

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.
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CIVIL REVISION APPLICATION NO. 145 OF 2015

LAIKH NAZIR KHAN
VERSUS
SHAIKH ZUBAIR AHMAD ZAHEER AHMED AND OTHERS

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Advocate for Petitioner : Mr. Kazi S. S.
Advocate for Respondent Nos.1 to 6 & 9: Mr. Mujtaba Gulam Mustafa.
Advocate for Respondent No.10: Mr. Sameer Patel.

CORAM: T. V. NALAWADE, J.
DATED: 13th August, 2015.

ORDER:

1. The proceeding is filed to challenge the order made on Exhibit-5 by Wakf Tribunal in Wakf Application No.26 of 2015. The Applicant had prayed for relief of stay to the order of Chief Officer for preventing the respondents from managing the Wakf. Both the sides are heard.
2. In the application filed before the Wakf Tribunal present applicant has challenged the order made by Chief Executive Officer of Maharashtra State Board of Wakf dated 24th March, 2015. By this order, a direction

was given to the applicant to hand over the charge of the affairs of Madarsa Chishtiya Talimul Quran Anjuman Paigam e Mustafa Raza, Jawahar Nagar, Golibar, Khar, Mumbai, to newly elected body. It is the case of present applicant that he has been managing the affairs of the aforesaid Wakf institution since many years and he is one of the founder members and trustee/ Mutawalli of the institution. It is his case that the recent elections were not conducted properly and the persons like present President were not eligible even for voting but they contested the election and so the election of the respondents to the managing committee is null and void and it cannot be recognised in law. He has contended that he has not handed over the charge of the affairs of the institution and as the election itself is illegal, he needs to be protected and the order made by the Chief Executive Officer needs to be set aside.

3. Say was filed to this proceeding by the newly elected body of respondent Nos.1 to 4. It is contended that the Election Officer had conducted the election by following the procedure and as per the directions given by Chief Executive Officer. It is contended that the

change report is accepted by Wakf Board and only after that direction was given by the Chief Executive Officer to the applicant to hand over the charge of the Madarsa to the newly elected body of Respondent Nos.1 to 4. It is contended that the applicant had the knowledge of the election and he had signed some documents like notice published in the election but he did not contest the election and so he cannot make any grievance with regard to the election.

4. The learned counsel for the applicant took this Court through some provisions of the constitution of the institution to show the eligibility of the persons to become member of the trust and eligibility of the members to contest the election. He also took this Court through decision given by Wakf Tribunal in previous application like Wakf Application No.56 of 2013 and he submitted that in the past similar change report was filed by the respondents but it was set aside and observations were made by Wakf Tribunal in that proceeding that the present President had failed to produce any evidence to show that he was a member of the trust.

5. The submissions made and the record show that in the aforesaid proceeding Wakf Tribunal had given direction to the Chief Officer to see that elections were conducted as for many years no elections were held and most of the founder members were not there in the managing committee. As per the directions, the Regional Wakf Officer had started the process. Voters list was collected from the present applicant and it was published. Learned counsel for the applicant submitted that he had taken the objection to the voters list but it was not decided. This point cannot be considered at present, as the Tribunal will consider that point when the main matter itself is heard. After preparation of the voters list, the election program was declared on 4th January, 2015 and the elections were held on 24th March, 2015. It appears that the first letter dated 4th April, 2015 was given to the applicant and he was directed to hand over the charge/ possession of the aforesaid institution to the newly elected body. As the requisite time as provided in the Act and Rules was not given in the letter, one more letter was given. There is a record to show that the help of police was taken and before police

present applicant gave statement and informed that he had objection to the election. The record, however, also shows that by the order, Regional Wakf Officer actually handed over the charge of the affairs to the newly elected body. It appears that some registers are still with the present applicant and on that basis he is claiming that the charge is not handed over by him.

6. The learned counsel for newly elected body submitted that in view of the conduct of the present applicant, he is not entitled to any relief. It was submitted that present applicant was working as a President since 1994 and he had not called even general body and he had avoided to hold the elections. It is admitted that he did not contest the election. As per the record, he had signed on notice published with regard to the voters list and there is record to show that he had the knowledge that elections were declared. He preferred not to contest the elections and now he is raising the grievance. The learned counsel for the applicant took this Court through some provisions like Section 63 of the Wakf Act and submitted that unless that procedure is followed the charge cannot be taken.

This submission is not at all acceptable. On the other hand, there is record to show that in fact the charge of the affairs is handed over to the newly elected body. In view of these circumstances there is virtually no case for granting stay to the order made by the Chief Executive Officer. This Court holds that Wakf Tribunal has not committed any error in rejecting the application filed for stay. In the previous proceeding, the issue of eligibility was not involved.

7. In the result, the proceeding stands dismissed.

[T. V. NALAWADE, J.]

Dt.13/08/2015
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