



ABSTRACT

Tamil Nadu Waqf Board – Sheik Ismail Subedar Mosque, Woraiyur, Trichy (Taking over of the management by the Tamil Nadu Waqf Board) - Appeal filed by Thiru A.Ayub Khan, Trichy under section 65(2) of Waqf Act, 1995 – Orders of the Tamil Nadu Waqf Board - Modified - Orders – Issued.

Backward Classes, Most Backward Classes and Minorities Welfare (S2) Department

G.O.(D)No.51

Dated 16.08.2019

Vihari, Aadi 31

Thiruvalluvar Aandu 2050

Read :

1. Proceedings of the Tamil Nadu Waqf Board Item No. in Na.Ka.No.14961/17/B5/Trichy, dated 19.06.2018
2. From Thiru.A.Ayub Khan, appeal petition dated 23.10.2018.
3. Orders of High Court of Madras, dated 18.06.2019 in W.P.No.16504 of 2019.
4. From the Chief Executive Officer, Tamil Nadu Waqf Board letter Rc.No.14961/17/ B5/Trichy, dated 02.07.2019.

ORDER:

In the proceedings first read above, the Tamil Nadu Waqf Board had ordered for taking over of the direct management of Sheik Ismail Subedar Mosque, Woraiyur, Trichy by the Tamil Nadu Waqf Board for a period of six months. The Superintendent of Waqf, Tiruchirappalli had been appointed as the Executive Officer of the Waqf and he had been directed to take over the management of the Waqf, thereafter, prepare the draft electoral roll for conduct of election by secret ballot and submit the report to the Tamil Nadu Waqf Board within a period of three months.

2. In the reference second read above, the appellant Thiru.A.Ayub Khan had preferred an appeal under sub-section (2) of section 65 of the Waqf Act 1995, (Central Act 43 of 1995) against taking over of the direct management of Sheik Ismail Subedar Mosque, Trichy by the Tamil Nadu Waqf Board and prayed to set aside the orders of the Tamil Nadu Waqf Board in Na.Ka.No.14961/17/B5/Trichy, dated 19.06.2018. He has also submitted a petition with a prayer for staying of the proceedings of the Tamil Nadu Waqf Board first read above.

3. In the reference third read above, the appellant Thiru A. Ayub Khan had filed W.P.No.16504/2019 before the Hon'ble High Court of Madras with a prayer to direct the 2nd respondent, viz., the Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department, Secretariat, Chennai-9 to dispose of the appeal filed by the petitioner on 23.10.2018 in a time bound manner and further direct the 1st respondent viz., the Tamil Nadu Waqf Board not to takeover direct management of the affairs of the petitioner mosque till the disposal of the said appeal pending with the 2nd respondent.

4. In order to dispose of the appeal petition, personal hearing was conducted on 04.07.2019 by the Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department. The appellant and his Counsel, the Chief Executive Officer, Tamil Nadu Waqf Board and the Executive Officer of the Waqf, along with their counsel were present and submitted their arguments. During the hearing, it was observed that the tenure of the existing Committee had ended in March 2019 and the said Committee had not been approved/recognized by the Tamil Nadu Waqf Board, since the election for the same had not been conducted in the presence of Tamil Nadu Waqf Board officials. Based on the judgement of High Court of Madras and after conducting enquiry, the Tamil Nadu Waqf Board assumed the direct management of Sheik Ismail Subedar Mosque, Woraiyur, Trichy. However, the appellant has not handed over the management to the Tamil Nadu Waqf Board and continuing the management of the Waqf till date. Though the Tamil Nadu Waqf Board has notified the assumption of direct management of said Waqf under sub-section (1) of section 65 of the Waqf Act, 1995 vide its proceedings dated 19.06.2018, it is only on paper and the said Waqf is still under the management of the appellant Thiru Ayub Khan.

5. On careful examination of the contentions raised in the appeal and stay petitions and the submissions made by the appellant during the personal hearing and the counter arguments made by the Counsel of the Chief Executive Officer, Tamil Nadu Waqf Board, it was observed that the existing Committee of Managements tenure had ended in March 2019 and the said Committee had not been approved / recognized by the Tamil Nadu Waqf Board, since the election for the same had not been conducted in the presence of Tamil Nadu Waqf Board Officials. Accordingly, the Government have come to the conclusion that there is no incorrectness or illegality in the notification issued by the Tamil Nadu Waqf Board and hence the appeal petition preferred by Thiru A. Ayub Khan under sub section (2) of section 65 of the Waqf Act, 1995 is devoid of merits and is hereby rejected.

6. Further, as the three years tenure period of the Secretary and the Committee of the Sheik Ismail Subedar Mosque has expired on March, 2019 and the said Waqf is still under the management of the appellant, which had not been approved/recognized by the Tamil Nadu Waqf Board, the Chief Executive Officer, Tamil Nadu Waqf Board is directed to conduct election for the management of Sheik Ismail Subedar Mosque with the officials of Tamil Nadu Waqf Board. The present Committee shall co-ordinate with the Superintendent of Waqf, Trichy in conducting the Election by Secret Ballot system. The Committee shall submit the entire list of eligible voters in the Mahalla to the Superintendent of Waqf, Trichy/Election Officer on receipt of the order. In the meantime, the present Committee of Management shall administer the day to day affairs of the Waqf and they shall not take or implement any major policy decisions involving financial and other implications. The Superintendent of Waqf, Trichy/Election Officer shall complete the process of Election within a period of two months. The orders of the Tamil Nadu Waqf Board dated 19.06.2018 and 19.02.2019 assuming the direct management of the Sheik Ismail Subedar Pallivasal are modified to the extent above.

7. The Works Manager, Government Central Press is directed to publish the appended Notification in the next issue of the Tamil Nadu Government Gazette.

(BY ORDER OF THE GOVERNOR)

**A.KARTHIK
SECRETARY TO GOVERNMENT**

To

Thiru.A.Ayub Khan, Secretary, Sheik Ismail Subedar Pallivasal Mahalla
Committee, No.29, Thiruthanthoni Road, Woraiyur,
Tiruchirappalli - 620 003.

The Works Manager, Government Central press, Chennai-79.

(He is requested to publish the notification in the next issue of
Tamil Nadu Government Gazette)

Copy to

The Chief Executive Officer, Tamil Nadu Waqf Board, Chennai-1.

(For necessary action)

Stock File/Spare Copy

// Forwarded by order //

Section Officer

[Signature]
16/08/19

APPENDIX**NOTIFICATION**

In order to dispose of the appeal petition filed by Thiru A. Ayub Khan under sub section (2) of section 65 of the Waqf Act, 1995 (Central Act 43 of 1995) against the order passed by the Tamil Nadu Waqf Board to take over the management of Sheik Ismail Subedar Pallivasal, Woraiyur, Trichy District under its direct control personal hearing was conducted on 04.07.2019 by the Secretary to Government, Backward Classes, Most Backward Classes & Minorities Welfare Department. The appellant and his Counsel, the Chief Executive Officer, Tamil Nadu Waqf Board and the Executive Officer of the Waqf along with their counsel were present and submitted their respective arguments. During the hearing, it was observed that the tenure of the existing Committee had ended in March, 2019 and the said Committee had not been approved/recognized by the Tamil Nadu Waqf Board, since the election for the same had not been conducted in the presence of Tamil Nadu Waqf Board officials. Based on certain complaints and after duly conducting enquiry, the Tamil Nadu Waqf Board assumed the direct management of Sheik Ismail Subedar Pallivasal, Woraiyur, Trichy. However, the appellant has not handed over the management to the Tamil Nadu Waqf Board and continuing the management of the Waqf till date. Though the Tamil Nadu Waqf Board has notified the assumption of direct management under sub-section (1) of section 65 of the Waqf Act, 1995 (Central Act 43 of 1995) of said Waqf in its proceedings, dated 19.06.2018, it is only on paper and the said Waqf is still under the management of the appellant.

2. On careful examination of the contentions raised in the appeal and stay petitions and the submissions made by the appellant during the personal hearing and the counter arguments made by the Counsel of the Chief Executive Officer, Tamil Nadu Waqf Board, It was observed that the existing Committee of Managements tenure had ended in March, 2019 and the said Committee had not been approved/recognized by the Tamil Nadu Waqf Board, since the election for the same had not been conducted in the presence of Tamil Nadu Waqf Board officials. Accordingly, the Government have come to the conclusion that there is no incorrectness or illegality vide its resolution in item No. 41/18 in Rc.No.14961/17/ ௮5/Trichy, dated 19.06.2018 passed by the Tamil Nadu Waqf Board. Hence, the appeal preferred by Thiru A.Ayub Khan under sub section (2) of section 65 of the Waqf Act, 1995 is devoid of merits and the same is hereby rejected.

p.t.o.

3. Further, as the three years tenure period of the Secretary and the Committee of the Sheik Ismail Subedar Mosque has expired on March, 2019 and the said Waqf is still under the management of the appellant, which had not been approved/recognized by the Tamil Nadu Waqf Board, the Chief Executive Officer is directed to conduct election for the management of Sheik Ismail Subedar Pallivasal with the officials of Tamil Nadu Waqf Board. The present Committee shall co-ordinate with the Superintendent of Waqf, Trichy in conducting the Election by Secret Ballot system. The Committee shall submit the entire list of eligible voters in the Mahalla to the Superintendent of Waqf, Trichy/Election Officer on receipt of the order. In the meantime, the present Committee of Management shall administer the day to day affairs of the Waqf and they shall not take or implement any major policy decisions involving financial and other implications. The Superintendent of Waqf, Trichy/Election Officer shall complete the process of election within a period of two months. The resolution of the Tamil Nadu Waqf Board dated 19.06.2018 and 19.02.2019 assuming the direct management of the Sheik Ismail Subedar Pallivasal, are modified to the extent above.

A.KARTHIK
SECRETARY TO GOVERNMENT

//True Copy//


Section Officer

P/S
16/08/19