

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD****W.P. No. 3502 of 2023**

Between:

**M.A.Rahman****... Petitioner****And****The State of Telangana and others****... Respondents**

JUDGMENT PRONOUNCED ON: 04.07.2023

**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  
marked to Law Reporters/Journals? : yes**
- 3. Whether Their Lordships wish to  
see the fair copy of the Judgment? : yes**

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 3502 of 2023**

% 04.07.2023

Between:

# **M.A.Rahman**..... **Petitioner**

And

\$ **The State of Telangana and others**... **Respondents**< **Gist:**> **Head Note:**

! Counsel for the Petitioner : Mohd. Asifuddin

^ Counsel for Respondent No.1 : G.P. for Social Welfare

^ Counsel for respondent No.2: Sri K.Jamali

^ Counsel for respondents 3 to 14: Sri Zeeshan Mohamood

**? Cases Referred:**

1. 2007 (8) SCC page 449
2. (2022) 4 Supreme Court Cases 414

**HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 3502 of 2023****ORDER:**

Heard Sri Mohd. Asifuddin, learned counsel for the Petitioner, Sri K.Jamali, learned Government Pleader for Social Welfare, learned counsel for the 2<sup>nd</sup> respondent, and Sri Sri Zeeshan Mahmood, learned counsel for respondents 3 to 14.

2. This Writ Petition is filed to issue a Writ of Mandamus declaring the impugned Proceedings F.No. 15/sec-bad/C/2016, dated 18.08.2022, issued by respondent No.2 in constituting the Managing Committee of JamiA Masjid Eidgah and Graveyard, chilakalaguda, Secunderabad as illegal as it is in violation of Regulations 5, 6, 7 and 8 of the Andhra Pradesh Wakfs Managing Committee, (Constitution, Functions, Duties) Regulations, 2009 and set aside the same.

**3. The case of the petitioner, in brief, is as follows:**

a) The petitioner admits that he is a person interested within the meaning of Section 2 (k) of the Wakf Act, 1955.

**b)** The petitioner and two other panel members made representation to respondent No.2 for appointing them as Managing Committee to Jamia Masjid Eidgah and graveyard situated at Chilakalguda, Secunderabad, and conduct the elections of Mussalies and constitute the Managing Committee under the supervision of the Inspector Auditor of Waqf as per Section 5 of Andhra Pradesh Waqfs Managing Committee (Constitution, Functions and Duties) Regulations, 2009, but respondent No.2 omitted the same.

**c)** Whenever there is more than one panel and when there is no unanimous panel, the concerned officials are bound to conduct elections from among mussalies of the Waqf Institution under the control and supervision of Inspector Audit of Waqf, but the 2<sup>nd</sup> respondent in violation of the above Section straight away appointed one panel as Managing Committee without assigning any reasons which is colorable exercise of power and the same is liable to be set aside.

**d)** Respondent No.2 violated Section 9 (vi) of the Andhra Pradesh Waqfs Managing Committee (Constitution, Functions and Duties) Regulations, 2009, by appointing members against whom there was an enquiry for misappropriation

which was initiated by appointing Mr. Janab Wahed Khan and they are liable to be disqualified even for the consideration of the post of a Committee Member. Hence, this writ petition.

**4. The counter filed by Respondent No. 2, in brief, is as follows:**

a) The Waqf Board has taken all required measures for the constitution of the Managing Committee under Section 18 of Waqf Act, by duly following the provisions of the Andhra Pradesh Wakfs Managing Committee (Constitution, Functions and Duties) Regulations, 2009.

b) Basing on the Joint Report of the officials of the respondent Waqf Board on 16.09.2021, that the proposed Co-Member/ General Secretary of the petitioner Viz. along with some of the members proposed in the panel of the petitioner and Sri. Mohd Nayeem Khan are covered in FIR No. 665 of 2022, dated 29.08.2022, on the file of Chilakalguda Police Station.

c) Under Regulation 9 (7) of Andhra Pradesh Waqfs Managing Committee (Constitution, Functions and Duties)

Regulations, 2009, the tenant of Waqf cannot be a member of the Managing Committee of such waqf institution. Having the knowledge about the same one Mr Mohd Nayeem Khan had suppressing the said fact, he once again got enlisted earlier withdrew W.P.No.40730 of 2022 and his name in the proposed panel of the petitioner. Therefore, only respondent Nos. 4 to 14 were considered for the Managing Committee as the panel of the petitioner was found ineligible for contesting in the elections.

**d)** Respondent No.2 board is an supervising authority over all the Waqf Institutions under Section 32 of the Waqf Act, 1995 and had taken all measures and precautions to safeguard the interest of Waqf institution and its management.

**e)** The action of the respondents in proceedings bearing No. 15/Sec'bad/C/2016 dated 18.08.2022, is good in law and the Waqf Committee constituted by respondent board is in the interest of waqf as per Section 100 of the Waqf Act, 1995. Hence, this writ petition may be dismissed.

**5. The counter affidavit filed by Respondent Nos. 4 to 14, in brief, is as follows:**

a) The petitioner in the present case is the grandson of the erstwhile President and also was a Mouzin of the subject Mosque from 2008 to 2014 and was removed from that post on account that the petitioner had wrongly issued Death Certificate without proper verification. After the petitioner's removal as Mouzin, the petitioner ceased to be Mussali of the Waqf institution and therefore is disqualified under the Regulations.

**b) Preliminary objections of respondent No.4:**

1. As per Regulation 8 and 9(8) of the Andhra Pradesh Waqfs Managing Committee (Constitution, Functions and Duties) Regulations, 2009, the writ petitioner is disqualified from being part of the Managing Committee and does not have locus standi and the petitioner had deliberately suppressed the same and if there is suppression of material facts, which have been placed before the High Court then, it will be fully justified in refusing to entertain petition filed under Article 226 of the Constitution and the present writ petition is filed with malafide intentions and oblique motives.

**2.** The petitioner does not have jurisdiction under Section 83(2) read with 85 of the Waqf Act, 1995, as any order given/passed under the Waqf Act, 1955, the same has to be challenged before the Waqf Tribunal and only the Waqf Tribunal is conferred with the jurisdiction to entertain such matters.

**c)** Respondent No.4 does not admit the documents filed by the petitioner as the petitioner herein has filed nomination for two posts Viz. the President and the Vice President on 25.02.2020 and 16.07.2021 respectively, whereas it is a settled law that same person cannot contest for two posts in the same election and hence, the petitioner is ineligible to be a part of the Management Committee.

**d)** In the absence of there being a valid panel before the Waqf Board, no fault can be attributed to the Waqf Board, for choosing/electing the only valid panel before the board. There is no violation of Regulation Nos. 5, 6, 7, and 8, as there is no question of calling for elections as an interpretation of the aforesaid regulations cannot be read in isolation and has to be read in juxtaposition with Regulation No.9. Therefore, the panel of which the petitioner was part of, was rightly rejected.



e) Respondent Nos. 3 to 14 are eligible in all respects and do not come under any disqualification under the Andhra Pradesh Waqfs Managing Committee (Constitution, Functions and Duties) Regulations, 2009.

f) Under Sections 83(2) and 85 of the Waqf Act, 1995, any order given under the Waqf Act, 1995, has to be challenged before the Waqf Tribunal and not before this Court.

g) The writ petitioner herein suppressed the fact of filing of an earlier Writ Petition with identical pleadings by Mohammed Nayeem Khan Quadri bearing No. 40730 of 2022, which was unconditionally withdrawn. Hence, the present writ petition may be dismissed.

**PERUSED THERECORD:**

**6. The order impugned in proceeding F.No.15/sec-bad/C/2-16, dated 18.08.2022 issued by the 2<sup>nd</sup> respondent in constituting Managing Committee of Jamai Masjid Eidgah and Graveyard, chilakalaguda, Secunderabad, reads as under:**

"The Waqf institution namely Jame Masjid Eidgah and Graveyard situated at Chikalguda, Secunderabad with attached properties are registered and notified Waqf.

In the ref 1" cited the Board constituted a Managing Committee for the subject Waqf institution under the Presidentship of Janab Mohammed Asadullah and (5) others for a period of two (2) years and the term of the Managing Committee expired on 24-05-2019

In the reference 2 cited, Janab Mohd Hasanuddin has submitted a representation with a request to constitute of new Managing Committee and (10) others.

In the reference 3" cited, Janab Nayeem Khan Quadri has submitted a representation to this Office and he requested to constitute of New Managing Committee and (9) others.

In the reference 4 cited, the joint report received from the Inspector Auditor Waqf Circle No 5&7 and deputed staff, TSWB, Hyderabad submitted his report and stated that the subject Waqf Institution made local enquiry and they found heard that some allegations against members of panel-B, in the panel the Serial No 03 member proposed as General Secretary is the tenant of the subject Masjid and joint Secretary as involved in the illegal activities and a FIR has been filed against him.

Further they have stated that it appears that the Panel-A deserves for consideration on merits against panel B for the Constitution of Managing Committee for better Management of the subject Institution and in the interest of Waqf.

The matter was placed before the Hon'ble Chairman, who passed orders to place the matter before the Board.

In the reference 5" read above the matter has been discussed before the Board, and the Board has unanimously resolved to constitute the Managing Committee under the Presidentship of Janab Mohd Hasanuddin and (10) others for a period of Three years.

In pursuance to the Board resolution D6/2022, dated 23-07-2022, the Constitution of the Managing Committee for a period of Three (3) years for the subject institution U/sec. 18 of Waqf Act 1995 read with Andhra Pradesh Waqf Managing Committee (Constitutions, Functions and Duties) Regulations 2009 is hereby constituted with immediate effect.

The office bearer and members are as follows: -

- |                                 |                   |
|---------------------------------|-------------------|
| 1. Janab Mohd. Hasanuddin       | : President       |
| 2. Janab Mohd Hussain           | : Vide President  |
| 3. Janab Syed Kaleem            | : Secretary       |
| 4. Janab Mumtaz Ahmed Syed      | : Joint Secretary |
| 5. Janab M.M.Tulabuddin         | : Treasurer       |
| 6. Janab Ahmed Shareef          | : Member          |
| 7. Janab Mustafa Shareef        | : Member          |
| 8. Janab Mohd. Jahangir         | : Member          |
| 9. Janab Mohd Liyaqath Ali      | : Member          |
| 10. Janab Mohd. Saber Ali Pasha | : Member          |
| 11. Janab Shaik Sadiq           | : Member          |

**7. The Joint Report dated 16.09.2021 of Executive Staff Telangana State Waqf Board, Hyderabad, reads as under:**

"In compliance to the above instructions enquire the matter and reveals that the subject Waqf institution are registered and notified Waqf now under the management of Ex Managing Committee the committee period has already been expired on 25.05.2019, after that the said Managing Committee still managing the institution the matter regarding constitution of the Managing Committee for another period is under process.

The matter is pending in the Board meeting for constitution of managing to the above said subject institution, so far two panels are received are as follows: -

**PANEL NO.1**

1. Janab Mohd. Hasanuddin	President
2. Janab Mohd Hussain	Vide President
3. Janab Syed Kaleem	Secretary
4. Janab Mumtaz Ahmed Syed	Joint Secretary 1`
5. Janab M.M.Turabuddin	Treasurer
6. Janab Ahmed Shreef	Member
7. Janab Mustafa Shareef	Member
8. Janab Mohd Jahangir	Member
9. Janab Mohd Liyaqath Ali	Member
10. Janab Mohd.Saber Ali Pasha	Member
11. Janab Shaik Sadiq	Member

**PANEL NO.2**

1. Janab Mohd. Siddique	President
2. Janab M.A.Rahman	Vide President

3. Janab Mohd. Nayeem Khan	General Secretary
4. Janab Mohd. Rizwan	Joint Secretary
5. Janab Sultan Mohd Jassim	Treasurer
6. Janab Abdul Rahman	Member
7. Janab Mohammed Ismail	Member
8. Janab Syed Imran	Member
9. Janab Mohammed Salreem	Member
10. Mohammed Ghouse	Member

In view of the above we have inspected the subject Waqf institution and made local enquiry and we found /heard that some allegations against members of Panel No.2, in that Panel the Sl.No.3 member who is proposed as General Secretary is the tenant of the subject Masjid and another above member No.4 who is proposed as Joint Secretary as involve in the illegal activities and an FIR has been filed against him a copy of FIR is enclosed herewith for ready reference and two member in the same Panel vide Sl.No.1 and 9 are non inhabitant of subject Waqf institution.

In view of the above facts and circumstances, it appears that the Panel No.(1) deserves for consideration on merits against pane Nol(2) for the constitution of Managing Committee for better management of the institution, and in the interest of Waqf (or) as per discretion of the authorities, subject to placing the matter before the board for further appropriate decision in the matter."

**8. The counter affidavit filed by respondent No.2, in particular, paras 5 and 6 reads as under:**

"5. In reply to para No.2 of the petitioner's affidavit, it is respectfully submitted that the averments made therein by the petitioner are denied. In fact, this respondent – Waqf Board has taken all the required measures for constitution of Managing Committee of the subject Mosque U/Sec. 18 of Wqf Act 1995, duly

following the provisions of Andhra Pradesh Waqf Managing Committee (Consitution, Functions and Duties) Regulations, 2009.

6. In reply to para No.3 of the petitioner's affidavit, it is humbly submitted that, obviously there is an obligation on the Respondent-Waqf Board, when more than one proposals / panels have been received for constitution of Managing Committee under Regulation 5 (ii) of the Election Regulation 2009. But in the present writ matter, the circumstances are entirely different as reported by the officials of this Respondent Waqf Board Le Inspector Auditor Waqfs, Circle No. 5 & 7 and the deputed officials in this subject matter. **It is submitted that the said officials of this Respondent have furnished their joint report on 16-09-2021 with an information that the proposed Co-Member / General Secretary of the petitioner namely Sri. Mohd Nayeem Khan enlisted in the petitioner's proposed panel for constitution of Managing Committee is a tenant of the subject Waqf institution Mosque and that some of the Members proposed in the panel of the petitioner have been covered in FIR No. 665/2022, dated:29-08-2022 on the file of the P.S Chilkalguda.**

It is submitted that the copy of report of the said officials dated:16- 09-2021 submitted herewith may kindly be read as part and parcel of the reply of this Respondent Waqf Board. This Hon'ble Court may kindly

be considered the circumstances that, on one hand there is a panel of proposed Members of the Managing Committee those involved in illegal activities out of whom one of its Members is the tenant of the subject Institution Mosque and on the other hand the proposed panel of Members headed by Mohd Hasanuddin and (10) others i.e Respondent Nos. 4 to 14 are found free from allegations. **It is respectfully submitted that under Regulation 97) of the Andhra Pradesh Wakfs Managing Committee (Constitution, Function, and Duties) Regulations, 2009, the tenant of the Waqf Institution cannot be the Member of the Managing Committee of such Waqf Institution and therefore, having knowledge of the same one proposed Member of the petitioner's panel Mohd Nayeem Khan had earlier withdrawn his Writ Petition in W.P. No. 40730/2022, but suppressing the said fact, he once again got enlisted his name in the proposed panel of the petitioner and further more when the other Members of the proposed panel of the petitioner are cited as accused in an FIR for their illegal activities, it is for the Respondent Waqf Board to stop them from contesting in election for the constitution of Managing Committee and therefore the only panel of the Respondent Nos. 4 to 14 has been considered and the Managing Committee has been constituted.**

**9. The counter affidavit filed by respondent Nos.4 to 14, in particular, paras 8 and 11 reads as under:**

"8. In reply to Para No. 3 of the affidavit annexed to the writ petition under reply, contents therein are not entirely correct and are therefore denied. The Respondents herein does not admit the documents filed by the Petitioner. The Respondents further disputes that the copy of representation dated 16.07.2021 allegedly given by the Petitioner to the Respondent No. 2. A cursory reading of the document categorically shows that the Petitioner herein has filed his nomination for two posts i.e. vide representation dated 16.07.2021 for the post of President and vide representation dated 25.02.2020 for the post of Vice President and therefore the Petitioner is not eligible to the part of the management committee. As such, there was no valid panel apart from that of the Respondent before the Waqf Board.

11. In reply to Para No.8 of the affidavit annexed to the writ petition under reply, the contents therein are not entirely correct and are therefore denied. As already stated supra, under Section (83(2) read with Section 85 of the Waqf Act any order given under the Waqf Act, 1985 has to be challenged before the Waqf Tribunal. Therefore, the present writ petition is barred under Section 83(2) of the Waqf Act and as such the writ petition is liable to be dismissed.



11. In reply to para No.9 of the affidavit annexed to the writ petition under reply the contents therein are false and baseless and are therefore, denied. The writ petitioner herein has suppressed the fact of filing of earlier writ petition on with identical pleadings by Mohammed Nayeem Khan Quadri bearing W.P.No.40730 of 2022 which later on unconditionally withdrawn after the respondents herein filed counter stating inter alia that the petitioner therein was disqualified on account of being a tenant."

**10. The reply affidavit filed by the petitioner, in particular, paras 3 and 4, read as under:**

"3. I submit that I am filing common reply to the counter filed by the respondents No.2 and 4 to 14. I submit that at the outset the allegations leveled by the respondent No.4 are not at all tenable as I am not the party to the Writ Petition No. 40730 of 2022 and not aware of the same. Moreover there is no suppression of facts. The respondent NO.4 under the garb of W.P.No. 40730 of 2022 trying to divert the present issue in this Writ Petition. I submit that in absence of any evidence the allegation of removal of Mauzan is baseless. I submit that regarding allegation of respondent No.2 the FIR was not acted upon and later it was closed and there is no provision in the act regarding disqualification of members in conducting the election if FIR is pending

on his name, in fact if conviction is there he cannot contest.

4. I submit that in the present case there is blatant violation of regulation 5 of Regulation 2009 of Wakf Act. I further submit that the respondent no.2 would have conducted the election as there are 3 Panels. I submit that regarding the above aspect I am relying on the Judgment passed by the Hon'ble High Court of Andhra Pradesh in W.P.No. 2141 of 2019 which squarely covered the issue and the Hon'ble Court gone to the extent of imposing heavy cost of Rs. 20,000/- on Wakf Board for not conducting election where there are more than 2 panels.

**11. Section 5 of the Andhra Pradesh Wakfs Managing Committee (Constitution, Functions and Duties) Regulations, 2009, read as under:**

**"5. Method of Constitution of Managing Committee.** - The managing Committee for a Wakf/Wakf Institution may be constituted in the following manner.

(i) By approving the panel unanimously selected by the mussalies and certified by the Inspector Auditor of the Board.

(ii) In the absence of unanimous panel through election from among the mussalies of the Walf/Wakf Institution

conducted under the control and supervision of Inspector Auditor of the Board.

**12. The specific contention pleaded by learned counsel for the petitioner are as follows:**

- a) The petitioner is personally interested within the meaning of Section 3(k) of the Wakf Act.
- b) The petitioner along with two other panel members made a representation to the 2<sup>nd</sup> respondent for appointing them as Managing Committee to Jamia Masjid-Eidgah.
- c) The specific grievance of the petitioner is that the 2<sup>nd</sup> respondent is conducting elections as mandated under Section 5(2) of Andhra Pradesh Wakfs Managing Committee (Constitution, Functions, Duties) Regulations, 2009 vide impugned proceedings F.No. 15/sec-bad/C/2-16, dated 18.08.2022 appointed a committee i.e. the present committee.
4. The 2<sup>nd</sup> respondent did not give credence to Section 9(vi) of the Regulations while appointing the Managing Committee by the impugned order vide proceedings F.No. 15/sec-bad/C/2-16, dated 18.08.2022 since as per Section 9 the Mussalie, who indulged in mismanagement is not fit to be appointed as Member of the Committee.
5. In the present committee appointed by the impugned proceedings dated 18.08.2022 some of the Members had been involved in mis-appropriation against them,

an enquiry was initiated by appointing Janab K.A Wahed Khan and few of the members of the committee were also members of the present committee challenged vide impugned proceedings dated 18.08.2022 had been disqualified as per Section 9(vi) of the Andhra Pradesh Wakfs Managing Committee (Constitution, Functions, Duties) Regulations, 2009 and therefore, the writ petition should be allowed as prayed for.

**13. Learned counsel for the 2<sup>nd</sup> respondent specifically contended as follows:**

a) As per the Joint Report dated 16.09.2021, it is evident that the proposed co-member/Joint Secretary of the petitioner namely Sri Mohd. Nayeem Khan enlisted in the petitioner's proposed panel for constitution of Managing Committee is a tenant of the subject Waqf institution Mosque and some of the Members proposed in the panel of the petitioner have been covered in FIR No.665/2022, dated 29.08.2022 on the file of the P.S. Chilalguda. In view of the fact that the proposed panel of members headed by Mohd. Hasanuddin and 10 others i.e. respondents 4 to 14 are found free from allegations., the respondent Authority rightly appointed them vide the impugned order and that the election for constitution of Managing Committee is mandatory when

two or more panels of fair persons have been received by the respondent.

b) As per Section 32 of Wakf Act, 1995, it is for the respondent Wakf Board to take all the precautions and measures to safeguard the interest of Wakf institutions and its managements and though the 2<sup>nd</sup> respondent has processed the application of the petitioner dated 16.07.2021, but having received the Joint Report dated 16.09.2021, which is against the petitioner herein and in view of the clear opinion in the said report that Panel No.1 deserves for consideration on merits against Panel No.2 for the constitution of Managing Committee for better management of the institution and in the interest of Waqf, it was decided to place the matter before the board for further appropriate decision in the matter as per discretion of the authority.

c) As per Section 85 of the Waqf Act, 1995, the writ petition has to be dismissed.

**14. Learned counsel for respondents 3 to 14 putforth his contentions as follows:**

a) The writ petition is not maintainable and the remedy of the petitioner is to approach the Wakf Tribunal prior to

approaching this Court under Article 226 of the Constitution of India.

b) The impugned proceedings is dated 18.08.2022 and the petitioner approached the Court after a period of more than six months without explaining the delay in the affidavit.

c) The petitioner indulged in suppression of facts that the petitioner was removed as Mouzin from the subject mosque and therefore, he ceased to be a Mussali of the Wakf institution as per Regulations 8 and 9 (8) of the Andhra Pradesh Waqfs Managing Committee (Constitution, Functions and Duties) Regulations, 2009.

d) The writ petition had been filed with malafide intentions to make unlawful gain.

e) Section 83(2) of the Wakf Act, 1995 clearly provides that any order given under wakf has to be challenged before the Wakf Tribunal and under Section 83 of the Wakf Act, the jurisdiction of other Courts is ousted.

f) Nominations had been filed by the same members from different panel and the petitioner in fact filed nominations for two posts vide representation dated 16.07.2021 for the post of President and vide representation dated 25.02.2020 for the

post of Vice President and that the petitioner cannot contest for two posts in the same election.

**15. Learned counsel for the respondents placed reliance on the following judgments:**

1. Judgment reported in 2022 (4) SCC page 414 (para 61) in **Rashid Wali Beg v Farid Pindari and others**.
2. Judgment dated 13<sup>th</sup> December, 2018 passed in W.P.No.44077 of 2018, in particular, para 6.

and contended that the writ petition needs to be dismissed.

**16. In the judgment reported in (2022) 4 Supreme Court Cases 414 in Rashid Wali Beg v Farid Pindari and others, in particular para 65 reads as under:**

"It is well settled that the court cannot do violence to the express language of the statute. Section 83(1) even as it stood before the amendment, provided for the determination by the Tribunal, of any dispute, question or other matter (i) relating to a waqf; and (ii) relating to a waqf property. Therefore to say that the Tribunal will have jurisdiction only if the subject property is disputed to be a waqf property and not if it is admitted to be a waqf property, is indigestible in the teeth of Section 83(1).

**17. The Judgment passed on 13.12.2018 in W.P.No.44077 of 2018 by the High Court for the State**

**of Telangana and Andhra Pradesh, in particular para 6 reads as under:**

**"6.** Against any decision made by the Board, remedy is provided under Section 83 of the Act before Wakf Tribunal. Therefore, petitioner has an effective and efficacious remedy to ventilate his grievance and it is for the Wakf Tribunal to consider and adjudicate on the grievance ventilated by the petitioner. The Court is not inclined to entertain the Writ Petition, since the petitioner has an effective and efficacious remedy available under Section 83 of the Act.

**DISCUSSION AND CONCLUSION:**

**18. A bare perusal of the Joint Report dated 16.09.2021 of the Executive Staff Telangana State Waqf Board, Hyderabad addressed to the Chief Executive Officer, Telangana State Waqf Board, Hyderabad clearly indicates that subject institution was inspected and local enquiry conducted into the allegations made against Panel No.2, in that Panel Sl.No.3 Member, who is proposed as General Secretary of the petitioner namely Sri Mohd. Nayeem Khan enlisted in the petitioner's proposed panel for constitution of Managing Committee is the tenant of**



the subject Masjid i.e. subject Waqf institution Mosque and another No.4, who is proposed as Joint Secretary had involved in the illegal activities and an FIR had been filed against him and in view of the said circumstances, it was very clearly observed in the report dated 16.09.2021, that the Panel No.1 deserves for consideration on merits against Panel No.2 i.e. the petitioners' proposed panel, for the constitution of Managing Committee for better Management of the institution and in the interest of Waqf (OR ) as per discretion of the authority, subject to placing the matter before the Board for further appropriate decision in the matter.

19. This Court on perusing the entire record and in particular, the contents of the joint report of Executive Staff, Telangana State Waqf Board, Hyderabad, dated 16.09.2021 clearly indicates that the respondent waqf board has taken all the required measures for constitution of Managing Committee of the subject mosque under Section 18 of Waqf Act, 1995, duly following the relevant provisions and regulations. In

view of the fact that the 2<sup>nd</sup> respondent herein had processed the application of the petitioner dated 16.07.2021 but however, on receiving the joint report dated 16.09.2021 opined that the panel No.1 deserved consideration on merits as against Panel No.2 i.e. petitioner's proposed panel for constitution of the Managing Committee, this Court opines that only when there are two valid panels before the Waqf Board the question of calling for elections would arise and in the absence of the same, holding an election would not arise.

20. A bare perusal of the relevant provision i.e Section 5 (ii) of the Andhra Pradesh Waqfs Managing Committee, Constitution, Functions, Regulations, 2009 read as follows:

**"5. Method of Constitution of Managing Committee.** - The managing Committee for a Wakf/Wakf Institution may be constituted in the following manner.

(i) By approving the panel unanimously selected by the mussalies and certified by the Inspector Auditor of the Board.

(ii) In the absence of unanimous panel through election from among the mussalies of the Walf/Wakf Institution

conducted under the control and supervision of Inspector Auditor of the Board.

21. In view of the fact that the report dated 16.09.2021 very clearly observed that one Panel of proposed members of the Managing Committee involved in illegal activities, one of its member i.e. the tenant of the subject tenant institution mosque and as per Regulation 9(7) of the Andhra Pradesh Waqfs Managing Committee (Constitution, Function, and Duties ) Regulations, 2009, the tenant of the waqf institution cannot be the member of the Managing Committee of such waqf institution (Member proposed in the panel of the petitioner) and further on the other hand, the proposed panel of members headed by one Mohd. Hasanuddin and 10 others i.e respondent Nos.4 to 14 are found free from allegations, this Court opines that election for constitution of Managing Committee is mandatory only when two or more panels of fair persons have been received by the 2<sup>nd</sup> respondent herein without any allegations against any one proposed members of such panel, as per Section 5 (ii) of the Andhra Pradesh Waqfs Managing Committee, Constitution, Functions, Regulations, 2009 (referred to and extracted above).

**22. The Apex Court in a judgment reported in 2007  
(8) SCC page 449 in Prestige Lights Ltd v State Bank of  
India at paras 33 and 35 observed as under:**

"33. It is thus clear that though the appellant-Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a Court of Law is also a Court of Equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the Writ Court may refuse to entertain the petition and dismiss it without entering into merits of the matter.

35. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a Writ Court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The

very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible.

**23. A bare perusal of the affidavit filed by the petitioner in support of the present writ petition also indicates that the petitioner suppressed few relevant facts before this Court which are as follows:**

1. The petitioner filed his nomination for two posts vide representation dated 16.07.2021 for the post of President and vide representation dated 25.02.2020 for the post of Vice President. The petitioner was therefore, ineligible for contest on the ground of filing nominations for two posts, and the said fact had been deliberately suppressed by the petitioner herein in the present writ petition.
2. Secondly, as per Rule 9(8) of the Regulation a tenant in the waqf property is disqualified to be part of the Managing Committee and one Sri Mohd. Nayeem Khan enlisted in the petitioner's panel for constitution of Managing Committee is a tenant of the subject waqf institution mosque and the said fact had also been suppressed by the petitioner herein.

24. This Court opines that when a party approaches the High Court, he must place all the facts before the Court without any reservation, the petitioner herein admittedly did not state all the relevant facts before this Court and suppressed few facts.

25. Taking into consideration, the above referred facts and circumstances and the averments made in the counter affidavit filed by respondent No.2, in particular, at paras 6, 7, 8 and 9 and further taking into consideration the view taken by the Apex Court in a judgment reported in 2007 (8) SCC 449 in **Prestige Lights Ltd v SBI (referred to and extracted above)**, and also the fact as borne on record, that the petitioner did not place all the facts before the Court, this Court opines that the Waqf Board has taken all the required measures for constitution of the Managing Committee of the subject Mosque under Section 18 of the Waqf Act, 1995 duly following the provisions of Andhra Pradesh Waqf Managing Committee (Constitution, Functions and Duties) Regulations, 2009. In the light of the discussion above, this Court is of the firm opinion that the petitioner herein is therefore, not entitled for the relief as prayed for in the present writ petition

and the writ petition is accordingly dismissed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

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**SUREPALLI NANDA, J**

Date: 04.07.2023

Note: L.R. copy to be marked  
b/o kvrm