



2026:UHC:1334-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE SHRI SUBHASH UPADHYAY

26th February, 2026

Writ Petition (PIL) No. 15 of 2026

Shadab Alam

-----Petitioner

Versus

State of Uttarakhand & others

-----Respondents

Presence:-

Ms. Mamta Bisht, learned counsel for the petitioner.
Shri C.S.Rawat, learned Chief Stading Counsel, assisted by Mr. Naveen Tiwari, Brief Holder for the State/respondent nos. 1 & 2.
Shri T.A.Khan, learned Senior Counsel, assisted by Mr. Mohd. Shafy, learned counsel for the respondent no. 3.

JUDGMENT: (per Manoj Kumar Gupta, C.J.)

1. In the present PIL, on 12.02.2026, the following order was passed:

- “1. Ms. Mamta Bisht, learned counsel for the petitioner.
2. Mr. P.C.Bisht, learned Additional C.S.C. for the State/respondent nos. 1 & 2.
3. Mr. T.A.Khan, learned Senior Counsel, assisted by Mr. Mohd. Shafy, learned counsel for the respondent no.3.
4. The present writ petition by way of a *qua warranto* seeks quashing of the appointment of respondent no. 4 as Chief Executive Officer of Uttarakhand Waqf Board by letter dated 13.01.2026.
5. The submission is that under Section 23 of the Waqf Act as amended by the Waqf Amendment Act, 2025, the Chief Executive Officer of the Board could only



be an officer not below the rank of Joint Secretary to the State Government, however respondent no.4 is a Under Secretary, who is an officer two ranks below to the rank of Joint Secretary.

6. Learned State counsel has placed on record the instructions received from the State Government. The stand taken therein is that the present arrangement is only an *ad-hoc* arrangement and only additional charge of the Chief Executive Officer of the Waqf Board has been given to respondent no.4. In other words, the submission is that in such circumstances, Section 23 of the Act will not apply.

7. Learned counsel for the petitioner in rebuttal submits that even officiating charge cannot be given to any officer below the rank of Joint Secretary. In support of the submission she has placed reliance on an order dated 09.01.2019 by Co-ordinate Bench in CLMA No. 40 of 2019, in PIL No. 1 of 2019, where such aspect has been dealt with as follows:

“7. Even if we were to presume that the submissions of the learned Chief Standing Counsel have some basis, exercise of power to make appointment is hedged by the twin conditions stipulated in Section 23 of the Act. Even if it is held that the requirement of a panel of two names, as suggested by the Waqf Board, to be considered, would apply only in the case of a permanent appointment, the other requirement of section 23 of the Act is that the office of the Chief Executive Officer must be manned by an officer in the rank of a Deputy Secretary, and not by an officer lower in rank. Any change that the Government could have made to the office of the Chief Executive Officer, is only by appointment of an officer of the rank of Deputy Secretary and not below. As, admittedly the fourth respondent is not



an officer in the rank of a Deputy Secretary, and does not fulfill the qualifications stipulated in Section 23 of the Act, there shall be an interim order as prayed for.”

8. In view of the above, a *prima facie* case has been made out by the petitioner.

9. Learned counsel for the State seeks time to obtain further instructions and clarify whether the State is ready to withdraw the impugned order or not. Accordingly, the matter is adjourned.

10. Put up on 17.02.2026 as fresh.”

2. During pendency of the writ petition, by a Notification dated 17.02.2026 issued by the State Government amendment has been made to Section 23(1) of the Waqf Act, 1995 and the provision that the Chief Executive Officer of the Board could only be a Muslim Officer was deleted.

3. Learned Chief Standing Counsel has placed on record an order dated 25.01.2026 passed by the State Government revoking the appointment of respondent no. 4 as Chief Executive Officer of the Uttarakhand Waqf Board and conferring, by way of purely Ad-hoc arrangement, additional charge of Chief Executive Officer of Uttarakhand Waqf Board to Shri Girdhar Singh Rawat, Additional Secretary, Minority Welfare Uttarakhand Administration. He is admittedly,



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an officer not below the rank of Joint Secretary.

4. Thus, nothing further survives in the instant petition. It is accordingly disposed of as having become infructuous.

5. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 26.02.2026
Kaushal