

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1773 of 2016

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Md. Farooque son of Late Md. Yunus, Resident of Mohalla- Loharpatti Road, Raja Market, Police Station- Kishanganj, District- Kishanganj.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Minority Welfare Deptt. Govt. of Bihar, Patna.
2. The Bihar State Sunni Wakf Board, through Chief Executive Officer, Haj Bhawan, 34 Ali Imam Path (Harding Road), Patna- 800001.
3. The Chairman, Bihar State Sunni Wakf Board, Haj Bhawan, 34 Ali Imam Path (Harding Road), Patna- 800001.
4. The Chief Executive Officer, Bihar State Sunni Wakf Board, 34 Ali Imam Path (Harding Road), Patna- 800001.
5. Md. Ayub son of Late Md. Yaquob, resident of Lohar Patti Road, Raja Market, P.S. and District- Kishanganj.

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Najmul Hoda, Advocate
For the State	:	Mr. Shilpa Singh, GA-12
		Mr. Ranjan Kumar, AC to GA-12
For the res. No. 5	:	Mr. Shabbir Ahmad, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-04-2018

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for respondent no. 5.

This writ petition has been filed by the petitioner for
setting aside the order dated 16.11.2015 passed by the Chief
Executive Officer, Bihar State Sunni Waqf Board as contained in



Annexure-1 to the present writ petition by which the SDO, Sadar, Kishanganj has been directed to take charge of the Waqf Estate, Kishanganj in question as an administrator and manage the waqf properties till further orders.

A preliminary objection has been raised on behalf of the respondent that the order of the Bihar State Sunni Waqf Board is appealable before the Waqf Tribunal. Hence, without exhausting the statutory remedy a writ petition under Article 226 of the Constitution be not entertained.

Learned counsel for the petitioner does not dispute that against the impugned order, an appeal would lie before the Tribunal, but he submits that since the Waqf Board has passed the order in complete breach of the legal provisions, a writ petition would be maintainable before this Court.

Having heard the parties on the question of maintainability when I look to the facts of the present case, I find that several disputed questions of fact has been raised in the writ petition. It is true that availability of an alternative remedy is no bar to the maintainability of the writ petition. However, keeping in mind the nature of dispute raised herein, this Court is not inclined to entertain the petition in its extraordinary jurisdiction under Article 226 of the Constitution of India specially when the petitioner has an



equally efficacious statutory remedy available to him for the redressal of his grievances.

Accordingly, the writ petition is disposed of with liberty to the petitioner to approach the Waqf Tribunal for redressal of his grievance.

In case of filing an appeal within three weeks from today, if an application for condonation of delay is filed, the Waqf Tribunal while deciding the issue of limitation shall take into consideration the fact that the petitioner was pursuing his remedy before this Court.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.04.2018
Transmission Date	NA

