

07.03.2022
Item No.03
Court No.18
AJ.

C.O. 3806 of 2014

Aga Md. Arshad

-Vs-

Board of Wakfs, West Bengal & Ors.

Mr. Tanmoy Mukherjee,
Md. Nauroz Rahber,
Ms. Anjana Mehebub,
Mr. Souvik Das,
Mr. Rudranil Das.
....for the petitioner.

Sk. Md. Galib,
Mr. Abu Siddique Mallik.
.....for the Board of Auqaf.

Mr. Ziaul Islam.
....for the opposite party
nos. 3 and 4.

The revisional application under Article 227 of the Constitution of India is directed against the judgment and order dated April 10, 2014 passed by the Wakf Tribunal, West Bengal at Kolkata in O.A. No. 03 of 2011.

The petitioner as well as opposite party No. 3 and 4 applied for being appointed as the Mutwalli of 'Aga Mahammad Musa Wakf Estate'.

The C.E.O. of the Board of Waqf by his order dated July 26, 2010 dismissed the application of the petitioner but allowed the application of the opposite party no. 3 and 4.

The father of the petitioner, the erstwhile Mutwali of the said waqf Estate professed

Christianity was the ground on which the prayer of the petitioner was turned down.

The Board confirmed the said order of C.E.O. by its resolution dated September 22, 2010.

The petitioner assailing the said order of C.E.O and confirmation thereof by the Board, filed an application before the Waqf Tribunal West Bengal under Section 83 (2) of the Waqf Act, 1995 being OA No. 03 of 2011.

The Tribunal by the order impugned has dismissed the said application.

The C.E.O. is not justified in refusing the prayer of the petitioner for his appointment as Mutwali in the said Waqf Estate on the ground that his father, the erstwhile Mutwali of the said Waqf Estate professed Christianity inasmuch as religion of a person is not of much importance to hold the office of Mutwali in any Waqf Estate unless contrary intention of the Wakif can be gathered from the waqf deed.

The order impugned as well as the order of the C.E.O dated July 26, 2010 and the resolution of the Board confirming the said decision of the C.E.O are therefore set aside.

The application of the petitioner and the application of the opposite party nos. 3 and 4 are required to be considered afresh.

The Board of Waqf, West Bengal is directed to reconsider the said applications on the basis of the Waqf deed and other relevant materials. Needless to say that desire of the Wakif shall be the paramount consideration in deciding those applications.

The Board is required to dispose of the said applications as expeditiously as possible.

C.O. 3806 of 2014 is disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)