: Change in the management of the Waqf to be notified.—

(1) In the case of any change in the management of a registered waqf due to the death or retirement or removal of the mutawalli, the incoming mutawalli, shall forthwith, and any other person may notify the change to the Board.

(2) In the case of any other change in any of the particulars mentioned in section 36, the mutawalli shall, within three months from the occurrence of the change, notify such change to the Board.”.

39. Section 42 of the Waqf Act, 1995 contemplates cast a duty on the incoming Mutawalli



to inform the Waqf Board regarding the change in the Management. Under Section 42(1) of the Waqf Act, 1995 where there is a change in the management of a registered Waqf due to:

- a. death; or
- b. retirement; or
- c. removal of a Muthawalli.

the incoming Muthawalli has to inform about

the same to the Waqf Board forthwith.

40. On the other hand, in case of “any other change”, the Mutawalli shall, within three months from the occurrence of the change, notify such change to the Waqf Board.

41. Thus, if the election was held, duty is cast on the incoming Muthawalli to notify the same to the Waqf Board. If the election was to be held under the supervision of the Waqf Board as has been stated by the respondents, the presence of Section 42 (2) would be unnecessary under the Scheme of the Act. In this case, the election was held during November 2011. Therefore, in my view, it is not open for the Waqf Board to hold election.

...



50. In my view, elections to the Managing Body of a Waqf is an internal affair.

51. If any elections held are not proper, the aggrieved party has to approach Waqf Tribunal under Section 83 of the Waqf Act, 1995.

52. In case, a person is aggrieved by election conducted, doors of the Waqf Tribunal is always open to challenge the same. Only remedy for an aggrieved party by an election held is to invoke the jurisdiction of the Court under Section 83 of the Waqf Act, 1995.”

This was followed by another Judge of this Court vide order dated **19.04.2023 in W.P.(MD)No.13695 of 2020 etc. batch.**

8. I am also inclined to adopt the very same approach. The impugned order was passed under Section 63 of the Waqf Act. But the Board was cognizant of the fact that the petitioner herein had already called upon the Board to recognize the committee elected in the election held on 15.02.2024. According to him, 200 Jamathars participated in the election and five office-bearers and 17 executive committee members were unanimously elected. This was not challenged by the contesting respondents. Section 63 could have



been invoked only if the office of Mutawalli was vacant. In this case, there was no vacancy. Even the right of the office-bearers said to have been elected on 15.02.2024 was not disputed in a formal manner. The dispute referred to in Section 63 of the Act must be bona fide. In other words, a triable issue must be raised by the disputant. It must be based on sufficient material. The Board before invoking the power under Section 63 of the Act must put the person who asserts the right to act as Mutawalli on notice. His attention must be drawn to the contentions put forth by the disputant. Only after recording a finding that the right of the claimant to act as Mutawalli is disputed, the Board can invoke the power to appoint any person to act as Mutawalli under Section 63 of the Act. The impugned order does not record any such finding. The condition precedent for invoking the power under Section 63 of the Act is absent. The order impugned in the writ petition is patently bereft of particulars. On these grounds, the order impugned in this writ petition stands quashed.

9. The petitioner claims that his group is in-charge of the Waqf. The third respondent contested the said claim. According to



him, his group is in-charge. This factual dispute cannot be adjudicated by the writ Court. The Waqf Board has already rejected the stand of the third respondent. They can refuse to recognise the writ petitioner's election also. In that event, the aggrieved individual can only go before the Waqf Tribunal for relief. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

22.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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Note : Issue order copy on 05.11.2025.



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10

W.P.(MD)NO.14552 OF 2025

G.R.SWAMINATHAN,J.

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W.P.(MD)No.14552 of 2025

22.10.2025