



HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 9113 OF 2025 (GM-WAKF)**BETWEEN:**

1. ABDUL SATTAR,
S/O BAWA BYARI,
AGED ABOUT 52 YEARS,
KRISHNAPURA HOUSE, SURTKAL,
MANGALURU TALUK, D K DISTRICT - 575 030.
2. MOHAMMAD MUSTAFA,
S/O B H IDINABBA,
AGED ABOUT 51 YEARS,
KRISHNAPURA HOUSE, SURTKAL,
MANGALURU TALUK, D K DISTRICT- 575 030.

...PETITIONERS

(BY SRI K.N PANNENDRA, SENIOR ADVOCATE FOR
SRI LETHIF B, ADVOCATE)**AND:**

1. KARNATAKA STATE BOARD OF WAQF,
CUNNINGHAM ROAD, BENGALURU-560 001,
REP. BY ITS CHIEF EXECUTIVE OFFICER.
2. THE DISTRICT WAQF OFFICER,
DISTRICT WAQF OFFICE,
MANGALURU, DAKSHINA KANNADA - 575 001.
3. BADARIYA JUMMA MASJID,
MUSLIM JAMATH (R),
7TH BLOCK, KRISHNAPURA,
MANGALURU, D K DISTRICT - 575 014.
REP BY ITS PRESIDENT.

...RESPONDENTS

(BY SRI USMAN P, ADVOCATE FOR R-1 & R-2)





THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO A) TO CALL FOR RECORDS. B) QUASH THE PROCEEDINGS OF THE SPECIAL MEETING DATED 11/10/2024 PASSED ISSUED BY THE R3 WHICH IS PRODUCED AT ANNEXURE-E. ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioners are before this Court seeking for the following reliefs;

- a. " To call for records.
- b. *Issue writ or order or writ of certiorari by quashing the Proceedings of the Special Meeting dated: 11.10.2024 passed issued by the 3rd respondent which is produced at Annexure - E,*
- c. *Issue writ or order or writ of certiorari by quashing the Proceedings of the Special Meeting dated: 13.10.2024 passed issued by the 3rd respondent which is produced at Annexure - F.*
- d. *Issue writ of mandamus or order or direction, directing the respondents to continue the Executive committee as approved by the 1st respondent at dated: 22.02.2023 which is produced at Annexure-B and allow the petitioners to participate in the day to day activities of the 3rd respondent institution including attending the meeting, prayer and other religious activities of the 3rd respondent institution forthwith, relief as deems fit in the circumstances of the case, in the interest of justice and equity."*



2. The grievance of the petitioner is that respondent No.3, without any authority, has removed the petitioners from the Managing Committee of respondent No.3 and appointed certain others.
3. The submission of Sri.K.N.Phanendra., learned Senior Counsel for the petitioner is that;
 - 3.1. It is only the respondent No.1- WAQF Board which has the powers under Section 32(2)(g) of the WAKF Act, 1995 to appoint or remove the "mutawallis". The substantial provision as regards the reasons for removal is in terms of Section 64 the WAKF Act, 1995 and procedure under Rule 58 of Karnataka WAKF Rules, 2017 are required to be followed before removal of any "mutawallis".
 - 3.2. His submission is that the Committee or any member of the Committee would also be covered within the definition "mutawallis" under



Sub-section (i) of Section 3 of the WAKF Act, 1995.

3.3. In that background, he submits that the action on the part of respondent No.3 in the removal of the petitioner and appointing certain others is not sustainable and is required to be quashed.

4. Sri.S.Balakrishnan., learned counsel for respondent No.3 would submit that;

4.1. There is a serious allegation which had been made against the petitioners for having abetted the suicide of the president of the respondent No. 3 Managing Committee, and it is in the background that the Managing Committee of respondent No.3 was required to take immediate action.

4.2. To support the same, certain representations which have been submitted to respondent No.3 have been placed on record vide a memo filed



today, and as such, it is submitted by respondent No.3 that the actions taken by respondent No.3 were bona fide and no fault can be found with the said action.

5. Heard Sri.K.N.Phanendra., learned Senior Counsel appearing for the petitioner, Sri.Usman.P. learned counsel for respondents No.1 and 2 and Sri.S.Balakrishnan., learned counsel appearing for respondent No.3 and Perused papers.
6. The short question that would arise for consideration in the present matter is;

"Whether the Managing Committee of the WAKF could remove a member of the Managing Committee?"

7. Section 32(2)(g) is reproduced hereunder for easy reference;

32. Powers and functions of the Board.

(2) *Without prejudice to the generality of the foregoing power, the functions of the Board shall be*

(g) *to appoint and remove mutawallis in accordance with the provisions of this Act;*



8. A perusal of the same would indicate that it is only the WAKF Board which can appoint or remove any “mutawallis” in accordance with the provisions of the Act. In accordance with the provision of the Act, which would in turn refer to Section 64 of the WAKF Act, 1995, which is reproduced hereunder for easy reference;

64. Removal of mutawalli.—(1) Notwithstanding anything contained in any other law or the deed of 1 [waqf], the Board may remove a mutawalli from his office if such mutawalli—

(a) has been convicted more than once of an offence punishable under section 61; or

(b) has been convicted of any offence of criminal breach of trust or any other offence involving moral turpitude, and such conviction has not been reversed and he has not been granted full pardon with respect to such offence; or

(c) is of unsound mind or is suffering from other mental or physical defect or infirmity which would render him unfit to perform the functions and discharge the duties of a mutawalli; or

(d) is an undischarged insolvent; or

(e) is proved to be addicted to drinking liquor or other spirituous preparations, or is addicted to the taking of any narcotic drugs; or

(f) is employed as paid legal practitioner on behalf of, or against, the 1 [waqf]; or



(g) has failed, without reasonable excuse, to maintain regular accounts for two consecutive years or has failed to submit, in two consecutive years, the yearly statement of accounts, as required by sub-section (2) of section 46; or

(h) is interested, directly or indirectly, in a subsisting lease in respect of any 1 [waqf] property, or in any contract made with, or any work being done for, the 1 [waqf] or is in arrears in respect of any sum due by him to such 1 [waqf]; or

(i) continuously neglects his duties or commits any misfeasance , malfeasance, misapplication of funds or breach of trust in relation to the 1 [waqf] or in respect of any money or other 1 [waqf] property; or

(j) wilfully and persistently disobeys the lawful orders made by the Central Government, State Government, Board under any provision of this Act or rule or order made thereunder;

(k) misappropriates or fraudulently deals with the property of the 1 [waqf].

(2) The removal of a person from the office of the mutawalli shall not affect his personal rights, if any, in respect of the 1 [waqf] property either as a beneficiary or in any other capacity or his right, if any, as a sajjadanashin.

(3) No action shall be taken by the Board under sub-section (1), unless it has held an inquiry into the matter in a prescribed manner and the decision has been taken by a majority of not less than two-thirds of the members of the Board.

(4) A mutawalli who is aggrieved by an order passed under any of the clauses (c) to (i) of sub-section (1), may, within one month from the date of the receipt by him of the order, appeal against the order to the Tribunal and the decision of the Tribunal on such appeal shall be final.

(5) Where any inquiry under sub-section (3) is proposed, or commenced, against any mutawalli, the



Board may, if it is of opinion that it is necessary so to do in the interest of the 1 [waqf], by an order suspend such mutawalli until the conclusion of the inquiry: Provided that no suspension for a period exceeding ten days shall be made except after giving the mutawalli a reasonable opportunity of being heard against the proposed action.

(6) Where any appeal is filed by the mutawalli to the Tribunal under sub-section (4), the Board may make an application to the Tribunal for the appointment of a receiver to manage the 1 [waqf] pending the decision of the appeal, and where such an application is made, the Tribunal shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), appoint a suitable person as receiver to manage the 1 [waqf] and direct the receiver so appointed to ensure that the customary or religious rights of the mutawalli and of the 1 [waqf] are safeguarded.

(7) Where a mutawalli has been removed from his office under sub-section (1), the Board may, by order, direct the mutawalli to deliver possession of the 1 [waqf] property to the Board or any officer duly authorised in this behalf or to any person or committee appointed to act as the mutawalli of the 1 [waqf] property.

(8) A mutawalli of a 1 [waqf] removed from his office under this section shall not be eligible for re-appointment as a mutawalli of that 1 [waqf] for a period of five years from the date of such removal.

9. Section 64 of the WAKF Act, 1995 also provides for the WAKF Board to remove a “mutawalli” from his office, if any of the conditions stipulated therein are satisfied and while doing so, the procedure under Rule 58 of the Karnataka WAKF Rules, 2017 is



required to be followed, which is reproduced hereunder for easy reference;

58.Procedure regarding removal of Mutawalli.- (1)

The Chief Executive Officer shall issue a Notice in Form 50 to the Mutawalli concerned against whom action is contemplated under section 64.

(2) The Board shall conduct Summary Inquiry in the manner prescribed under sub-rule (2) of rule 50.

(3) The Chief Executive Officer of the Board shall issue a Notice in Form No.51 to the concerned Mutawalli under sub-section 5 (3) of section 64 of the Act, and after giving reasonable opportunity of being heard and place his findings before the Board for consideration

10. Be that as it may, the substantive right of removal granted under Section 32 (2)(g) of the WAKF Act, 1995 is to the WAKF Board and not to the committee. The reasons for removal are contained in Section 64, and the procedure to be followed is as per Rule 58, which details how the notice was to be issued by the Board.
11. Neither Section 64 nor Rule 58 makes a mention of the Managing Committee. When all these three provisions are read together, it is clear that the Managing Committee has no power to remove any



member of the Managing Committee; it is only the WAKF Board which has the power to do so.

12. In that view of the matter, I answer the point raised by holding that the Managing Committee of WAKF would not have any power to remove a member of the Managing Committee appointed by the WAKF Board.

13. In view of my answers above, I pass the following;

ORDER

- i. The writ petition is ***allowed***.
- ii. A certiorari is issued, the proceedings of the Special Meeting dated 11.10.2024 at Annexure-E, insofar as the removal of the petitioner is concerned, are quashed.
- iii. A certiorari is issued, the proceedings before the Special Meeting dated 13.10.2024 at Annexure-F, insofar as the appointment of certain others in the prayer of the petitioner is concerned, are quashed.



- iv. Liberty is, however, reserved to the WAKF Board to initiate such proceedings as it may deem fit in the circumstances of the matter.
- v. Needless to say, since Annexure-E has been quashed, the petitioners would continue to be members of the Managing Committee.
- vi. In view of the disposal of the main petition, pending IAs do not survive for consideration. Hence, pending IAs stands disposed of.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

SR
List No.: 1 Sl No.: 81