



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

79 CRA NO. 172 OF 2023

ABDUL FAHIM ABDUL HAMID SHEIKH

VERSUS

MOHMMAD SHAFI MOHAMMAD HANIF

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Advocate for the Applicant : Mr.Taher Ali Quadri
Advocate for Respondent No.4:Mr.Deshmukh N. E.

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CORAM : SHAILESH P BRAHME, J.

DATE : 25.08.2025

PER COURT :

. Heard both sides.

2. This Court has already indicated in earlier order dated 08.08.2025 that matter shall be decided finally at the admission stage. Nobody appears for the Respondent Nos.2 and 3 though they are duly served. Respondent No.1 is deleted as he is no more. Learned counsel Mr. Deshmukh appears for Respondent No.4.

3. The grievance in this revision is the direction issued by the tribunal to the Respondent No.4/Waqf Board to consult and hear the applicants who are *de-facto* trustees of the said Waqf institution which is operative part Clause No.1 of the impugned judgment and order dated 04.08.2023 passed by tribunal in Waqf Application No.13 of 2023.

4. Both the parties are unanimous that a scheme has already been framed vide judgment dated 17.12.1967 which is at Exhibit-A

and elections would be conducted in accordance with the scheme especially paragraph No.11 of the judgment.

5. The Respondent Nos.2 and 3 are outgoing trustees who have not caused appearance in the matter. There is nothing to counter the proposition that elections are to be conducted in consonance with scheme framed by Charity Commissioner which is at Exhibit-A.

6. It is apposite to refer the relevant portion of paragraph No.11 which governs the conducting of elections in case elections are not conducted by earlier trustees or out-going trustees which is as follows :

“In case the existing trustees fail to convene the meeting and hold the elections of the new trustees as aforesaid it shall be lawful for the Deputy Charity Commissioner, Nagpur (which expression shall include such other authority as may be constituted to perform the functions and duties of the Charity Commissioner or Assistant/ Deputy Charity Commissioner of the Region in relation to public trust under any law for time being in force) to appoint the trustees as he may deem fit and proper. The order of the Deputy Charity Commissioner, Nagpur shall be final and conclusive.”

7. The scheme administering the Waqf institution does not contemplate any condition of hearing of the application of *de-facto* trustees. The direction which is under challenge in the present revision is extraneous and liable to be quashed.

8. Learned counsel for the Respondent No.4 submits that board

is ready to conduct elections in consonance with the scheme which is in operation. On instructions, he submits that certain time is required for preparing the electoral roll and other formalities for conducting the elections. In that view of the matter, the revision can be disposed of.

9. The directions issued in Clause No.1 of the impugned judgment by the tribunal to consult and hear the application of *de-facto* trustees shall stand quashed and replaced by following directions :

“ The Respondent No.4/ Maharashtra State Board of Waqfs shall conduct the elections in accordance with law and as per the scheme approved which is at Exhibit-A as early as possible and not more than six (06) months from today.

. Needless to mention that the conducting of the elections, preparation of the electoral rolls and electoral college shall be as per the scheme.”

10. Civil revision application (C.R.A) is disposed of in above terms.

[SHAILESH P. BRAHME, J.]

vsj..