

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.33052 OF 2021

Between:

Nawab Syed Abdul Wahab

... Petitioner

And

Union of India & others

... Respondents

JUDGMENT PRONOUNCED ON: 03.06.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

- 1. Whether Reporters of Local newspapers may be allowed to see the Judgment? : Yes**
- 2. Whether the copies of judgment may be marked to Law Reporters/Journals? : Yes**
- 3. Whether Their Lordships wish to see the fair copy of the Judgment? : Yes**

SUREPALLI NANDA, J

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P.No.33052 OF 2021****% 03.06.2024****Between:****# Nawab Syed Abdul Wahab****... Petitioner****And****\$ Union of India & others****... Respondents****< Gist:****> Head Note:****! Counsel for the Petitioner : Mr.Vedula Srinivas****^ Counsel for Respondents : Deputy Solicitor General of
India for R1.
Mr.B.Jitender for R2
Mr.Asad Hussain for R3****? Cases Referred:**

- (1) W.P.No.13118/2009, dated 10.12.2009
- (2) Division Bench Order dated 31.08.2010 passed in
W.A.No.293 of 2010

HON'BLE MRS. JUSTICE SUREPALLI NANDA**WRIT PETITION No.33052 OF 2021****ORDER:**

Heard learned senior Counsel Sri Vedula Srinivas representing learned counsel Smt Vedula Chitrlekha appearing on behalf of Petitioner, Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India appearing on behalf of respondent No.1, Sri B.Jitender, learned counsel appearing on behalf of respondent No.2 and Sri Asad Hussain, learned counsel appearing on behalf of Respondent No.3.

2. The petitioner approached the Court seeking prayer as under:

".....to declare the action of the 1st Respondent in rejecting the representation of the petitioner, dated 14.12.2020 vide proceedings in F.No.18/4/2020.M.I., dated 19.08.2021 and to declare the Gazette Notification, dated 05.02.2019 issued by the 1st respondent nominating the 3rd Respondent to the Office of the 2nd Respondent Board U/s.5(1)(f) of the Salar Jung Museum Act, 1961 as arbitrary, unreasonable and illegal and to consequently set aside the same and to issue a consequential direction to nominate the Petitioner to the 2nd Respondent Board

U/s.5(1)(f) of the Salar Jung Museum Act, 1961 and pass such other order or orders...".

PERUSED THE RECORD :

3. Order impugned dated 19.08.2021 vide Proceedings No. F.No.18/4/2020.M.I. of the 1st respondent, reads as under:

"I am directed to refer to your representation dated 14.12.2020 requesting this Ministry to include you in the Salarjung Museum Board as a heir & family member of late Nawab Salarjung Bahadur III. You have mentioned that you are suitable and eligible to be nominated as member in Salar Jung Museum Board being member of Salar Jung family through your father Nawab Syed Abdullah and your application be considered pursuant to the judgement and decree in OS 156 of 1980.

You had also filed a Writ Petition No. 14716 of 2021 in High Court of Telangana, Hyderabad in this regard. Hon'ble High Court of Telangana while disposing of the Writ Petition at admission stage has directed the respondents to consider the representation submitted by the petitioner dated 14.12.2020 and pass appropriate order in accordance with law.

The representation dated 14.12.2020 submitted by you has been examined in consultation with Salar Jung Museum. In this context, it is informed that the said decree and judgment is related to compromise between the heirs/successors of Nawab Salar Jung III. Here it is

pertinent to mention that Late Nawab Salar Jung III had never married and the claim was for the properties left behind by Salar Jung Bahadur. This was spelt out in the decree wherein the petitioner is represented by his mother and guardian Putin Begum and this is related to share in assets/properties and not related to nomination as member of Salar Jung Museum Board.

The Salarjung Museum Act 1961 (No. 26 of 1961) was promulgated by Central government on 19.05.1961. Section 5 of Act mentioned about the person to function in the Board and section 5[1](f) mentioned about nomination of family of the late Nawab Salarjung Bahadur in the Board. The said nomination is to be notified by the Central Government in the Gazette by Ministry of Culture.

Your representation for nominating you as member of the Salar Jung Museum Board has not been proved by the document presented by you with the representation. Whatever document you have presented to this Ministry is on dispute of property and not related to nomination as member of Salar Jung Museum Board.

Further, on examination of your Writ Petition mentioned above, received with the copy of Judgement, it is seen that there is a misrepresentation of the truth at Para 4 of affidavit by claiming that "*the term of family member appointee has ended in 2013 and no valid nomination has been made by the GOI to the Board in the quota meant for the family members of Salar Jung who died on 02.03.1949 and the said office is lying vacant since*

several years." In this context it is mentioned here Nawab Ahtheram Ali Khan has been nominated as Member from 1997 and thereafter during 2003, 2008, 2013 and 2019. He is still in the existing Board and his term shall complete on 03.01.2024.

In view of above, it is not possible to include you in the Board of Salar Jung Museum Board. Your representation is accordingly disposed of.

4. The case of the petitioner in brief as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present writ petition, is as under:

i) It is the case of the petitioner that O.S.No. 156 of 1980 was filed before the VII Senior Civil Judge, City Civil Court, Hyderabad, for declaration of the rights of the Plaintiff therein and another suit in O.S.No.1451/1993 was filed for declaration that the Plaintiffs are the heirs of Najeeba Begum. The Petitioner is Defendant No.31 in O.S.No.156/1980 and the said Court has declared at para 37 of the judgment in O.S.No.156/ 1980 that the Defendants No.24 to 43 and 47 to 65 and 109 and 110 are entitled to declare as successors of Salarjung III. The said judgment was subject matter in A.S.No.335/2005 in the Court of III Addl. Chief Judge, City Civil Court, Hyderabad, and the same

was dismissed on 01.08.2007 confirming the judgment of the Lower Court and the same has become final. It is further the case of the Petitioner that by virtue of above mentioned orders of the Court the Petitioner was declared as successor of Salarjung III and the Petitioner was entitled to be considered for nomination to the 2nd Respondent Board by the 1st Respondent. One Nawab Ahtheram Ali Khan was nominated to the Board for a period of 5 years under the Gazette of India dated 07.11.2008 and it is the specific plea of the Petitioner that the said person is not the family member of Salarjung-III who died on 02.03.1949. The term of the appointee had ended in 2013 and the said office is lying vacant since several years.

ii) It is further the case of the Petitioner that, the Petitioner had made representations to the 1st and 2nd Respondents dated 14.12.2020 and 19.03.2020 respectively, for nominating the petitioner as the member of the 2nd respondent Board, but however, the same had not been considered.

iii) Aggrieved by the action of the respondent Nos. 1 and 2 in not considering the petitioner's representations, the petitioner filed W.P.No.1716 of 2021 and the same was disposed of vide order dated 01.07.2021, directing the respondents therein to

consider the petitioner's representation. Thereafter, the 1st respondent had issued proceedings in F.No.18/4/2020.M.I., dated 19.08.2021, rejecting the petitioner's representations. It is the specific case of the petitioner that, the 3rd respondent is a distant relative of Salarjung-I but not a member of the family of Salarjung-III. Thus, the appointment of the 3rd respondent as a member of the Board of the 2nd respondent successively in the years 2003,2008,2013 and 2019 is illegal and unsustainable. Hence, this Writ Petition.

5. The counter affidavit has been filed on behalf of Respondents No. 3 – Paras 3, 4, 5, 6 read as under :

"3.....Nawab Salar Jung III who died on 2-3-1949 was issueless and had never been married. So his family would be predominantly the family of his paternal ancestor.

The patriarch and ancestor of the Salar Jung family was Nawab Sir Salar Jung I. He was Dewan or Prime Minister of Hyderabad for three decades and had served three generations of the Rulers of the Asif Jahi dynasty namely, Nizam IVth, Vth and VIth Nizam the Vth died when his heir and successor Nizam VIth was only three years of age. Nawab Salar Jung I was then appointed as Regent (In charge Ruler) to manage all affairs of the State and he discharged these duties faithfully and diligently till

his death in the year 1883 by which time the young prince had been enthroned as Nizam VI.

Nawab Sir Salar Jung I was blessed with four issues two sons and two daughters. The elder son Nawab Laiq Ali Khan (Salar Jung II) had one child a son Mir Yousuf Ali Khan (Salar Jung III), the younger son Mir Sadat Ali Khan had only one child - a daughter Karim Unissa Begum who died in her early teens. His elder daughter Noor Unissa Begum died issueless. His younger daughter Sultan Bakht Begum was married to Nawab Behram ud Dowla and they were blessed with two sons Nawab Turab Yar 1 Jung and Nawab Sajid Yar Jung and two daughters.

Nawab Salar Jung II had married Zainab Begum who hailed from a Moulvi family.

Nawab Salar Jung I possessed vast Jagirs and was a man with a highly refined taste in Art and culture. A large number of the antiquities, artifacts and books which are part of the Salar Jung Museum and Library today were collected by him.

Nawab Salar Jung III inherited this trait and passion from his illustrious grandfather and expanded the family collection.

It would be relevant to mention here that while Salar Jung III inherited all the Jagirs, properties, titles, wealth from his paternal side, including the collection of antiquities and artifacts, he inherited nothing from his maternal side.

The aforesaid facts throw some light on Nawab Salar Jung III's family. Since Nawab Salar Jung III died unmarried without any issue, the Salar Jung Family would mean the descendants of Nawab Salar Jung I and/or their spouses.

4. In Reply to Para No. 3 of the said Writ Affidavit, the contents of the said Para are denied in Toto, except for averments specifically admitted herein. In para No 3, the petitioner is narrating about suits O.S No 156/1980 before the VIIth Senior Civil Judge, O.S. No. 1451 of 1983 before the City Civil Court Hyderabad and the Judgment in A.S. No. 335 of 2005 passed by the III rd Addl Chief Judge, City Civil Court, Hyderabad. The said cases for declaration dealt only with the issue of Virasath of Inams (Grants) concerning Jagir Amounts lying with the Jagir Administrator, where the paternal side of Nawab Salar Jung III to which this respondent belongs was held entitled to 2/3rd of the amount, while his maternal side to which the petitioner belongs was held entitled to 1/3rd from the Jagir commutation amounts. Drawing any further conclusions from these proceedings would be an act of fallacy.

5. In Reply to Para No. 4 of the said Writ Affidavit, the contents of the said Para are denied in Toto, except for averments specifically admitted herein. Para 4 deals with the views of the petitioner concerning nomination of a member of the Salar Jung family to the Salar Jung Museum Board. It may be noted that the petitioner Mr Syed Abdul

Wahab is not a member of Nawab Salar Jung Family as he is not of the bloodline of Nawab Salar Jung I. He is a son of Moulvi Syed Abdullah a brother-in-law of Nawab Salar Jung II who had married Zainab Begum, his sister. The said Zainab Begum as a result of her marriage to Nawab Salar Jung II would be considered as a member of Nawab Salar Jung Family, but her brother Moulvi Syed Abdullah by no stretch of imagination could be termed or classified as a member of Nawab Salar Jung Family. Moulvi Syed Abdullah or his progeny, cannot be members of the Salar Jung family at all, though they may be related to Nawab Salar Jung II on account of his marriage to Zainab Begum. Further, this petitioner has misrepresented facts and made a false statement before this Hon'ble Court by stating that this respondent is not a member of the Salar Jung family, whereas the truth is that this respondent's father Nawab Abbas Yar Jung is the only son of Nawab Turab Yar Jung whose mother Sultan Bakht Begum was Nawab Salar Jung I's daughter, while Nawab Salar Jung II was his son. It is not only a family relationship that this Respondent has with Nawab Salar Jung III but also a common bloodline tracing up to Nawab Salar Jung I.

The nomination of this respondent to the Salar Jung Museum Board as Family member is definitely not an erroneous appointment as the petitioner is trying to portray, but a correct and proper one. The petitioner further makes the false averment that the term of my appointment has ended in 2013 and that the said "Office" is lying vacant since several years. This statement made

by the petitioner directly contradicts the statement he has made in Para No 7 of his affidavit where he categorically says that the 3rd respondent has been successively appointed in the years 2003, 2008, 2013 & 2019. My father Nawab Abbas Yar Jung was nominated as the 1st family member on the Board in the year 1961 since the inception of the Museum and remained in that post for 37 years up-to the year 1997 when he voluntarily retired owing to his health condition and I was nominated as Board Member in his place and I am continuing to hold this office and my present term is valid up to 3rd Jan 2024. If the petitioner considers himself to be the only person eligible to be family member on the Museum Board, then why has it taken him a period exceeding 60 years before making such a claim. These facts speak sufficiently of the bogus and absurd nature of the contentions and claims raised by the petitioner.

6. In Reply to Para No. 5 of the said Writ Affidavit, the contents of the said Para are denied in Toto, except for averments specifically admitted herein. The contents of para No 5 being mostly false are denied by this respondent. The petitioner is considering himself to be the only person eligible to hold the office of Family member of Nawab Salar Jung to the Museum Board and that there is no "competition" from any of the parties to the suit O.S 156 of 1980, which is an absurd proposition. Section 5 (1)(f) of the Salar Jung Museum Act is very clear that the Family member to be selected by the Central Government should be a member of the Family of Nawab Salar Jung III.

As explained in the foregoing paragraphs, the Family of Nawab Salar Jung III would be the descendants of Nawab Salar Jung I and/or their spouses. The petitioner does not belong to the Salar Jung Family. His father Moulvi Syed Abdullah was brother-in-law of Nawab Salar Jung II. Further the petitioner is again making a false statement to the effect that his representation dated 14-12-2020 made to the 1st respondent and to the 2nd respondent are not considered so far. This is in total contradiction with what he says at para No 7 where he admits that the 1st respondent has issued proceedings in F. No 18/4/2020. M.I dated 19-08-2021, in reply to his representation, where his request has been rejected. In his material papers he has also filed copy of the said proceedings.

6. The counter affidavit filed by Respondent No.2 and in particular, Paras 6, to 10 read as under :

"6. In reply to Para No. 4, it is respectfully submitted that, as per section 5(1)(f) of the Salar Jung Museum Act 1961, a member nominated by the Central Government from the family of Late Nawab Salar Jung III, as per C.S.No. 13 of 1958 (compromise deed/decreed) dated: 15-03-1959, para 12 "that if the Defendant No. 15, i.e., Government of India, should constitute a Governing body or committee of Management or advisory Body regarding the said Museum or Library, it shall nominate or appoint to the said body or committee one or more members of Nawab Salarjungs'

family to be selected by the Defendant No. 15 in its absolute discretion.

7. It is respectfully submit that the present member Sri Nawab Ahtheram Ali Khan was nominated to the Salar Jung Museum Board from 1997 onwards and subsequently during the years 2003, 2008, 2013 and 2019. This is the 5th time Nawab Ahtheram Ali Khan was nominated, earlier to him, his father late Nawab Abbas Yar Jung was nominated by the Government of India as a Member representing the family of Late Nawab Salar Jung-III from 1961 onwards, during all these periods, there was no dispute from any one. **As mentioned by the Petitioner that no valid nomination has been made by the Government of India to the Board in the quota meant for family member of Salar Jung from 2013 is not correct.**

8. Reply to Para No. 5 and 6, **it is submitted that the present Board was constituted with nominated members for a period of 5 years in the year 2019. The present family member of the Salar Jung Museum Board continuing since 1997 on wards as per C.S.No. 13 of 1958 and as per the Salar Jung Museum Act, 1961. Nomination of member from the family of the Salar Jung is the sole discretion of the Government of India.**

9. Reply to Para No. 7, it is respectfully submitted that the Ministry has disposed the petitioner's representation on 19.08.2021. The Judgment and

decree dated: 05-03-1959 in C.S.No. 13 of 1958 related to compromise between heirs of Nawab Salar Jung.

10. It is submitted that the Salar Jung Museum Act, 1961 was promulgated by the Central Government on 19.05.1961, the said act in Section 4 constituted the Salar Jung Museum Board. Section 5 contemplates the persons to function on the Board and as per Section 5 (1)(f) of the said Act, a member nominated from the family of late Nawab Salar Jung III. The said nomination is to be notified by the Central Government in the Gazette by the Ministry of Culture. Section 7(2) of the Act, declares that no act of the Board shall be invalid merely by reason of

(a) any vacancy in or defect in the constitution of the Board; or

(b) any defect in the nomination of a person's acting as member thereof; or

(c) any irregularity in it's procedure not effecting the merits of the case,

and as such no other family member approached for nomination of Board member representing Salar Jung family during the tenure of Nawab Abbas Yar Jung. As per the Salar Jung Museum Act, 1961 one of the family member can be nominated, Board member i.e., within the prerogative of Government of India. The Ministry has already nominated the present Board member in February, 2019 and as such no vacancy exists at present.

7. The learned Senior Counsel Mr. Vedula Srinivas appearing on behalf of the Petitioner mainly puts-forth the following submissions :

- a) The nomination of the 3rd Respondent as Member of the Board of the 2nd Respondent is contrary to Sec.5(1)(f) of the Salarjung Museum Act, 1961.
- b) The 3rd Respondent is not the member of the family of late Nawab Salarjung Bahadur who died on 02.03.1949.
- c) The proceedings impugned in F.No.18/4/2020.M.I., dated 19.08.2021 is erroneous and one sided.
- d) The purport of the judgment of the Civil Court furnished by the Petitioner wherein the Petitioner was declared as Member of the family of the late Nawab Salarjung Bahadur had been ignored.
- e) It is the specific case of the Petitioner that it is not necessary to be direct descendant of Late Salarjung-III, it is sufficient if Petitioner is member of the family of late Salarjung-III.
- f) The 1st Respondent ignored the fact that the 3rd Respondent belongs to the family of Salarjung-I but not to the family of Salarjung-III.
- g) Petitioner's father Late Nawab Syed Abdullah and the mother of Salarjung-III i.e., Smt. Zainab Begum are brother and sister.

h) The 3rd Respondent is a distant relative of Salarjung-I but not a member of the family of Salarjung-III.

i) The appointment of the 3rd Respondent, successfully in the years 2003, 2008, 2013, 2019 is clearly biased and unsustainable.

Based on the aforesaid submissions the learned counsel appearing on behalf of the Petitioner submits that the writ petition has to be allowed as prayed for.

8. The learned counsel appearing on behalf of the 3rd Respondent mainly puts-forth the following submissions :

i) Since admittedly, Nawab Salarjung-III died unmarried without any issue, the Salarjung family would mean the descendants of Nawab Salarjung-I and/or their spouses.

ii) Petitioner is not a member of Nawab Salarjung family as he is not of the blood line of Nawab Salarjung-I.

iii) It is not correct to say that the said 'office' is lying vacant since several years. The said statement of the Petitioner is contrary to the Petitioner's own statement at para No.7 of the affidavit filed by the Petitioner in support of the present writ petition wherein the Petitioner categorically says that the 3rd Respondent had been successfully appointed in the years 2003, 2008, 2013, and 2019.

iv) The 3rd Respondent's father Nawab Abbas Yar Jung was nominated as the first family member on the Board in the year 1961 since the inception of the Museum and remained in that post for 37 years upto the year 1997, when the 3rd Respondent's father voluntarily retired owing to 3rd Respondent's father's health and the 3rd Respondent was nominated as Board Member in his place and had been continuing to hold the said office till the term ends i.e., upto 03.01.2024.

v) The claim of the petitioner after 60 years is unreasonable and absurd.

Basing on the aforesaid submissions the learned Counsel appearing on behalf of the 3rd Respondent contends that the writ petition has to be dismissed.

9. The Counter affidavit has been filed by the 2nd Respondent and the learned counsel appearing on behalf of the 2nd Respondent mainly puts-forth the following submissions :

i) The 3rd Respondent as the present family member of Late Nawab Salarjung-III was nominated to the Salarjung Museum Board from 1997 onwards and subsequently during the years 2003, 2008, 2013, and 2019. It is the fifth time that the 3rd Respondent had been nominated as per CS No.13/1958 and as per the Salarjung Museum Act, 1961.

ii) Earlier to the 3rd Respondent's father Late Nawab Abbas Yar Jung was nominated by the Government of India as member representing the family of late Nawab Salarjung-III from 1961 onwards and at no point of time for the last more than 5 decades there was dispute from any one.

ii) Nomination of member from the family of the Salarjung is the sole discretion of the Government of India.

Basing on the aforesaid submissions the learned counsel appearing on behalf of the 2nd Respondent contends that the writ petition has to be dismissed in limini.

DISCUSSION AND CONCLUSION

10. On perusal of record it is evident that on an earlier occasion, the very appointment of the 2nd Respondent to the Board of the Museum had been challenged in W.P.No.13118/2009 by one Nawab Behbood Ali Khan. The said writ petition had been dismissed vide order dated 10.12.2009 and a writ appeal preferred against the said order dated 10.12.2009 in W.P.No.13118/2009 was also dismissed vide orders dated 31.08.2010. The observations in the order dated 10.12.2009 passed in W.P.No.13118 of 2009 are brought on record in the present order.

11. The prayer sought for by one Nawab Behbood Ali Khan in W.P.No.13118/2009 filed by him is extracted hereunder:

“to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the order dated 07.09.2008 and Gazette notification dated 17.09.2008 in so far as it pertains to nomination of the 2nd respondent under section 591 F of the Central Act 26/1961 published in the Gazette of India dated 07.11.2008 G.S.R. 7769E of the Salar Jung Museum Board as illegal and liable to be set aside”.

12. The judgment dated 10.12.2009 passed in W.P.No.13118/2009 is extracted hereunder :

“The Salar Jung Museum, Hyderabad, was brought into existence through the Salar Jung Museum Act, 1961 (for short “the Act”), enacted by the Parliament. The Act, in turn, is an offshoot of a compromise decree passed in C.S.No.13 of 1958 by this Court. The affairs of the Museum are managed by a Board constituted under Section 4 of the Act. Section 5 of the Act deals with the composition of the Board. Clause (f) of sub-section (1) of that provision mandates that a person, who is member of the family of late Nawab Salar Jung Bahadur shall be appointed to the Board by the Central Government. The second respondent was appointed in that category in the year 1997 and thereafter, he came to be reappointed vide notification

dated 17.09.2008. The petitioner challenges the appointment of the second respondent. In addition to that, he makes a claim for appointment stating that he happens to be one of the legal heirs of late Nawab Salar Jung Bahadur. One of the grounds urged by the petitioner is that the second respondent incurred disqualification on account of the fact that one of his brothers was employed in the Museum.

The second respondent filed a counter-affidavit denying the allegations. It is stated that his right was recognised way back in the year 1997 and even the petitioner did not dispute his status as a member of the family of late Nawab Salar Jung Bhadur.

Heard Sri K.V.Satyanarayan, learned counsel for the petitioner, Sri A.Rajasekhar Reddy, learned Assistant Solicitor General, for the first respondent, and Ms Anusha Mahmood, learned counsel for the second respondent.

The Act provides for appointment of a member of the family of the late Nawab Salar Jung Bahadur on the Board, under Section 5 of the Act. The second respondent was appointed in that category way back in the year 1997. His appointment was not challenged. It is only the reappointment made on 17.09.2008, that is challenged.

The petitioner contends that the second respondent does not figure as a party to C.S.No.13 of 1958, and on the other hand, he has been added a party, on the death of his mother in the recent past. He claims that the appointment of the second respondent deserves to be set

aside and that he is entitled to be considered for appointment.

The contention of the petitioner as regards the non-eligibility of the second respondent is untenable. Firstly the petitioner has acquiesced in the appointment of the second respondent, which took place way back in the year 1997. In his own representation made to the Central Government as recently as on 01.11.2007, the petitioner admitted that the second respondent is also a grandson ex parte paterna like him. Nowhere in his representation, the petitioner stated that the second respondent is either ineligible or has incurred disqualification. The second facet of this very contention is that the brother of the second respondent has been employed in the Museum and thereby disqualification gets attached by operation of Section 8 of the Act. This contention is equally untenable. Except stating that the younger brother of the second respondent has been employed, no particulars either of the individual, the post or date of the appointment are mentioned. Further the provision is couched in general terms and does not mention the extent of proximity or kinness. Assuming that the younger brother of the second respondent is employed, the provision does not bring about disqualification. Therefore, the plea of the petitioner cannot be accepted.

The second limb of the prayer of the petitioner is that his case be considered for appointment as a member. The Act makes provision for appointment of only one member on the Board. As the second

respondent has already been appointed, the occasion to consider the case of the petitioner does not exist. Hence, no relief can be granted to the petitioner.

The writ petition is, accordingly, dismissed. The dismissal, however, does not preclude the petitioner from instituting a suit for declaration of the legal heirs of late Nawab Salar Jung Bahadur, in the context of appointment as member to the Board of the Museum. If any such suit is filed, it shall be the obligation of the petitioner to implead all the legal heirs. There shall be no order as to costs.

13. A bare perusal of the averments made in the counter affidavit filed by Respondent No.3 at paragraph No.5 very clearly indicates the stand of the 3rd Respondent, that the Petitioner is not a member of Nawab Salarjung family as he is not of the blood line of Nawab Salarjung-I. He is a son of Moulvi Syed Abdullah a brother-in-law of Nawab Salarjung-II who had married Zainab Begum his sister. The said Zainab Begum as a result of her marriage to Nawab Salarjung-II would be considered as a member of Nawab Salarjung family, but her brother Moulvi Syed Abdullah by no stretch of imagination could be termed or classified as member of Nawab Salarjung family. Moulvi Syed Abdullah or his progeny, cannot be members of the

Salarjung family at all, though they may be related to Nawab Salarjung-II on account of his marriage to Zainab Begum, and that the 3rd Respondent's father Nawab Abbas Yar Jung is the only son of Nawab Turab Yar Jung whose mother Sultan Bakht Begum was Nawab Salar Jung-I's daughter, while Nawab Salar Jung-II was his son. It is not only a family relationship that the 3rd Respondent has with Nawab Salar Jung-III but also a common blood line tracing upto Nawab Salar Jung-I.

14. Section 5(1)(f) of Salarjung Museum Act, 1961, reads as under :

Section 5-Composition of the Board.

"SECTION 5(1)(f) OF SALARJUNG MUSEUM ACT, 1961:

(1)The Board shall consist of the following persons, namely: -

(f) a person to be nominated by the Central Government, who shall be a member of the family of the late Nawab Salar Jung Bahadur who died on the 2nd day of March, 1949;

15. Section 7(2) of Salarjung Museum Act, 1961, reads as under :

Section 7- Temporary Absence of Member.

Section 7(2) of The Salar Jung Museum Act, 1961

7(2)No act of the Board shall be invalid merely by reason of

(a)any vacancy in, or defect in the constitution of, the Board, or

(b)any defect in the nomination of a person acting as a member thereof, or

(c)any irregularity in its procedure not affecting the merits of the case.

16. A bare perusal of Section 5(1)(f) of Salarjung Museum Act, 1961 (referred to and extracted above) clearly indicates that the family member to be selected by the Central Government should be a member of the family of Nawab Salarjung-III. It is the specific case of the 3rd Respondent that the family of the Nawab Salarjung-III would be the descendants of the Nawab Salarjung-I and/or their spouses since Nawab Salarjung-III died unmarried without any issues and that the Petitioner does not belong to Salarjung family since Petitioner's father was brother-in-law of Nawab Salarjung-II.

17. A bare perusal of the averments made in the counter affidavit of the 2nd Respondent indicates that the specific pleas of the 2nd Respondent are that, no family member approached for nomination of Board member representing Salarjung family, during the tenure of Nawab Abbas Yar Jung and as per Sec.7(2) of Salarjung Museum Act, 1961

'no act of the Board shall be invalid merely by reason of (a) any vacancy in or defect in the constitution of the Board or (b) any defect in the nomination of a person acting as a member thereof or (c) any irregularity in its procedure not effecting the merits of the case'.

18. The judgment relied upon by the learned counsel for the petitioner do not apply to the facts of the case, the pleas put forth by the petitioner are untenable.

19. Taking into consideration :

- a) The above said facts and circumstances of the case.
- b) The averments made in the counter affidavit filed by the Respondents No.2 and 3 (referred to and extracted above),
- c) Taking into consideration Section 5(1)(f) and Section 7(2) of Salarjung Museum Act, 1961,
- d) Taking into consideration of the order of this Court passed in W.P.No.13118 of 2009, dated 10.12.2009 in favour of the 3rd Respondent herein which had been upheld by the Division Bench of this Court vide its order dated 31.08.2010 in W.A.No.293 of 2010.

The writ petition is dismissed. The dismissal however does not preclude the Petitioner from instituting a suit for declaration of legal heirs of late Nawab Salar Jung Bahadur in the context of appointment as the Member of the Board of Museum. If any such suit is filed it shall be the obligation of the Petitioner to implead all the legal heirs. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

SUREPALLI NANDA,J

Date: 03.06.2024

**Note: L.R.Copy to be marked
(B/o) *ktm***