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W.A.No.327 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.327 of 2022

The Adhoc Board of Administrators,
Nagore Dargah Interim Adhoc Administrators,
Nagore Dargah, Nagore-611 002,
Nagapattinam District.

.. Appellant

Vs

1.Muhalli Muthavalli
H.Haja Nazimudden Sahib,
No.7, Manavara North Street,
Nagore-611 002.

2.The Tamil Nadu Waqf Board,
rep. by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Mannady, Chennai-600 001.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 05.01.2022 in W.P.No.27770 of 2021.



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For the Appellant : Mr.N.A.Nissar Ahmed
For the Respondents : Ms.Ajmath Begum
for respondent No.1
: Mr.Haja Mohideen Gisthi
for respondent No.2

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

By this writ appeal, a challenge is made to the judgment dated 5.1.2022, where the following directions were given:

"9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the 2nd respondent to consider the representation of the petitioner dated 20.12.2021 and pass orders thereon on merits and in accordance with law within a period of two days from today as the Urus festival has already begun from yesterday (i.e. 04.01.2022). Once such consideration is shown out of which if any permission come from the 2nd respondent to the petitioner, it is open to the petitioner to



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workout the same by executing the said permission in the manner known of law."

2. Learned counsel appearing for the Adhoc Board of Administrators submits that without an opportunity of hearing, the learned Single Judge issued the direction quoted above. It is submitted that if the representation made by the writ petitioner/first respondent herein is accepted by the second respondent-Wakf Board, it is going to affect the functioning of the dargah and, therefore, the appeal has been preferred.

3. Learned counsel for the Wakf Board submits that after the judgment under challenge, they considered the representation of the writ petitioner/first respondent herein and rejected the same vide order dated 7.1.2022. Thus, the fear expressed by the appellant no longer exists and nobody was allowed to participate in the ceremonies. It may be due to the situation obtaining due to Covid-19 and for other reasons.

4. The order dated 7.1.2022 passed by the Wakf Board has



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already been acknowledged by the Adhoc Board of Administrators, yet the appeal has been filed misusing the fund of the dargah. The Adhoc Board of Administrators was appointed by this court vide judgment dated 10.2.2017 passed in W.A.No.1640 of 2016. Paragraph (4) of the said judgment has been referred to indicate that the Adhoc Board of Administrators was appointed for the reasons given therein, but for a short period of time. For ready reference, paragraph (4) of the aforesaid judgment is quoted hereunder:

"4. We have realized, quite painfully though, that the affairs of the Dhurgha are far from happily and satisfactorily conducted. There are allegations and counter allegations against each other and there are also serious allegations about the recklessness running of the affairs of the Dhurgha and its administration. We gathered that the real problem is lying not so much with the Trustees but however, because of their inability to administer the Trust properly. In these set of circumstances, and at any rate for a reasonable period of time if the affairs of the Dhurgha are administrated through an independent and impartial body, perhaps, a semblance of order by establishing proper procedures can be worked out. We have



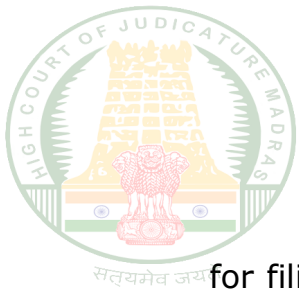
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therefore, secured the help fro the Registry as well as from the learned Advocate General of the State and thankfully we have been informed the names of Sri. Janab K.Allaudin, I.A.S., (Retired) and Janab Sri.S.F.Akbar, District Judge (Retired), mercifully when contacted, both these officers have shown their inclination to run and administer the affairs of the Dhurgha for a short period of time so that proper procedures and good administrative practices could be settled and hence we constitute an 'Ad hoc Board of Administrators' comprising of Janab Sri. Sri. K.Allaudin, I.A.S., (Retired), (No.31, First Street, "H" Block, 12th Main Road, Anna Nagar West, Chennai-600 040, Mobile No.94443 84950) and Janab Sri. Sri. S.F.Akbar, District Judge (Retired), (Plot No.4, "Fathima Akbar Villa", Pillayar Koil 4th Cross Street, Ramappa Nagr, Perungudi, Chennai-600 096, Mobile No.9840094439). We request them to administer the Dhurgha for a period of four months from now and file their status report in three months time so that the next follow up action could be undertaken."

5. The Adhoc Board of Administrators was appointed in 2017 for a short period, but it is still continuing. Learned counsel appearing for the Adhoc Committee, i.e., the appellant, could not disclose the reason



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for filing of the appeal other than stating that the directions have been given by the court without opportunity of hearing to the Adhoc Board of Administrators, when it was functional.

6. If the prayer made in the writ petition and decided by the impugned order is looked into, it is amply clear that the writ petitioner/first respondent herein sought permission to participate in the holy ceremonies of 465th Urs of the Nagoor Dargah to be held between 4.1.2022 and 17.1.2022. The request of the writ petitioner/first respondent herein was rejected by the Wakf Board. The period aforesaid has already expired. However, the Adhoc Board of Administrators filed the present appeal on 4.2.2022 from the funds of dargah. This is nothing but misuse of the position and funds of dargah by the Adhoc Board of Administrators. Merely because the Adhoc Committee comprises a retired IAS Officer and a retired District Judge, they cannot be permitted to misuse the funds.

7. Considering the aforesaid, we take suo motu cognizance of the issue to call upon the Adhoc Board of Administrators to show cause as to why they should not be discontinued and why the management



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of the dargah should not be directed as per the Rules or if mismanagement still exists, as to why the Adhoc Board of Administrators should not be substituted.

8. The suo motu cognizance has been taken in the presence of learned counsel for the Adhoc Board of Administrators. Thus, he is directed to come up with the reply to the issue for justifying the continuance of the Adhoc Board of Administrators for more than four years, though it was appointed only for the short period. The Adhoc Board of Administrators is further directed to come out with an affidavit qua the total expenses incurred by them in regard to the affairs of the dargah and their own affairs.

9. Learned counsel appearing for the Wakf Board would also be at liberty to furnish the statement of expenses incurred by the Adhoc Board of Administrators towards travelling and other purposes.

10. Finding that the appeal has been filed to pursue an infructuous cause, the same is dismissed. There will be no order as to costs. Consequently, C.M.P.Nos.2575 and 2612 of 2022 are closed.



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However, the Registry is directed to place the disposed of appeal on 10.3.2022 in reference to the suo motu cognizance taken by this court on the issues framed above.

11. List on 10.3.2022. In the meanwhile, the Adhoc Board of Administrators will not operate the affairs of the dargah. Rather, it would be managed by the Wakf Board. However, in case of any mismanagement by the Wakf Board, the court may nominate a different Adhoc Board of Administrators.

(M.N.B., CJ) (D.B.C., J.)
23.02.2022

Index : Yes/No
sasi

To:

The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Mannady, Chennai-600 001.



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