

(2010) 12 MAD CK 0216

Madras High Court

Case No: Writ Petition No. 28593 of 2010 and M.P. No's. 1 and 2 of 2010

N. Ahmed Gani

APPELLANT

Vs

The Tamil Nadu Wakf Board

RESPONDENT

Date of Decision: Dec. 23, 2010

Hon'ble Judges: M. Jaichandren, J

Bench: Single Bench

Advocate: R. Abdul Mubeen, for the Appellant; Haja Mohideen Gisthi, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

M. Jaichandren, J.

It has been stated that the Petitioner is the President of the management committee of Dasthagir Sahib Jamia Mosque and Endowments, Saidapet, Chennai. It has been further stated that the mosque wakf is managed by a committee of elected persons from the Jamaath, based on the list of voters prepared by the mosque wakf and ratified by the third Respondent. The elections to the mosque wakf has been announced by the first Respondent, without finalising the voters list.

2. It has been further stated that the voters list, as it exists, is outdated. Several voters have either died or shifted their residence. Further, names of females are also found in the voters list, even though they do not have any right to vote in the elections to the managing committee and the other office bearers of the mosque wakf. The voters list is of the year, 2006. It has not been updated by the first Respondent, as it should have been done, before the announcement had been made for the elections to the mosque wakf. Even though several representations had been sent by the Jamathars, the first Respondent had not responded, by preparing a fresh list of voters, before announcing the elections to the mosque wakf. It had also been stated that, in spite of the direction issued by this Court, by its order, dated 15.11.2010, in W.P. No. 25347 of 2010, the Respondents had not

revised the voters list, before announcing the elections to the mosque wakf.

3. The learned Counsel appearing on behalf of the Petitioner had stated that the decision of the first and the third Respondents, to hold the elections to the mosque wakf, without updating the voters list, is arbitrary, illegal and void. He had also submitted that the Respondents ought to have considered the representations submitted by the Petitioners and the other Jammathars to redraft and to prepare a fresh voters list, by deleting the names of dead persons, persons who had shifted their residence and of females, who are not eligible to vote in the elections to the mosque wakf.

4. It had also been stated that the impugned election notification, dated 10.12.2010, based on the existing voters list, cannot be held to be valid in the eye of law. The failure of the Respondents to consider the representation of the Petitioner, dated 1.10.2010, is arbitrary and illegal. The election notification issued by the third Respondent, on 10.12.2010, without complying with the specific directions issued by this Court, by its order, dated 15.11.2010, in W.P. No. 25347 of 2010, is invalid. Therefore, the impugned election notification, dated 10.12.2010, issued by the third Respondent is liable to be set aside. He had also submitted that the Respondents may be directed by this Court to redraft and to prepare a fresh voters list containing the names of eligible voters, before conducting the elections to the Dasthagir Sahib Jamia Mosque.

5. Per contra, the learned Counsel appearing on behalf of the Respondents had submitted that the writ petition filed by the Petitioner is not maintainable. It is not open to the Petitioner to challenge the election notification issued by the third Respondent, on 10.12.2010, as it had been issued, pursuant to the order passed by this Court, on 10.3.2010, in W.P. No. 4867 of 2010, wherein, the Tamilnadu Wakf Board, the Respondent therein, had been directed to conduct the elections to the mosque wakf, in accordance with law, within a period of four months from the date of receipt of a copy of this order.

6. It had also been submitted that the fresh voters list had been finalized, after giving sufficient public notice to all the persons concerned, inviting them to raise their objections, if any. The finalised voters list notified, on 10.12.2010, had been countersigned by the Petitioner. Therefore, it is not open to the Petitioner to raise new objections, at this late stage, after the announcement of the elections, by the third Respondent, by his election notification, dated 10.12.2010.

7. It had also been stated that the elections are scheduled to be held, on 26.12.2010. The voters should show proof of their identity by producing any one of the 17 items shown in the notice, dated 10.12.2010. Further, the elections would be conducted strictly in accordance with the election rules, which are applicable to the elections, to be conducted to the mosque wakf, on 26.12.2010. Only eligible voters would be allowed to participate in the election process. Therefore, the apprehension of the

Petitioner that ineligible voters would be allowed to vote in the said elections cannot be held to be valid. Further, it would be open to the Petitioner to challenge the results of the elections, if so advised, in the manner known to law. As such, the present writ petition filed by the Petitioner challenging the election notification, dated 10.12.2010, issued by the third Respondent, is devoid of merits.

8. In view of the averments made in the affidavit filed in support of the writ petition and in view of the submissions made by the learned Counsels appearing on behalf of the Petitioners, as well as the Respondents and on a perusal of the records available, this Court is of the considered view that the Petitioner has not shown sufficient cause or reason to grant the reliefs, as prayed for by the Petitioner, in the present writ petition.

9. The Petitioner has not been in a position to show that the election notification, dated 10.12.2010, is arbitrary and illegal. The third Respondent had issued the election notification, dated 10.12.2010, pursuant to the order issued by this Court, on 10.3.2010, in W.P. No. 4867 of 2010. Further, the Petitioner has not been in a position to substantiate his claim that the finalised voters list contains the names of invalid voters. It is also noted that the Petitioner had countersigned the finalised voters list, dated 10.12.2010. Even otherwise, it would be open to the Petitioner to challenge the results of the elections, if so advised, in the manner known to law.

10. It is also seen that only eligible voters would be permitted to participate in the election process by showing sufficient proof regarding their identity. In such circumstances, the contentions raised on behalf of the Petitioner cannot be countenanced. As such, the writ petition is devoid of merits and therefore, it is liable to be dismissed. Hence, it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.