

12.12.2022
sayandeep
Sl. No. 26
Ct. No. 05

WPA 15776 of 2022

Ismat Ara & Ors.
-Versus-
The Board of Wakfs & Ors.

Mr. Tanmoy Mukherjee
Mr. Gour Baran Sau

..... for the petitioners

Mr. Sk. Md. Galib
Ms. Subhra Nag

....for the State

Mr. Sundar Gopal Bhattacharyya
Mr. Gaurab Ghosh

.....for the respondent Nos. 1 & 2

The short question in this writ petition is whether an application for appointment of Mutawalliship made by the petitioner before the Board of Auqaf on 10th March, 2022 can be disposed of by directing the Board to consider and dispose of the representation made by the petitioner.

This question was decided by a Division Bench presided over by the Hon'ble the Chief Justice in a Judgment dated 27th September, 2022. The said Judgment arose from an appeal filed by the Board of Auqaf from a coordinate Bench decision by which the coordinate Bench directed the Board to dispose of the application made by the petitioners for appointment of one of the petitioners as Mutawalli of the Wakf Estate within a specific time frame. The Division Bench set aside the order of the coordinate Bench with liberty to

the petitioners to file appropriate application before the Wakf Tribunal under Section 83 of The Waqf Act, 1995.

The Judgment of the Division Bench was passed in a matter which is almost identical to the present writ petition. In any event, Section 83(1) of the Act empowers Tribunals to determine any dispute, question or matter relating to Wakf or Wakf property including eviction of a tenant or determination of rights and obligations of the lessor and lessee of such property. Section 83 provides a complete answer to the petitioner for adjudication of the issue raised in the writ petition.

WPA 15776 of 2022 is disposed of with liberty to the petitioner to approach the Wakf Tribunal under Sections 83(1)&(2) of the Act for determination of the question of Mutawalliship of the Wakf Estate. It is expected that the Wakf Tribunal shall dispose of the application, if made by the petitioner, within a reasonable period of time from receiving of the application. It may be noted that Section 84 of the Act mandates that the Tribunal shall hold proceedings as expeditiously as possible and give its decision in writing and furnish a copy of such decision to each of the parties to the dispute for determination of any of the questions relating to the Wakf property.

(Moushumi Bhattacharya, J.)