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W.P.No.41668 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON: 12.01.2026

ORDERS PRONOUNCED ON: 04.02.2026

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.41668 of 2025
and W.M.P.Nos.46699 & 46701 of 2025

S.R.Anwar
S/o Sathar
Muthawalli, Jamiya Masjid (G.S.No.227/Salem)
Having office at Jamiya Masjid, 1st Agraharam Street
Salem – 636 001.

.. **Petitioner**

Vs.

1.The Chief Executive Officer
Tamil Nadu Waqf Board
No.1, Jaffer Syrang Street
Vallal Seethakathi Nagar
Chennai – 600 001.

2.Janab Sirajudeen
(R2 impleaded vide order of this Court dated
16.12.2025 made in W.M.P.No.53286 of 2025
in W.P.No.41668 of 2025)

.. **Respondents**

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records relating to the respondent in Na.Ka.No.15983/08/B2/Salem dated 23.10.2025 and quash the same as illegal, arbitrary and without jurisdiction and pass such further or other orders.



W.P.No.41668 of 2025

For the Petitioner : Mr.P.V.Balasubramanian
Senior Counsel
for Ms.A.Ajimath Begam

For the Respondents : Mr.Avinash Wadhwani for R1
Mr.B.Manoharan for R2

O R D E R

Salem Jamia Masjid Trust is an enumerated wakf published in the gazette under G.S.No. 227/Salem. The wakf is governed by a scheme framed by the Court in O.S. No. 36 of 1941, by a decree dated 01/07/1969. It is stated that the wakf comprises valuable assets, including commercial properties, with a rough value of approximately 100 Crores. As per the scheme framed, there shall be a governing body consisting of 50 members. 10 members will be elected for each of the 5 wards. Of the 10 members representing each of the 5 wards, one member will be elected to the executive committee. The said 5 members shall form the executive committee, which will be in charge of the administration. The 5-member executive committee will elect among themselves one person as Muthawalli and another as Naib Muthawalli.

2. Among other qualifications, members of the governing body shall be between 25 and 70 years of age. The tenure of the governing body shall be for a

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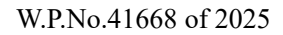


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period of 3 years. It is the duty of the governing body to conduct the election for the succeeding term three months before the expiry of the term. If the governing body fails to do so, 5 members elected from each ward shall form a committee of 25 members, which shall apply to the Sub-Court for appointment of an election commissioner, who shall conduct the election. The election commissioner shall, as convenient, conduct elections for the 5 wards on separate days, elect the 10 members, including the ward Muthawallis and Arakeens, and publish the list of elected members.

3. However, on 23/09/2014, the Superintendent of Wakf, terming himself as the Election Officer, issued a notification that a 150-member governing body would be elected from among all the registered masjids within Salem city, after holding counseling meetings with the Mutawallis, Naib Muthawallis, and Arakeens, for the governing body of the present wakf. The number of members was also fixed in proportion to the members of each of the 19 masjids by a notification dated 17/11/2014. Accordingly, 150 members were elected, and ultimately 148 members were notified and the separate lists were published. It could be seen that of the 150 members, 25 persons had filed nominations for the Executive Committee.

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6. Thereafter, neither any extension was granted nor an election was conducted. However, in the year 2022, by an order dated 03/11/2022, ratification was given to the same committee (28 members by then) to administer the wakf, and a further extension was also granted from 17/10/2022 to 16/10/2024.



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7. On 22/07/2024, the committee also made a representation to the Chief Executive Officer, Tamil Nadu Wakf Board, requesting to conduct elections for the wakf. The various works carried out by the committee for the good administration of the wakf are mentioned in the representation.

8. However, on 15/11/2024, the members of the committee were directed to appear before the Wakf Board on 19/11/2024, for an enquiry into the allegations made against them. The enquiry proceeded on 19/11/2024.

9. On 19/11/2024, the Wakf Board generally noted the allegations against the committee, considered the request for an extension of the committee's period of office, and resolved that the Wakf be brought under the direct management of the Board. The resolution further observed that the scheme, as it stood, provided for the election of only 50 members, whereas 150 members had to be elected from the registered masjids, which extended beyond the five wards. An amendment to the scheme was required, and thereafter, elections were to be conducted.



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10. It could be seen that thereafter, the petitioner and 16 others, being the members of the committee, had filed W.P. No. 38846 of 2024 seeking a mandamus directing the Wakf Board to refrain from taking any coercive action without providing a fair opportunity. It was their contention that during the enquiry, not even a copy of the complaint was furnished to them.

11. By an order dated 18/12/2024, this Court recorded the undertaking that the complaint would be furnished, directed the petitioners therein to co-operate in the enquiry, and further directed completion of the enquiry within 6 months.

12. On 30/04/2025, pursuant to the resolution of the Wakf Board, the Chief Administrative Officer of the Wakf Board published the order taking over the direct administration of the wakf in Part VI, Section 3(a) of the Tamilnadu Government Gazette bearing No.17, with effect from 19/11/2024.

13. Challenging the notification, the petitioner/muthawalli filed W.P. No. 20280 of 2025, and the following interim order was passed on 06/06/2025:

“3. A prima facie case has been made out and hence there shall be an



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interim stay till 20/06/2025. It is made clear that the stay is granted only insofar as taking over the management of the Wafk is concerned. The respondents are directed to file their counter in this case.”

14. The writ petition was thereafter finally disposed of by an order dated 09/09/2025, and paragraphs 2 to 6 of the order read thus:

“2.While entertaining this writ petition, this Court granted interim stay. However, this Court issued a direction to the 1st respondent to continue the Direct Management for a period of three months. In the meanwhile, issued a further direction to the 1st & 2nd respondents to conduct election for the Waqf Board.

3. Learned counsel appearing for the petitioner submits that this Court may appoint a suitable Advocate Commissioner for the purpose of conducting the election in coordination with the 1st respondent / Wakf Board and in consonance with the guidelines to be framed, for which, the respondent submits that they have no objection. It is further submitted by the petitioner that he is ready and willing to pay a sum of Rs.1,00,000/- to the Advocate Commissioner towards his/her remuneration.

4. In view of the earlier orders passed, this Court finds necessary to appoint suitable Advocate for conducting election of the Wakf Board namely, Jamia Masjid (G.S.No.227), 1st Agraharam Street, Salem. Accordingly, this Court appoints Mr.A.Venkatesh Kumar, Advocate, A3, 3rd Floor, No.74/65, AS Piran Garden, 2nd Street, Kilpauk, Chennai – 10 (Mob No.98841 87488) as Advocate Commissioner to conduct election of the Wakf Board along with Ms.S.Sanjana @ Sana, Saleem Chamber, No.151/313, Second Floor,Thambu Chetty Street, Parrys, Chennai – 600001 (Mob No. 7667645700) to assist the Advocate Commissioner. The Advocate Commissioner shall complete the election within a period of three months following the guidelines framed and in coordination with the 1st respondent / Wakf Board. The Advocate Commissioner is given liberty to seek all assistance either from Law Enforcing Agency or any other Agency for conducting the election in a peaceful manner.

5. The learned counsel appearing for the respondents also expressed his no objection for the said arrangement.



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6. The petitioner is directed to pay a sum of Rs.1,00,000/- to the Advocate Commissioner towards remuneration. The petitioner is also directed to co-operate with opening of the Palli Vasal for worship and allow the 1st respondent Officials as well as the Advocate Commissioner for conducting election peacefully. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.”

15. Subsequently, a communication dated 23/10/2025 was issued directing the petitioner herein to hand over the charge. Challenging the same, the present writ petition is filed.

16. It is further contended on behalf of the Wakf Board that, to date, the petitioner is refusing to hand over charge and is not allowing even the Chief Administrative Officer to inspect the records.

17. The advocate commissioner has submitted a preliminary report stating that he issued a communication to the petitioner to cease functioning in his present capacity and to hand over all records, registers, files, documents and keys of the institution. He further stated that he had issued communications to the police authorities to grant protection for assuming charge and conducting the election. On 19/11/2025, when an attempt was made, the petitioner caused a ruckus and resisted the attempt. Without records, the election could not be

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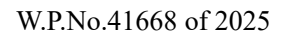
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conducted.

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18. *Mr. P.V.Balasubramanian*, the Learned Senior Counsel appearing on behalf of the petitioner, would submit that a Writ Appeal has been filed against the Order in W.P. No. 20280 of 2025, inasmuch as it records in para 2 that an interim order permitted direct management, whereas the fact is that there was an interim stay on taking over the wakf for direct management. As per Section 65 of the Wakf Act, direct management can be resorted to only if no person is available to be appointed as Muthawalli or if filling the office of Muthawalli is prejudicial to the wakf. Neither ground exists in the instant case. When an election must be conducted, and until the next election, the existing committee shall continue, in accordance with clause (iv) of the scheme decree. Direct management was never approved in the earlier round in W.P.No.20280 of 2025. In paragraph 2 of the Order, instead of recording that a stay had already been granted for direct management, it was erroneously recorded as if an interim order had been passed to take direct management. Thus, an appeal is filed against the said finding. Therefore, the takeover of the management was never approved by this Court. The petitioner has no objection to the Advocate Commissioner conducting the election in accordance with the procedure and will cooperate with the early

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19. *Mr Avinash Wadhwani*, learned counsel appearing on behalf of the Wakf Board, would submit that this is not a case of super session of the Committee or removal of the Muthawalli. Their elected period and all the extended periods have expired. Today, there is no governing body from which a Muthawalli can be appointed; hence, direct management. The Order taking over of the wakf for direct management was earlier challenged in W.P. No.20280 of 2025, and the prayer stands constructively negative. Therefore, the present writ petition challenging the consequential order is not maintainable. The petitioner refused to permit and prevented the Chief Administrative Officer from

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performing his duties, including entering into the wakf and inspecting its records. Even the Advocate Commissioner was not permitted to perform his task.

Nothing prevented the petitioner and his team from conducting the election well within time. Only now they are representing that they are open to conducting the election. The petitioner, has reached the age of 70. He cannot be in the Governing Board or a Muthawalli thereafter. The wakf comprises valuable properties and must be managed with utmost care.

20. *Mr.B.Manoharan*, the learned counsel appearing for the impleaded party would submit that he is not an encroacher. He is a member of the existing committee. The petitioner cannot continue eternally. The process of the election has to take place.

21. I have considered the rival submissions and perused the material records of the case. The manner in which the wakf has to be managed as per the scheme decree is noted in paragraphs 1 and 2 above. The manner in which the election was conducted in 2014-15, with variations, however, without amending the scheme, is noted in paragraphs 3 and 4 above. The petitioner's elected tenure was from 22/03/2015 to 21/03/2018. We are now in the year 2026. The three

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extensions granted by the wakf board have also expired.

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22. As far as the allegations against the petitioner or the other existing committee, as directed in the earlier W.P. No.38846 of 2024, the enquiry may proceed in accordance with law, as and when the wakf board is functional and it will be open for the petitioners and the other members to defend the same or make such counter allegations against the complainant and the same will be considered on merits.

23. As far as the election is concerned, as directed in W.P. No. 20280 of 2025, the election has to be conducted. However, certain clarifications are required, as not all facts were placed on record in the said writ petition. It can be seen that, when the scheme was framed in 1969, the existing Muslim population in the 5 wards of Salem was taken into account. However, the City has expanded, and 19 masjids are now registered; all are to be represented, as the present wakf/masjid appears to be the central one, akin to a federal structure. Therefore, in 2014, even without any amendment, the total strength of the Governing Body was increased to 150, and the 19 masjids were proportionately allotted members, and elections were held. The same is noted in the Wakf

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Board's resolution dated 19/11/2025, and the need to amend the scheme is also noted.

24. Now, the Wakf Board is the scheme court, and as such, it has to be moved for amending or reframing the scheme. After due amendment, in accordance with the provisions, as the first step, an election must be conducted to elect members from each of the 19 masjids, and thereafter the 150-member governing body must be notified. The governing body, thereafter, shall elect the 5-member/30-member body, or in such number, which will, in turn, elect the Muthawalli, Naib Muthawalli, and other office- bearers as may be indicated in the amended scheme.

25. Therefore, the first step in the normal course would be to amend the scheme. However, today the wakf board itself is restrained from carrying out its functions. Therefore, pending the amendment of the scheme, by invoking the doctrine of necessity and considering that the decree has been deviated even in the year 2014, only to include all the followers of the religion residing within Salem city, the present election can proceed in the manner indicated herein:

(A) The Superintendent of Wakfs, Salem, shall file a memo before the

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Wakf Board, along with a copy of the order, praying for suitable modifications to the Scheme framed for the Wakf.

(B) Upon filing of such memo, the Wakf Board shall cause notice to be given to the persons in management of the Wakf to file such response, and shall permit every person interested in the Wakf to make prayers and suggestions with reference to the amendment of the scheme. After due hearing of all the parties, the Wakf Board shall consider and amend the scheme in accordance with law.

(C) In the meanwhile, as stated supra, since the wakf board itself is not functional, as in the last elections for the years 2014-15, the total strength of the governing body shall be 150.

(D) On or before 15/02/2026, the Superintendent of Wakfs, Salem, shall issue a communication to all the 19 masjids, requesting the eligible voters' list based on the subscriptions received by them;

(E) Upon receipt of the communication on or before 25/02/2026, each of the masjids shall prepare the eligible list of voters as per their subscription and send it to the Superintendent of Wakfs.

(F) Upon receipt of the list, the Superintendent of Wakfs may furnish a copy to the Advocate Commissioner.

(G) On 26/02/2026, the draft lists will be published on the notice board or



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in any other prominent place in all the respective 19 masjids, and any objections or claims for inclusion or deletion may be made before 05/03/2026 by addressing a representation to the Superintendent of Wakfs;

(H) The same shall thereafter be decided by the Superintendent of Wakfs, and his decision shall be placed before the Advocate Commissioner, who will then approve or reject the decision as the case may be;

(I) The decisions on the claims shall be made on or before 15/03/2026, and a final list of voters shall be communicated to the respective masjids, which will again be displayed on the notice board or at such a prominent place from 16/03/2026;

(J) Based on the final number of voters, the Superintendent of Wakfs shall determine proportionately, on or before 21/03/2026, the number of governing body members to be elected by each of the masjids and place it before the Advocate Commissioner.

(K) Thereafter, as per convenience, the Advocate Commissioner shall notify the election of members for each of the masjids. The notification shall include the timetable for filing nominations, scrutiny of nominations, publication of the final list of contestants (if there is a contest), and the date for polling. The process shall be completed on or before 20/04/2026.

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(L) The list of elected governing body members shall be published on or before 25/04/2026, and thereafter, a date for the meeting of the governing body shall be fixed, which shall be on or before 05/05/2026;

(M) On the date of the meeting, the Governing Body shall elect a 30-member executive committee, and the same shall be notified on or before 10/05/2026;

(N) The Advocate Commissioner shall thereafter fix the date of the meeting of the Executive Committee, which shall be on or before 20/05/2026, and the 30 members will elect a Muthawalli, Naib Muthawalli, Secretary, Joint Secretary and a Treasurer among themselves;

(O) The Advocate Commissioner shall declare such election and notify it on or before 30/05/2026;

(P) The results and the new committee shall be placed before the Chief Administrative Officer on or before 05/06/2026, and the Chief Administrative Officer shall issue orders entrusting the management of the wakf to the new governing body and the Executive Committee, and the period of three years shall be clearly mentioned;

(Q) The Superintendent of Wakfs shall be entitled to incur all expenses

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related to the election, including printing of ballots and other arrangements, from the funds of the wakf, and shall keep the expenses to a minimum and submit the accounts before the Chief Administrative Officer.

(R) The amount shall also include the travel, food, and other expenses of the Advocate Commissioner incurred for the purpose.

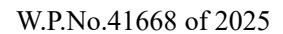
(S) The above-mentioned schedule is tentative, and the parties need not move the Court if there is any change up to 15 days before or after.

(T) The Court will finally determine the additional remuneration, as the Advocate Commissioner has to work for a long number of days.

26. Thus, with the above detailed directions, the elections can proceed, and the same Advocate Commissioner shall continue to complete the task.

27. Now, the question is with regard to direct management. In this regard, it must be noted that the elected period ended in 2018. The extended periods are also now over. As per Section 67 of the Wakf Act, 1995, the committees appointed under the Act shall perform until the expiry of the period so specified. Therefore, the final extension has also expired in 2024. This is not a case of supersession.

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(a) A complete reading of the scheme, it would be clear that the provision in Clause 1 (iv) is like providing a caretaker committee until the next elected office bearers assume charge. That right is only on the elected committee. Here, the petitioner's elected period ended in 2018, and they are now there only by

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virtue of the Wakf board's permission.

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(b) Such a temporary arrangement can exist only if the elected governing body and its committee make efforts to conduct the election as per the decree, and it cannot be applied in a case where a committee, after being elected for 3 years, remains in office for about 9 years.

(c) The committee and the petitioner did not take any steps as per the scheme decree in time to conduct the election, and such a stop-gap arrangement cannot be made use of to continue in office eternally;

(d) Even the petitioner has crossed 70 years of age and, as on date, is not even eligible to contest for the governing committee.

30. Even though the present round is only challenging the consequential order, I have considered the contentions on merits, since a categorical decision was not taken in the earlier round.

31. Therefore, the petitioner or the committee has no right to continue and shall hand over the charge forthwith to the Superintendent of Wakfs, Salem. At the same time, it is alleged that some third parties are attempting to come into management otherwise than by election. It is further alleged that the

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Superintendent alone cannot manage the affairs of the Wakf, and there cannot be

a back-door method of occupying the office. It is further alleged that, solely for the said purpose, false allegations are fabricated against the petitioner. Since the enquiry into the allegations and counter-allegations is incomplete, the apprehension cannot be dismissed.

32. No other committee shall be appointed by the Wakf Board or the Chief Administrative Officer, as that would amount to indirect supersession. Considering the enormity of the wakf and the properties, the Chief Executive Officer shall personally and by deputing such other officers, shall also supervise periodically;

(a) To ensure day-to-day management of the wakf is carried out in a proper manner, fulfilling the purpose of the wakf, including the conduct of prayers, festivals, etc., and to carry out all or any of the functions of the wakf;

(b) to scrutinize the list of properties of the wakf, ensure that their revenue records are in the name of the wakf, and that their properties are in the possession and enjoyment of the wakf or of tenants/persons authorized by it;

(c) Ensure that fair rent is fixed for all the tenants and that the rents are being paid to the wakf, and initiate steps for collection of arrears and vacating

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the defaulters;

(d) Ensure the encroachers are evicted;

(e) To get the accounts of the wakf duly audited, verify their correctness, and take appropriate action if there is any flaw;

(f) To authorize every expenditure of money for the wakf by the Superintendent of Wakfs;

(g) To supervise the elections and issue periodic directions to the Superintendent ensuring the early conduct of elections.

(h) And to exercise such powers and perform such functions as may be necessary for generally carrying out the above purposes.

33. The petitioner and the committee shall duly hand over the charge to the Superintendent of Wakfs on 09/02/2026 at 10.00 a.m. Failing which, the Superintendent of Police, Salem, shall afford due protection to the Superintendent of Wakfs to assume charge of the wakf, its administration and records. The taking over of the charge, by itself, will not be presumed to cause any stigma against the petitioner or other committee members.



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34. With the directions as contained in paragraphs 25, 26, 32 and 33, the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

04.02.2026

Neutral Citation : Yes

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To

1. The Chief Executive Officer
Tamil Nadu Waqf Board
No.1, Jaffer Syrang Street
Vallal Seethakathi Nagar
Chennai – 600 001.
2. The Superintendent of Police, Salem.



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D.BHARATHA CHAKRAVARTHY, J.

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and W.M.P.Nos.46699 &46701 of 2025

04.02.2026

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.03.2026

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.41668 of 2025
and
W.M.P.Nos.46699 and 46701 of 2025

S.R.Anwar,
S/o Sathar,
Muthawalli, Jamiya Masjid (G.S.No.227/Salem),
Having office at Jamiya Masjid, 1st Agraharam Street,
Salem – 636 001 ... Petitioner

Vs.

1. The Chief Executive Officer,
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2. Janab Sirajudeen
(R2 impleaded vide order of this Court dated
16.12.2025 made in W.M.P.No.53286 of 2025
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Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records relating to the respondent in Na.Ka.No.15983/08/B2/Salem dated 23.10.2025 and quash the same as illegal, arbitrary and without jurisdiction and pass such further or other orders.



W.P.No.41668 of 2025

For Petitioner

:Mr.P.V.Balasubramanian
Senior Counsel
for Ms.A.Ajimath Begam

For Respondents

:Mr.Avinash Wadhwani for R1

Mr.B.Manoharan for R2

ORDER

This matter came up for hearing today under the caption 'For Being Mentioned' at the request of the learned counsel appearing for the petitioner.

2. The learned counsel appearing for the petitioner sought to modify certain clauses of the order, particularly concerning the number of persons to be elected, etc. Although the matter was listed under the caption 'For Being Mentioned', I am of the view that it will be more appropriate for the learned counsel to file an application seeking modification of any specific clause.



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3. Therefore, the matter cannot be anymore dealt with under the caption 'For Being Mentioned'. Consequently, the writ petition stands closed with the above liberty.

27.03.2026

NCC:Yes/No
rgm

To

The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
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27.03.2026