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W.P.No.32521 of 2025

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 12.02.2026

CORAM :

**THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.32521 of 2025

N.Mohamed Malik

.. Petitioner

**Versus**

1. The Tamil Nadu Wakf Board,  
Rep. by its Chairman,  
No.1, Jaffar Syrang Street,  
Vallal Seethakathi Nagar,  
Chennai – 001.

2. The Chief Executive Officer,  
Tamil Nadu Wakf Board,  
No.1, Jaffar Syrang Street,  
Vallal Seethakathi Nagar,  
Chennai – 001.

.. Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the 2<sup>nd</sup> respondent to pass the consequential executive order in furtherance of the resolution, dated 16.07.2025 passed by the 1<sup>st</sup> respondent Board forthwith.



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For Petitioner : Mr.A.Mohamed Ismail

For Respondents : Mr.R.Abdul Mubeen, Standing Counsel

### **ORDER**

This Writ Petition is filed for a Writ of Mandamus directing the second respondent namely, the Chief Executive Officer to pass the consequential executive order in furtherance of the resolution, dated 16.07.2025 passed by the first respondent.

2. Upon hearing the learned Counsel for the petitioner and perusing the material records of the case, the grievance of the petitioner is that the *Adirampatnam Madarasatul Salahifi Aththarameel Falahi @ MKN Madarasa Wakf* is a registered wakf functioning under the first respondent. There is a scheme, under which, the *Muthavallis* and the other office bearers, to administer the trust, have to be appointed. While so, the Wakf Board considered the appointment of *Muthavallis* in the year 2025 for the ensuing term of three years and passed a resolution on 16.07.2025 appointing the *Muthavallis*. The second respondent, under the scheme of the Wakf Act, 1995, has no other option than to issue a notification executing the resolution of the Wakf Board. On the contrary, he had



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chosen to refer the matter to the Government under Section 26 of the Wakf Act. The reconsideration or referring the matter under Section 26 does not arise in this case at all. In this case, when the Wakf Board had passed earlier resolution on 21.03.2025 and when the second respondent had reservations in respect of some appointments and requested the Wakf Board to again reconsider the matter, the Wakf Board having reiterated its resolution after reconsideration, thereafter, there is no scope for referring the matter to the Government.

3. It is the contention that a reading of Section 26 of the Wakf Act makes it clear that if only the resolution is not confirmed by a majority of votes, persons, including the petitioner, had applied for appointment and whoever has to be appointed, their rights are being violated and the administration of the wakf is being put to jeopardy on account of the same. Therefore, the petitioner is before this Court.

4. The Writ Petition is resisted on behalf of the respondents. The learned Standing Counsel for the respondents placed on record the relevant documents. According to the learned Standing Counsel for the respondents, the administration of the present wakf is to be carried out by



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the male heirs of the founder's family. Since the founder died without leaving heirs, his brothers and their heirs continued the management. Later, a scheme was framed by the District Court, Thanjavur in O.S.No.21 of 1952, which was amended from time to time. After coming into force of the Wakf Act, 1995, the Wakf Board is their scheme Court. In W.P. (MD).No.15524 of 2012, the Wakf Board was also directed to appoint the trustees in accordance with directives and the Civil Court scheme. Thereafter, further directions were also given.

5. In compliance thereof, the Wakf Board, by the resolution, dated 12.06.2017, appointed six hereditary trustees and three non-hereditary trustees and the consequential proceedings of the Chief Executive Officer, dated 13.06.2017, were also issued. Upon expiry of the tenure, new persons were also appointed on 23.02.2021. The selection made was subject matter of litigation and by that time, the matter came up for the Hon'ble Supreme Court of India. The tenure itself was over and as such, a new notification was issued on 02.07.2024. In compliance thereof, the issue was considered by the Wakf Board and it passed a resolution on 21.03.2025 selecting the persons from each plan as per the scheme and two persons namely, *A.Faizal Ahmed* and *A.H.Iqbal*, from the first branch,



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*M.Abdul Hadhi and A.M.S.Shihabudhin*, from the second branch, *U.Naina Mohamed* and *S.Mohamed Meera Sahib*, from the third branch and from the fourth branch/general section, *S.Nijamudhin*, *A.Sahabudhin* and *Dr.Sheik Sabiudhin* were selected.

6. After the selection was made, it is seen that there were complaints against *A.Faizal Ahmed*, being involved in Crime No.53 of 2025, which was an offence of sexual harassment of a victim. Therefore, the matter was again reconsidered and in the place of the said *A.Faizal Ahmed* for the first branch, one *K.Mohamed Farooq* was selected and once again, reconsideration was made by the Wakf Board by its resolution, dated 16.07.2025. It is stated that after the resolution was passed subsequently also, several complaints were made to the Chief Executive Officer. Since the complaints were received both before the resolution and after the resolution, the Chief Executive Officer thought it fit for verification of character and antecedents. Particulars from the Collector and Police authorities were sought. When the reports were submitted to him, of the persons appointed, information was received against *A.M.S.Shihabudhin* that he is involved in a criminal case in Adirampatnam Police Station in Crime No.1066 of 2020 and the chargesheet was also



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filed and is pending in C.C.No.88 of 2022 on the file of the learned Judicial Magistrate, Pattukkottai, for the alleged offences under Sections 341, 294(b) and 506(i) of the Indian Penal Code.

7. Further, as against *S.Nijamudhin*, information was received that he is involved in Crime No.251 of 2022 for the alleged offences under Sections 153, 504 and 427 of the Indian Penal Code and again, in Adhiramapatnam Police Station, Crime No.595 of 2022, for the alleged offences under Sections 143, 341, 188, 290 and 291 of the Indian Penal Code. It was also informed that the matters were pending before the Madurai Bench of this Court by way of quash applications. Therefore, the said information was submitted to the Wakf Board for its consideration. Since the Wakf Board was not constituted at the relevant point of time, in exercise of its power under Section 26 of the Wakf Act, 1995, the Chief Executive Officer also wrote to the Government in this regard. Ultimately, the Government, by its communication, dated 05.12.2025, noted that subsequently, the Wakf Board has been constituted and therefore, the Chief Executive Officer was requested to take appropriate action by placing the above matter before the Board and thus, the Board has to now take up the matter. However, since the functioning of the Board has been



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restrained by the Hon'ble First Bench of this Court by way of an interim order in a Public Interest Litigation, the Wakf Board is yet to consider the same. As and when the Wakf Board has to take a decision, the office bearers would be notified.

8. With the above factual background, learned Counsel on either side made detailed arguments with reference to the circumstances, under which, the Chief Executive Officer can made a reference to the Government under Section 26 of the Wakf Act. Secondly, subsequent information is also placed on record that in respect of one trustee namely, *Nijamudhin*, both the F.I.Rs have subsequently been quashed by the Madurai Bench of this Court by holding that the actions amounted to democratic protest and does not make out any criminal offence. As far as the other trustee is concerned, the trial is pending and when this Court requested the learned Standing Counsel to get instructions and place on record, the relevant First Information Report and the Charge Sheets are filed. It can be seen that it is a wordy quarrel between the persons involved in the Wakf and it is alleged that on 10.08.2019, at about 9.00 A.M, when the *de facto* complainant was proceeding in his Car, the appointee was riding his motorcycle and coming from the opposite



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direction and he stopped the *de facto* complainant's Car and threatened him to run out of the very same wakf. Accordingly, the First Information Report was registered.

9. I have considered the rival submissions made on either side and perused the material records of the case.

10. At the outset, it is essential to extract Section 26 of the Wakf Act, which reads as follows:-

**“26. Powers of Chief Executive officer in respect of orders or resolutions of Board.**—Where the Chief Executive Officer considers that an order or resolution passed by the Board—

(a) has not been passed in accordance with the law; or

(b) is in excess of or is an abuse of the powers conferred on the Board by or under this Act or by any other law; or

(c) if implemented, is likely to—

(i) cause financial loss to the Board or to the concerned waqf or to the auqaf generally; or

(ii) lead to a riot or breach of peace; or

(iii) cause danger to human life, health or safety; or

(d) is not beneficial to the Board or to any waqf or to auqaf generally,

he may, before implementing such order or resolution, place the matter before the Board for its reconsideration and, if such order or resolution is *not* confirmed by a majority of vote of the members present and voting after such reconsideration, refer the matter to the State Government along with his objections to the





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has been received by the Chief Executive Officer, in respect of the new/other trustees, it cannot be said that it is reiteration for the second time or a request for reconsideration for the second time. Obviously, when criminal complaints are received as against the person to be appointed, it is also the duty of the Chief Executive Officer to bring it to the notice of the Wakf Board immediately. Therefore, no exception whatsoever can be taken for the conduct of the Chief Executive Officer in taking care, calling for the character and antecedents particulars as against the trustees who are appointed and upon receiving the adverse report as against two trustees, placing it before the Board. But, in the instant case care was not taken to see what was the adverse report. In any event, it can be contended that it is for the Wakf Board to look into the reports. Therefore, even considering that the Chief Executive Officer was right in again placing the matter before the Wakf Board, it must be noted that as far as one of the trustees is concerned, the F.I.Rs are nothing but relating to protests.

13. Absolutely, not even any allegation of any commission of any offence relating to moral turpitude is even alleged against the said trustee and the High Court had held that it is nothing but an exercise of democratic right. It can be seen that other persons were also accused in the



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same F.I.R and the F.I.R was quashed against everyone. With reference to the other trustee, on a perusal of the F.I.R and the Final Report, it can be seen that there also, it is the complaint given by the competing office bearer and that also relates to an oral altercation relating to the very same wakf and no allegation of any moral turpitude is involved. Therefore, I am of the view that had the Chief Executive Officer or for that matter, the Wakf Board, looked into the contents of the First Information Report, absolutely, the appointment would not have been stalled.

14. It is the settled law that nobody can be put to disqualification merely on the registration of the F.I.R, for F.I.R is only levelling the allegations. The presumption of innocence is there. At the same time, while considering the officers of pious nature such as *Muthavalli*, even if the allegations of moral turpitude are pending at the stage of F.I.R or in the trial stage, still, they can be taken cognizance of by the Wakf Board and it is for the Wakf Board to consider the fitness or otherwise of the person. It can be seen that there is absolutely no allegation of any serious nature that is pending as against the said two trustees. Though threatening the existing office bearer to go away from the trust is a private offence vis-à-vis the said de facto complainant and he will be pursuing the same and the



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trial will be continued.

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15. As on date, the Wakf Board is not functional. The administration of the Wakf has to be carried on. By invoking the doctrine of necessity, this Court itself summoned the papers. Only thereupon, it was made clear that the two F.I.Rs are only protests in nature and that they were also quashed. The other case is an oral threat which is alleged by the co-competing trustee and the matter is pending trial. In view thereof, on the facts of the case, it may not be necessary to await the Wakf Board to again become functional and consider the same on merits as I am of the view that the antecedents do not render the two trustees unsuitable. No other allegation or impediment is brought to the notice of this Court.

16. In view thereof, this Writ Petition is allowed on the following terms:-

(i) The second respondent shall issue the necessary consequential notification of appointment of the aforesaid trustees, who were duly selected by the Wakf Board, pursuant to the resolution, dated 16.07.2025;

(ii) Needless to mention that the period will start from the date of

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the notification;

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(iii) The said issue shall be completed within a period of three weeks from the date of receipt of a web-copy of this order without waiting for a certified copy of this order.

(iv) There shall be no order as to costs.

12.02.2026

Neutral Citation : yes  
grs

To

1. The Chairman,  
The Tamil Nadu Wakf Board,  
No.1, Jaffar Syrang Street,  
Vallal Seethakathi Nagar,  
Chennai – 001.
2. The Chief Executive Officer,  
Tamil Nadu Wakf Board,  
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**D.BHARATHA CHAKRAVARTHY, J.**

grs

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