

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 14914 of 2017 (O&M)

Date of Decision: 23.08.2017

Abdus Shakoor

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Jagmohan Singh Bhatti, Advocate
for the petitioner.

Mr. P.P.S. Thethi, Additional Advocate General, Punjab
for respondents No. 1 and 2.

Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Karajveer Singh, Advocate
for respondents No. 3 to 6.

S.S. SARON, ACJ.

The present petition has been filed seeking quashing of order dated 29.12.2016 (Annexure P-1), issued by the Government of Punjab through the Chief Secretary appointing Sh. Latif Ahmed, PCS (SDM) Maur, (respondent No.6), as Chief Executive Officer of the Punjab Wakf Board.

According to the petitioner, the said appointment is in total violation of Section 23 of the Wakf Act 1995 as amended by Wakf amended Act 2013 (for short - 'Wakf Act').

Mr. PPS Thethi, Additional Advocate General, has placed on record a copy of the notification dated 18.8.2017, issued by the Government of Punjab, Department of Home Affairs and Justice (Civil Defence Branch), whereby the Governor of Punjab by invoking sub Section (3) of Section 14 of the Wakf Act, apart from other nominations as contemplated

by clause (b) of Section 14 (1) of the said Act, has been pleased to appoint/nominate the persons as mentioned in the said notification as members of the Punjab Wakf Board.

Therefore, it is submitted that a new Wakf Board has been constituted, which has to take a decision for appointment of a whole time Chief Executive Officer, in accordance with Section 23 of the Wakf Act.

We have given our thoughtful consideration to the contentions of learned counsel for the parties.

Section 23 of the Wakf Act, reads as under:

"23. Appointment of Chief Executive Officer and his term of office and other conditions of service.-

(1) There shall be a full time Chief Executive Officer of the Board who shall be a Muslim and shall be appointed by the State Government, by notification in the official Gazette, from a panel of two names suggested by the Board and who shall not be below the rank of Deputy Secretary to the State Government, and in case of non-availability of a Muslim officer of that rank, a Muslim officer of equivalent rank may be appointed on deputation.

(2) The term of office and other conditions of service of the Chief Executive Officer shall be such as may be prescribed.

(3) The Chief Executive Officer shall be ex officio Secretary of the Board and shall be under the administrative control of the Board." (Emphasis Added)

A perusal of the above Section shows that the Chief Executive Officer of the Board has to be a whole time Chief Executive Officer. Besides, he is also ex-officio Secretary of the Board. For appointment of Chief Executive Officer, the appointment is to be that of a full time Chief Executive Officer of the Board who is to be a Muslim and is to be appointed by the State Government, by notification in the official Gazette, from a panel of two names suggested by the Board and who is not to be below the rank of Deputy Secretary to the State Government, and in case of non-availability of a Muslim officer of that rank, a Muslim officer of equivalent rank may be appointed on deputation.

As already noticed, a Board has been reconstituted in pursuance of notification dated 18.8.2017.

After the Constitution of new Board, a Chairman is to be elected, in terms of Rule 6 of Punjab Wakf Rules, 1964 which relates to election of Chairman. Rule 6 of Punjab Wakf Rules, reads as follows:

6. "After the appointment of members of a newly constituted Board is notified under section 11, the Government shall, as soon as may be, fix, by giving to the members not less than ten clear days notice, a date for the first meeting of the Board. The notice shall state the time and place of the meeting as well as the fact that at such meeting the chairman should be elected. The meeting shall be presided over by a member chosen by the members from amongst themselves and shall be deemed to be validly convened meeting. The election of the chairman shall be recorded as part of the proceeding

in the minutes of the meeting."

In terms of the above Rule 6, after the appointment of members of a newly constituted Board which is notified under Section 11, the Government is to, as soon as may be, fix, by giving to the members not less than ten clear days notice, a date for the first meeting of the Board. The notice is to state the time and place of the meeting as well as the fact that at such meeting the chairman should be elected. The meeting is to be presided over by a member chosen by the members from amongst themselves and is to be deemed to be validly convened meeting. The election of the chairman is to be recorded as part of the proceedings in the minutes of the meeting.

A meeting of the Board is to be convened for appointment of the Chief Executive Officer in terms of Section 23 of the Wakf Act, who is to be full time employee and a panel of two names is to be suggested by the Board who are not to be below the rank of Deputy Secretary to the State Government.

In the circumstance, it is to be noticed that though Latif Ahmed, Chief Executive Officer (respondent No.6), is not a whole time employee of the Board, however, it would be improper to invalidate his appointment at this stage when a new Board has been constituted and after election of Chairman the process for appointment of Chief Executive Officer is to be undertaken. In the circumstances, the ends of justice would be met, in case after a meeting is held for conducting the elections of the Chairman, the Board suggests the appointment of a full time Chief Executive Officer in terms of Section 23 of the Wakf Act and makes its recommendations as soon as possible after the election of the Chairman, which shall thereafter be considered by the Government as expeditiously as

possible.

The necessary exercise for the appointment of Chief Executive Officer of the Board shall be carried out within 15 days of the election of the Chairman of the Board and the Board shall recommend for appointment of a full time Chief Executive Officer and the Government shall consider the same preferably within one month thereafter.

The writ petition is, accordingly, disposed of. The question of locus-standi of the petitioner to file the petition, shall, however, remain open.

**(S.S. SARON)
ACTING CHIEF JUSTICE**

**(AVNEESH JHINGAN)
JUDGE**

23.08.2017
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Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No