

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17385 of 2021

Md. Shahid son of Md. Shami, resident of Mohalla- Nawadih, Near Masjid,
Police Station- Aurangabad (Town), District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Minority Welfare Department, Government of Bihar, Patna.
2. The Chairman, Bihar State Sunni Waqf Board, 34, Ali Imam Path (Harding Road), Haj Bhawan, Patna.
3. The Chief Executive Officer, Bihar State Sunni Waqf Board, 34, Ali Imam Path (Harding Road), Haj Bhawan, Patna.
4. District Magistrate, Aurangabad, Bihar.
5. Sub- Divisional Officer, Aurangabad, Bihar.
6. The Chief Executive Officer, Nagar Parishad, Aurangabad.
7. The District Minority Welfare Officer, Aurangabad.
8. Arif Hussain Ishrat son of Late Ashique Hussain Resident of Mohalla- Pathan Toli, P.S. and District- Aurangabad.
9. Abdus Sattar Azad son of Late Jan Mohammad Ajwer Nagar, P.S. Aurangabad (T), District- Aurangabad.
10. Master Mozaffar Khan son of Late Nezamuddin Khan resident of Mohalla- Pathan Toli, P.S. Aurangabad (T), District- Aurangabad.
11. Ejaz Warsi son of Late Haji Nezamuddin Warsi resident of Mohalla- Pathan Toli, P.S. Aurangabad (T), District- Aurangabad.
12. Haji Jasimuddin Quraishi son of Late Md. Karim Quarishi resident of Quraishi Mohalla, P.S. Aurangabad (T), District- Aurangabad.
13. Md. Jamil Ahmad son of Late Md. Shafique resident of Mohalla- Jhanda Masjid, P.S. Aurangabad (T), District- Aurangabad.
14. Md. Alam Ansari son of Isa Ansari resident of Tekari, Mohalla, P.S. Aurangabad (T), District- Aurangabad.
15. Syed Athar Imam son of Mazhar Imam resident of Mohalla- Ali Nagar, P.S. Aurangabad (T), District- Aurangabad.
16. Tarique Aziz son of Late Idris resident of Mohalla- Biratpur, P.S. Aurangabad (T), District- Aurangabad.
17. Seraj Khalifa son of Bismil Khalifa resident of Mohalla- Shahganj, P.S.



Aurangabad (T), District- Aurangabad.

18. Khizir Heyat Khan son of Late Abu Nasar Khan resident of Mohalla- Islam Toli, P.S. Aurangabad (T), District- Aurangabad.
19. Vigilance Investigation Bureau, through the Director, Central Vigilance, Bihar, Patna.
20. Syed Shams Warsi son of Late Haji Nezamuddin Warsi resident of Mohalla- Pathan Toli, P.S. Aurangabad (T), District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anshul, Adv
Mr.Najeeb Ahmad, Adv
For the Respondent/s : Mr.Ajit Kumar (GA9)

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 04-10-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- i) For issuance of writ, in the nature of writ of mandamus commanding upon the official respondents to enquire/ investigate the misappropriation and embezzlement of waqf property by any independent investigation agency with respect to waqf property of Waqf Estate No. 1348, Anjuman Islamia Jama Masjid, Aurangabad, embezzlement /misappropriation of



which has been done by its managing committee duly appointed by respondent no. 3, in view of the report of the enquiry held by a duly constituted committee under the Chairmanship of Additional Collector, Aurangabad, under the order passed in C.W.J.C.No.17650 of 2017.

- ii) For appropriate direction/directions, directing the respondents to examine/ inspect enquire and investigate all records , correspondence, plans, accounts, financial transactions and other documents related to Managing Committee of Anjuman Islamia Jama Masjid, Waqf Estate No. 1348 and to take appropriate suitable action against the office bearers of said managing committee for deliberate and intentional mishandling of waqf for their personal monetary gains.



- iii) For further direction/ directions to the official respondents particularly respondent no.1, 2 and 3 to remove the respondent managing committee from discharging their duties and function of managing Waqf Estate No. 1348 as admittedly they have misappropriate the Waqf Property in view of section 64(1)(K) of the Waqf Act, 1995.
- iv) For any other relief/ reliefs to which the petitioner may be entitled to in the facts and circumstances of the case.

Mr. Anshul learned counsel for the petitioner invites our attention to the averments made in para 19 of the writ petition, which reads as follows:-



19. That the collusion of respondent Waqf Board with members respondents managing committee can also be ascertained from the fact that, earlier also complaints were made before the respondents waqf Board with regard illegal acts of office bearers of managing committee. The respondent no. 3 by letter dated 12.10.2017 directed Secretary, District Awaqaf Committee Respondent no. 20 to enquire.

The Secretary District Auqaf Committee who is the own brother-in-law of Respondent No. 8 (President) and elder brother of respondent .no. 11 (Joint Secretary) in an expected manner exonerated the members of managing committee and respondent no. 3 whole heartedly accepted the collusive report inspite of being made aware of the fact that the Secretary District Awaqaf Committee is related and has submitted the bogus report in order to save skin of his relatives.

Before us, it is not in dispute, that the petitioner does have an equally efficacious alternative remedy under the provisions of the Waqf Act, 1995.

We are of the considered view that in the interest of



justice, it would be best, if the petitioner were to approach the appropriate authority for taking recourse to the remedy available under the said Act. The questions of fact involved in the present petition are contentious and disputed and cannot be adjudicated herein at this stage.

Mr. Anshul expresses his apprehension of the Authority not deciding the matter expeditiously, more so, the respondents not co-operating before the Tribunal in expeditious disposal of the proceedings.

The Respondents unanimously state such apprehension to be unfounded and undertake to fully co-operate. Statement is accepted and taken on record.

Ordered accordingly.

Our attention is also invited to the order dated 16.01.2019 passed in CWJC No. 17650 of 2017 titled as Athar Hussain Vs the State of Bihar & Ors and earlier order dated 20.07.2021 passed in CWJC No. 9885 of 2020 titled as Md. Shahid Vs. the State of Bihar & Ors.

Under these circumstances, we request the Authority/Tribunal constituted under the Act to take up the proceedings expeditiously and, if so required, on day to day basis and decide the same at the earliest.



The parties shall fully co-operate and would not take any unnecessary adjournment. All questions of fact and law are left open.

Subject to the aforesaid observation and direction, this application is disposed of.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/amrendra-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.10.2021
Transmission Date	NA

