

Court No. - 39

Case :- WRIT - C No. - 38505 of 2023

Petitioner :- Waqf Karbala No. I No 1855 Purana Ghas Kanta Saharanpur And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Durga Tiwari

Counsel for Respondent :- C.S.C.,S.M. Iqbal Hasan

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard Ms. Durga Tiwari, learned counsel for the petitioner, Sri Iqbal Hasan, learned counsel for the respondent no. 2 and learned Standing Counsel for respondent nos. 1, 3 and 4.

2. Grievance of the petitioner is, though the Waqf Board has appointed the present petitioner as the Mutawalli of Waqf No. I-1855, Nai Basti, Chakrota Road, District Saharanpur, and the District Magistrate has passed consequential order dated 24.07.2023, yet, the District Magistrate is not discharging his obligation under Section 28 of the Waqf Act inasmuch as certain other individuals are continuing to discharge essential functions of Mutawalli of the above described Waqf.

3. Prima facie, if the order of the Board has not been varied and the District Magistrate has already issued a direction dated 24.07.2023, full effect must be given to such order and communication. In view of such facts, no useful purpose would be served in keeping this petition pending or calling for a counter affidavit, at this stage. The writ petition is **disposed of** with the direction, subject to filing of a copy of this order by the petitioner before the respondent no. 3 within a period of two weeks from today, the said respondent shall ascertain the correct facts and issue appropriate instructions / directions to

ensure that the duly installed Mutawalli of Waqf No. I-1855 (described above) is permitted to perform all functions so entrusted to him by the Board, as expeditiously as possible preferably within a period of one month thereafter. If there is any legal impediment, a reasoned communication may be issued to the petitioner within the same time.

Order Date :- 16.12.2023

SK Srivastava

(Shiv Shanker Prasad,J). . . (S.D. Singh,J)