

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10069 OF 2015

Mohd. Azim Kirkiray S/o Hisamuddin Kirkiray
and others

Petitioners

Versus

The State of Maharashtra and others

Respondents

Mr.T.Y. Sayyed advocate for the petitioners
Mr.P.S.Patil, AGP for Respondent No.

CORAM : **R.M. BORDE &**
A. I. S. CHEEMA, JJ.

Dated : 8th DECEMBER, 2015.

PER COURT :-

1 The petitioner is praying for issuance of writ of quo-warranto against respondent No.4, who has been appointed as the Member of the Wakf Board by the State Government, in exercise of powers conferred under section 14 of Waqf Act, 1995.

2 There shall be a representation of the Muslim Member of Parliament from the State on the Board of Waqf, in view of section 14(1)(d)(i) of the Act. Section 14(1) contemplates that, apart from the Chairperson and other members, the Board shall consist of one and not more than two members, as the State Government

may think fit to be elected from each of the electoral colleges, consisting of Muslim Members of Parliament from the State.

3 It is not a matter of dispute that, there are, in fact two Muslim Members of Parliament and elections amongst two would be impracticable. Subsection 3 of Section 13 provides that notwithstanding anything contained in this section, where the State Government is satisfied, for the reasons to be recorded in writing, that it is not reasonably practicable to constitute an electoral college for any of the categories mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section(1), the State Government may nominate such persons as the members of the Board, as it deems fit. In the instant matter, since the electoral college consists of only two members, it would not be reasonably practicable to conduct election after constituting an electoral college of the category mentioned in section 14(1)(d)(i) of the Act.

4 Apart from this, the other Member of the Parliament who is eligible, has not raised any objection for nomination of respondent No.2. The petitioner, in the circumstances, cannot be said to have a *locus standi* to raise the challenge. Even otherwise, in exercise of extraordinary jurisdiction under article 226 of the Constitution of India, taking into consideration the facts and circumstances of the case enumerated as above, no interference is called for in the

instant petition.

5 Petition is devoid of substance and hence stands dismissed.

(A. I. S. CHEEMA, J.)

(R. M. BORDE, J.)

vbd