

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

WRIT PETITION NO. 11452 OF 2017

Mehemood Mira Sayed and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Devdatta P. Palodkar, Advocate for the Petitioners.

Shri A. S. Shinde, A.G.P. for the Respondent No. 1.

The Respondent No. 2 is served.

Shri H. I. Pathan, Advocate for the Respondent No. 3.

Shri Mahesh R. Sonawane, Advocate for the Intervenor.

**CORAM : MANGESH S. PATIL AND
 SANDEEP V. MARNE, JJ.**

DATE : 03.10.2022.

FINAL ORDER :

. We have heard both the sides for a while.

2. The petitioners are aggrieved by the fact that inspite of the directions of the Wakf board to hold elections, under the erroneous belief that no such directions were in force, by the impugned decision dated 02 August 2017, directions were issued by the State Government to conduct the elections of the Wakf Board within a period of two (02) months, in exercise of powers U/Sec. 97 of the Wakf Act.

3. Learned advocate Mr. Pathan for the respondent-Board submits that pursuant to the impugned communication elections

were held and change report was filed, which was accepted and even it was not opposed by the petitioners and even term of that body has to come to an end on 10.10.2022. He would submit that statutory time for holding fresh elections has come and the matter has become infructuous.

4. Learned advocate Mr. Palodkar for the petitioners on instructions submits that the body which is at the helm of the affairs has indulged in indiscriminate enrollment of the members with obvious object of holding on to the power. He submits that even if the elections are now held afresh, the returning officer should be instructed to take into consideration petitioners' objections.

5. When admittedly, the petitioners have not opposed the change which has occurred pursuant to the communication under challenge and when the fresh elections are also due, it would be appropriate to direct the board to appoint an independent person to conduct the fresh elections. It would always be open for the petitioners to raise whatever objections they have to, to the subsequent change. Needless to state that the returning officer would be obliged to consider the objections, if filed by the petitioners on their own merits. The writ petition is disposed of.

[SANDEEP V. MARNE, J.]

[MANGESH S. PATIL, J.]