



WEB COPY

W.P.Nos.44468 and 47418 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 22.04.2026

Orders pronounced on : **01.06.2026**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

[Through video conferencing]

W.P.Nos.44468 and 47418 of 2025
and W.M.P.Nos.49606, 49608 of 2025 and 13289 of 2026

In W.P.No.44468 of 2025 :-

Abdul Wahab

.. Petitioner

Versus

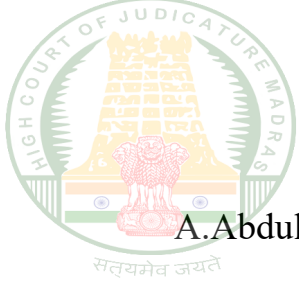
1. Tamil Nadu Wakf Board,
Represented by its Chairman,
No.1, Jaffer Syrang Street,
Vallal Seethakathy Nagar,
Chennai – 600 001.

2. The Chief Executive Officer,
Tamilnadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathy Nagar,
Chennai – 600 001.

3. Mohammed Ubaidullah

.. Respondents

In W.P.No.47418 of 2025 :-



A.Abdul Wahab

W.P.Nos.44468 and 47418 of 2025

.. Petitioner

Versus

WEB COPY

1. The Branch Manager,
The Chidambaram Co-Operative Urban Bank Ltd, E-53,
No:102, Vadaku Veedhi, Chidambaram Taluk,
Cuddalore District, Tamil Nadu.

2. The Tamil Nadu Wakf Board,
Rep. By its Chief Executive Officer,
Tamilnadu Wakf Board,
No:1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

3. The Superintendent of Wakf,
Cuddalore Zone,
No:512, Gandhi Road,
Panruti – 607 106.

.. Respondents

Prayer in W.P.No.44468 of 2025 : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records connected

with the resolution passed by the 1st respondent dated 17.04.2025 in Item No.42 of 2025 in Na.Ka.No.9318/08/Aa10/Kada and the consequential order passed by the 2nd respondent dated 22.05.2025.

Prayer in W.P.No.47418 of 2025 : Writ Petition filed under Article 226 of the

Constitution of India seeking a Writ of Mandamus, directing the 1st respondent Bank to immediately defreeze and permit full operation of the Wakf's bank account bearing Account No.838, thereby enabling the petitioner to conduct day-



to-day administration without hindrance.

W.P.Nos.44468 and 47418 of 2025

WEB COPY

In W.P.No.44468 of 2025:-

For Petitioner : Mr.Y.Kajanavas

For Respondents : Mr.Abdul Mubeen,
Standing Counsel for RR-1 and 2

: Mr.N.A.Nissar Ahmed, Senior Counsel,
for Mr.Abdul Basith, for R3

In W.P.No.47418 of 2025:-

For Petitioner : Mr.Y.Kajanavas

For Respondents : Mr.Abdul Mubeen,
Standing Counsel for RR-2 and 3

COMMON ORDER

These two Writ Petitions are connected to each other and, as such, are disposed of by this common order.

2. *A.Abdul Wahad* is the petitioner in both cases. Nawab Abdul Nabikhan Mosque, situated at Chidambaram, Cuddalore District, is a registered Waqf bearing G.S.No.62/South Arcot under the Tamil Nadu Waqf Board.

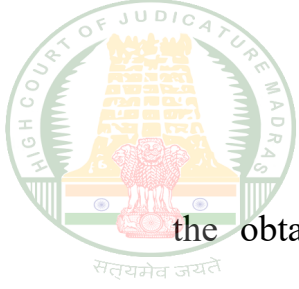
3. The petitioner's case is that, for nearly 40 years, no hereditary mutawalli



W.P.Nos.44468 and 47418 of 2025

managed the Waqf. Instead, local jamath members collectively administered the affairs, transparently and regularly remitting the statutory contributions, which were also accepted by the Waqf Board. The petitioner, *Abdul Wahab*, was elected mutawalli by the jamath in 2014 and continued in office through periodic elections held every three years. The contributions were also periodically accepted by the Board without any objection. While so, without any notice or enquiry, the Tamil Nadu Waqf Board passed a resolution on 17.04.2025, as item No.42 of 2025, appointing a seven-member committee headed by the third respondent to manage the Mosque. A consequential order was also passed by the Chief Executive Officer on 22.05.2025. Aggrieved by the same, W.P.No.44468 of 2025 is filed.

4. It is the contention of the petitioner that the above action violates principles of natural justice and is contrary to Section 64 of the Waqf Act, 1995 (hereinafter referred to as 'the Act'). When the petitioner is the existing mutawalli in respect of the Waqf, unless he is removed by due process as per Section 64 of the Act, there is no question of appointing the third respondent as the hereditary mutawalli or of the committee working under him. In any event, the entire exercise is on account of the misrepresentation made by the third respondent and



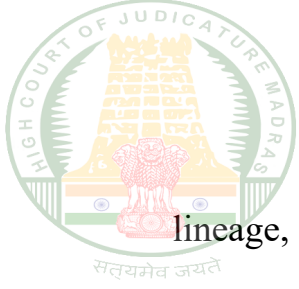
W.P.Nos.44468 and 47418 of 2025

the obtaining of orders of enquiry, etc., behind the back of the petitioner.

Therefore, when the entire exercise is illegal, it has to be quashed.

5. Further, when the challenge was made to the appointment of the hereditary mutawalli and the committee, and an interim order was being granted by this Court, yet another directive was issued with reference to the bank account of the petitioner bearing No.838. The Branch Manager, Chidambaram Co-operative Urban Bank Limited, is not now permitting the petitioner, *Abdul Wahab*, to operate the account. Accordingly, praying for a mandamus to immediately de-freeze the account and permit operation of the Waqf's Bank Account, W.P.No.47418 of 2025 was filed.

6. The Writ Petitions are resisted by the filing of detailed counter-affidavits by the Waqf Board as well as the private respondents. According to the Waqf Board, the Waqf has to be administered as per the proforma. As per the proforma, the office of the mutawalli is to be filled on a hereditary basis. Therefore, when the third respondent, namely, *Mohammed Ubaidullah*, made a claim, a report was called for, and the Waqf Inspector, after a field inspection, submitted a report. Upon finding that the said person was entitled to the office as per his hereditary



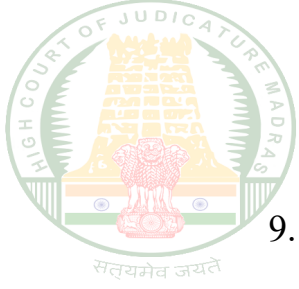
W.P.Nos.44468 and 47418 of 2025

lineage, he was appointed as the hereditary mutawalli, and a six-member committee was also appointed to assist him in carrying out the affairs of the Waqf.

The consequential order was accordingly issued. The counter-affidavit filed by the Waqf Board also refers to earlier directions and connected orders passed, directing an enquiry into the encroachment of the property and the claim made by the third respondent.

7. The third respondent filed a counter-affidavit by stating that he is entitled to the office, being the lineal descendant of one *Khadeeb Moti*, who was earlier managing the Mosque. The petitioner was never appointed as a mutawalli. Merely because no action was taken by the Waqf Board, influential members of the jamath, including the petitioner, *Abdul Wahab*, were managing the affairs of the Mosque. That will not give any right to claim mutawalliship contrary to the proforma.

8. Heard *Mr.Y.Kajanavas*, learned Counsel for the petitioner; *Mr.Abdul Mubeen*, learned Standing Counsel for the Waqf Board; and *Mr.N.A.Nissar Ahmed*, learned Senior Counsel for the third respondent in W.P.No.44468 of 2025.

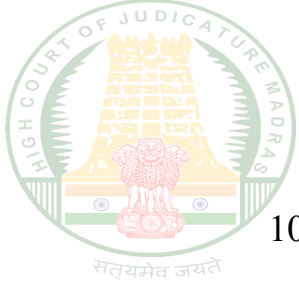


W.P.Nos.44468 and 47418 of 2025

9. The learned Counsel for the petitioner, reiterating the petitioner's contentions, would submit that when contributions are accepted from the petitioner, *Abdul Wahab*, that would duly amount to recognising the petitioner as mutawalli. In this regard, the learned Counsel would rely upon the judgment of the High Court of Madhya Pradesh in *Abdul Azizansari Vs. Madhya Pradesh Wakf Board, Bhopal and Ors.*¹ to contend that acceptance of annual contributions would itself amount to treating the petitioner as mutawalli. Once the petitioner is a mutawalli, then, without removing him in the manner known to law as per Section 64 of the Act, there is no question of appointing the third respondent or the committee. The learned Counsel would also rely upon the judgment of the Hon'ble Division Bench of this Court in *Khadar Shariff and Ors. Vs. Tamil Nadu State Wakf Board and Ors.*² to contend that the Waqf Board's power would arise only if there is any vacancy in the office of the mutawalli. Therefore, when the petitioner is a mutawalli and functioning in that capacity as on date, there is no question of the Waqf Board exercising the power to appoint a hereditary mutawalli or committee without first removing the petitioner, if warranted, as per Section 64 of the Act.

¹ MANU/MP/0881/2011

² AIR 1987 Mad 40



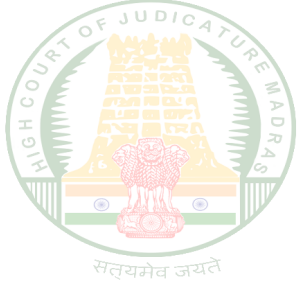
W.P.Nos.44468 and 47418 of 2025

10. Per *contra*, *Mr.Abdul Mubeen*, learned Standing Counsel for the Waqf Board, would submit that this is not a case where the petitioner was ever recognised as a mutawalli. Upon receipt of the complaint regarding mismanagement of the Waqf property, and upon considering the proforma that the appointment should be made by hereditary succession, the third respondent was appointed as the mutawalli. Therefore, there is no question of the removal of the petitioner.

11. *Mr.N.A.Nissar Ahmed*, learned Senior Counsel for the third respondent in W.P.No.44468 of 2025, would submit that the question of removal under Section 64 of the Act would arise only if the petitioner has been duly appointed. The learned Counsel would rely on the judgment of the High Court of Karnataka in *Saheblal Vs. Karnataka State Board of Wakfs, Bangalore, and Anr.*³, in this regard. He would submit that the very claim of the office by the petitioner is factually incorrect.

12. I have considered the rival submissions on both sides and perused the material records of the case.

³ 2005 ILR Karnataka 4846



W.P.Nos.44468 and 47418 of 2025

WEB COPY

13. Firstly, the claim of the petitioner is contained in paragraph No.6 of the affidavit filed in support of the Writ Petition in W.P.No.44468 of 2025. The petitioner claims that he is the elected mutawalli of the Waqf, elected by the jamathars once in three years from 04.01.2014 to date. Upon perusal of the proforma, it is clear that the rule of succession to the office of the mutawalli is hereditary. The names of the two mutawallis, *Katib Md. Sibgathullah* and *H.Syed Ibrahim*, are contained in Column No.8. In that context, the petitioner claims that he was elected as the mutawalli in the year 2014. There is absolutely no material on the part of the petitioner in support of the same. The entire averment relating to the election and appointment of the mutawalli once in three years is completely denied by the Waqf Board as well as the private respondent. The petitioner has miserably failed to produce any material whatsoever to show that he was elected as mutawalli by the jamathars, originally in the year 2014, and thereafter once in every three years. Therefore, the petitioner's case must be rejected.

14. However, even as per the case of the Waqf Board and the third respondent, de facto, the affluent persons of the Waqf, including the petitioner, have been managing the affairs of the Waqf. Receipts are available from 2012 for



W.P.Nos.44468 and 47418 of 2025

the payment of contributions to the Waqf Board. In this regard, the definition of

the term mutawalli under Section 3(i) becomes relevant.

“3. Definitions.—In this Act, unless the context otherwise requires,—

.
.
.

(i) “mutawalli” means any person appointed, either verbally or under any deed or instrument by which a waqf has been created, or by a competent authority, to be the mutawalli of a waqf and includes any person who is a mutawalli of a waqf by virtue of any custom or who is a naib-mutawalli, khandim, mujawar, sajjadanashin, amin or other person appointed by a mutawalli to perform the duties of a mutawalli and save as otherwise provided in this Act, any person, committee or corporation for the time being, managing or administering any waqf or waqf property:

Provided that no member of a committee or corporation shall be deemed to be a mutawalli unless such member is an office-bearer of such committee or corporation:

Provided further that the mutawalli shall be a citizen of India and shall fulfil such other qualifications as may be prescribed:

Provided also that in case a waqf has specified any qualifications, such qualifications may be provided in the rules as may be made by the State Government;

(Emphasis supplied)

Thus, it can be seen that a person managing or administering the Waqf for the time being would also be deemed a mutawalli. Therefore, there is no dispute with the learned Counsel's view that the petitioner should be considered a mutawalli as per the provisions of the Act.

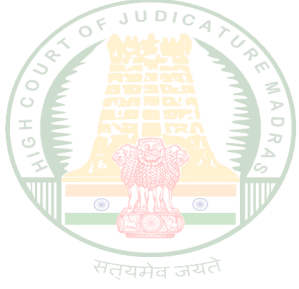
15. The further contention of the learned Counsel for the petitioner is that



W.P.Nos.44468 and 47418 of 2025

the petitioner has to be removed as per Section 64 of the Act. It can be seen that under Section 64 of the Act, any mutawalli can be removed by the Board on various grounds mentioned thereunder, which include conviction in a criminal offence, unsoundness of mind, becoming an undischarged insolvent, addiction to drinking liquor, employment as an illegal practitioner on behalf of the Waqf, and other causes mentioned therein. Section 64(3) of the Act mandates that the Board cannot take any action without holding an enquiry in the manner prescribed. Therefore, Section 64 concerns removing a mutawalli on the specific allegations/charges/disqualifications enumerated under Section 64(1) of the Act.

16. A reading of Section 32 of the Waqf Act, which enjoins the Waqf Board to ensure the administration of the Waqf as per the deed or custom, should be borne in mind. If the petitioner's contention is accepted, merely because the petitioner does not have any disqualification as per Section 64 of the Act, it would lead to a situation where the Waqf Board will be forced to enable administration of the Waqf contrary to the deed of Waqf or custom of the Waqf or proforma. As a matter of fact, when the third respondent claims office by succession, the Board's role is to recognise the said succession, which would only be in accordance with the scheme of the Waqf Act, 1995.



W.P.Nos.44468 and 47418 of 2025

WEB COPY

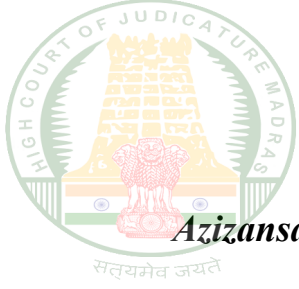
17. In this case, a dispute is raised regarding the petitioner's right to act as a mutawalli in view of the specific clause contained in the proforma. The power of appointment of a mutawalli in this case is exercised under Section 63 of the Act, which is reproduced hereunder for ready reference:-

“63. Power to appoint mutawallis in certain cases.—When there is a vacancy in the office of the mutawalli of a waqf and there is no one to be appointed under the terms of the deed of the waqf, or where the right of any person to act as mutawalli is disputed, the board may appoint any person to act as mutawalli for such period and on such conditions as it may think fit.”

(Emphasis supplied)

Therefore, when the right of a person to act as a mutawalli is disputed, the Board has the right to appoint a mutawalli under Section 63 of the Act. For the exercise of such power, it is not necessary that the mutawalli should have contracted any of the disqualifications contained in Section 64(1) of the Act. In the instant case, when the de facto mutawalli is the petitioner, and it is disputed that there is an eligible person for the office as per the proforma, the right to appoint arises under Section 63 of the Act. Therefore, I reject the submission that an enquiry as per Section 64 of the Act should have been held.

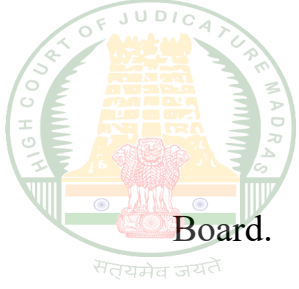
18. As far as the judgment of the High Court of Madhya Pradesh in *Abdul*



W.P.Nos.44468 and 47418 of 2025

Azizansari (cited *supra*) is concerned, it can be seen that in that case, the right of the person to continue was not disputed, and there was no claim that the persons in office were contrary to the proforma. Therefore, even though other facts, such as payment of subscription and de facto continuation as mutawalli, are similar, the reason for superseding in the instant case is the dispute that has arisen as to the right of the petitioner to continue to act as mutawalli. Therefore, in the present case, it cannot be said that an enquiry under Section 64 of the Act should precede the appointment. Once the right to appoint arises, it cannot be pleaded that the power of appointment arises only if there is a clear vacancy. Therefore, the ratio laid down by the Hon'ble Division Bench of this Court in ***Khadar Shariff***'s case (cited *supra*) will also not apply in the present case.

19. The further argument is that there has been a violation of the principles of natural justice. It is true that even if a person's appointment is disputed, power under Section 63 of the Act cannot be exercised without affording an opportunity to the person who is de facto functioning as mutawalli. In the instant case, due notice was issued to the petitioner, and the petitioner was given an opportunity to appear before the Waqf Board during the proceedings. It was the petitioner who chose not to make any further representation or to present its case before the Waqf



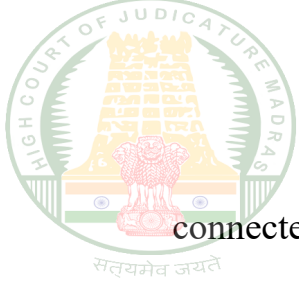
W.P.Nos.44468 and 47418 of 2025

Board. Therefore, in this case, there is no violation of the principles of natural

justice. For all the above reasons, I am unable to agree with the learned Counsel for the petitioner that the appointment of the third respondent as hereditary mutawalli, the committee to assist him, and the consequential order are in violation of the provisions of the Act or suffer from any other infirmity.

20. Once the challenge to the appointment is made, the consequential prohibition of the petitioner from operating the bank account is only logical, and only the third respondent and the committee members, as the case may be, have to be duly authorised by submitting a communication to the bank for the operation of the bank account. In view thereof, the prayer made in W.P.No.47418 of 2025 cannot be countenanced.

21. Accordingly, these Writ Petitions are dismissed. The third respondent in W.P.No.44468 of 2025, being the hereditary mutawalli and the duly appointed committee members, will be entitled to take charge of the Waqf, operate the bank account by giving due notice to the bank concerned, and administer the Waqf in the manner known to law. There shall be no order as to costs. Consequently,



connected miscellaneous petitions are closed.

W.P.Nos.44468 and 47418 of 2025

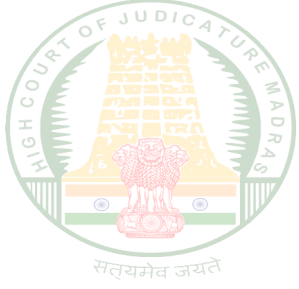
WEB COPY

01.06.2026

Neutral Citation : yes
grs

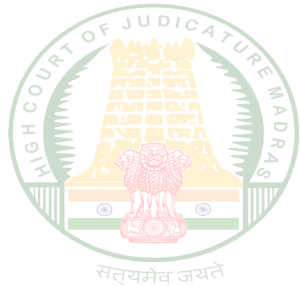
To

1. The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathy Nagar,
Chennai – 600 001.
2. The Chief Executive Officer,
Tamilnadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathy Nagar,
Chennai – 600 001.
3. The Branch Manager,
The Chidambaram Co-Operative Urban Bank Ltd, E-53,
No:102, Vadaku Veedhi, Chidambaram Taluk,
Cuddalore District,
Tamil Nadu.
4. The Superintendent of Wakf,
Cuddalore Zone,
No:512, Gandhi Road,
Panruti – 607 106.



W.P.Nos.44468 and 47418 of 2025

WEB COPY



WEB COPY

W.P.Nos.44468 and 47418 of 2025
D.BHARATHA CHAKRAVARTHY, J.

grs

W.P.Nos.44468 and 47418 of 2025

01.06.2026

Page 17 of 17