

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**WRIT PETITION Nos.38879 OF 2022 AND 34194 OF 2017**  
**W.P.NO.38879 OF 2022**

**Between:**

Ahmed Shujauddin Quadri

... Petitioner

**And**

The State of Telangana & others

... Respondents

**W.P.NO.34194 OF 2017**

**Between:**

Qazi Mohd.Zaheeruddin

... Petitioner

**And**

Government of Telangana & others

... Respondents

**JUDGMENT PRONOUNCED ON:30.09.2024**

**THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**

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

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**MRS. JUSTICE SUREPALLI NANDA**

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**  
**WRIT PETITION Nos.38879 OF 2022 AND 34194 OF 2017**

% 30.09.2024

**W.P.NO.38879 OF 2022**

Between:

# Ahmed Shujauddin Quadri

... **Petitioner**

**And**

\$ The State of Telangana & others

... **Respondents**

**W.P.NO.34194 OF 2017**

Between:

# Qazi.Mohd.Zaheeruddin

... **Petitioners**

**And**

\$ Government of Telangana & others

... **Respondents**

< **Gist:**

> **Head Note:**

**W.P.NO.38879 OF 2022**

! Counsel for the Petitioner : Sri A.Venkatesh, learned senior designated counsel representing Sri.P.Pandu Ranga Reddy, learned counsel on record.

^Counsel for Respondent No.1: GP for Social Welfare

^Counsel for Respondent No.2 : Sri Mohammad Obaid Mohiuddin

**W.P.NO.34194 OF 2017**

! Counsel for the Petitioner : Sri P.Sri Harsha Reddy,

^Counsel for Respondent No.1: Sri Swaroop Orilla, Special Government Pleader representing learned Additional Advocate General

^Counsel for Respondent No.2 : Sri Abu Akram ,learned standing counsel for TSWB

^Counsel for Respondent Nos.3 to 6 : Sri A.Venkatesh, learned senior designated counsel representing Sri.P.Pandu Ranga Reddy, learned counsel on record.

**? Cases Referred:**

i) (2023) 5 SCC 391

ii) AIR 1977 SC 1735

**HON'BLE MRS. JUSTICE SUREPALLI NANDA**

**WRIT PETITION Nos.38879 OF 2022 AND 34194 OF 2017**

**COMMON ORDER:**

**W.P.No. 38879 of 2022:-**

Heard Sri A.Venkatesh, learned senior designated counsel representing Sri P.Pandu Ranga Reddy, learned counsel appearing on behalf of the petitioner on record, learned Government Pleader for Social Welfare appearing on behalf of the respondent No.1 and Sri Mohammad Obaid Mohiuddin, learned counsel appearing on behalf of the respondent No.2.

**2. The petitioner approached the Court seeking prayer as under in W.P.No. 38879 of 2022 :**

".....to issue a Writ, order or direction and more particularly one in the nature of Writ of Mandamus declaring the action of the 1<sup>st</sup> respondent in not acting upon the Report of the Assistant Commissioner of Police dt 14.07.2021 and not initiating action against the 2<sup>nd</sup> respondent as being illegal arbitrary and unconstitutional and consequently direct the 1<sup>st</sup> respondent to forthwith act upon the Report of Assistant Commissioner of Police dt.

14.07.2021 and take effective and preventive steps against the 2<sup>nd</sup> respondent and pass.....”

**3. 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 No. 38879 of 2022, is as under:**

a) It is the case of the petitioner that, the petitioner herein is a Government Qazi appointed by the 1<sup>st</sup> respondent and since the date of appointment the petitioner had been rendering his services as Qazi of Jahanuma Zone (Ghazibanda). The 2<sup>nd</sup> respondent herein is Additional Qazi of Qila Mohammed Nagar and was appointed in the year 2008 vide G.O.Ms.No.2 and pursuant thereto the said additional Qazi had appointed Naib Qazis to assist him in performing the marriages. However, there are several instances where the office of the Additional Qazi is found to have involved in performing the marriages of young Muslim girls with old aged Arab Sheikhs. Several FIRs were registered against the Naib Qazis for performing the Child marriages. However, it is pertinent to mention here that, in all the FIRs only Naib Qazis are being shown as accused and the

Chief Qazi under whose Jurisdiction the said heinous crimes were committed is being let off.

b) Subsequently, in the year 2017 the 2<sup>nd</sup> respondent herein was suspended for performing the marriages of young girls with old aged Arab Shiekhs and even after suspension, three more FIRs were registered for performing the child marriages vide FIR No.201/2019 on the file of Kanchanbagh Police Station, FIR No. 139/2020 on the file of Rein Bazar Police Station and FIR.No. 2/2022 on the file of Kalapatthar Police Station. However, no actions were taken against the 2<sup>nd</sup> respondent. Therefore, the petitioner herein being a concerned Qazi had brought to the notice of the respondents herein by a written representation dated 12.03.2021 with regard to the nature of crimes that were committed and the connivance of the Government Qazi with Naib Qazis and his repeated excuse of not being aware or cannot be held responsible for the acts of Naib Qazis. However, the said representation was not considered and no action had been initiated.

c) Aggrieved by the same, the petitioner filed W.P.No.10231 of 2021 before this court and this court disposed the said writ petition vide order dated 27.04.2021 directing the 3<sup>rd</sup> respondent

to consider the representation of the petitioner dated 12.03.2021 and pass appropriate orders. Pursuant to the said orders, enquiry was conducted and report dated 14.07.2021 was submitted to the Commissioner of Police, bringing it to the notice of the Commissioner of Police with regard to the 6 FIRs and CCs registered and pending against the Naib Qazis of the 2<sup>nd</sup> respondent including one CC.No. 45/2020 where Additional Qazi himself is shown as accused. However, as the Naib Qazis had not confessed to the role of the 2<sup>nd</sup> respondent and as such he was not arrested.

d) Thereafter, a letter consisting of the report dated 14.07.2021 was addressed to the Principal Secretary, Minority Welfare Dept and in turn was forwarded to the 1<sup>st</sup> respondent for taking appropriate action. However, no action was taken by the 1<sup>st</sup> respondent till date. Subsequent to the submission of the report dated 14.07.2021, one more FIR was registered vide FIR No.2/2022 on the file of Kalapatthar under POSCO Act. Further a representation dated 06.01.2022 was filed by one concerned citizen but till date no action was taken by the 1<sup>st</sup> respondent. Aggrieved by the said inaction of the 1<sup>st</sup> respondent, the present writ petition is filed.

**PERUSED THE RECORD :**

**4. Report of the Assistant Commissioner of Police, Falaknuma Division, Hyderabad, dated 14.07.2021 is extracted hereunder:-**

It is to submit that Sri Ahmed Shujauddin Quadri (Khazi Ghazi Banda Zone, Hyderabad) R/o H.No.19-4-279/B/2/2, Hills Colony, Nawab Sahab Kunta, Jahanuma, Hyderabad has filed a petition vide reference 5<sup>th</sup> cited above at office of the CP Hyderabad with request to take necessary action against one Mohd Zaheeruddin, Addl. Khazi Qile Mohammed Nagar who have appointed Niab Khazis byname 1) Mohd Nseeruddin, 2)Habeeb Ali, 3)Mirza Qudrathullah, 4)Mohammed Ibrahim Ali, 5)Ilyas Khan, 6)Syed Mohd Imam Quadri and the said Naib Khazis are involved in child marriages and illegal activities and arrested by various police stations, the details are as follows.

Sl.No.	Crime No., sec of Law and date	Police Station	Name of accused Naib Khazi
1	24 of 2013 U/s 366, 354, R/w34 IPC & Sec 3 & 9 of Prohibition of Child Marriage Act 2010 Dt.02.03.2013	Moghal Pura	Mohd.Naseeruddin
2	119 of 2016 U/s 420, 468, 471, 109, 120(B) R/w 34 IPC & Sec.12 (1)(a)(b) of Indian Pasport Act 1967 Dt.17.01.2017	Kamati Pura	Mohd.Naseeruddin
3	163 of 2016 Under Sec 9 & 10 of	Chandrayanaguta	Habeeb Ali



	Prohibition of Child Marriage Act 2006 & Sec 420, & 511 IPC. Dt.07.04.2016		
4	163 of 2017 U/s 370, 376(2)(f)(i), 420, 468, 471, 506 r/w 34 IPC and Section 5(m) r/w 6 POCSO Act 2012 and Sec 9 &10 of Child Marriage Act 2006 Dt.17.8.2017	Falaknuma	Habeeb Ali
5	764/2017, U/s420,493,370,370-A, 109,511 IPC,Dt.23.08.2017	Mailardevpally	Habeeb Ali
6	1713/2017, U/s376(1) IPC and Sec 3 r/w 4 of POCSO Act 2012, Sec.10,11,12 of Protection of child Marriage Act 2006 and Sec.75 of JJ Act, Dt.13.08.2017	Rajendernagar	Mirza Qudrathullah
7	C.C.No.243/2018, U/s.323, 341, 506 R.w34 IPC	Mailardevpally	Mohammaed Ibrahim Ali
8	C.C.No.45/2020 (New C.C.No.45/2020)	Mailardevpally	Ilyas Khan
9	C.C.No.45/2020 (New C.C.No.45/2020)	Mailardevpally	Mohd.Zaheeruddin (additional Khazi)
10	201/2019, U/s366, 354(D)., 506, 376(2)(n) IPC and Sec 6 r/w 5(1) of Dt.24.09.2019	Mailardevpally	Syed Mohd.Imam Quadri.

Later, the petitioner Sri Ahmed Shujauddin Quadri (Khazi Ghazi Banda Zone, Hyderabad) has filed a Writ Petition in the Hon'ble High Court for the state of Telangana at Hyderabad vide Writ Petition No. 10231 of 2021, wherein

the Hon'ble High Court has allowed the Writ petition of Sri Ahmed Shujauddin Quadri (Khazi Ghazi Banda Zone, Hyderabad) and instructed to consider his petition.

As per the instructions of the Hon'ble High Court I have secured the presence of the petitioner and on enquiry it is revealed that the respondent Mohd Zaheeruddin has been appointed at Additional Khazi in the Qazzath Qile Mohammednagar. Later as per the Section 3 of Khazi Act 1880 Mr Mohd Zaheeruddin has appointed his Niab Khazis by name 1) Mohd Nseeruddin, 2) Habeeb Ali, 3) Mirza Qudrathullah, 4) Mohammed Ibrahim Ali, 5) Ilyas Khan, 6) Syed Mohd Imam Quadri who have been arrested by various police stations under child marriage Act and other offences as shown above. But as the Naib Khazis have not confessed about the role of Mr Mohd Zaheeruddin, Addl. Khazi Qile Mohammednagar he was not arrested by police.

In the above stated cases one of the Naib Khazi byname Habeeb Ali Bin Ahmed Attas is involved Crime No. 163/2017 U/s 370, 376 (2) (f) (i), 420, 468, 471, 506 r/w 34 IPC and Section 5 (m) r/w 6 POCSO Act 2012 and Sec 9 & 10 of Child Marriage Act 2006 and he was arrested and remanded to judicial custody on 20.11.2017.

The petitioner Sri Ahmed Shujauddin Quadri is alleging that the chief Khazi Mr. Mohd Zaheeruddin has appointed Niab Qazis byname 1) Mohd Nseeruddin, 2) Habeeb Ali, 3) Mirza Qudrathullah, 4) Mohammed Ibrahim Ali, 5) Ilyas

Khan, 6) Syed Mohd Imam Quadri and the Naib Qazis are involved in child marriages and various other illegal activities and they have been arrested by various police stations as stated above. But Mr Mohd Zaheeruddin, Addl. Khazi Qile Mohammednagar is responsible for the offences done by his Naib Khazis as he has to have knowledge of every Act of Naib Khazis to whom he have appointed. His basic contention is that he had not involved personally in performing the marriages but his Naibs were involved therefore, he should be penalized. As can be seen by his conduct Khazi Mohd Zaheeruddin instructs his Naibs to conduct marriages and seeks excuse on the ground that his Naibs had conducted the marriages, as he is vicariously responsible for the wrong actions of his sub ordinate.

In the above circumstances it is submitted that in Crime No. 163/2017 370, 376 (2) (f) (i), 420, 468, 471, 506 r/w 34 IPC and Section 5 (m) r/w 6 POCSO Act 2012 and Sec 9 & 10 of Child Marriage Act 2006 pertaining to Falaknuma P.S, Hyderabad Naib Khazi Mr. Habeeb Ali was already arrested and remanded to judicial custody on 20.11.2017. But as the Naib Khazi did not confessed about the role of Mr Mohd Zaheeruddin, Addl. Khazi Qile Mohammednagar he was not arrested by police and the case is in a stage of filing of charge sheet, **in this regard it is requested to kindly address a letter to the Principal Secretary to Govt. Minorities Welfare Department, 3rd Floor, BRKR Bhavan, Tank Bund Hyderabad with request to conduct an enquiry against Mr Mohd Zaheeruddin,**

**Addl. Khazi Qile Mohammednagar and take necessary action or direct him perform marriages personally and not to take assistance of his Naibs who were involved in above stated offences.**

Submitted for favour of information and necessary action.

**5. Report of the Deputy Commissioner of Police, South Zone, Hyderabad vide letter, dated 13.08.2021 is as under:-**

“ With reference to the above subject cited, received from Sri Ahmed Shujauddin Quadri Khazi Banda Zone Hyderabad R/o H.No.19-4-279/B/2/2, Hills colony, Nawab Sahab Kunta Jahanuma, Hyderabad with a request to submit a detailed report. The same has been communicated to the ACP Falaknuma Division, Hyderabad for enquiry and report.

**In this regard, the ACP Falaknuma Division, Hyderabad, has submitted his report vide reference, which is enclosed herewith as desired.**

**6. Interim order, dated 23.10.2017 passed in W.P.M.P.No.42517 of 2017 in W.P.No. 34194 of 2017 is extracted hereunder:-**

**“This Court notices that under the impugned G.O.Ms.No.29, dated 25.09.2017, the petitioner, who**

is working as an Additional Khazi of Qazzath Qile Mohammednagar, Hyderabad, was suspended for the irregularities committed by the Naib Khazi appointed by him. It also appears that another Additional Khazi also committed irregularities and he was also suspended. There is no allegation against the petitioner who is an Additional Khazi. There is no provision in the Khazis Act for suspending the Additional Khazi for their irregularities committed by the Naib Khazi.

In the circumstances, there shall be interim suspension of the impugned order, until further orders.

Notice.

**7. Section 2 of Qazi Act, 1880 is extracted hereunder:-**

**2. Power to appoint Kazi's for any local area.—**

Wherever it appears to the State Government that any considerable number of the Muhammadans resident in any local area desire that one or more Ka'zi's should be appointed for such local area, the State Government may, if it thinks fit, after consulting the principal Muhammadan residents of such local area, select one or more fit persons and appoint him or them to be Kazi's for such local area.

If any question arises whether any person has been rightly appointed Kazi' under this section, the decision thereof by the State Government shall be conclusive.

The State Government may, if it thinks fit, suspend or remove any Kazi' appointed under this section who is guilty of any misconduct in the execution of his office, or who is for a continuous period of six months absent from the local area for which he is appointed, or leaves such local area for the purpose of residing elsewhere, or is declared an insolvent, or desires to be discharged from the office, or who refuses or becomes in the opinion of the State Government unfit, or personally incapable, to discharge the duties of the office.

**8. Counter has been filed on behalf of the 1<sup>st</sup> respondent in W.P.No. 38879 of 2022, relevant para Nos. 6, 7, 8 and 11 are extracted hereunder:-**

6. It is submitted that subsequently it has come to the notice of the Government through Assistant Commissioner of Police, Falaknuma Divn., Hyderabad vide his Report No. 1419/OW/ACP/FN-DIVN/2021, dated 14-07-2021, stating among other things, certain Naib Khazis as well as the Respondent No.2 who were involved in various offences of performing marriage of poor/minor girls with Foreigners, Arab sheiks and cheating the innocent and poor girls and their parents. The criminal cases were registered against

them by certain Police stations, the Naib Khazi did not confess about the role of the Respondent No.2, he was not arrested by police and the cases are in a stage of filing of charge sheet. In this regard, he requested the Government to conduct an enquiry against the Respondent No.2 and take necessary action or direct him to perform marriages personally and not to take assistance of his Naibs who were involved in various offences in the subject matter of performing marriages.

7. It is further submitted that on the request of the petitioner the Dy. Commissioner of Police, South Zone, Hyderabad vide his letter No.SZ/HS-1/2896/2021, dt. 13-08-2021, addressed to the Government that he has communicated to the ACP, Falaknuma Division, Hyderabad for enquiry and report. He further stated that ACP Falaknuma Division, Hyderabad has submitted his report.

8. It is submitted that the Respondent No.2 on the guise of Interim Orders in W.P.M.P. No.42517 of 2017 in W.P.No.34194 of 2017 dated 23-10-2017 of the Hon'ble High Court is continuing as Khazi in Qile Mohammednagar, Hyderabad. Thus the Government cannot take any action, being the offences are criminal in nature against the Respondent No.2 as well as there will be stay of orders of the Hon'ble Court dated 23-10-2017.

11. In reply to averments made in Para 14 to 16, it is submitted that the above cases are under investigation by the Police. However, the Government requested the Commissioner of Police, Hyderabad to get enquiry done and take appropriate action as the case deals with criminal matter and since the Police Department is the Competent Authority in the matter vide Govt. Memo.No.3205/Estt.I/2017, dated 05-03-2022. **Further, the application of the petitioner leveling allegations against the Respondent No.2, is also referred by the Government to the Home Department for taking necessary action as the subject matter pertains to them only vide U.O.Note No.3205/ESTT-I/2017, dated 05-03-2022.**

**9. Counter has been filed on behalf of the 2<sup>nd</sup> respondent in W.P.No. 38879 of 2022, relevant para Nos. 4, 6, 11 and 12 are extracted hereunder:-**

4. That it is pertinent to mention here that there are disputes pertaining to demarcation of the area of the respective Qazis of the Twin Cities and in order to overcome the same, some of the Qazis have been making hectic efforts to tarnish the image of the Respondent by implicating in cases one way or the other including petitioner herein.



6. I submit that the 1<sup>st</sup> Respondent has filed its counter Affidavit duly clarifying that the 1<sup>st</sup> Respondent has already taken action on the report of the ACP dated 14/07/2021 and issued Memo No. 3205/ESTT-I/2017 dated 05/03/2022. Since the relief sought for in this writ petition has already been worked out, the writ petition became infructuous and is liable to be dismissed.

11. It is equally relevant to mention herein that neither the alleged victim/ nor kith of victim or any person are made any complaint except the Petitioner herein which is nothing but personal enmity and grudge. The personal enmity developed due to boundary dispute about Qazzath area which gone to the extent that he started filing false and frivolous private complaints as a revenge on pretext or other.

12. I submit that from the above, it is clear that none of the crimes pending are directly against the answering Respondent nor is there any allegation about the involvement of the Respondent. Even while the said crimes are pending investigation, the 1<sup>st</sup> Respondent has issued the impugned proceedings without even giving an opportunity to the me to submit the explanation and the same is in violation of the Principles of Natural justice as such 2<sup>nd</sup> Respondent approached the Hon'ble High Court and filed W.P No. 34194/2017. The Hon'ble Court granted interim

suspension said GOMs No.29, MWD dated: 29.04.2017 and later the 1<sup>st</sup> respondent has revoked the said G.O. by another GO.Ms.No.67/2017, dated 12.03.2018.

**W.P.No. 34194 of 2017:-**

10. Heard Sri P.Sri Harsha Reddy, learned counsel appearing on behalf of the petitioner, Sri Swaroop Orilla, learned Special Government Pleader representing learned Additional Advocate General appearing on behalf of the respondent No.1 on record, Sri Abu Akram, learned standing counsel for TSWB appearing on behalf of respondent No.2 and Sri A.Venkatesh, learned senior designated counsel representing Sri P.Pandu Ranga Reddy, learned counsel appearing on behalf of the respondent Nos. 3 to 6 on record.

11. **The petitioner approached the Court seeking prayer as under in W.P.No. 34194 of 2017 :**

".....to issue a Writ order or direction more particularly in the nature of a writ of Mandamus declaring G. O. Ms. No. 29 dated 25.09.2017 issued by the 1<sup>st</sup> Respondent suspending the Petitioner from the post of Additional Khazi of Qazzath Qile Mohammednagar Hyderabad as being illegal arbitrary unconstitutional and contrary to the

provisions of The Kazis Act 1880 apart from being violative of principles of natural justice and consequently set aside the same....."

**12. The case of the petitioner, in brief, as per the averments made by the petitioner in the affidavit in W.P.34194 of 2017 filed by the petitioner in support of the present writ petition, is as under:**

a) It is the case of the petitioner that, the petitioner had been appointed as Addl. Qazi of Qazzath Qile Mohammed Nagar, Hyderabad and Ranga Reddy District vide G.O.Ms. No.2 dated 07.02.2008. Since then discharging the duties of additional Qazi of Qile Mohammed Nagar without any complaints. Thereafter, the Petitioner had appointed several Naib Qazi's to assist the Petitioner in performing the marriages and the marriages would be performed by a Quazi upon being approached by the bride or bride groom. Moreover, at the time of marriage, the bride/bride groom does not produce documents in proof of the age and the marriage would be performed basing on the information furnished by the bride/bride groom and the age would be incorporated as per the information given by the parents/elders of the bride/bride groom.

b) Further, the Wakf Board supplies two marriage Booklets to the Qazis, one in red colour to be given to the Bride and the other in green colour to be given to the Bride Groom after the marriage in proof of marriage and the board also supplies three forms in which all the information pertaining to the marriage would be incorporated at the time of marriage including the signatures of the Bride, Bride Groom, Parents of both the Bride and Bride Groom, witnesses on behalf of the Bride and Bride Groom. Thereafter, a copy would be retained with the Qazi and a copy would be submitted at the Wakf Board and the third copy would be submitted to the State Archives Department.

c) It is pertinent to mention here that, the marriage booklets supplied by the 2<sup>nd</sup> Respondent clearly specifies that the parents/ Guardian of the Bride and Bride Groom are responsible for the particulars incorporated in the marriage Booklet and Certificates. However, in contrary the 1<sup>st</sup> Respondent had issued G.O.Ms.No.29 dated 25.09.2017 suspending the Petitioner from the post of Government Additional Khazi of Qazzath Qile Mohammed nagar, Hyderabad with immediate effect, basing on some perverse allegations with which the Petitioner is not connected with. Moreover, the petitioner had not been officially communicated with the impugned order citing four FIRs vide

serial Nos. 2 to 5 and further there are disputes pertaining to demarcation of the locality of the respective Qazis of the Twin Cities and in order to overcome the same, some of the Qazis have been making hectic efforts to tarnish the image of the Petitioner by implicating in cases one way or the other.

d) It is the further case of the petitioner that, there are no of the crimes pending are directly against the Petitioner nor is there an allegation about the involvement of the petitioner as the police is yet to file charge sheets in the said crimes. Even while the said crimes are pending investigation, the 1<sup>st</sup> Respondent has issued the impugned proceedings dated sated without even giving an opportunity to the petitioner to submit explanation and the same is in violation of principles of Natural Justice. Hence, this writ petition

**13. Counter affidavit filed by respondent No.1, in W.P.No. 34194 of 2017, relevant para Nos. 8, 9, 10, 11, 12 and 13 are extracted hereunder:-**

8. It is submitted that basing on the aforementioned FIRs, the Government taking into account the criminal activities carried out in petitioner's Qazzath suspended the petitioner from the post of Additional Khazi, Qazzath Qile

Mohammednagar, Hyderabad with immediate effect U/s 2 of the Khazis Act, 1880, vide GO Ms.No.29 dated 25-09-2017.

**9. It is further submitted that Government in compliance with the Interim Orders in W.P.M.P. No.42517 of 2017 in W.P.No.34194 of 2017 of Hon'ble High Court, revoked the orders issued in G.O.Ms.No.29, Minorities Welfare (Estt.II) Department dated 25-09-2017, subject to final orders of Hon'ble Court in the above writ petition vide GO Rt. No. 67 dated 12-03-2018**

10. It is submitted that subsequently it has come to the notice of the Government through Assistant Commissioner of Police, Falaknuma Divn.. Hyderabad vide his Report No. 1419/OW/ACP/FN-DIVN/2021, dated 14-07-2021 among other things, that criminal cases were registered against Naib Kazis i.e. Mohd Naseeruddin, Habeeb Ali, Mirza Qudrathullah, Mohd Ibrahim Ali, Ilyas Khan, Syed Mohd Imam Quadri as well as the Petitioner herein by Police stations of Moghalpura, Kamatipra, Chandrayangutta, Falaknuma and Kanchanbagh, Hyderabad city and, Mailardevpally, Rajendernagar of Cyberabad Commissionerate respectively. He further informed that in Crime No.163/2016 U/s 370, 376(2) (f) (i), 420, 468, 471, 506 r/w 34 IPC and Section 5 (m) r/w 6 POCSO Act and Sec 9 and 10 of Child Marriage Act 2006 pertaining to Falaknuma PS., Hyderabad Naib Khazi Habeeb Ali was

already arrested and remanded to judicial custody on 20-11-2017; but as the Naib Khazi did not confess about the role of the petitioner, Mohd Zaheeruddin, Addl Khazi, Qile Mohammednagar he was not arrested by police and the case is in a stage of filing of charge sheet, in this regard, he requested the Government to conduct an enquiry against the petitioner and take necessary action or direct him to perform marriages personally and not to take assistance of his Naibs who were involved in various offences of performing marriage of minor girls with Foreigners, Arab sheiks and FIR No. 1713/2017 U/s 376(1) IPC and Sec 3 r/w 4 of POCSO Act 2012, Sec. 10, 11, 12 of Protection of Child Marriage Act 2006 and Sec 75 of JJ Act against Sri Mirza Qudrathullah Baig for cheating the innocent and poor girls and their parents, both are the appointees of the petitioner as Naib Khazis. It is submitted that, FIRs bearing No.163/2016 of Chandrayangutta Police Station U/s 9 & 10 of Prohibition of Child Marriage Act 2006 & 420 & 511 IPC dated 07-04-2016, FIR No.1713/2017 of Rajendernagar Police Station U/s 376(1) IPC and Section 3 r/w 4 of POCSO Act 2012, Sec. 10, 11, 12 of Protection of Child Marriage Act 2006 and Section 75 of JJ Act, dated 13-08-2017, FIR No.764/2017 of Mailardevpally Police Station U/s 420, 493, 370, 370-A, 109, 511 IPC dated 23-08-2017 and FIR No.163/2017 of Falaknuma Police Station U/s 370, 376(2) (f) (i), 420, 468, 471, 506 r/w 34 IPC, and Section 5(m) r/w 6 POCSO Act, 2012 and Section 9 & 10 of Child Marriage Act, 2006 dated 17-08-2017 IPC were issued against petitioner's

appointees, Naib Khazis, Sri Mohd Habeeb Ali and Mirza Qudrathullah Baig, for performing marriages of minor girls and cheating the innocent and poor girls and their parents.

11. It is submitted that the above cases are under investigation by the police. However the Government requested the Commissioner of Police, Hyderabad to get enquiry done and take appropriate action as the case deals with criminal matter and since the police department is the competent authority in the matter vide Memo. No.3205/Estt.I/2017, dated 05-03-2022. Further, the application of Sri Ahmed Shujauddin Quadri, Khazi, Ghazibanda Zone, leveling allegations against the petitioner, also referred by the Government to the Home Department for taking necessary action as the subject matter pertains to them only vide UO Note No.3205/ESTT-I/2017 dated 05-03-2022.

**12. It is pertinent to mention that "doctrine of liability of the master for the act of his servant is based on the maxim RESPONDENT SUPERIOR which means "let the principal be liable and it puts master in the same position as if he had done the act himself"**

**13. In reply to the averments in Para 13 to 15, it is submitted that criminal activities carried out in petitioner's Qazzath as such the petitioner is liable for the wrongful/criminal acts done by his**



**appointees as Naib Khazis as if they are done by the petitioner himself. Thus the Petitioner cannot escape with the responsibility of the misdeeds of his appointees on the pretext that he is not personally involved.**

**DISCUSSION AND CONCLUSION:-**

14. A bare perusal of the record in W.P.No.38879 of 2022 and 34194 of 2017 clearly indicates that cases had been registered against the petitioner in W.P.No.34194 of 2017, who is the 2<sup>nd</sup> respondent in W.P.No.38879 of 2022.

15. It is the main grievance of the petitioner in W.P.No. 34194 of 2017 that the Principal Secretary, Minority Welfare Department, Secretariat Buildings, Hyderabad, the 1<sup>st</sup> respondent thereunder had issued the impugned GO.Ms.No.29, dated 25.09.2017, suspending him from the post of Additional Khazi of Qazzath Aile Mohammednagar, Hyderabad without giving an opportunity to him to submit the explanation and the same is in violation of principles of natural justice, and it is further the specific plea of the said petitioner that none of the crimes pending and registered which had been the basis to issue the impugned G.O. indicate direct involvement of the petitioner

in any of the crimes and when the said crimes are pending investigation the impugned proceedings vide GO.Ms.No.29, dated 25.09.2017 had been issued by the 1<sup>st</sup> respondent.

16. On the other hand, it is the case of the petitioner in W.P.No.38879 of 2022 and the 1<sup>st</sup> respondent in W.P.No.34194 of 2017 that several cases had been registered against the petitioner in W.P.No.34194 of 2017. The report of the Assistant Commissioner of Police, Falaknuma Division, Hyderabad, dated 14.07.2021 clearly indicates a request from his end, addressed to the Commissioner of Police, Hyderabad city to address a letter to the Principal Secretary to Government Minorities Welfare Department, Hyderabad to take necessary action against the petitioner in W.P.No.34194 of 2017 for his involvement and his Naib Khazis in conduct of child marriages since various crimes had been registered against him and his Naib Khazis under Sections 370, 376(1)(f)(i), 420, 468, 471, 506 read with 34 IPC and Section 5(m) r/w 6 POCSO Act, 2012 and Section 9 and 10 of Child Marriage Act, 2006, in various police stations i.e., Moghalpura, Kamatipura, Chandrayangutta, Faluknama, Rajendranagar, Kanchanbagh, Mailardevpally, Hyderabad.

17. It is further the specific case of the petitioner in W.P.No.38879 of 2022 and the 1<sup>st</sup> respondent in W.P.No.34194 of 2017 and W.P.No. 38879 of 2022 i.e., the Principal Secretary Minority Welfare Department, Secretariat Buildings, Hyderabad that since criminal activities had been carried out by the Naib Khazis of Writ Petitioner in W.P.no.34194 of 2017 in his Qazzath and since they are his assistants, he shall be liable for the wrongful/criminal acts done by his appointees as Naib Khazis as if they are done by himself and he cannot escape his liability for the misdeeds of his appointees on the pretext that he is not personally involved.

**18. A bare perusal of the averments made in the counter affidavit filed by the 1<sup>st</sup> respondent in W.P.No.34194 of 2017 in particular para Nos. 8, 9, 10, 11, 12 and 13, and the counter affidavit filed by the 1<sup>st</sup> respondent in W.P.No. 38879 of 2022, in particular para Nos. 6, 7, 8 and 11 indicates the details of several cases registered against the petitioner and his Naib Khazis.**

**19. It is also borne on record that the Government requested the Commissioner of Police, Hyderabad to get**

enquiry done and take appropriate action in the matter vide Memo No.3205/Estt.I/2017, dated 05.03.2022, but the Government however is not able to take action in view of the interim orders, dated 23.10.2017 granted by this Court in favour of the petitioner in WPMP.No.42517 of 2017 in W.P.No.34194 of 2017, which are in force as on date, and in pursuance to the said interim orders, 1<sup>st</sup> respondent had revoked GO.Ms.No.29, MWD, dated 25.09.2017 issued against the petitioners in W.P.No.34194 of 2017 by another GO.Ms.No.67/2017, dated 12.03.2018, subject to final orders of the High Court in W.P.No.34194 of 2017.

20. This Court also takes note of the fact borne on record through the proceedings of the 1<sup>st</sup> respondent, dated 05.03.2022 addressed to Commissioner of Police, Hyderabad that there is a letter, dated 13.08.2021, on the subject issue by the Deputy Commissioner of Police, South Zone, Hyderabad in addition to the detailed report, dated 14.07.2021 of the Assistant Commissioner of Police, Falaknuma Division, Hyderabad addressed to the Commissioner of Police, Hyderabad City.

**21. In the judgment of the Apex Court in Ravasaheb Alias Ravasahebgouda and Others Vs. State of Karnataka reported in (2023) 5 SCC 391 and in particular at para Nos. 30, 31 and 32, it is observed as under:-**

30. A three judge bench of which one of us (B.R Gavai J.) was a member, observed as under in respect of the application of [Section 149](#), of the Indian Penal Code, 1860

“38. [Section 149](#) of the Indian Penal Code, 1860 is declaratory of the vicarious liability of the members of an unlawful assembly for acts done in prosecution of the common object of that assembly or for such offences as the members of the unlawful assembly knew would be committed in prosecution of that object. If an unlawful assembly is formed with the common object of committing an offence, and if that offence is committed in prosecution of the object by any member of the unlawful assembly, all the members of the assembly will be vicariously liable for that offence even if one or more, but not all committed the offence. Again, if an offence is committed by a member of an unlawful assembly and that offence is one which the members of the unlawful assembly knew to be likely to be committed in prosecution of the common object, every member who had that knowledge will be guilty of the offence so committed.

31. While overt act and active participation may indicate common intention of the person perpetrating the crime, the mere presence in the unlawful assembly may fasten vicariously criminal liability under [Section 149](#).

32. When a case involves large number of assailants it is not possible for the witness to describe the part played therein by each of such persons. It is not necessary for the prosecution to prove each of the members' involvement especially regarding which or what act.

22. In the judgment of the Apex Court in Pushpabai Purshottam Udeshi and Others Vs. Ranjit Ginning and Pressing Co.Pvt.Ltd. and Another reported in AIR 1977 SC 1735 and in particular at para No. 15, it is observed as under:-

15. On a consideration of the cases, we confirm the law as laid down by this Court in Sitaram Motilal Kalal v. Santanu prasad Jaishankar Bhatt (supra) **and find that in this case the driver was acting in the course of his employment and as such the owner is liable**. We therefore set aside the finding of the High Court that the act was not committed in the course of employment or under the authority of the master, and allow the appeal.

**23. This Court opines that the matter cannot be kept pending any further and hence, taking into consideration:**

- i) The aforesaid facts and circumstances of the case**
- ii) The submissions put-forth by all the learned counsel on record in W.P.No.38879 of 2022 and W.P.No.34194 of 2017.**
- iii) The averments made in the counter affidavit filed by the 1<sup>st</sup> respondent in W.P.No.38879 of 2022 and W.P.No.34194 of 2017 (referred to and extracted above)**
- iv) The averments made in the counter affidavit filed on behalf of the 2<sup>nd</sup> respondent in W.P.No.38879 of 2022 (referred to and extracted above).**
- v) Duly considering Section 2 of the Kazis Act, 1880**
- vi) The principle laid down in the judgments of the Apex Court (referred to and extracted above)**
  - a) Ravasaheb Alias Ravasahebgouda and Others Vs. State of Karnataka reported in (2023) 5 SCC 391**
  - b) Pushpabai Purshottam Udeshi and Others Vs. Ranjit Ginning and Pressing Co.Pvt.Ltd. and Another reported in AIR 1977 SC 1735**

vii) The interim orders granted in favour of the writ petitioner, dated 23.10.2017 in WPMP.No.42517 of 2017 in W.P.No. 34194 of 2017 which are in force as on date.

The Writ Petition No. 38879 of 2022 is allowed as prayed for.

The Writ Petition No.34194 of 2017 is allowed as prayed for.

The 1<sup>st</sup> respondent is directed to initiate appropriate action as mandated under Section 2 of the Khazi's Act, 1880 (referred to and extracted above) against the writ petitioner in W.P.No. 34194 of 2017 in accordance to law in conformity with principles of natural justice, duly considering the observations in report of the Assistant Commissioner of Police, dated 14.07.2021 addressed to the Commissioner of Police, Hyderabad, the letter of the Deputy Commissioner of Police, South Zone, Hyderabad, dated 13.08.2021 and the Memo, dated 05.03.2022 of the 1<sup>st</sup> respondent herein addressed to the Commissioner of Police, Hyderabad, expeditiously, preferably within a period of six (06) weeks from the date



**of receipt of copy of the order. However, there shall be no order as to costs.**

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

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**MRS. JUSTICE SUREPALLI NANDA**

Date: 30.09.2024

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