

Item No.9
08.07.2024
Court. No. 9
GB

W.P.A. 9520 of 2024

Al-Haz Moulana Syed Misbahul Arefin
Vs.
The State of West Bengal & Ors.

*Mr. Syed Shamsul Arefin,
Mr. Gour Barun,
Mr. Syed Nurul Arefin,
Mr. Syed Moyeenul Arefin*

...for the Petitioner.

*Md. Salahuddin,
Md. A. Zaman*

...for the Board of Auqaf.

*Sk. Md. Galib,
Mr. Kapil Guha*

...for the State.

*Mr. Mahamudul Hasan,
Mr. Manas Kumar Das*

...for the Respondent No.5.

Affidavit-of-service filed in Court today, is taken on record.

The petitioner is aggrieved by an order dated July 17, 2023, passed by the Board of Wakf, West Bengal. The petitioner is aggrieved by the appointment of the respondent no. 5 as the Mutwalli.

The petitioner contends that such order was passed behind the back of the petitioner, although he was one of the members of the committee of Mutwallis. That the certified copy of the order was not provided to the petitioner. Hence, the petitioner was not able to take steps at the appropriate time. Only after the order of this Court on February 21, 2024 in WPO 87 of 2024, was the certified copy provided. It is next contended by the petitioner that the petitioner could not approach the tribunal under Section 83(2) of the Wakf Act,

1995 as there was no functioning tribunal in the absence of a Chairperson.

All the learned advocates for the respondents have apprised this Court that the appointment of the Chairman has been notified and the tribunal will start functioning. The law has been well-settled. Disputes in relation to wakf property and orders passed under the Wakf Act, are not amenable to the writ jurisdiction of this court. All such disputes and orders must be assailed before the Tribunal. Also, WPO 87 of 2024 was not moved by the present petitioner. Thus, the plea of lack of knowledge of the order of the Board is not substantiated by the records. However, as the tribunal will be functioning soon, the writ petition is disposed of granting liberty to the petitioner to approach the Wakf Tribunal in accordance with law.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)