

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2044 of 2017**

- Mohd. Shakeel Ashrafi S/o Late Mohd. Kasam Aged About 45 Years Mutwalli Of Jama Masjid Intejamiya Committee, Jawahar Chowk, Durg, District Durg Chhattisgarh. R/o Ganjpara, Durg, Post & Tehsil Durg, District Durg Chhattisgarh.

---- **Petitioner****Versus**

1. State of Chhattisgarh, through Secretary, Ministry Of Minorities Welfare / Wakf, Mantralaya, Mahanadi Bhawan, Naya Raipur, Revenue & Civil District Raipur Chhattisgarh.
2. Chhattisgarh State Waqf Board, Through Its Chief Executive Officer, Sector-3, C-12, Devendra Nagar, Revenue & Civil District Raipur Chhattisgarh.
3. District Magistrate Durg, Revenue & Civil District Durg Chhattisgarh.
4. Sub - Divisional Magistrate (Revenue) & Assistant Survey Commissioner Waqf Durg, Revenue & Civil District Durg Chhattisgarh.

---- **Respondents**

For Petitioner	:	Shri Surfraj Khan, Advocate
For Respondents-State	:	Shri Sangharsh Pandey, Dy. GA for the State
For Respondent No.2	:	Shri Prateek Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****08/08/2017**

1. Heard.
2. This is the petition against the order dated 07.07.2017, passed by the Chhattisgarh Waqf Board, wherein the petitioner, who was appointed as Mutwalli has been removed for certain defaults committed by him under the Waqf Act, 1995 (for short 'the Act, 1995').
3. Learned counsel for the petitioner submits that the said order has been set

into motion by way of execution and if the petitioner wants to seek his remedy as per the Section 89 of the Act, 1995, 60 days notice is required and by that time the petition may be infructuous, therefore, the effect and operation of the order may be stayed.

4. Shri Prateek Sharma, learned counsel for respondent No.2 opposes the petition.
5. I have perused the order dated 07.07.2017. As per Section 64 (g) of the Act, 1995, if a Mutawalli fails to maintain regular accounts for two consecutive years as required by sub-section (2) of Section 46 of the Act, 1995, he may be removed and if any Mutwalli is so removed in exercise of sub-section (1) from clause (c) to (i) of Section 64 of the Act, 1995, he within 1 month from the date of receipt of such order may file an appeal against the order to the Tribunal and the decision of the Tribunal shall be final.
6. I do not find any reason as to why the said provision of sub-section (4) of Section 64 of the Act, 1995 to be made reductant. Therefore, since an alternative remedy has been provided and appeal is contemplated before the Wakq Tribunal, I am not inclined to exercise the jurisdiction under Article 226 of the Constitution of India. In view of this, the petitioner having an alternative remedy available to him, the instant petition is dismissed.

Sd/-
Goutam Bhaduri
Judge

Ashu