



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO.108 of 2024

Muhammed Aquib Khan Muhammed Siddique Khan and others.

vs.

The Maharashtra State Waqf Board through its Chief Executive Officer, Panchakki,
Auranagabad and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri F.T.Mirza, Advocate with Shri Mohammad Ateeque, Advocate for petitioners.
Shri Abdul Subhan, Advocate for respondent no.1.
Shri D.N.Mudgale, Advocate h/f Shri Salim Hasmi, Advocate for respondent no.4.

CORAM :- NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE :- 18th JANUARY 2024.

Heard.

2. Our attention is invited to the orders dated 19.03.2019 and 05.12.2019 delivered in Writ Petition No. 6828/2018.

3. According to Mr. Mirza, learned counsel for the petitioners, the petitioners were fit persons to be appointed by virtue of the order passed by this Court in the matter of framing of scheme. Least that was expected in compliance of the order dated 05.12.2019 was to give an opportunity of hearing to the petitioners. According to him, the notice of hearing reads to the next date of hearing which is scheduled in the matter in question. As such, he would urge that the order impugned before the Waqf Tribunal was passed in exercise of powers under Section 69 of the Waqf Act, 1995 has to be termed in violation of the principles of natural justice.

4. According to him, since the powers are not vested with the Waqf Tribunal to grant interim relief as the powers are restricted only to the extent of entertaining the appeal, he would claim that this Court needs to consider the grant of appropriate relief in the matter. So as to substantiate his claim, he would draw support from the judgment of the Hon'ble Apex Court in *Income Tax Officer, Cannanore vs. M. K. Mohamad Kunhi* reported in [AIR 1969 SC 430].

5. As such, we deem it appropriate to allow the present writ petition as *prima facie* we are satisfied that the order impugned before the Waqf Tribunal was passed without giving effective opportunity of hearing to the petitioners.

6. That being so, the writ petition stands allowed in terms of prayer clause (ii).

7. Needless to clarify that the appeal before the Waqf Tribunal shall be decided on its own merits without being influenced by the present order.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.