



W.P.(MD) No. 19646 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No. 19646 of 2025
and
W.M.P.(MD) Nos.15093 & 15095 of 2025**

1. A.C.R.Naseer,

2. A.Abudl Bazeer.

... Petitioners

Vs

1. The Tamil Nadu Waqf Board,
Rep by its Chairman,
No.1 Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai- 6000 001.

2. The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1 Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai- 6000 001.

3. The Superintendent of Waqf,
Ramanathapuram Zone,
Ramanathapuram.

4. Kattu Thalaivasal Muslim Jamath Pallivasal



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WEB COPY @ Al Jamiul Munavar Masjid Waqf,
Azad Street, Kattu Thalaivasal,
Karaikudi Post and Taluk,
Sivagangai District - 630 001.

5. N.Syed Mohamed Buhari,
Vice President,
Kattu Thalaivasal Muslim Jamath Pallivasal
@ Al Jamiul Munavar Masjid Waqf
No.10, Azad Street,
Kattu Thalaivasal,
Karaikudi Town and Taluk – 630 001.
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondents 1 and 2 to take direct management of the waqf, namely, Kattu Thalaivasal Muslim Jamath Pallivasal at Al Jamiul Munavar Masjid Waqf (G.S.No.235/RMD), Karaikudi, Sivagangai District under Section 65(5) of the Waqf Act, 1995, and to conduct general body to elect committee for the fourth respondent waqf, as per rule of succession stated in the proforma forthwith, by considering the petitioner's representation, dated 18.06.2025.

For petitioner : Ms. A.Ajimath Begum

For respondents : Mr.K.K.Senthil
Standing Counsel for R1 to R3
Mr.M.Mahaboob Athiff for R4 & R5



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ORDER

This Writ Petition is disposed of at the time of admission with the consent of the learned counsel for the petitioner, the learned Standing Counsel for the respondents 1 to 3 and the learned counsel for the respondents 4 and 5.

2. The petitioners are the President and Treasurer of the fourth respondent/Wakf, respectively, who were elected on 08.04.2021, along with 19 others, which included the fifth respondent, who was elected as the Vice-President. As per the custom, the tenure of the elected body is three years and among the Elected Members from the Jamadhars, President, Vice-President, Treasurer and Secretary are to be elected by the Elected Members. The Elected Members should constitute an Executive Committee of the fourth respondent/Wakf.

3. According to the learned counsel for the petitioners, this exercise is being conducted in the presence of the Officers of the Wakf. It is submitted that after the first petitioner was elected as President, the fifth respondent refused to cooperate



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with him. On 14.09.2021, the second respondent/Chief Executive Officer recognised 25 persons, which included the first petitioner as the President, the second petitioner as the Treasurer and the fifth respondent as the Vice-President. This was the subject matter of challenge by a few others before this Court in W.P. (MD) No.18045 of 2021, which came to be disposed of on 29.09.2022. By the aforesaid order, the regularization given by the second respondent herein i.e., the Chief Executive Officer was quashed with the following observations:

“14.It is seen that the petitioners were elected as officer bearers of the Jamath Committee by the General Body Meeting. Prior to the General Body Meeting held on 08.04.2021, public notice was issued, which is not in dispute. Thereafter, the General Body Meeting held, which is also not in dispute. The election was conducted in presence of the 3rd respondent and the Inspector of Wakf. The Inspector of Wakf, Ramanathapuram, Sivagangai in his report in Na.Ka.No.GS:235/Rama/Wakf/2021, dated 04.05.2021 records the details of the election held on 08.04.2021. There are two contesting groups consisting of 21 members, who participated in the election. One led by Janab.K.Sahul Hameed and another one led by Haji.M.Abdullah. Later, the group under the chairmanship of Haji.M.Abdullah made objections and not participated in the election. Thereafter, the majority of the Jamath members supported Janab.K.Sahul Hameed and necessary resolutions have been passed accordingly and their office tenure is from 08.04.2021 to 07.04.2024.

15.The Wakf Inspector, Ramanathapuram, Sivagangai forwarded his report through the 3rd respondent. The 3rd respondent approved and forwarded the same along with video recordings CD to the 2nd respondent. This being so, rival group sent a representation along with the resolutions, dated 15.08.2021,



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18.08.2021 and 23.08.2021 removing the petitioners from their respective post. The said three meetings though termed as General Body Meetings, it has not been conducted in the presence of the Wakf authorities namely the Inspector of Wakf and the 3rd respondent. Hence, the said three meetings has no credence.

16.Though in the impugned order, the report of the Inspector of Wakf, dated 04.05.2021 is referred, there is no reason given, why the report was not considered and why the petitioners, who have been elected as office bearers in the General Body Meeting, for what reason, their selection has been rejected. If at all the 2nd respondent finds the election held on 08.04.2021 is improper, appropriate reasons to be given with tangible materials, which is missing in the impugned order. Further, howcome and for what reason I.Mujibur Rahman, A.Noor Mohamed, A.Abubacker Siddiq and P.Nagooran names have been included in the elected members of the Jamath Committee, is not known. The General Body Meeting cannot be overruled and substituted by the Committee resolution. There is no vacancy requiring the 2nd respondent to invoke powers to appoint office bearers to the Jamath Committee.

17.In the light of the above discussion, the order of the 2nd respondent on the face of it, is without jurisdiction and in violation of the procedure and rules contemplated under the Wakf Act. Hence, the proceedings in Se.Mu.Order:4367/A3/21/Siva, dated 14.09.2021 passed by 2nd respondent is quashed and this Writ Petition is allowed, accordingly. Consequently, the connected Miscellaneous Petitions are closed. No costs.”

4. In the light of the aforesaid order of the said Writ Petition on 29.09.2022, a fresh order was passed by the second respondent/Chief Executive Officer on behalf of the Wakf Board, whereby, 21 persons, who were elected on 08.04.2021 were recognised by the first respondent/Wakf Board through the second



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respondent/Chief Executive Officer under Section 42 of the Wakf Act, 1995.

5. The first petitioner was recognised as the President, the second petitioner as the Treasurer, while the fifth respondent was recognised as one of the Vice-Presidents. However, there was some dispute between the petitioners' and the fifth respondent and therefore, according to the petitioners, although the tenure of the elected body was fixed for three years as per the custom between 08.04.2021 and 07.04.2024, the Wakf could not function properly and therefore, the first petitioner herein was constrained to approach this Court in W.P.(MD) No.4539 of 2023 for a direction to the Revenue Divisional Officer to secure the account and audit details, profit and loss account, cash and bank balance of the fourth respondent/Wakf from the fifth respondent herein and hand it over to the first petitioner herein, based on the direction issued by the Wakf Board on 20.12.2022.

6. The said Writ Petition was disposed of by this Court by its order dated 10.03.2023, with the following observations:

“2.Considering the limited prayer that is sought for in this writ petition and the fact that the Wakf Board had already directed the Revenue Divisional Officer, Devakottai, Sivagangai District, to take action under Section 68 of The Wakf Act, 1995, this Writ



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Petition is disposed of with a direction to the second respondent to complete the process, within a period of four weeks from the date of receipt of a copy of this order. No costs."

7. Earlier, by an order, dated 20.12.2022, the first respondent therein/second respondent herein/Chief Executive Officer had proposed to exercise the power under Section 68 of the Wakf Act, 1995, which was put to challenge by one Noor Mohammed in W.P.(MD) No.7176 of 2023, wherein the first petitioner herein was the fourth respondent. After considering the case at length, the Court had ordered as under on 30.03.2023:

"11. Be that as it may, considering the fact that this Court in the earlier writ petition in W.P.(MD) No.18045 of 2021 has set aside the selection of the Office Bearers and the said order though challenged is still at the delay stage and no interim orders have been obtained, it would be fair that the petitioner herein who was the Secretary should not retain the documents. The learned counsel for the petitioner however said that the petitioner is not willing to handover the documents to the newly selected Secretary or to the President, since he has been colluding with the others in not allowing the administration to go smoothly. Therefore, this Court directs that the documents, accounts, cash and bank accounts shall be handed over by the petitioner to Janab N.Syed Mohammed Buhari, who has been nominated as the Vice President by proceedings dated 29.11.2022 within a period of one week from today (30.03.2023). It is needless to state that this order will be ultimately subject to the decision and result of the writ appeal."*
(* the fifth respondent herein)



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8. In the light of the above order, the order, dated 10.03.2023, secured by the first petitioner herein in W.P.(MD) No.4539 of 2023 was further diluted *vide* order dated 10.04.2023, where order dated 10.03.2023 in W.P.(MD) No.4539 of 2023 was recalled, with the following observations:

“This matter has been listed today under the caption 'for being mentioned', in the light of the orders dated 30.03.2023, passed in W.P.(MD)No.7176 of 2023, wherein several factors had been brought to the notice of this Court, which were not brought to the notice of this Court when orders were pronounced in this writ petition. Had these factors been brought to this Court's notice, this Court would not have disposed of this writ petition as prayed for.

2. When writ petition in W.P.(MD)No.7176 of 2023 was heard, this Court observed that the order dated 10.03.2023 passed in this writ petition viz., W.P.(MD)No.4539 of 2023 would be re-called, as it would be an impediment for passing orders in W.P.(MD)No.7176 of 2023. Therefore, the order dated 10.03.2023 is recalled and the writ petition is closed, in the light of the order dated 30.03.2023 in W.P.(MD)No.7176 of 2023.”

9. The specific case of the petitioners is that no election was held after 07.04.2024. Therefore, it is a fit case for the Official respondents to exercise their power under Section 65 of the Wakf Act, 1995.

10. It is noticed that the fifth respondent herein had also filed a Writ Petition before this Court in W.P.(MD) No.8712 of 2025 to direct the Deputy



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Superintendent of Police, Sivagangai and the Inspector of Police, Karaikudi North Police Station, Sivagangai to provide adequate police protection and also prevent the people from causing problems at the time of offering of the prayer.

11. The said Writ Petition was disposed of by this Court, by its order, dated 28.03.2025. The prayer in the said Writ Petition appears to be based on the internal power struggle within the fourth respondent/Wakf.

12. The learned counsel for the respondents 4 and 5, on the other hand, submits that the petitioner has suppressed material facts that the elections were subsequently held after the tenure of the so-called elected body on 08.04.2021 came to be an end on 07.04.2024.

13. Specifically, the learned counsel for the respondents 4 and 5 submits that the elections were held on 06.09.2024 and an application has been filed before the Superintendent of Wakf/third respondent herein under Section 42 of the Wakf Act, 1995 to recognise the body elected on 07.09.2024.



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14. It is further submitted that the first petitioner was also appointed as a Member of Management Committee, although not as a President of the fourth respondent/Wakf. It is therefore submitted that there is no merit in the present Writ Petition.

15. The learned counsel for the Official respondents 1 to 3 submits that presently, the issue is, now, covered by the decision of this Court rendered in W.P.No.18952 of 2022, dated 19.10.2022 in the case of ***K.V.M.A.Mohammed Salahudin vs. The Chairman, Tamil Nadu Wakf Board and others***, wherein this Court has held as under:

“49. The only exercise which the Waqf Board can take as to recognize the Elected Body in the General Body Meeting to see whether they enjoy the confidence of law of the Jamadar. In case, the Waqf Board comes to a conclusion that in the interest of the majority of the General Body is not going to be served they may refuse to recognize such elected body in which case the elected member aggrieved by such decision of Waqf Board can work out their remedy before the Tribunal under Section 83 of the Waqf Act, 1995.

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.



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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.

53. An exclusive Jurisdiction is vested with the Waqf Tribunal in respect of all disputes. This view was once again recently reiterated by the Hon'ble Supreme Court in Rashid Wali Beg Vs. Farid Pindari and Others (2022) 4 SCC 4124. In para nos.42.4, the Hon'ble Supreme Court observed as under:-

42.4. A major distinguishing feature between Sections 6(1) and 7(1) on the one hand and Section 83 on the other hand is that the dispute, question or other matter referred to in Sections 6 and 7 are confined only to what is included in the list of waqfs prepared under Section 4 and published under Section 5. The words "specified ... in the list of waqfs" found in Sections 6(1) and 7(1), are conspicuous by their absence in Section 83(1). Therefore, it is clear that Sections 6 and 7 speak only about two categories of cases, but Section 83 covers the entire gamut of possible disputes in relation to any waqf or waqf property

54. In para 54, the law has been summarized by the Hon'ble Supreme Court as follows:-

54. In sum and substance, the Act makes a reference, to 3 types of remedies, namely, that of a suit, application or appeal before the Tribunal, in respect of the following matters:

54.1. Any question or dispute whether a property specified as waqf property in the list of waqfs is a waqf property or not [Sections 6(1) & 7(1)].

54.2. A question or dispute whether a waqf specified in the list of waqfs is a Shia Waqf or Sunni Waqf [Sections 6(1) & 7(1)].

54.3. Challenge to the settlement of a scheme for management of the waqf or any direction issued in



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relation to such management [Section 32(3)].

54.4. Challenge to an order for restitution/restoration of the property of the waqf or an order f

54.5. Conditional attachment of the property of a mutawalli or any other person [Section 35(1)].or payment to the waqf of any amount misappropriated or fraudulently retained by the mutawalli [Section 33(4)].

54.6. Challenge to the removal or dismissal of an Executive Officer or member of the staff [Section 38(7)].

54.7. Application by the Board, seeking an order for recovery of possession of a property earlier used for religious purpose but later ceased to be used as such [Section 39(3)].

54.8. Challenge to a direction issued by the Board to any Trust or Society to get it registered [Section 40(4)].

54.9. Challenge to an order for recovery of money from the mutawalli, as certified by the Auditor [Section 48(2)].

54.10. Challenge to an order for delivery of possession of a property issued by the Collector [Section 52(4)].

54.11. Application by the Chief Executive Officer for the removal of encroachment and for delivery of possession of a waqf property [Section 54(3)].

54.12. Challenge to the removal of mutawalli from office [Section 64(4)].

54.13. Challenge to an order superseding the Committee of Management [Section 67(4)].

54.14. Challenge to the removal of a member of the Committee of Management [Section 67(6)].

54.15. Challenge to any scheme framed by the Board for the administration of waqf, containing a provision for the removal of the mutawalli and the appointment of the person next in hereditary succession



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[Section 69(3)].

54.16. Challenge to an order for recovery of contribution payable by the waqf to the Board, from out of the monies lying in a bank [Section 73(3)].

54.17. Any dispute, question or other matter relating to a waqf [Section 83(1)].

54.18. Any dispute, question or other matter relating to a waqf property [Section 83(1)].

54.19. Eviction of a tenant or determination of the rights and obligations of lessor and lessee of waqf property [Section 83(1) after its amendment under A c t 27 of 2013].

54.20. Whenever a mutawalli fails to perform an act or duty which he is liable to perform [Section 94].

55. The Waqf Board is not expected to take a partisan role. It has to be neutral body. It has no power to countermand an election conducted by the General Body. Once election is held in accordance of the Proforma or the Scheme Decree or such other binding documents such as bye-laws governing the Waqf or Customs, the role of the Waqf Board is confined to recognise the elected body. It only has the general power of superintendence over the waqf under Section 32 of the Waqf Act, 1995.

56. In case, where there is a break down in the Management of the Waqf, to the Waqf Board can assume Direct Management under Section 65 of the Waqf Act, 1995. 56. In this case, a notice was issued for a General Body Meeting to be held on 23.06.2022 though in the background of order passed in W.P.No.141 of 2022 on 28.02.2022. However, the said order was obtained by suppressing the fact that the election has been already held. Therefore, the impugned notices are liable to be quashed.

57. In view of the above, I am inclined to allow this writ petition by quashing the Election Notice No.1 dated 11.01.2022. A meeting of the General Body shall be held in the presence of the officers of the Wakf Board to ascertain as to whether the elected members of the Managing Committee enjoy the confidence of the



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General Body of the Jamath. Since, the Waqf Tribunal is already seized of the issue in O.A.No.102 of 2021 filed on behalf of the sixth respondent, if any irregularity is noticed in the conduct of election, the right to continue to hold office of the elected member will be subject to outcome of elections held between 09.11.2021 to 13.11.2021.

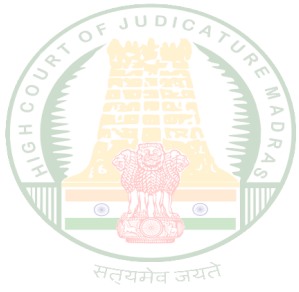
58. Persons who are aggrieved by the election are at liberty to file separate petition before the Waqf Tribunal to challenge the elections held between 09.11.2021 to 13.11.2021 within a period of 30 days from the date of receipt of a copy of this order. If such applications are filed, within such time, the Appellate Tribunal shall dispose the same along with O.A.No.102 of 2021, preferably, within a period of six months from the date of receipt of a copy of this order.

59. This writ petition stands allowed with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.”

16. It is, therefore, submitted that as far as the elections are concerned, presently, the Wakf Board has not interfered with internal affairs of the Wakf and that the decision of this Court rendered in W.P.No.18959 of 2022 on 19.10.2022 is the subject matter of challenge before the Hon'ble Division Bench of this Court in W.A.No.2610 of 2022 and final decisions are awaited.

17. The learned Standing Counsel for the Official respondents 1 to 3 submits that the respondents will comply with any directions that may be issued with the order.

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18. I have considered the submission of the learned counsel for the petitioner, the learned Standing Counsel for the Official respondents 1 to 3 as also the learned counsel for the respondents 4 and 5.

19. It appears that the decision of this Court rendered in W.P.No.18959 of 2022 dated 19.10.2022 has not been disturbed by the Hon'ble Division Bench of this Court in *W.A.(MD)No.636 of 2024, dated 10.04.2024*, in the case of *Halibulla vs. M.M.R.Abdul Kareem and others* against the order of the Writ Court in *W.P.(MD) No.9431 of 2023, dated 06.07.2023* in the case of *M.M.R.Abdul Kareem vs. The Tamil Nadu Waqf Board and others*.

20. In W.P.(MD) No.9431 of 2023, this Court vide order dated 06.07.2023 had observed as under:

“8. After considering the rival submissions, this Court is of the considered opinion that the Waqf Board is not having power to conduct elections and hence the this Court is directing the Waqf Board to take Mohaideen Andawar Periya Pallivasa under its direct Management and thereafter conduct an election. The said election shall be conducted within a period of one year; without seeking any extension of time. All parties shall cooperate to conduct smooth election. After election, the Wakf Board shall hand over the management to the Managing Committee.”



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21. Subsequently, in W.M.P.(MD) No.2891 of 2024 in W.P.(MD) No.9431 of 2023 was filed by the petitioner therein, namely, Abdul Kareem M.M.R. to permit the petitioner therein and other members of the advisory committee constituted by the board vide its proceedings in Se.Mu.No. 15957/2000/A8/Madurai dated 30.11.2023 to continue with the retrieval of the illegally alienated properties of the waqf and to administer the same till the waqf is in direct management of the first respondent/Board. By an order dated 28.02.2024, W.M.P.(MD) No.2891 of 2024 was disposed of with the following observations:

“This Court has already passed an order that the Adhoc Committee period will not be extended and the Wakf Board has also not extended the time for the Adhoc Committee. After the period of the Adhoc Committee is over, the Wakf Board has taken over the management and had brought the Wakf under its direct management. The Wakf Inspector was also appointed as Executive Officer through Order, dated 29.03.2023 for the direct management of the wakf. The Wakf Inspector is assisted by Interim Committee consisting of team of members. The allegation of the respondent is that the same Adhoc Committee members are appointed to assist the Wakf Inspector under the guise of appointing Interim Committee and it is nothing but continuation of Adhoc Committee. Thereafter the petitioner and the respondents had put forth serval arguments.”

22. The para No.8 of the order dated 06.07.2023 has not been modified or



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reversed, when W.M.P.(MD) No.2891 of 2024 in W.M.P.(MD) No.2891 of 2024 was disposed of on 28.02.2024, In fact, it appears that there is no challenge to the said observation in W.A.(MD) No.636 of 2024.

23. In W.A.(MD) No.636 of 2024, challenge was confined only to order dated 28.02.2024 in W.M.P.(MD) No.2891 of 2024 in W.P.(MD) No.9431 of 2023. The Hon'ble Division Bench *vide* order, dated 10.04.2024 in W.A.(MD) No.636 of 2024 has ordered as under:

“2.The main Writ Petition in W.P.(MD)No.9431 of 2023, was disposed of on 06.07.2023, where eventhough the writ petition was allowed, where the dissolvment of the Adhoc Committee was questioned, the Writ Court has recorded that the mandate given to the Adhoc Committee is over by 01.02.2023. Eventhough, it has been wrongly mentioned as 01.02.2023, the actual date of the expiry of the Adhoc Committee is 29.01.2024. Assuming that, up to 29.01.2024, if the Adhoc Committee continues, thereafter the Wakf Board has directly taken over the management and pursuant to which an Inspector was appointed, in order to assist the Inspector, an Advisory Committee consisting of 7 persons have also been appointed by proceedings dated 30.11.2023. Assuming that the Inspector and the Advisory Committee will take incharge only after 29.01.2024, on the date when the impugned order was passed by the Writ Court on 28.02.2024, the Adhoc Committee did not have any role and the direct management of the Wakf Board through the Inspector taken incharge, who is assisted by the Advisory Committee. Therefore, the direction which has been issued by way of clarification by the Writ Court through the impugned order goes beyond the very prayer sought for in the main writ petition, which



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24. Thus, the Official respondents have explicitly accepted the view taken by this Court in W.P.(MD) No.18959 of 2022, which was also the decision of the Writ Court in para No.8 of the order, dated 06.07.2023 in W.P.(MD) No.9431 of 2023, content of which extracted above.

25. A specific query is as to whether the proforma gives the tenure of elected body and method of election. It was conceded by the learned counsel for the petitioner as well as the learned Standing Counsel for the Official respondents 1 to 3 as also the learned counsel for the private respondents 4 and 5 that only customary practice is followed in the matter of elections.

26. Therefore, it is evident that there is a *inter se* dispute among the Jamathars of the fourth respondent/Wakf. The proforma also does not mention the tenure of elected body and method of election of the Office bearers of the Wakf. The fourth respondent/Wakf has been operating based on the customs. This has created an internal power struggle within the Wakf, although the elected body is



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meant to administer the Wakf and for the welfare of the member of congregator i.e., Jamathars.

27. Considering the same, there shall be a direction to the respondents 1 and 2 to frame a scheme under Section 69 of the Wakf Act, 1995. As far as the request of the petitioner under Section 65 of the Wakf Act, 1995 is concerned, it appears from the submissions made by the learned counsel for the fifth respondent that the elections were held on 06.09.2024 and on 07.09.2024, an application has been filed under Section 42 of the Wakf Act, 1995 before the third respondent/Superintendent of Wakf to recognise the elected body. The statement of the learned counsel for the fifth respondent stands recorded that the petitioners were also elected as an Ordinary Member and were not elected to the post in the Management Committee i.e., the President, Vice-President(s), Treasurer and Secretary of the fourth respondent Wakf.

28. Therefore, in case the petitioners are aggrieved by the elections which were held on 06.09.2024 and 07.09.2024 , it is open for the petitioners to independently challenge the same under Section 83 of the Wakf Act, 1995 as has



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been ordered by this Court in W.P.No.18959 of 2022. Since the application has been filed under Section 42 of the Wakf Act, 1995, the petitioners shall be heard before appropriate orders are passed.

29. Meanwhile, the Wakf Board shall exercise its power to frame a proper Scheme to further interest of the members of congregator i.e., Jamathars, within a period of twelve (12) months from the date of receipt of a copy of this order.

30. This Writ Petition is disposed of, with the above observations. No costs. W.M.P.(MD) No.15093 of 2025 is allowed. Consequently, connected miscellaneous petitions are closed.

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Internet : Yes / No
apd

21.07.2025

To

1. The Tamil Nadu Waqf Board,
Rep by its Chairman,
No.1 Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai- 6000 001.

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2. The Chief Executive Officer,
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3. The Superintendent of Waqf,
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C.SARAVANAN, J.

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