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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 30th June, 2020

+ **CONT.CAS(C) 302/2020**

MOHD SHITAB KHAN AND ORS Petitioners

Through: Ms. Ritu Jain, Advocate

versus

S M ALI-CEO DELHI WAQF BOARD Respondent

Through: Mr. Wajeeh Shafiq, Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been held through video-conferencing.
2. The present contempt petition has been filed seeking action to be taken against the Contemnor i.e. the CEO of the Delhi Waqf Board.
3. The case of the Petitioners is that they are employees of the Delhi Waqf Board and have been working for several years in various Mosques. They were terminated on 14th November, 2019 with retrospective effect from 28th October, 2019. According to the Petitioners, they filed petitions seeking minimum wages before the Minimum Wages Authority and the termination was an act of victimisation.
4. The Petitioners then filed a Writ Petition registered as W.P.(C) 12365/2019, challenging the said orders of the Respondent and seeking stay against the termination orders. The petition was listed before a Id. Single Judge on 26th November, 2019 on which date, the following order was

passed:

“C.M. No.50605/2019 (for exemption)

1. Exemption allowed, subject to all just exceptions. The application is disposed of.

W.P.(C) 12365/2019 & C.M. No.50604/2019 (for stay)

2. Vide the present petition, the five petitioners, who claim to have been working as Moazzins in different Masjids under the directions of the respondent for the last many years, are assailing their termination order dated 28.10.2019 which is claimed to have been served on them only on 14.11.2019.

3. Learned counsel for the petitioners submits that though the petitioners had been satisfactorily discharging their duties for the last many years and are also residing in the respective Masjids, the respondent, in a mala fide manner and in order to teach them a lesson for raising an issue of minimum wages, has passed the impugned order.

4. Learned counsel for the petitioners submits that the petitioners are still residing in the respective Masjids and even though as per the impugned termination order, their services have been terminated w.e.f. 01.11.2019, the petitioners are still continuing to discharge their duties. She, therefore, prays that the respondent be restrained from dispensing with the service of the petitioners during the pendency of the present writ petition.

5. Issue notice. Learned counsel for the respondent, who appears on advance notice, while not disputing that the petitioners have been serving the respondent for the last many years claims that their appointment was made on temporary basis and, therefore, their services were liable to be terminated without any notice. He however concedes that no fresh recruitments have been

made after the issuance of termination orders to the petitioners and fairly submits that keeping in view the averments made in the writ petition, the respondent will reconsider the matter in its next meeting to be held soon.

6. Counter affidavit be filed within six weeks thereafter. Rejoinder, if any, be filed within four weeks thereafter.

7. Having considered the submissions of the learned counsel for the parties and the fair stand taken by the respondent, I am of the considered opinion that in view of the prima facie case made out by the petitioners, grave and irreparable loss would be caused to the petitioners. The respondent is, therefore, directed to maintain status quo qua the service of the petitioners till the next date.

5. The present contempt petition has been filed seeking compliance of the above order.

6. The case of the Petitioners is that the Petitioners are continuing to render service in the various mosques. However, despite the *status quo* order having been passed by the Court, none of them are being paid salaries since November, 2019. No application was filed by the Petitioners till now because none of the other similarly placed employees in the mosques were also being paid their respective salaries. It was only in May, 2020 that the arrears were released to all other employees. However, the arrears qua the Petitioners have not been released. Hence the present petition.

7. On the last date, this Court had directed the notice to be issued. Ld. counsel for the Delhi Waqf Board had sought time to place on record certain documents including judgments. The said affidavit has been filed.

8. Ms. Jain, ld. counsel submits that as per the said affidavit also, the

Waqf Board does not dispute the fact that the Petitioners were the employees of the Delhi Waqf Board. On the other hand, Mr. Shafiq, ld. counsel submits that the positions of the Petitioners as *Moazzins/Imams* are traditional positions and do not attract any monthly remuneration. Mr. Shafiq, ld. Counsel submits that as per the orders of the Supreme Court, the Minimum Wages Act, 1948 would not apply to Delhi Waqf Board. This position is disputed by Ms. Jain, ld. counsel.

9. Insofar as this Court is concerned, the scope of this petition is limited. This Court has only to see as to whether there is any non-compliance of the order dated 26th November, 2019. A perusal of the said order clearly shows that the Court had considered the rival submissions of the parties. In fact, the Court has considered the contention of Petitioners that the Petitioners are continuing to discharge their duties and that Respondent should be restrained from terminating the service of the Petitioners.

10. The ld. Single Judge also records that the Waqf Board had clearly made a submission that no fresh recruitments are being made and that the matter was under re-consideration of the Board. Under these circumstances, the order for maintenance of *status quo* was directed by ld. Single Judge. In the contempt petition, there is a clear averment that the Petitioners were being paid Rs.9,000/- per month at that time. Paragraph 3 of the writ reads as under:

“3. That Respondent has been paying Petitioners and other workmen employed in their establishment much less than minimum wages. The Petitioners have been working as Moazzin and keeping and maintenance of the Masjids/establishment. The Petitioners are currently being paid Rs. 9000/- per month.”

11. Thereafter however the said amount is stated to have been enhanced. Ld. Counsel for the Petitioners also submits that the Petitioners are continuing to serve in the respective mosques. However, this position is disputed by the Respondent.

12. The submission of the Waqf Board on the merits as to whether the Minimum Wages Act would apply or not is a contention that has to be considered in the writ petition itself and not in the present contempt petition. The Waqf Board is permitted to place all the applicable law in the writ petition and seek appropriate reliefs in the writ petition no.12365/2019.

13. The scope of this petition being limited only insofar as the compliance of order dated 26th November, 2019 is concerned, the *status quo* order would in effect mean that the services of the Petitioners cannot be terminated and that the payments which were being made to them at that time would have to be made. A reading of the order as a whole, clearly shows that the termination having been stayed, the Petitioners continue to work as employees of the Wakf Board. Thus, the salaries which they were being paid at the time of filing of the writ would be liable to be paid.

14. Accordingly, the Waqf Board is directed to release the monthly salaries to the Petitioners as per the last paid salary, which was being made to them at the time when the writ petition was filed. All the arrears shall also be paid within a period of four weeks. With these observations, the contempt petition is disposed of. All pending applications are also disposed of.

PRATHIBA M. SINGH
JUDGE

JUNE 30, 2020/Rahul/A/R/C