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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4687/2020**

NAEEM FATIMA KAZMIPetitioner
Through: Ms Tasneem Ahmadi, Advocate.

versus

**LIEUTENANT GOVERNOR, GOVERNMENT
OF NCT OF DELHI & ORS.** Respondents
Through: Mr I.A. Hassan, Advocate for Central
Waqf Council/R-3.
Mr Salman Khurshid, Senior
Advocate with Mr Rishiesh Kumar,
Advocate for R-1&2.
Mr. Wajeeh Shafiq, Standing Counsel
for Delhi Waqf Board/R-5.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER
% **29.07.2020**

The hearing was conducted through video conferencing.

CM APPL. 16860/2020 (Exemption)

1. Allowed subject to all just exceptions. The application stands disposed-off.

CM APPL.16859/2020 (Exemption from court fee)

2. Exemption allowed, subject to the condition that the applicant/petitioner will file the duly sworn/attested affidavit and the requisite court fee within 72 hours of the date of resumption of regular functioning of this Court.
3. The application stands disposed-off.

W.P.(C) 4687/2020 & CM APPL. 16858/2020 (Stay)

4. Issue notice.

5. The learned counsel as named above accepts notice on behalf of the respondents.
6. At the outset, the Court notes that the Delhi Waqf Board ('DWB') is the institution whose elections are the issue in this petition. It is a necessary and proper party. At the request of Ms. Tasneem Ahmadi, learned counsel for the petitioner, the Delhi Waqf Board is impleaded as R-5.
7. The digitized copy of the petition be served upon counsel for the respondents during the course of the day through email.
8. At joint request of the parties, the petition is taken up for disposal.
9. According to the petitioner, by the Lt. Governor's order dated 07.10.2016, R-4 was removed from the post of Chairman, Delhi Waqf Board. Therefore under s.16(e)(i) of The Waqf Act, 1995, R4 is disqualified for being appointed, or for continuing as, member of the Board.
- 10.
11. from The said order was passed under section 99 (2) (b) of the Waqf Act, 1995. R-4 is disqualified from contesting the election to become a member of the Delhi Waqf Board, because Therefore, he cannot be a member of the Waqf Board
12. On behalf of i) the Lt. Governor, NCTD and ii) Principal Secretary (Revenue), GNCTD, Mr. Salman Khurshid, the learned Senior Advocate, refutes the said contention. He contends that the order was passed under s.99 of the Act, only to supersede the Board. The supersession cannot be equated with removal of any individual member of the Board. It is only removal which would result in

disqualification under s.16. The State Government can remove the Chairperson or member of the Board on the grounds specified in s.20 of the Act. Additionally, the Chairperson can be removed by the Board itself, for other reasons specified in s.20A. However, in either case a fair procedure will have to be followed. In the present case no notice or proceeding was initiated, either under s.20 or 20A, nor was any order passed thereunder. It is urged that the petition has misconstrued the legal provisions.

- 13.The learned counsel for R-3 submits that the Board was simply superseded by the aforesaid order under s. 99 and there was no removal of R-4 under s.20 of the Act.
- 14.That being the position, there would be no occasion for the petitioner to pursue the cause any further. A copy of the notification under section 99 (2) (b), as aforementioned, shall be supplied by R5, to the learned counsel for the petitioner via email within two days. In case the petitioner still has a grievance, she may pursue her remedies as may be available in law.
- 15.The petition, along with the pending application, is disposed-off in the above terms.
- 16.The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

JULY 29, 2020/rd