

**HIGH COURT FOR THE STATE OF TELANGANA
(Special Original Jurisdiction)**

MONDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO: 19066 OF 2009

Between:

Mohammed Younus, S/o. Mohd Abbas, Business, R/o. H.No.3-4-303/1/4,
Lingampally, Kachiguda, Hyderabad.

...PETITIONER

AND

1. The Chief Executive Officer, A.P. State Wakf Board, Office at A.P.Haj House
Razzaq Manzil, Nampally, Hyderabad.
2. Mr. Ghulam Qader, S/o. Late Mr. Ghulam Dastagir, Business, R/o.H.No.17-6-
777, Dabeerpura, Hyderabad

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or writs more appropriately a writ of mandamus declaring the impugned proceedings F.No.M5/331/Prot/Hyd/2000 dated 20-07-2009 issued by the 1st respondent is illegal, void and ultra vires in the interest of justice and equity.

WPMP. NO: 24913 OF 2009

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased suspend the operation of the impugned proceedings F.No.M5/331/Prot/Hyd/2000 dated 20-7-2009 till the disposal of the writ petition in the interest of justice and equity.

Counsel for the Petitioner: SRI. ABDUL MUQEETH QURESHI

**Counsel for the Respondent No.1: SRI MIRZA SAFIULLA BAIG
SC FOR WAKF BOARD**

Counsel for the Respondent No.2: SRI MOHAMMED RAHAIL AHMED

The Court made the following: ORDER

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.19066 OF 2009

ORDER:

Heard the learned counsel for the petitioner, Sri Safiulla Baig, learned Standing counsel for Wakf Board and Sri Mohd. Rahail Ahmed, learned counsel for 2nd respondent.

This writ petition is filed seeking the following relief :-

".....Writ of Mandamus declaring the impugned proceeding F.No.M5/331/Prot/Hyd /2000 dated 20.07.2009 issued by the 1st respondent, is illegal, void and ultra vires in the interest of justice....."

It has been contended by the petitioner that he is the care taker of the Vakil Sahab which is a notified Wakf and has been taking care of the said institution to the best satisfaction of his superiors and everyone concerned. The grievance of the petitioner is that under Section 54(1) of the Wakf Act, 1995, the 1st respondent had issued notice on 13.04.2009 to the effect that petitioner is an encroacher and gave 15 days time to submit explanation. Though petitioner had submitted explanation to the said notice on 29.04.2009, the 1st respondent without considering the said explanation has passed impugned order dated 20.07.2009 holding that the petitioner is an encroacher. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner contends that though the petitioner had submitted his explanation on 29.04.2009, the respondents have issued the impugned order categorically stating that petitioner had not submitted his explanation so far, which clearly goes to show that the respondents have not taken into

consideration the explanation submitted by the petitioner. Therefore, he contends that appropriate orders be passed in the writ petition setting aside the impugned order dated 20.07.2009 and further direct the 1st respondent to consider the explanation submitted by the petitioner on 29.04.2009 and pass appropriate orders afresh in accordance with law.

Learned Standing counsel appearing for the 1st respondent contends that since the explanation submitted by the petitioner on 29.04.2009 was not considered by the 1st respondent while passing the impugned order, the petitioner be permitted to file fresh explanation and thereafter, the 1st respondent would consider the same along with the explanation submitted by the petitioner on 24.09.2009 and pass appropriate orders in accordance with law.

This Court, having considered the rival submissions of the learned counsel appearing for the respective parties is of the considered view that the impugned order dated 20.07.2009 is passed without taking into account the explanation submitted by the petitioner on 24.04.2009 and on that ground, the impugned order is liable to be set aside and accordingly, the same is set aside. Further, the 1st respondent is directed to consider the explanation submitted by the petitioner on 29.04.2009 in addition to the fresh explanation to be submitted by the petitioner within two weeks from the date of receipt of a copy of this order and pass appropriate orders in accordance with law in another twelve weeks thereafter, after giving opportunity to the petitioner.

With the above direction, this writ petition is disposed of.

No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

//TRUE COPY//

SD/- T RANGA BABU
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Chief Executive Officer, A.P. State Wakf Board, Office at A.P.Haj House Razzaq Manzil, Nampally, Hyderabad.
2. One CC to Sri. Abdul Mugeeth Qureshi, Advocate [OPUC]
3. One CC to Sri. Mirza Safiulla Baig, SC FOR WAKF BOARD [OPUC]
4. One CC to Sri Mohammed Rahail Ahmed, Advocate [OPUC]
5. Two CD Copies

CHR



HIGH COURT

AKS,J

DATED:24/02/2020



ORDER

W.P.No.19066 of 2009

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

*30V
6copies
Jk 22/4/2020*