

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2499 of 2019

1. Farukh Ahmad, S/o. Late Abdul Hamid, Aged About 42 Years, R/o. Taiba Chowk, Talapara, Bilaspur, District- Bilaspur, Chhattisgarh.
2. Haji Mohd. Jubair, S/o. Late Mohd. Shakir, Aged About 38 Years, R/o. Taiba Chowk, Talapara, Bilaspur, District- Bilaspur, Chhattisgarh.
3. Parvez Ali, S/o. Sayyed Maksood Ali, Aged About 43 Years, Occupation Choice Centre, Talapara, Bilaspur, District- Bilaspur, Chhattisgarh.

---- Petitioners

Versus

1. State Of Chhattisgarh, Through The Secretary, Scheduled Caste/Scheduled Tribe Welfare Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur, District- Raipur, Chhattisgarh.
2. Chhattisgarh State Waqf Bord, Through Chief Executive Officer, Office At Ghadi Chowk Raipur, District- Raipur, Chhattisgarh.
3. Chairman, Chhattisgarh State Waqf Board, Office At Ghadi Chowk Raipur, District- Raipur, Chhattisgarh.
4. Sayeed Ahmed, S/o. Late Haji Abdul Ajij Khan, Aged About 53 Years, R/o. Main Road Talapara, Bilaspur, Tahsil & District- Bilaspur, Chhattisgrah.

---- Respondents

For Petitioners	:	Smt. Hamida Siddiqui, Advocate
For State/Respondent No.1	:	Mr. Anand Verma, Dy. G.A.
For Respondent No.2 & 3	:	Mr. Prateek Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

23.07.2019

Heard

1. The present petition is against the order dated 25.06.2019 issued by the Chief Executive Officer, Chhattisgarh Waqf Board, Raipur wherein one Sayeed Ahmed who was Mutwalli has been directed to continue as Mutwalli of Sunny Hussain Masjid, Talapara, the Waqf property.
2. Learned counsel for the petitioners submits that the C.E.O. do not have such power and the order is without jurisdiction. It is further contended that on earlier occasion on 11.12.2017 because of certain misconduct attributed to the respondent No.4, he was removed as Mutwalli which was subject of

challenge by the respondent No.4 the Mutwalli before the Chhattisgarh Waqf Tribunal under Section 83 of the Waqf Act 1995. It is further contended that in such proceeding under Section 83 before the Waqf Tribunal, the C.E.O. had vehemently opposed the averments raised by the respondent No.4, Sayeed Ahmed against the removal thereby justified the removal on basis of misconduct committed by him. Those factual aspect were supported with the affidavit and the same is pending consideration. It is contended taking summer-salt again by letter dated 25.06.2019, the said C.E.O. has directed the respondent No.4 to continue as Mutwalli. It is contended that said order is without jurisdiction and the C.E.O. could not have taken such stand as against the stand taken before the Waqf Tribunal wherein misconduct committed by him has been fortified.

3. Perused the documents and record. Prima facie the reply filed by the C.E.O. in the litigation pending before the Waqf Tribunal supports the cause of removal of respondent No.4 for various misconduct; however, subsequently on 25.06.2019 the same person has been appointed by the C.E.O.
4. Be that as it may, Section 83(2) speaks that any person aggrieved by an order made under the Act, or rules made therein, may make an application to the Tribunal for the determination of such dispute. Certainly as appears by letter dated 25.06.2019 different issue has surfaced and an order so passed is under the Waqf Act. Therefore, the petitioner shall be at liberty to approach the Waqf Tribunal by invoking Section 83 of the Waqf Act to seek redressal including all reliefs. The Waqf Tribunal if deems fit may consolidate the hearing of different challenge if the primary dispute is in respect of same Waqf.
5. With such observation, the petition stands disposed off.

Sd/-
Goutam Bhaduri
Judge