

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

WRIT PETITION No.7023 of 2016

ORDER:

This Writ Petition has been filed by petitioner challenging the inaction of the 2nd respondent in not constituting a Wakf Board for the State of Telangana.

2. Petitioner alleges that he is a member of the Bar Council and is entitled to be a member of the Telangana Wakf Board under Section 14(1)(b)(3) of the Wakf Act, 1995 (for short “the Act”) and contends that even though erstwhile State of Andhra Pradesh was bifurcated w.e.f. 02-06-2014 and Telangana State was formed on that day, the Wakf Board for the State of Telangana has not been constituted till date.

3. According to the petitioner, the 1st respondent issued a notification approving the scheme of dissolution of the A.P. State Wakf Board and for reconstitution of Wakf Boards for the State of Andhra Pradesh and Telangana through a Gazette Notification issued under Section 102 of the Act, and subsequent thereto vide G.O.Ms.No.44 dt.10-10-2015, the 2nd respondent appointed a Secretary of the 2nd respondent Ministry as the Competent Authority to run the affairs of the 4th respondent. He contends that the affairs of such an important body such as the Wakf Board cannot be run in this

way and there has to be a Wakf Board constituted for the State of Telangana in the manner indicated in the statute expeditiously.

4. The 2nd respondent filed a counter stating that the Competent Authority was initially appointed for a period of 6 months and as per the statute, he can be continued for a period not exceeding two spells of six months each and that the file is already in circulation to hold election to certain category of members to constitute the Board. According to him, the procedure to conduct elections is prescribed in Section 14 of the Act and it involves the preparation of different Electoral rolls, notification of election and conduct of elections to various categories mentioned therein and it would take some time. It is said that the term of the Competent Authority expires on 18-10-2016 and steps are being taken to constitute a Board after conducting elections.

5. It is not in dispute that after the erstwhile State of Andhra Pradesh was divided into the State of Telangana and the residuary State of Andhra Pradesh, it is necessary for the State of Telangana also to have a Wakf Board. Admittedly, the 1st respondent has already published a notification under Section 102 of the Act on 07-09-2015 approving the scheme for dissolution of erstwhile A.P. Wakf Board and for constitution of separate Wakf Boards for the State of Andhra Pradesh and the State of Telangana. Therefore, the 2nd respondent ought to act expeditiously to constitute a separate Wakf Board for Telangana State also. Though more than one year has been elapsed

since issuance of notification by the Central Government, not much has been done by the State of Telangana for constitution of Wakf Board and it is even now said that the file relating to the same is under circulation. Affairs of an important Body such as Wakf Board cannot be managed by a Special Officer or Competent Authority except in emergent situations contemplated under the Act. The affairs of the Wakf Board cannot be run indefinitely through Special Officer or Competent Authority. Admittedly, even under the Act, such a Special Officer or Competent Authority can carry out function of the Wakf Board only for maximum of 2 spells of 6 months each and it expires on 18-10-2016.

6. In this view of the matter, in view of the duty of the 2nd respondent under the Act to constitute the Wakf Board, a Writ of Mandamus is issued to the 2nd respondent granting three (03) months from today to conduct elections to constitute the Wakf Board for the Telangana without fail.

7. The Writ Petition is allowed with the above directions. No costs.

8. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 12-09-2016
Vsv