

W.P(MD)No.25272 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.09.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25272 of 2025

Ulpath Nisha

... Petitioner

Vs.

- 1.The Tamilnadu Wakf Board,
Represented by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.
- 2.The Superintendent of Wakf,
Ramanathapuram Region,
No.176/11, First Floor,
Therpasayanam Road,
Chinnakadai Street,
Velipattinam,
Ramanathapuram District.
- 3.The Tahsildar,
O/o.Tahsildar Office,
Keelakarai Taluk,
Ramanathapuram District.
- 4.Basheer Moulana,
S/o.Ibrahimsha,
Mutavalli,
Al Mazithun Noor Jumma Pallivasal Jamath,
Thinaikulam, Ramanathapuram Taluk,
Ramanathapuram District.



W.P(MD)No.25272 of 2025

5.Pakkar,
S/o.Jamaludeen,
Secretary,
Al Mazithun Noor Jumma Pallivasal Jamath,
Thinaikulam,
Ramanathapuram Taluk,
Ramanathapuram District

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to take necessary action against the respondents 4 and 5 based on the petitioner's representation dated 04.09.2025 in respect of excommunication and to ensure the Issuance of the NOC for petitioner's daughter's Marriage which is going to be held on 28.09.2025.

For Petitioner : Mr.K.Yasar Arafath

For Respondents : Mr.M.Lingadurai,
Spl. Government Pleader R3.
Mr.K.K.Senthil for R1 & R2

ORDER

The writ petitioner is a permanent resident of Thinaikulam Village. Since her husband / Syed Ibrahim is working aboard, she is staying in Mellakottai Village, Ramanathapuram District. The petitioner's daughter / Tamima Arasi is to get married to Mohammed Yusuf on 28.09.2025. Al Mazithun Noor Jumma Pallivasal Jamath, Thinaikulam is the jurisdictional jamath for the writ petitioner's family.

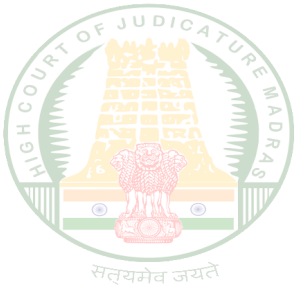


W.P(MD)No.25272 of 2025

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2.The petitioner's daughter's marriage is to be held in Ramanathapuram under the aegis Mellakottai Jamath since the petitioner is presently residing there. According to the long standing custom prevailing in Tamil Nadu, the jurisdictional Jamath has to issue no objection certificate to the petitioner's daughter and only then, Mellakottai Jamath will conduct the marriage. Since the fourth and fifth respondents who are the Muthavalli and Secretary of the jurisdictional Jamath were declining to issue NOC on account of some dispute with the petitioner's family, this writ petition has been filed.

3.This writ petition was listed for admission on 16.09.2025. The learned standing counsel for Tamil Nadu Waqf Board took notice. The learned Special Government Pleader took notice for the Revenue. I requested the learned Special Government Pleader to cause intimation to the respondents 4 and 5 through the Village Administrative Officer about the listing of this case today ie., 19.09.2025. Accordingly, the Village Administrative Officer informed the respondents 4 and 5. Private notice had also been sent by the learned counsel for the petitioner and it has been served on the fifth respondent. But the respondents 4 and 5 have not chosen to appear before this Court.



W.P(MD)No.25272 of 2025

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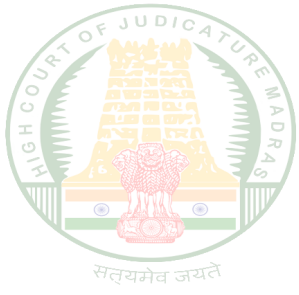
4.The learned standing counsel for Waqf Board submitted that the Waqf Board had already passed a resolution as early as on 26.08.2008 in respect of issues such as the one on hand. It reads as follows:-

தமிழகத்தில் சில பகுதிகளில் முஸ்லிம் ஜமாஅத்துகளில் ஏற்படும் தனிப்பட்ட விரோதங்களுக்காக ஜமாஅத்து நிர்வாகிகள் அவர்களின் ஜமாஅத்துக்கு உட்பட்ட நபர்களை ஊர் நீக்கம் செய்தல்(Excommunication), திருமணப் பதிவு புத்தகம் தர மறுத்தல், இறந்தவர்களின் உடல்களை அடக்கம் செய்யவிடாமல் தடுத்தல் போன்ற இஸ்லாத்திற்குப் புறம்பான செயல்களில் ஈடுபடுவதாக மாண்புமிகு தமிழ்நாடு வக்ஃப் வாரிய தலைவருக்கும் மாண்புமிகு வாரிய உறுப்பினர்களுக்கும் புகார்கள் வந்ததைத் தொடர்ந்து இதுபோன்ற விவயங்களில் மனித உரிமை ஆணையம் மற்றும் காவல்துறை நடவடிக்கை எடுக்கப்பட்டாலும், சம்பந்தப்பட்ட பள்ளிவாசல்கள் / ஜமாஅத்துகள் வக்ஃப் நிறுவனங்களாக இருப்பதால், வாரியம் உரிய கட்டளைகள் பிறப்பிப்பது என முடிவு செய்து பின்வரும் தீர்மானத்தை நிறைவேற்றுகிறது.

“முத்தவல்லி அல்லது நிர்வாகக்குழு சம்பந்தப்பட்ட ஜமாஅத்தார்களை சமூக புறக்கணிப்பு (Social Boycott) மற்றும் ஊர் நீக்கம் செய்தல் (Excommunication) போன்ற செயல்களில் ஈடுபடக்கூடாது. எக்காரணத்தைக் கொண்டும், ஜமாஅத்தார் களுக்கு தேவைப்படும் நேரத்தில் திருமணப் பதிவு புத்தகம் வழங்க மறுப்பது மற்றும் இறந்தவர்களின் உடலை அடக்கம் செய்ய மறுப்பது / இறப்புச் சான்றிதழ் வழங்காதிருப்பது போன்ற அடிப்படை உரிமைகளை மீறும் செயல்களில் முத்தவல்லி அல்லது நிர்வாகக்குழு ஈடுபடக்கூடாது. மேற்கண்ட உத்தரவை வக்ஃப் நிர்வாகங்கள் கண்டிப்பாக பின்பற்ற வேண்டும். இவ் உத்தரவை புறக்கணித்து மேற்கண்ட சட்டவிரோத செயல்களில் ஈடுபடும் முத்தவல்லி / நிர்வாகக் குழுவை பதவி நீக்கம் செய்ய தமிழ்நாடு வக்ஃப் வாரியத்திற்கு வக்ஃப்புச் சட்டம் 1995ல் வழங்கப்பட்டுள்ள அதிகாரங்களின்படி நடவடிக்கை எடுக்கப்படும்”

/உண்மை நகல்/ ஒப்பம்./- தலைவர்.

/True Copy/ 11/01/24 Superintendent



W.P(MD)No.25272 of 2025

5.It can be seen from the aforesaid Special Resolution that the Wakf Board took cognizance of acts of excommunication, refusal to grant NOC for marriage, refusal to allow burrial etc prevalent in certain Muslim Jamaths to settle personal scores. The Board condemned them as being contrary to the ideals of Islam. It cautions the Muthawallis and the administrative committees against acting arbitrarily in such matters.

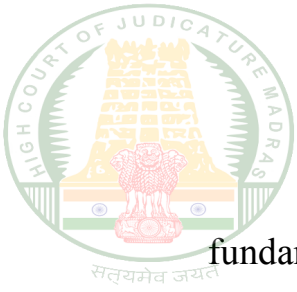
6.The learned counsel for the petitioner drew my attention to the order dated 26.07.2024 made in W.P.No.21271 of 2024. Paragraph No.6 of the said order reads as follows:-

“6.This Court is of the view that in spite of the circular being issued by the WAKF board the Muthavalli cannot refuse to register the marriage on various other grounds, it is the duty of the Muthavalli to issue NOC for the marriage and after performing the marriage to register the same in the Registers. This Court directs the petitioner to approach the muthavalli and other Jamathars to conduct the marriage and the same should be recorded by the Muthavalli and forward the same to the Kazhi for further registration in his records.”



W.P(MD)No.25272 of 2025

7.The right to get married is a part of one's right to privacy. It partakes the character of a fundamental right (vide *Shafin Jahan v. Asokan K.M., (2018) 16 SCC 368*). The fourth respondent has no right to erect any impediment for fulfilment of the said fundamental right. It is not the case of the jurisdictional Jamath that the petitioner is not entitled to issuance of such NOC for solemnizing her daughter's marriage. The Waqf Board has the statutory power under Section 32 of the Waqf Act, 1995 to issue general directions. When a general resolution had already been passed by the Waqf Board on the subject matter, it is duty of the respondent Jamath to abide by the same. When as per custom, without NOC from the jurisdictional Jamath, nikha cannot be solemnized, the jurisdictional Jamath has a duty to issue the NOC when sought for unless the applicant suffers from any disqualification. If the female applicant is already married and the same has not been dissolved, certainly the jurisdictional Jamath will be justified in refusing to issue NOC. But then, it has to respond in writing when a request has been made. If there is no hurdle, the Jamath is obliged to issue NOC without any delay once it is sought for. The Hon'ble Supreme Court in the decision reported in *(2023) 4 SCC 1 (Kaushal Kishor Vs. State of U.P.)* held that

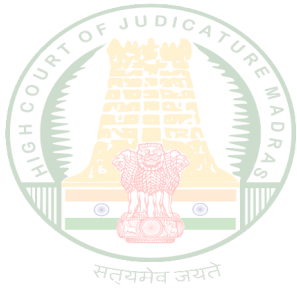


W.P(MD)No.25272 of 2025

fundamental rights under Articles 19 and 21 of the Constitution of India can be horizontally applied. In other words, it can be enforced even against persons other than the State or its instrumentalities. By not issuing NOC to an eligible applicant, the jurisdictional Jamath violates the fundamental right under Article 21 of the Constitution of India. I hold that redressal can be sought in writ proceedings in such cases and the Writ Court is empowered to issue directions to the jurisdictional Jamath.

8. Respectfully adopting the approach indicated in W.P.No.21271 of 2024, I direct the respondents 4 and 5 to issue NOC by 23.09.2025 so as to enable the petitioner's daughter to get married to S.Mohammed Yusuf as per Islamic rites and customs. The marriage is to be celebrated in Ramanathapuram but is to be conducted under the aegis of Mellakottai Jamath. The Hon'ble Supreme Court in the decision reported in **(2006) 2 SCC 578 (Seema v. Ashwani Kumar)** observed as follows:

“15..Registration of marriages affects the women to a great measure. If the marriage is registered it also provides evidence of the marriage having taken place and would provide a rebuttable presumption of the marriage having taken place. Though, the



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W.P(MD)No.25272 of 2025

registration itself cannot be a proof of valid marriage per se, and would not be the determinative factor regarding validity of a marriage, yet it has a great evidentiary value in the matters of custody of children, right of children born from the wedlock of the two persons whose marriage is registered and the age of parties to the marriage”

Thus, the marriage has to be registered by the respondents 4 and 5, after it is solemnized.

9.The third respondent is directed to serve the web copy of this order on the respondents 4 and 5 through the Village Administrative Officer.

10.With the aforesaid direction to grant NOC by 23.09.2025 and to register the marriage after it is solemnized, this writ petition is allowed.

No costs.

19.09.2025

NCC : Yes/No

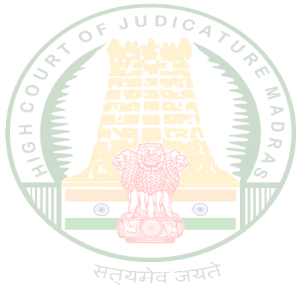
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Issue order copy on 19.09.2025.

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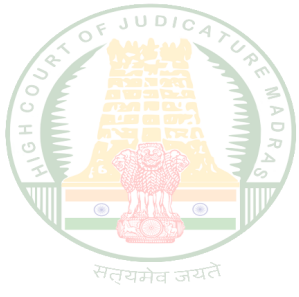


W.P(MD)No.25272 of 2025

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To:

The Tahsildar,
O/o.Tahsildar Office,
Keelakarai Taluk,
Ramanathapuram District.



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W.P(MD)No.25272 of 2025

G.R.SWAMINATHAN, J.

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W.P(MD)No.25272 of 2025

19.09.2025

10/10