

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

902 CRA NO.47 OF 2020

**HASIBODDIN RAISODDIN KAZI AND OTHER
VERSUS
ISAQUE KASAM SAYYED AND OTHER**

...
Advocate for Petitioners : Mr.Kazi S.S.

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CORAM : N. J. JAMADAR , J.

Date :- 20th April, 2021.

P. C. :

1. Heard Mr. Kazi, the learned counsel for the applicants.
2. The challenge in this revision application is to the judgment and order dated 5th April, 2019 passed by the Maharashtra State Waqf Tribunal, Aurangabad, whereby, an application preferred by the applicants herein, under Section 83 (2) of the Waqf Act, 1995, assailing the legality and correctness of the order passed by the Chief Executive Officer, Maharashtra State Board of Waqf, Aurangabad on 31st December, 2013, confirming the order of settlement of the scheme, by the Assistant Charity Commissioner, Satara, in Inquiry No. 561 of 2002, dated 29th October, 2002, came to be disposed of with direction to the Maharashtra State Board of Waqf, Aurangabad, to conduct the election to the Management Committee of the Waqf Institution, Panchgani Mosque Trust, Panchgani, Tq. Mahabaleshwar, Dist. Satara, as per the scheme under its supervision, by appointing Regional Waqf Officer, within three months thereof.

3. From the perusal of the impugned order, it become evident that the said order came to be passed on the basis of the consent of the parties. In para 9 of the impugned order, the Tribunal has recorded in clear and explicit terms and at multiple places that the parties gave consent to the disposal of the matter in the manner in which it came to be disposed of i.e. holding of election to the Management Committee of the mosque trust.

4. Mr. Kazi, the learned counsel for the applicants would urge that, as per his instructions, there was no consent by the applicants for the disposal of the said application in the said fashion. Moreover, the question of legality and validity of the scheme settled by the Assistant Charity Commissioner, after constitution of the Waqf Board for the entire State of Maharashtra, was not at all adverted to by the Waqf Tribunal.

5. I am afraid it is not open to the applicants to make such a grievance before the Revisional Court. The Tribunal, as indicated above, has in terms observed that the parties gave consent and, therefore, without entering into the merits of the controversy, directions were issued for holding election to the Management Committee of the mosque trust. If at all the applicants have a grievance that they had not given such consent, as is recorded by the Tribunal, the only course available to the applicants is to approach to the Tribunal and make such a grievance.

6. Mr. Kazi, the learned counsel for the applicants made a further grievance that despite the time of two years having elapsed from the impugned order, the Waqf Board has not taken any steps to conduct election to the Management Committee of the mosque trust in terms of the impugned order. This grievance again can be agitated before the Waqf Tribunal by appropriate proceedings.

7. Faced with the aforesaid situation, the learned counsel for the applicants seeks leave to withdraw the application with liberty to approach the Waqf Tribunal for appropriate relief.

8. The Civil Revision application thus stands disposed of as withdrawn with liberty as prayed for.

9. This Court has not entered into the merits of the matter.

10. All the contentions of the applicants are kept open for consideration by the Waqf Tribunal in an appropriate proceeding, if permissible in law, and in accordance with law.

11. In the event an issue of limitation arises, the period spent by the applicants in prosecuting this application may be duly accounted for.

(N. J. JAMADAR)
JUDGE