

W.P(MD)No.16987 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD)No.16987 of 2025

and

W.M.P(MD)Nos.12898 and 12900 of 2025

Syed Amirudeen

... Petitioner

Vs.

1.The Tamilnadu Waqf Board,
Represented by its Chairman,
No.1, Jaffer Syrang Street,
Vallalseethakathi Nagar , Chennai.

2.The Chief Executive Officer,
The Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallalseethakathi Nagar , Chennai.

3.The Superintendent,
Tamil Nadu Wakf Board
Office of the Superintendent,
No.8/124, Kaithai Millath Road,
Palakarai, Trichy 620 008.

4.The Inspector of Wakf/Trichy,
Tamil Nadu Wakf Board,
Trichy.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to



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the impugned Memorandum in NA.KA.No.7046/93/Aa5/Trichy dated 12.05.2025 of the second respondent and consequent Impugned Notice in NA.KA.No.7046/93/Aa5/Trichy dated 22.05.2025 of the third respondent and quash the same as arbitrary, Illegal and without jurisdiction.

For Petitioner : Mr.I.Abdul Basith

For Respondents : Mr.K.K.Senthil
Standing Counsel

ORDER

Mr.K.K.Senthil, learned Standing Counsel takes notice for the respondents.

2. The petitioner is aggrieved by the impugned order passed by the second respondent dated 12.05.2025 and the consequential impugned notice issued by the third respondent dated 22.05.2025.

3. By the impugned order, the respondents have proposed to nominate/appoint three non-hereditary trustees in accordance with the scheme decree dated 29.01.1930 passed by the Sub Court, Trichirappalli in O.S.No.91 of 1925. As per the aforesaid scheme decree, the Board of Trustees of the subject



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Wakf, namely, Hazrath Thable Alam Badhusha Natharvali Dargah Wakf

consists of 5 members. One of the trustees shall be a hereditary trustee, which trusteeship shall be as per the primogeniture in the male line of first defendant in the said suit. The second trustee is to be appointed from among the Pangalai. The other three trustees are to be nominated by the Court from among Muslim residents in the Trichy Municipality, who shall hold office for a term of three years except the first set of trustees, who shall hold office for five years.

4. The specific case of the petitioner is that the respondent Board has recognized the petitioner's brother as the hereditary trustee, despite this Court castigating him in W.P(MD)Nos.23489 and 23541 of 2024 vide its order dated 24.04.2025. It is submitted that even though the order was passed on 24.04.2025, the said G.Syed Akbar Hasan was allowed to Manage the affairs of the said Wakf vide order dated 20.05.2025. It is further submitted that the other brother of the petitioner namely, S.Syed Ahamed Hussain had also approached the Principal Bench of this Court in W.P.No.19092 of 2025 for writ of Mandamus to direct the wakf board to consider the representation, dated 05.02.2025 to amend the scheme decree in O.S.No.91 of 1925 by removing the word primogeniture from clause 2 and consequently direct the wakf board to take appropriate action as directed in Paragraph No.19 of the Judgment dated



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24.04.2025 in W.P(MD)No.23489/2025. Pursuant to the order, dated 23.05.2025, the aforesaid representation of the petitioner in W.P.No.19092 of 2025 namely, S.Syed Ahamed Hussain is under the active consideration by the respondents. It is further submitted that one of the members of the congregation had also approached this court by way of Public Interest Litigation in W.P.(MD)No.14747 of 2025 namely, Syed Hayath Khalader and that the Division Bench of this Court by its order dated 28.05.2025 had passed the following order:

“Mr.Haroon Rasheed, learned standing counsel, takes notice for the respondents 1 and 2. Notice to the respondents 3 and 4 returnable by 30.06.2025. Private notice is also permitted.

2.It is seen from the records that the third respondent had earlier approached this court and filed WP(MD) No.23489/2024 seeking for a direction to the District Collector, Trichy to initiate recovery action and to retrieve the lands, which have already been alienated without permission. This Court, while dealing with the writ petition, found that there was active involvement on the part of the third respondent in the illegal transaction and therefore while disposing of the writ petition, necessary directions were issued including the role played by the third respondent. While so, the third respondent has now been appointed as Executive Trustee through the impugned order dated 20.05.2025 and direction has been issued to hand over the properties and other charges to the third respondent. The impugned order virtually runs against the earlier direction given by this court in the earlier writ petition. Hence, a prima facie case has been made out and there shall be an order of interim stay pending disposal of the writ petition.”



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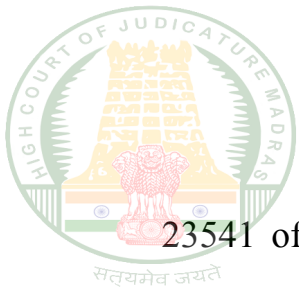
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5. It is specific case of the petitioner that the Wakf Board is appointing the non-hereditary trustees and recognizing the trustees in a piecemeal manner and thus, violating Paragraph No.3 of the aforesaid Scheme decree dated 29.01.1930, which reads as under:

“3. The trustees shall each year elect from among themselves one person as the Executive Trustee for attending to the collection and expenditure of the income etc., affairs of the Durga and who will act accordingly to the directions of the Board.”

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

7. In my view, the challenge to the impugned communication appointing non-hereditary trustees from among the Muslim residents of Trichy Municipality in accordance with the scheme decree cannot be challenged merely because it is the view of the petitioner that all the five trustees are to be recognized together. The nomination of the non hereditary trustee along with the hereditary trustee and the Pangali Trustee need not coincide on the same day. As far as the hereditary trustee is concerned, the office of the hereditary trustee is by way of succession by the principle of primogeniture. Since the Court has castigated the petitioner's brother by order, dated 24.04.2025 in W.P(MD)Nos.23489 and



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23541 of 2024, the affairs of the Wakf has to be managed and therefore, the petitioner cannot be found fault with the appointment of the non-hereditary trustee. In any event, it is open to the petitioner to challenge the order dated 20.05.2025 in the manner known to law. It is also open to the petitioner to request the wakf board to assume power under Section 65 of the Wakf Act. In any event, it is open for the Wakf Board to examine whether the prevailing circumstances warrants for the Wakf Board to *suo motu* take over the affairs to the Wakf in view of the large scale of irregularities committed by the hereditary trustee and the pangali trustees.

8. The writ petition stands dismissed with the above observations and directions. No costs. Consequently, the connected miscellaneous petitions are closed.

23.06.2025

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

- 1.The Chairman,
Tamilnadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallalseethakathi Nagar , Chennai.
- 2.The Chief Executive Officer,
The Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
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C.SARAVANAN, J.

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