

W.P.(MD).No.19015 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.10.2024
PRONOUNCED ON : 28.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.19015 of 2024

and

W.M.P.(MD)Nos.16089 and 16090 of 2024

Abubacker
S/o.Abdul Rahman,
58 E1, Pallivasal Street,
Pattukottai, Tanjore District.

.. Petitioner

Vs

1.The Superintendent of Waqf,
Tanjore Division,
Tamil Nadu Waqf Board,
Railway Colony,
Diwan Nagar, Tanjore District.

2.A.Ibrahim Sha

.. Respondents

(R2 is impleaded vide Court order dated 22.08.2024 in W.M.P.(MD).No.16652 of 2024 in W.P.(MD).No.19015 of 2024 by MSQJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for records relating to the impugned election notification issued by the respondent in Na.Ka.No.416/Va.Ka./The.A/Tanjore/2024 dated 16.07.2024 and quash the same as illegal and consequently forebear the respondents from holding election to the Mohideen Andawar Pallivasal Waqf (GS No.416/TNJ).



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For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.V.Raghavachari
Senior Advocate
Assisted by
Mr.D.S.Haroon Rasheed (for R1)

Mr.Nissar Ahemed
Senior Advocate
for M/s.Kowser Nissar (for R2)

ORDER

The present writ petition is filed challenging the election notification dated 16.07.2024 primarily on the premise that the Board or its officers have no jurisdiction to hold elections in respect of any Wakf. On perusal of the impugned notification, this Court finds that the impugned notification dated 16.07.2024 is issued pursuant to and in compliance with the orders of this Court in W.P.(MD)No.5966 of 2024 dated 12.03.2024. This Court in W.P.(MD)No.5966 of 2024 had placed reliance on the order of this Court in W.P.(MD)No.22941 of 2023 wherein there was a challenge to proceedings dated 13.01.2023. While disposing of the said writ petition i.e., W.P.(MD)No. 22941 of 2023, this Court had directed the Board to conduct the elections vide order dated 25.09.2023. The above order in W.P.(MD)No.22941 of 2023 was relied upon, in W.P.(MD)No.5966 of 2024 dated 12.03.2024, wherein a writ of

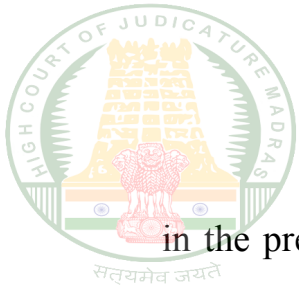


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Mandamus was filed in respect of the very same Wakf to direct the

WEB COPY Respondents therein including the CEO Wakf and Superintendent Wakf to conduct election. This Court had on the basis of the submissions made by the learned counsel for the Board, observed that steps are being taken to conduct election for the petition Wakf and disposed of the writ petition recording the same. It is clear from a reading of the above orders of this Court in W.P. (MD).Nos.22941 of 2023 and 5966 of 2024, that the order in W.P.(MD).Nos. 13695 of 2020 dated 19.04.2023, wherein while dealing with the petition Wakf, it was held that the Wakf Board is not vested/ conferred with the power to conduct elections was not brought to the notice of this Court on both occasions.

2. It may be relevant to note that thereafter, a scheme has been framed and notified in terms of Section 69 of the Act vide proceedings dated 16.07.2024. The above scheme also contained clauses providing that elections for the petition Wakf would be conducted by the Board. The said scheme is the subject matter of challenge in W.P.(MD)No.19869 of 2024. Whiles, this Court on hearing the writ petition in W.P.(MD).No.19869 of 2024. This Court was pleased to set aside the Scheme as it was found to be made in gross disregard to the mandate contained in Section 69 of the Act. Be that as it may,



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in the present writ petition, the challenge to the impugned notification by the

WEB BOARD calling for election cannot be sustained inasmuch as it is contrary to the orders of this Court in W.P.(MD).Nos.13695 of 2020 dated 19.04.2023 wherein it has been held in respect of the very same Wakf, that the Board would not have the power to conduct elections. The above view of this Court has been reiterated on several occasions, thereafter some of them being:

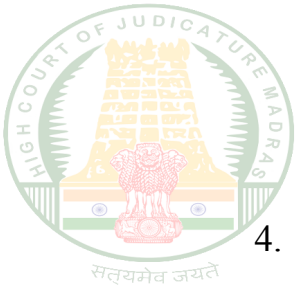
i) *Shajahan Vs. The Tamil Nadu Waqf Board and others – W.P.(MD). No.20031 of 2023 dated 31.08.2023,*

ii) *A.Mohammad Mubarak Vs. The Tamil Nadu Waqf Board and another – W.P.No.22010 of 2023 dated 08.09.2023,*

iii) *S.A.K.Ibrahim Vs. The Chief Executive Officer, Tamil Nadu Waqf Board and others – W.P.Nos.16712 of 2020 and 29451 of 2023 dated 15.11.2023,*

iv) *N.Mohammed Ali Jinna Vs. The Tamil Nadu Waqf Board and others – W.P.(MD). No.25585 of 2022 dated 07.06.2024.*

3. Further as found supra, this Court in W.P.(MD)No.22941 of 2023 and W.P.(MD)No.5966 of 2024 had issued directions to conduct elections, but importantly the earlier order in W.P.(MD).Nos.13695 of 2020 wherein it has been held in respect of the very same Wakf, that the Board would not have the power to conduct elections was not brought to the notice of this court.



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4. For the above reasons, the impugned election notification dated 16.7.2024 cannot be sustained and is thus set aside. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

28.01.2025

Index: Yes/No
Neutral Citation: Yes/No
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To:
The Superintendent of Waqf,
Tanjore Division,
Tamil Nadu Waqf Board,
Railway Colony,
Diwan Nagar, Tanjore District.

MOHAMMED SHAFFIQ, J.

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