



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

CIVIL REVISION APPLICATION NO. 188 OF 2019

1. Khalil Ahmed s/o Abdul latif Takey
Age: Major, Occu: Private Service
R/o DahiwaliKond, Post Degaon
Tq- Mangaon, Dist – Raigad, Pin code 402117

2. Abdul Samad s/o Usman Bandarkar
Age: Major, Occu: Private Service
R/o DahiwaliKond, Post Degaon
Tq- mangaon, Dist – Raigad, Pin code 402117

3. Hasan s/o Ibrahim Bandarkar
Age: Major Occu: Private Service
R/o DahiwaliKond, Post Degaon
Tq- Mangaon, Dist – Raigad, Pin code 402117
(All three Applicants/ residents of Village
DahiwaliKond, Post: Degaon, Tal: mangao,
Dist. Raigad and working in Kuwait
Through their GPA Holder
Murtuza s/o Jamaluddin Takey
Age 29 yrs, Occu: Social Worker
R/o DahiwaliKond, Post Degaon
Tq- Mangaon, Dist – Raigad. Pin code 402117

.....Applicants

VERSUS

1. Maharashtra State Board of Wakfs,
Through its Chief Executive Officer,
Panchakki, Aurangabad.

2. Ebrahim s/o Ahmed Takey
Age: Major, Occu: Business
R/o DahiwaliKond, Post Degaon
Tq- mangaon, Dist – Raigad. Pin code 402117

3. Mohammad s/o Usman Bandarkar
 Age: Major, Occu: Farmer
 R/o DahiwaliKond, Post Degaon
 Tq- Mangaon, Dist – Raigad. Pin code 402117

4. Abdul Rahim s/o Abdul KadirChilwan
 Age: major, Occu: Retired
 R/o DahiwaliKond, Post Degaon
 Tq- mangaon, Dist – Raigad. Pin code 402117

5. Ismail s/o Adam Bandarkar
 Age: major, Occu: Private Service
 R/o DahiwaliKond, Post Degaon
 Tq- Mangaon, Dist – Raigad. Pin code 402117

.....Respondents

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Advocate for the Applicant : Adv. N.I. Deshmukh & Adv. Ibrahim Deshmukh

Advocate for Respondent No. 1 : Adv. N. E. Deshmukh

Advocate for Respondent No. 2 to 5 : Adv. H. A Patankar

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 16, 2025

PER COURT :-

1. The applicants impugn order dated 17.06.2019 passed by the Maharashtra Waqf Tribunal, Aurangabad in Waqf Application No.55/2016, thereby upholding the decision of Waqf Board regarding acceptance of change report submitted by respondent nos.2 to 5 in relation to Waqf Institute (Jama Masjid) of village Dahiwalikond, Post Degaon, Taluka Mangaon, District Raigad.

2. The learned Advocate appearing for the applicants submit that the Waqf Institute/Masjid of village Dahiwalikond was registered under Bombay Public Trust Act, 1950 vide registration PTR No.B-96 dated 23.04.1953. In view of the Waqf Act of 1995 it is deemed to be registered under Section 43 of said Act with Board. The Institution has been managed by the trustees appointed by Jamat. Initially, the Waqf institution was managed by trustees namely Ahmed Ali Bandarkar, Hasan Ahmed Takey, Hasan Miyan Suleman Bandarkar, Ayyub Abdul Kadir Bandarkar and Abdul Latif Takey. The respondent nos.2 to 5 submitted change report dated 25.09.2014 before Waqf board contending that three original trustees have been expired and two have resigned. Therefore, in meeting dated 22.07.2014 called by Jamat, they have been appointed as trustees. The Chief Executive Officer of the Waqf Board accepted change report vide order dated 11.11.2014. The applicants, who are interested persons in the trust assailed order passed by the Chief Executive Officer before Waqf Tribunal at Aurangabad under Section 83 (2) of Waqf Act in Waqf Application No.55/2016. However, Waqf tribunal rejected Waqf application by order dated 17.06.2019.

3. The learned Advocate appearing for applicants submits that the application for change report was supported by fabricated documents. The Waqf Board is required to cause inquiry into assertions made in the change report. However, without making such inquiry, the Waqf Board mechanically approved the change report. The applicants had issued legal notice dated 07.09.2015 to respondent and requested him to recall the order dated 11.11.2014 regarding acceptance of change report, which was not acted upon. Consequently, the applicants had approached Waqf Tribunal. However, none of the contentions raised by the applicants have been given anxious consideration, thereby approving the action of the Waqf Board. The learned Advocate appearing for the applicants further points out that existing trustees Mr. Yunus Ibrahim Bandarkar had filed an affidavit stating that he never resigned nor elections were conducted in the Jamat.

4. Similarly, she would point out that death certificates, which were made part of the change report were also fabricated documents. Similarly, Mr. Nisar Ahmed Ulde has filed affidavit stating that he had neither witnessed the change report nor signed or filed the same. It is further submitted that change report was based on forged documents.

5. Mr. H. A. Patankar, learned Advocate appearing for respondent No.2 to 5 and Mr. N. E. Deshmukh, learned Advocate appearing for respondent No.1 supports impugned order and submits that in fact, the applicants sans *locus-standi* to object change report. They are Non Residential Indians, unconcerned with the Waqf. Mr. N. E. Deshmukh, learned Advocate appearing for the Waqf Board submit that the Chief Executive Officer of the Board had issued public notice in newspaper dated 27.09.2014 and also called the report of Regional Waqf Officer. After sufficient inquiry, the change report has been accepted.

6. Having considered submissions advanced, it is apparent that change report was submitted to record change based on appointment of trustees in the meeting of Jamat held on 22.07.2024. Upon receipt of change report, the Chief Executive Officer, who is empowered under Section 27 of the Waqf Act to exercise the powers of Board as per Resolution No.110/2013 dated 19.12.2013 caused publication of notice in Daily Navbharat. Similarly, report was called from the Regional Waqf Officer. There was no objection from anyone for acceptance of change report. The Chief Executive Officer recorded his satisfaction

as regards to the meeting of Jamat and consequential appointment of the trustees. Eventually accepted the change report.

7. The applicants raised objection to the acceptance of change report. There is controversy as to whether the applicants can be termed as interested persons in terms of Section 3(k) of Waqf Act, 1995, since they are not residing in India and in real sense unconcerned with day to day activities of the Waqf Institution. Apparently, the proceeding was moved through GPA and not in person.

8. It is not disputed before this Court that the original trustees namely Ahmed Ali Bandarkar, Hasan Ahmed Takey and Abdul Latif Hasan Takey have been expired. Eventually, three vacancies of the trustees were occurred. Similarly, other two trustees have resigned. They have not challenged the fact of their resignation at any point of time. There is no challenge as to the mode and manner of appointment of the trustees. In case of vacancies, the Jamat is empowered to appoint new trustees and fill up the vacancies in absence of the scheme. In that view of the matter, even assuming that there is objection as to the genuineness of the death certificate, in absence of denial of fact as to the death of three trustees and challenge to the

resignation by the other two trustees, there is no reason to entertain objection to the change report as accepted by the Board. It is true that R.C.C. No.99/2018 based on private complaint by Jamaluddin Takey is pending for alleged forgery of death certificates, but that itself cannot be taken ground to set aside order of Waqf Board. The learned Tribunal has elaborately discussed relevant issue and rendered its decision, thereby refuting challenge to the decision of Waqf Board. No jurisdictional error has been brought to the notice of this Court.

9. Consequently, there is no merit in Civil Revision Application, which stands rejected.

(S. G. CHAPALGAONKAR, J.)