

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7427 OF 2016

LATIF BANEMIYA INAMDAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
CIVIL APPLICATION NO.272 OF 2017
IN WP/7427/2016
JUNAID KHAN AND OTHERS.
-VERSUS-
LATIF BANEMIYA AND OTHERS.

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Advocate for Petitioners : Shri Gawali Amol K.
AGP for Respondents/ State : Shri P.S.Patil.
Advocate for Intervener : Shri F.J.Khan.

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**CORAM: S.C. DHARMADHIKARI
AND
MANGESH S. PATIL, JJ.**

DATE :- 22nd June, 2017

PC.:

1 We heard the learned Advocate for the Petitioners. Perused the Writ Petition and annexures thereto particularly the Government Resolution/ directive at page 325 of the paper book.

2 Having perused it with the assistance of Shri Gawali, learned Advocate for the Petitioners, we do not find any reason to interfere in our writ jurisdiction and at this stage. We do not think that any such directive or government resolution traceable to the executive powers of the State,

can ever be construed as overriding the substantive provisions of the enactment, namely, the Waqf Act, 1995. The Waqf Act defines "waqf", deals with its management and also recognizes what the Petitioners style as "mutawalli" defined in Section 3(i). Such directives as are issued, cannot affect either the status or recognition of "waqf" and "mutawalli" and protected by the Waqf Act. All such directives as are issued under the Maharashtra Land Revenue Code, 1966, therefore, would not mean that necessarily they deal with the right, title and interest in immovable properties or status as above. None of these authorities ever decide such contested issues and if they decide the same not in accordance with law, then, the Petitioners are not remedy-less. Secondly, on mere apprehension this Court cannot strike down the Government Resolution and more so when it is clarified as above.

3 Keeping open all the contentions as far as the merits of the claim, we dispose of this Writ Petition.

4 The pending Civil Application does not survive and it is also disposed of.