

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6448 OF 2015

1] Dattatray S/o Dnyanoba Patil,
Age : 56 years, Occ. Agriculture,
R/o Ambejogai, District : Beed.

2] Balasaheb S/o Dnyanoba Patil,
Age : 50 years, Occ. Advocate,
R/o Ambejogai, District : Beed.

...PETITIONERS.

VERSUS

1] The State of Maharashtra,
Revenue and Forest Department,
Mantralay Mumbai - 400 032.

2] The Collector, District Beed.

3] The Chief Executive Officer,
Maharashtra Wakf Board at
Aurangabad.

4] Kazi Gazioddin S/o Kazi Mansoor,
R/o Ambejogai, Dist. Beed.

...RESPONDENTS.

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Advocate for Petitioners : Mr. D. R. Bhadekar.

AGP for Respondent Nos.1 & 2 : Mrs. M.A. Deshpande.

*Advocate for Respondent No.3 : Mr. H.I. Pathan, Advocate h/f Mr. Patel
Sameer Shaikh N.*

Advocate for Respondent No.4 : Mr. Javed Deshmukh.

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**CORAM : S. V. GANGAPURWALA &
A. M. BADAR, JJ.**

DATE : 22nd FEBRUARY, 2016.

PER COURT:

1] Mr. Bhadekar, learned counsel submits that the impugned communication issued by the Chief Officer, Maharashtra Wakf Tribunal,

Aurangabad is illegal, against the record and the dictum of the competent authorities and the courts. According to learned counsel, Petitioners Inam is already been determined by the Divisional Commissioner vide order dated 30th January, 1995. Even, the Civil Court up to the High Court has already determined the rights of the parties and the same has become final. Said proceedings were under the Wakf Act. As such, the CEO of the Maharashtra State Wakf Board does not have any authority to issue the impugned letter to the Collector.

2] Mr. Pathan, learned counsel for respondent No.3 submits that as per the Gazette and Government Resolution dated 13.7.2010, the impugned communication has been rightly issued. Mr. Deshmukh, appearing for respondent No.4 supports the impugned communication.

3] We have considered the submissions. The impugned communication is by the CEO of the Maharashtra State Wakf Board Aurangabad issued to the Collector regarding change in the mutation entries in respect of the survey numbers, as detailed in the said notification. It is not in dispute that the name of the petitioners is mutated in the relevant revenue record. Before any mutation entry is to be changed, the respondent authorities dealing with the same, has to issue notice to the persons in whose name mutation entry stands. At that time, the petitioner can represent himself before the authority and can bring it to his notice the relevant orders passed by the High Court and other authorities, which orders are to be considered by the authority, before passing any order on the

mutation entry.

4] In the light of the above, we dispose of the writ petition, with direction that the mutation entry in the name of the petitioner shall not be changed unless and until notice is issued to the petitioner and all parties concerned are heard. Writ petition is disposed of. No costs. Petitioner and all respective parties are entitled to raise all the issues before the said authority.

[A.M. BADAR]
JUDGE

grt/-

[S.V. GANGAPURWALA]
JUDGE