

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.1365 OF 2024

Between:

Qazi. Syed Khader Mohiuddin

... **Petitioner**

And

The State of Telangana & others

... **Respondents**

JUDGMENT PRONOUNCED ON: 30.07.2024

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**

MRS JUSTICE SUREPALLI NANDA

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P.No.1365 OF 2024**

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Qazi. Syed Khader Mohiuddin

... **Petitioner**

And

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... **Respondents**

< **Gist:**

> **Head Note:**

! Counsel for the Petitioner : Sri Sultan Mohiuddin

^ Counsel for Respondents : G.P. for Social Welfare for R1,
G.P.for Revenue for R2 & R3
Sri Mohd. Naseeruddin for R4
Sri Mirza Safiulla Baig for R5

? **Cases Referred:**

(i) 2024 (1) ALD 528, dated 21.09.2023

HON'BLE MRS. JUSTICE SUREPALLI NANDA**WRIT PETITION No.1365 OF 2024****ORDER:**

Heard Sri Sultan Mohiuddin, the learned counsel appearing on behalf of the petitioner, the learned Government Pleader for Social Welfare appearing on behalf of respondent No.1, learned Government Pleader for Revenue appearing on behalf of respondent Nos.2 and 3, Sri Mohd. Naseeruddin, learned counsel appearing on behalf of respondent No.4 and Sri Mirza Safiulla Baig, learned counsel appearing on behalf of Respondent No.5.

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

"To issue a Writ of Mandamus or any other appropriate Writ, order or direction declaring the action of the 2nd Respondent in issuing impugned proceedings No. E4/1261/2017 dated 08/09/2023 contrary to the Memo No.17/Estt-1/2022-1 dated 09/02/2022 of the 1st Respondent thereby illegally included by recommending the name of 5th Respondent as Khazi for the same area as was allotted to the petitioner under Political influence of local MLA and former Speaker of T.S. Legislative Assembly without there being any demand and desire from the local Mohammandans without following due process of law as

arbitrary, without authority, power, jurisdiction, illegal and in violation of Section 2 of Kazi Act 1880, Article 14 of Constitution of India, Decisions of the Divisional Bench of High Court in W.A.No.1468/2008 dated 06/02/2009, reported judgment in 1996 (2) ALD 661 DB, final order in W.P.No.37861/2023 dated 28/06/2023 and Principles of Natural Justice and consequently to set aside impugned proceedings E4/1261/2017 dated 08/09/2023 of the 2nd Respondent forthwith and to direct the 1st Respondent to issue orders of extension in continuation to G.O.Ms. No.44 MWD dated 18/10/2019 in respect of appointment of Khazi for the Kamareddy Dist; in the name of the petitioner in the interest of justice."

3. The case of the Petitioner as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present Writ Petition in brief, are as follows:

a) It is the case of the petitioner that, the 1st Respondent by following due process of law appointed the petitioner and the 4th Respondent as Govt. Khazi for Kamareddy District by invoking Section 2 of Khazi Act 1880 vide G.O.Ms. No.44 /2019 dated 18.10.2019 Minority Welfare Department, TS. initially for a period of three years. Before the expiry of the period of three years on 17.10.2022 as specified in the G.O.Ms. No.44, the

petitioner personally pursued the matter with the Respondent Nos. 1 & 2 and also filed a representation dated 22.01.2022 requesting the 1st Respondent to modify the G.O. as the tenure of three years mentioned therein is contrary to the Khazi Act 1880.

b) Further, the 1st Respondent referred petitioner's representation to the 2nd Respondent vide Memo No. 17/Estt/-I/2022-I dated 09.02.2022 and through the said Memo the 1st Respondent requested the 2nd Respondent herein to furnish a detailed report along with the Check list duly ink signed with seal with specific recommendations for appointment of the petitioner and 4th Respondent as Govt. Khazi as per Section 2 of Khazis Act 1880 for taking further action in the matter at Government level. However, the 2nd respondent did not take any action with to the said memo dated 09.02.2022.

c) It is the further case of the petitioner that aggrieved by the inaction of the 2nd respondent, the petitioner filed W.P No. 16437 of 2023 and the same was disposed of vide order dated 28.06.2023 directing 2nd Respondent herein to act upon the memo dated 09.02.2022 issued by the 1st respondent. However, the 2nd Respondent neither acted upon the memo dated

09.02.2022 nor followed the direction given in order dated 28.06.2023 in W.P.No. 16437 of 2023. Further, under the political influence of MLA and former Speaker Telangana Legislative Assembly, the 2nd respondent unilaterally and without there being any vacancy issued D.O.Lr. No. 587/SPKR/2023 dated 23.03.2023 along with the impugned proceedings No. E4/1261/2017 dated: 08.09.2023 including the name of the 5th Respondent, recommended by the MLA and the former Speaker of T.S Legislative Assembly for appointment of Khazi from the area allotted to the petitioner. Moreover, the impugned proceedings dated 08.09.2023 are not only in violation to the memo dated 09.02.2022, but also to the final order dated 28.06.2023 passed in W.P No. 16437 of 2023. Therefore, aggrieved by the action of the 2nd respondent in passing the impugned proceedings dated 08.09.2023, the present Writ Petition is filed.

PERUSED THE RECORD

4. **In the interim orders dated 22.01.2024 passed in W.P.No.1365 of 2024 by the 2nd respondent, it is observed as under:**

"Meanwhile, there shall be an interim suspension of the operation of the impugned proceedings No.E4/1261/2017 dated 08.09.2023 issued by the 2nd respondent, for a period of three weeks."

The said orders dated 22.01.2024 are in force as on date.

5. The counter affidavit filed by Respondent No.2, in particular, the relevant paragraph No.5, reads as under:

"5. In reply to the Para No:07 of the affidavit, it is respectfully submitted that, as per the directions of the Hon'ble High Court T.S., Hyderabad in WP No: 16437/2023, an opportunity was given to the petitioner by conducting hearing on 17.08.2022 at 3.00 PM, during the hearing the Petitioner & the Tahsildar Nasrullahbad attended the said hearing. During the hearing, the Petitioner has submitted the GO Ms No: 44 & supporting documents to his claim, consequently the Tahsildar Nasrullahbad was directed to submit detailed report to this office to take further necessary action. In turn the Tahsildar Nasrullahbad has addressed a letter to the Revenue Divisional Officer Banswada on 06.09.2023 while marking a copy to this office, wherein he has stated that, the report vide their office Lr.No: B/203/2023, Dt: 18.05.2023 may be treated as final report, wherein it was proposed to distribute the Mandals among the existing (2) Khazis as well as (1) new applicant. Further the Tahsildars concerned and the Revenue Divisional Officer Banswada/

Yellareddy have submitted their report along with details like Muslim population of concerned area, statement of village elders, Consent letter from Masjid, consent letter from Local Mohammadans. Accordingly, the proposals for appointment of (new) another Khazi & renewal of existing Khazis to the newly proposed area have been submitted to the Secretary to Government, Minorities Welfare Dept., T.S., Hyderabad vide this Office L No: E4/1261/2017, Dt: 08.09.2023 duly following the instruction contained in the GO Ms No:24 Minorities Welfare (Estt.I) Dept., Dt: 29.04.2022 and the same was informed to the Petitioner by issuing an endorsement vide this office Endat: No: E4/5721/2023 Dt:14.09.2023.. Hence the content in Para No: 07 is proved as false.”

6. The counter affidavit filed by Respondent No.5, in particular, the relevant paragraph Nos.7 and 9, read as under:

“7. I submit that, it is not out of place to mention that recommendation for appointments of petitioner and Respondent No.4 were recommended by the former Speaker of the Telangana Legislative Assembly vide his recommendation letter Lr. No. 139/M/(AGRI&COOP)/B/2018, dated 16-03-2018. The copy of the same is filed herewith for the kind perusal of this Hon'ble court. It is necessary to mention when the appointment of Petitioner and Respondent No. 4 was on the political recommendation of the Speaker of Telangana Legislative Assembly it is not open for the Petitioner to aver that my appointment was

based on the political influence. In fact in my case after receiving consent from principal Mohammadans and that as there is heavy load to perform the duties of Khazi Office and after receiving the reports from Tahsildar concerned and 3rd Respondent Banswada the proposal were submitted to the 1st Respondent.

9. In reply to Para No. 9 & 10 of the affidavit filed by the Petitioner in support of the above Writ Petition, I submit that Respondent No. 2 issued the detailed report vide Proceeding No. E4/1261/2017 dated 08-09-2023 after receiving consent from the principal Mohammadans of the proposed areas. Given the heavy workload associated with the duties of a Kazi, my name was proposed for appointment as I am a suitable candidate with the required qualifications to serve as a Kazi."

7. Reply by the petitioner to the Counter filed on behalf of respondent No.5, in particular, paragraph Nos.8 and 10, read as under:

"8. In reply to para 10 of the Counter affidavit of the 5th Respondent it is submitted that the same is denied as false and baseless. As mentioned above the 1st Respondent by its Memo dated: 09/02/2022 clearly while referring the name of Petitioner and the name of 4th Respondent sought for specific report for extension in the tenure of Qazi and accordingly the Hon'ble High Court by its final order dated: 26/06/2023 directed the 2nd Respondent herein to act upon the Memo issued by the 1st Respondent Govt. and submit

Report. That by accepting political influence and including the name of 5th Respondent for appointment as Qazi the 2nd Respondent not only violated the direction of the Hon'ble Court but also ignored the reported decisions of the Hon'ble Divisional Bench.

10. In reply to para 12 of the Counter affidavit of the 5th Respondent it is submitted that the same is deny as false and baseless. It is submitted that when there is an specific direction from the 1st Respondent to the 2nd Respondent to submit Report etc., to the extent of Petitioner and the 4th Respondent through Memo dated: 09/02/2022 and the final order dated: 26/06/2023 of the Hon'ble High Court to act upon the Memo of the Govt. Dated: 09/02/2022 any violation of the same amounts to failure to follow the directions of the Higher ups but also amounts to contempt of the Court. The 2nd Respondent has no right in any manner to float the orders of the Hon'ble Court and specific instructions of the 1st Respondent Govt."

8. Reply by the petitioner to the Counter filed on behalf of respondent No.2, in particular, paragraph Nos.14, 15, 16, 17, 18, read as under:

14. In reply to para 6 of the Counter affidavit of the 2nd Respondent it is submitted that the averments made there in are false as such denied. It is submitted as mentioned above neither in the Govt. Memo No 17/Estt-1/2022-1 dated 09/02/2022 nor the Hon'ble Court directed the 2nd Respondent to extent the scope enquiry according to his

wish and pleasure. The 1st respondent Government sought for report to the extent of Petitioner herein and Respondent No. 4. The Hon'ble Court has also directed the 2nd Respondent to act upon the Memo of 1st Respondent dated 09/02/2022. No where it was requested to submit fresh proposal too for appointment of new Khazi.

15. That there is no demand and desire from the local Mohammedan to have one more Khazi. The petitioner herein and 4th Respondent and their Naib Khazi appointed u/s 3 of the Kazi Act 1880 is peacefully, without any complaint from any corner with the satisfaction of one and all performing the marriages and its allied matter. The rest of the averments are the matter of record hence the 2nd Respondent be put to strict proof of the same.

16. In reply to para 7 of the Counter Affidavit of the 2nd Respondent it is submitted that despite clear violation of direction of the Hon'ble Court in W.P. No.16437/2023 dated 28/06/2023 to act upon the memo dated 09.02.2022 issued by the respondent No.1, the 2nd Respondent by suppressing the D.O.Letter of the Speaker T.S. Assembly (former) sitting MLA attempting to justify his action. Hence the 2nd Respondent be put to strict proof of the same.

17. In reply to para 8 of the Counter Affidavit of the 2nd Respondent it is submitted that the relevant provision of Section 2 of the Kazi Act 1880 is as follows:

"Wherever it appears to the State Government that any considerable number of the Mohammadans

resident in any local area desire that one or more Kazi's should be appointed for such local area, the State Government may, if it thinks fit, after consulting the Principal Mohammadan residents of such local area, select one or more fit persons and appoint him or them to be Kazi's for such local area."

By virtue of said provision it is not permissible for 2nd Respondent to recommend the name of 5th Respondent as alleged.

18. That the 2nd Respondent on his own accord without there been any communication from the 1st Respondent Govt: On the basis of report of his subordinate officers under political influence recommended of Speaker of T.S. Assembly, the name of 5th Respondent was specifically recommended for appointment as Khazi ignoring the Govt. Memo No.17/Estt-1/2022-1 dated 09/02/2022 under which report has called for to the extent of the petitioner and Respondent No. 4 and the Orders of the Hon'ble High Court in W.P. 16437/2023 dated 28/06/2023 thereby by directed the 2nd Respondent to act upon the memo dated 09.02.2022 issued by the respondent No.1, reported judgement in 1996 (2) ALD 661 DB etc; dated 13/04/1996 and without there been any vacancy, as the petitioner and 4th Respondent and their Naib Khazis are functioning in the area."

9. Order dated 28.06.2023 passed in W.P.No.16437 of 2023, in particular paragraph Nos.4, 5 and 6, read as under:

"4. The learned Government Pleader for Minority Welfare (Estt-II) submits that to the extent of disposing the representation of the petitioner dated 02.01.2022 the respondent No.1 has issued a memo dated 09.02.2022 which reads as under:

"The attention of the District Collector, Kamareddy District is invited to the references 1st cited, wherein orders have been issued appointing Sri Mohiullah Huassaini, S/o. Arshad Pasha and Sri Syed Khader Mohiuddin S/o. Syed Asifuddin, R/o. Durki, Birkur Mandal, Kamareddy District as Government Khazis for performing the Marriages of Muslim initially for a period of three (03) years under Section (2) of the Khazis Act, 1880 (Central Act XII of 1880), and the term is going to be expired on 17.10.2022.

Copies of the reference 3rd & 4th are furnished herewith to the District Collector, Kamareddy, and he is requested to furnish a detailed report along with the check list duly ink signed with seal by the Collector with his specific recommendations as mentioned vide D.O. Letter 2nd cited for appointment of Sri Mohiullah Hussaini, S/o. Arshad Pasha and Sri Syed Khader Mohiuddin S/o. syed Asifuddin as Government Khazis as per Section (2) of Khazis Act, 1880 (Central Act XII of 1880) to the Government for taking further action in the matter at Government level".

5. Learned counsel for the petitioner further submits that since a memo dated 09.02.2022 has already been issued by the respondent No.1 asking respondent No.2 to furnish a memo to appoint the petitioner as Khazi, no action has been taken till date and prayed this Court to pass appropriate orders by directing the respondent No.2 to act

upon the memo issued by the respondent No.1 dated 09.02.2022.

6. With consent of both the counsel for petitioner and the respondents this writ petition is disposed of directing the respondent No.2 to act upon the memo dated 09.02.2022 issued by the respondent No.1 and after giving fair opportunity of hearing to the petitioner, shall pass appropriate orders strictly in accordance with law, as expeditiously as possible, preferably within a period of three (03) weeks from the date of receipt of copy of this order and communicate the same to the petitioner."

DISCUSSION AND CONCLUSION:

10. It is the specific case of the petitioner that though Memo dated 09.02.2022 issued by the 1st respondent clearly called for a detailed report from the District Collector, Kamareddy in respect of the petitioner and the 4th respondent, for their appointments as Government Khazis as per Section (2) OF Khazis Act, 1880 (Central Act XII of 1880) to the Government for taking further action in the matter at Government level and this Court also vide its order dated 28.06.2023 passed in W.P.No.16437 of 2023 (referred to and extracted above) directed the 2nd respondent-District Collector and Magistrate, Kamareddy District to act upon the Memo dated 09.02.2022,

issued by the respondent No.1 after giving fair opportunity of hearing to the petitioner and to pass appropriate orders within a period of three weeks from the date of receipt of the copy of the order and since there is no any observation or direction of this Court to submit fresh proposal for appointment of new Khazi contrary to Section 2 of the Kazis Act, 1880, the 2nd respondent recommended the name of the 5th respondent moreso when there is no demand and desire from the local Mohammadans to have one more Khazi, hence the very proceedings dated 08.09.2023 of the 2nd respondent addressed to the 1st respondent is totally illegal, arbitrary and uncalled for and hence liable to be set aside.

It is the specific case of the 2nd respondent as per the averments made in the counter affidavit filed by the 2nd respondent, that in pursuance to Report dated 06.09.2023 vide Lr.No.B/203/2023 of the Tahsildar, Nasrullabad, addressed to the Revenue Divisional Officer, Banswada in response to the Applications filed by the 5th respondent herein dated 21.11.2022 and 17.1.2023 for the post of Qazath Durki Village and appointment as Government Khazi and also Report dated 18.05.2023 vide Lr.No.B/203/2023 of Tahsildar, Nasrullabad, addressed to the Revenue Divisional Officer, Banswada and after

obtaining all details like Muslim population of concerned area, statement of village elders, consent letter from Masjid, consent letter from Local Mohammadans, Proposals for appointment of (new) another Khazi and renewal of existing Khazis to the newly proposed area had been submitted to the Secretary to Government Minorities Department, T.S., Hyderabad vide the impugned letter dated 08.09.2023 and the same had even been informed to the petitioner vide the Endorsement Letter No.E4/5721/2023 dated 14.09.2023 of the District Collector, Kamareddy to the petitioner herein.

It is further the case of the 2nd respondent that the impugned proceedings dated 08.09.2023 of the 2nd respondent addressed to the 1st respondent are only proposals under Section 2 of the Kazis Act, 1880, and the same warrants no interference by this Court in the present writ petition.

It is the specific case of the 5th respondent that the respondent No.2 issued a detailed report vide proceeding No.E4/1261/2017 dated 08.09.2023 after receiving consent from the Principal Mohammadans of the proposed areas and given the heady workload associated with the duties of a Kazi, the 5th respondent name was proposed for appointment as a suitable candidate with the required qualifications to serve as a Kazi,

hence there is no illegality in the impugned proceedings dated 08.09.2023 of the 2nd respondent addressed to the 1st respondent and hence the writ petition needs to be dismissed duly vacating the interim orders dated 22.01.2024 passed in I.A.No.1 of 2024 in W.P.No.1365 of 2024 and consequently dismiss the present writ petition.

CONCLUSION:

11. A bare perusal of the record and material documents filed along with the counter affidavit clearly indicates that as per G.O.Ms.No.24 dated 29.04.2022 an application for appointment as a Government Khazi may be filed by a person who possesses the necessary qualifications along with supporting documents to the District Collector concerned of the District in which the local area falls.

(a) G.O.Ms.No.24, dated 29.04.2022, is extracted hereunder:

"MINORITIES WELFARE (ESTT.I) DEPARTMENT

G.O.Ms.No.24.

**Dated: 29th April, 2022.
Read the following:**

- 1) Kazis Act, 1880 (Central Act XII of 1880).
- 2) D.O.Lr.No.185/Estt.I/2021-1, dated 15.01.2021.

ORDER:

Whereas, as per the Provisions of the Kazis Act, 1880, wherever it appears to the State Government that, any considerable

number of the Muhammadans resident in any local area desire that one or more Kazis 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 Kazis for such local area.

2. Government after careful examination of the matter, hereby issue certain comprehensive instructions/guidelines for appointment of Khazis under the Provisions of Kazis Act, 1880, in the State as detailed below:

A. FREQUENTLY ASKED QUESTION (FAQs):

Certain common doubts relating to Khazis and their appointment, under the Kazis Act, 1880, and their clarification is Annexed to this order in the form of Frequently Asked Questions (FAQs) at **Annexure-1** for reference.

B. PROCEDURE FOR APPOINTMENT OF KHAZIS BY THE GOVERNMENT:

STEP 1: APPLICATION/REQUISITION:

Application for appointment as a Government Khazi may be filed by a person who possesses the necessary qualifications along with supporting documents and letter of requisition by sufficient number of Principal Mohammadans of the local area for which the application is made. The applications and requisition shall be filed with the District Collector concerned of the District in which the local area falls.

STEP 2: SCRUTINY OF APPLICATION:

The District Collector will scrutinize the application to check whether the applicant is fit to be appointed as a Khazi by the Government.

STEP 3: ENQUIRY/CONSULTATION WITH THE PRINCIPAL MOHAMMADAN RESIDENTS OF THE LOCAL AREA:

The District Collector will get an enquiry conducted through a suitable Officer to ascertain whether there is a need to appoint a Khazi for the said local area and if Khazi(s) were already appointed, if there is a need to appoint more number of Khazi(s) and

whether a sufficient number of Principal Mohammadans of that local area are in favour of appointment the applicant as Khazi.

STEP 4: RECOMMENDATION OF CASE BY DISTRICT COLLECTOR TO THE GOVERNMENT:

In case the applicant is found to be fit for appointment as a Khazi AND on enquiry/consultation with principal Mohammadans it is determined that there is a need to appoint a Khazi and that a considerable number of Mohammadans are in favour of appointing the applicant as Khazi by the Government, then the Collector shall send his report to the Government duly recommending the case for appointment as Khazi along with the **Check List prescribed appended to this Order at Annexure-2.**

OTHERWISE:

The District Collector should issue order rejecting the application for appointment as a Government Khazi, duly recording the reason for doing so. The order should be issued to the applicant and a copy of the same should be marked to the Government.

STEPS 5: The proposal received from the Collector will be processed further at the Government level, and, if accepted, orders appointing the applicant as Khazi will be issued by the Government. The said order shall be served through the District Collector concerned.

3. All the District Collectors in the State are requested to follow the above instructions/guidelines scrupulously while dealing with any application for appointment of Khazis by the Government and for submitting the proposals for appointment of Khazis to the Government.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**AHMAD NADEEVI,
Principal Secretary to Government."**

12. This Court opines that a bare perusal of G.O.Ms.No.24, dated 29.04.2022 clearly indicates that the

recommendations of the 2nd Respondent addressed to the 1st Respondent, in favour of the 5th Respondent is in accordance to law.

13. In the present case on perusal of Record it is evident on record that the 5th respondent herein filed Applications dated 21.11.2022, 17.01.2023 seeking appointment as Govt qazi and Report No.B/554/2023 dated 01.07.2023, of the Tahsildar, Banswada addressed to the RDO, Banswada and the Report dated 18.05.2023 Lr.No.B/203/2023 of the Tahsildar, Nasrullabad addressed to RDO, Banswada, clearly recommended 5th respondent's name for appointment as Government Khazi along with consent letters and consent of local Muslim People.

A bare perusal of the contents of the aforesaid reports dated 01.07.2023 and 18.05.2023 clearly indicates that the due procedure as stipulated in G.O.Ms.No.24 dated 29.04.2022 had been followed.

14. A bare perusal of the contents of the letter No.B/203/2023 of the Tahsildar, Nasrullabad dated 06.09.2023 addressed to the Revenue Divisional Officer, Banswada, clearly indicates that it has been observed in

the said letter that the report vide letter No.B/203/2023, dated 18.05.2023 to be treated as final report.

15. This Court opines that the plea of the Petitioner that it is the 1st Respondent who has to recommend the 5th Respondent's name and not the 2nd Respondent is in-fact contrary to the procedure stipulated in G.O.Ms.No.24, dated 29.04.2022 where under it is clearly stipulated upon an application filed seeking for appointment as a Khazi before the 2nd Respondent, the 2nd Respondent has to scrutinize the application to check whether the applicant is fit to be appointed as a Khazi by the Government. The District Collector has to in fact conduct enquiry in consultation with the principal Mohammandan residents of the local area. Whether there is need to appoint the Khazi for the said local area and if Khazis were already appointed, whether there is a need to appoint more number of Khazis and whether a sufficient number of principal Mohammadans of that local area are in favour of appointing the applicant as Khazi has to be enquired into by the District Collector. In case the applicant is found to be fit for appointment as a Khazi and on enquiry/consultation with the principal Mohammadans it

is determined that there is a need to appoint a Khazi and a considerable members of Mohammadans are in favour of appointing the applicant as Khazi by the Government, then the Collector shall send his report to the Government duly recommending the case for appointing as Khazi and the proposal received from the Collector would be processed further at the Government level and if accepted orders appointing the applicant as Khazi will be issued by the Government. The said order shall be served on the applicant through the District Collector concerned. In the present case the entire above referred procedure as stipulated in G.O.Ms.No.24, dated 29.04.2022 took place in favour of the 5th Respondent herein and the proposals had been sent vide Letter No.E4/1261/2017, dated 08.09.2023 by the 2nd Respondent to the 1st Respondent herein.

16. It is pertinent to note here that the applications of the 5th Respondent seeking appointment as Government Khazi are dated 21.11.2022, 17.01.2023 and the order of this Court dated 28.06.2023 passed in W.P.No.16437 of 2023, admittedly as borne on record pertained to implementation of Memo dated 09.02.2022 issued by the

1st Respondent in favour of the Petitioner and the 4th Respondent herein but however the recommendations in favour of the 5th Respondent by the 2nd Respondent based on the reports dated 01.07.2023 and 18.05.2023, had been forwarded to the 1st Respondent vide impugned proceedings Lr.No.E4/1261/2017, dated 08.09.2023 which in fact is as for the due procedure stipulated in G.O.Ms.No.24, dated 29.04.2022 which in particular refers to the Provisions of the Khazis Act, 1880 and deals with situations wherever it appears to the State Government that any considerable number of the Muhammadans resident in any local area desire that one or more Khazis 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 Khazis for such local area.

17. This Court opines that the pleas put-forth by the Petitioner that the impugned proceedings dated 08.09.2023 is contrary to the Memo dated 09.02.2022 and the order dated 28.06.2023 passed in W.P.No.16437 of 2023 is totally unreasonable and untenable in view of

Section 2 of the Khazi Act and also G.O.Ms.No.24, dated 29.04.2022 (referred to and extracted above) issued by the Minorities Welfare (Establishment-I) Department is devoid of merits.

(a) Sec.2 of the Khazis Act, 1890 extracted hereunder:

2. Power to appoint Kazis 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 Kazis 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 Kazis 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.

18. This Court opines that a bare perusal of Section 2 of Khazis Act, 1880 clearly indicates that the State Government has the Authority and Power to appoint one or more Khazis depending on the necessity as the State Government deems fit and proper after consulting the principal Muhammadan residents of such local area and the decision thereof by the State Government shall be conclusive.

19. The Division Bench of High Court of Andhra Pradesh at Amaravathi in W.A.No.621 of 2023 in Shaik Hafeez vs. Principal Secretary, Minority Welfare Department, Government of A.P. & Others vide its judgement dated 21.09.2023 reported in 2024 (1) ALD 528 observed that when it appears to the Government that appointment of Kazi is necessary in a particular area after consulting with the Mohammadans of that area, as desired by the considerable number of Muslims any number of Kazis may be appointed by the Government.

20. Taking into consideration:

a. The aforesaid facts and circumstances of the case,

- b. The averments made in the counter affidavit filed on behalf of the respondent Nos. 2nd and 5th.
- c. The report of the Tahsildar, Banswada No.B/554/2023, dated 01.07.2023 addressed to the Revenue Divisional Officer, Banswada which is in favour of the 5th Respondent for appointment as Government Khazi.
- d. The report of the Tahsildar Letter No.B/203/2023, dated 18.05.2023 of the Tahsildar, Nasrullabad addressed to the Revenue Divisional Officer, Banswada which is in favour of the 5th Respondent for appointment as Government Khazi.
- e. The contents of the letter No.B/203/2023, dated 06.09.2023 of the Tahsildar, Nasrullabad addressed to the Revenue Divisional Officer, Banswada, which clearly observed that the report letter No.B/203/2023, dated 18.05.2023 in favour of the 5th Respondent to be treated as final report.
- f. Section 2 of the Khazi's Act 1880.
- g. G.O.Ms.No.24, dated 29.04.2022 issued by the Minorities Welfare (Establishment I) Department.

h. The view of the Division Bench of the A.P. High Court in its judgment dated 21.09.2023 passed in W.A.No.621 of 2023 in Shaik Hafeez vs. Principal Secretary, Minority Welfare Department, Government of A.P. & Others reported in 2024 (1) ALD 528 (AP).

The interim orders granted in favour of the Petitioner on 22.01.2024 in I.A.No.1/2024 in the present W.P.No.1365 of 2024 stands vacated and the Writ Petition stands dismissed since the same is devoid of merits. However, there shall be no order as to costs.

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

MRS. JUSTICE SUREPALLI NANDA

Date: 30.07.2024.

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