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HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 441 of 2019***{Arising out of order dated 23.07.2019 passed by the learned Single Judge in
Writ Petition (C) 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 Board 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 and District- Bilaspur, Chhattisgarh.

---- Respondents

For Petitioners	:	Shri Sumit Singh, Advocate.
For Respondent No. 1 /State	:	Shri Siddharth Dubey, Deputy Government Advocate.
Respondents No. 2 & 3	:	Shri Tushar Dhar Diwan, Advocate on behalf of Shri Prateek Sharma, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board**P. R. Ramachandra Menon, Chief Justice****04.10.2019**

1. Challenge is against the interference declined by the learned Single Judge with regard to the relief sought for in the writ petition for interdicting Annexure P/1

order dated 25.06.2019, passed by Respondent No.2 /Chief Executive Officer, Chhattisgarh State Waqf Board, Raipur permitting the 4th Respondent to continue as Mutwalli in Sunny Hussain Masjid, Talapara, the Waqf property.

2. Heard the learned counsel for the Appellants at length.
3. The learned counsel submits that the 4th Respondent was earlier removed from the post because of his deeds and misdeeds, particularly involving corruption and the matter is pending consideration before the Waqf Tribunal in the proceedings of under Section 83 of the Waqf Act 1995. In the said proceeding, the Waqf Board has filed a detailed reply, justifying their action in removing the 4th Respondent and now, all of a sudden the 3rd Respondent herein, who happens to be Secretary of the Board, allegedly without the authority, has passed an order on 25.06.2019 virtually permitting the 4th Respondent to assume duties as Mutwalli of the Masjid, which was not liable to sustained and hence, it was sought to be challenged by filing the writ petition.
4. When the matter came up for consideration before the learned Single Judge, the course of events were taken note of and it was observed that, by virtue of specific powers conferred under the statute, it was quite open for the Petitioner to have the matter pursued before the Tribunal in terms of Section 83. It was accordingly, that interference was declined and the writ petition was dismissed; which in turn is sought to be interdicted in this appeal.
5. The learned counsel submits that power is vested with this Court and that alternate remedy need not be a bar. We are aware of the powers as well as the law declared by the Apex Court in **Satwati Deswal V. State of Haryana & Others**, (Civil Appeal No. 7397 of 2009) and also by various High Courts, including Madras High Court in **Karthick V. The Joint Commissioner**, (W.A. (MD) No, 920 of 2014) that alternate remedy will not be a bar. But the question is whether this is a fit case to call for interference invoking the writ jurisdiction of this Court. The admitted facts and figures reveal that the issue with regard to

the appointment of the 4th respondent as Mutawali has already been subjected to consideration by the Tribunal in a proceeding filed by him against the adverse orders passed by the Board earlier. That apart, this appears to be a matter where evidence may have to be taken; which cannot be done by this Court in a proceeding under Article 226 of the Constitution of India. We do not find any irregularity, much less any illegality with regard to the verdict passed by the learned Single Judge, as to the discretion exercised in this regard.

6. The writ appeal fails. It is dismissed accordingly, however making it clear that interference declined will not be a bar for the Appellant to move the Tribunal in accordance with law.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge