

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

939 WRIT PETITION NO. 11070 OF 2018

HABIB ABBAS FAKIH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioners : Mr. Kazi S.S.
AGP for Respondents/State : Mr. S.W. Munde

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**CORAM : R.M. BORDE &
MANGESH S. PATIL, JJ.**
DATE : 04.10.2018

PC. :-

The petitioner is seeking quashment of the order passed by the State Government on 14.09.2018 directing initiation of proceedings under penal law against those who are said to have contributed in commission of illegalities and acts which amount to an offence punishable under the provisions of the I.P.C. The reasons for issuance of the directions are recorded in detail in the order passed by the State Government.

2. It is the contention of the petitioner that no prior opportunity of hearing was extended by the State Government before issuance of such directions. It has not been brought to our notice that, such an opportunity of hearing is contemplated under any law or any procedure is laid down prescribing parameter in that regard. Apart from this the State Government

is invested with the powers under Section 97 of the Wakf Act to issue directions. If at all the petitioner is of the opinion that the allegations are unfounded, it would be open for the petitioner to take steps as permissible in law for redressal of his grievance. It is further contended that the action was necessitated since the petitioner was involved in the litigation with the respondent no.1 on earlier occasions. The argument that has been put forth has in fact no relation with the acts and illegalities noticed which according to the State Government is penal in character. In exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India, this is not a fit case for causing interference at this initial stage of the proceeding.

3. The writ petition being devoid of substance stands rejected.

[MANGESH S. PATIL, J.]

[R.M. BORDE, J.]