

**Court No. - 10**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 9132 of 2023

**Petitioner :-** Chand Mian And Others

**Respondent :-** State Of U.P. Thru. Secy. Deptt. Of Home Civil Sectt. Lko And Others

**Counsel for Petitioner :-** Manoj Kumar Mishra,A.Z. Siddiqui,Ghaus Beg

**Counsel for Respondent :-** G.A., Anuj Kumar Sri

**Hon'ble Mrs. Sangeeta Chandra,J.**

**Hon'ble Narendra Kumar Johari,J.**

Heard learned counsel for the petitioner and learned A.G.A. for the State-respondents.

This petition has been filed praying the following reliefs:-

(a) Issue a writ, order or direction in the nature of certiorari thereby quashing the impugned first information dated 12.10.2023, vide case crime no. 715 of 2023 under Section 419, 420, 467, 468, 471, 120-B I.P.C. and Section 2/3 of the Public Property Damages Act, lodged at Police Station- Kotwali City, District- Hardoi as contained in Annexure-1 to this writ petition.

(b) Issue a writ, order or direction in the nature of mandamus commanding the opposite party not to harass, detain or prosecute the petitioner in pursuance of the impugned F.I.R.

It has been submitted by the learned counsel for the petitioners that petitioners, who are 15 in numbers are members of an old society running for the welfare of the poor in the name and style of the Anjuman Islamiya, District- Hardoi. This society provides help to poor members of the society including widows and children. The President of the society is Mohd. Khalid, Advocate and he has been appointed by the U.P. Sunni Central Waqf Board as Mutawalli of the several waqfs running in city Hardoi. The society has registered bylaws and is registered before the Registrar of Societies, Chits and Funds at Lucknow. The petitioners being the elected members of the society are also members of its Managing Committee.

There is one waqf property, which contains Jama Masjid, Idgah and Kabristan. The local politicians are trying to grab such property and written several letters to the U.P. Sunni Central

Waqf Board saying that the existing managing committee of the society should be unseated. Copy of such several letter have been filed as Annexure-4 collectively to the petition. The petitioners were initially implicated in the F.I.R. referred under Section 419, 420 I.P.C. as is evident from the F.I.R. No. 715 of 2023 lodged in Police Station- Kotwali City, District- Hardoi on 12.10. 2023 but because of involvement of several politicians belonging to the Ruling Party and other politicians as well, the Investigating Officer conducted a flawed investigation and now has added Section 467, 468, 471, 120-B I.P.C. and Section 2/3 of the Prevention of Damage to Public Property Act.

It has been submitted by the learned counsel for the petitioners that petitioners being members of the Managing Committee, Anjuman Islamiya, District- Hardoi have legally allotted several shops/ khokhas/ wooden kiosks to small shop keepers inside the boundary wall of Kabristan to generate some revenue, which would be utilized for helping the poor.

It has been submitted that if the Nagar Palika Parishad has found any encroachment on its own it should have issued notice and should have given proper hearing to Anjuman Islamiya before lodging F.I.R.. However on 26.11.2023 the police had raided the houses of the petitioner and few of them have been picked up by the police and have been pressurized to give affidavit incriminating themselves.

It has been submitted that at the most the dispute is purely civil in nature and has been tried to be given criminal colour.

Learned A.G.A. has produced before this Court instruction sent by the Investigating Officer, which shows that some of the petitioners for example petitioner no. 7 and petitioner no. 15 have criminal history and they have been implicated in the F.I.R. lodged on 15.3.2017 in case crime no. 141 /2017 under Section 419, 420 I.P.C. and during the course of investigation Section 467, 468, 471 and 120-B have also been added. However, in the petition the petitioner alleged that they have no criminal history.

It has also been submitted by the learned counsel for the Nagar Palika Parishad that the petitioners/members of the Managing Committee, Anjuman Islamiya, District- Hardoi have allotted kiosk on the land of the Nagar Palika Parishad on which interlocking work was done by the Nagar Palika Parishad as evident from the work order issued by the Executive Officer on 28.2.2019. Copy of such order has been produced. It has been submitted that at least 9 corporators have complained against the setting up of kiosks on Nagar Palika Parishad land and

letting them out to shop keepers. A copy of the complaint dated 10.10.2023 has been produced before this Court.

It has been submitted further that General Secretary and the President of the Managing Committee Anjuman Islamiya, District- Hardoi have been allotting such kiosk since 2017. Copies of such receipts issued from time to time by the Managing Committee/General Secretary/President to different shop keepers have also been produced.

It has been submitted that after the corporators had complained the preliminary enquiry was conducted and the City Magistrate, Hardoi sent a notice to the Executive Officer, Nagar Palika Parishad, Hardoi alleging his connivance with the members of the Managing Committee in frittering away of the property of the Nagar Palika Parishad, Hardoi. A copy of such notice dated 10.10.2023 has also been produced before this Court.

Sri Anuj Kumar Srivastava, learned counsel for the Nagar Palika Parishad has submitted that the President of Society has already filed an application for anticipatory bail before the District and Sessions Judge, Hardoi, a copy of such application has been produced before this Court.

This Court having heard the learned counsel for the parties at length and perused the F.I.R. and finds that no doubt the petitioners allege that it is their kabristan over which they have made allotments but Nagar Palika Parishad has sufficient evidence to show that it is land of Nagar Palika Parishad, which has been continuously allotted to various shop keepers and rent has been received by Managing Committee, Anjuman Islamiya, District- Hardoi without any authority in law.

Argument of the learned counsel for the petitioners that the F.I.R. has been lodged after a long gap of 7 years is not appreciated by this Court, as there is no estoppel against law. As and when the commission of an offence is discovered, it should be reported to the police/Officer in-charge of the police station concerned. The Investigating Officer has conducted investigation and has added various sections of I.P.C. and Prevention of Damage to Public Property Act.

The Court sitting in writ jurisdiction finds no ground to show interference.

The writ petition is, accordingly, **dismissed**.

**Order Date :- 30.11.2023**  
Anuj Singh