

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13681 OF 2024

WITH

INTERIM APPLICATION NO. 15469 OF 2024

IN

WRIT PETITION NO. 13681 OF 2024

Ansari Shabbir Ahmed

...Petitioner/
Applicant

Versus

The State of Maharashtra & Ors

...Respondents

Ms. Tooba R Momin, *for the Petitioner.*

Ms. S. D. Vyas, *with Ms. M. P. Thakur, AGP, for the Respondent No. 1-State.*

Mr. Prathamesh Kamat, *with Ms. Nikita Lad, Mr. Kayush Zaiwalla & Mr. Rukshin Ghiara, i/b, Saga Legal, for the Respondent No. 2.*

Mr. Rahul P Jain, *i/b, Alpha Chambers, for the Respondent No. 3.*

CORAM **M.S. Sonak &
Advait M. Sethna, JJ.**

DATED: **13 November 2025**

PC:-

1. Heard learned Counsel for the parties.
2. The learned Counsel for the Respondents, in unison, raise a preliminary objection to the entertainability of this Petition by submitting that the Petitioner has an alternate and efficacious remedy of filing an Appeal before the Waqf

Tribunal under Rule 12(9) of the Maharashtra State Waqf Rules, 2022 (said Rules).

3. The Rule referred to by the learned Counsel for the Respondents indeed provides that where a dispute arises as to the validity of the election of the Chairperson or any other member of the board, any person interested may, within thirty days of the declaration of the result of the election file an application before the Tribunal and the decision of the Tribunal thereon shall be final.

4. In this matter, the Petitioner filed this Petition on 6 August 2024 to question the election of the 3rd Respondent, which was held on 5 August 2024. Thus, this Petition was filed within the period prescribed under Rule 12(9)(a) of the said Rules.

5. In addition to the challenge to the election of the 3rd Respondent, the Petitioner has urged the implementation of the provisions of the Waqf Act, 1995, in letter and spirit to constitute the Waqf Board in terms of Section 14, where, at all times, the elected members should be more than the nominated members.

6. Ms Momin submitted that since this was the consolidated Petition, the remedy of appeal was not explored.

7. It is apparent that the Petitioner has been *bona fide* pursuing this Petition. This Petition was filed within one day

following the election of the third Respondent. Thus, it was not as if the Petitioner lacked diligence.

8. The learned counsels for the parties, including Mr Rahul Jain, learned Counsel for the 3rd Respondent, stated that if the Petitioner now avails of the remedy under Rule 12(9)(a) of the said Rules, the objection based on limitation would not be raised and the matter could be argued on its merits.

9. By accepting the above statement, Ms Momin, on instructions, submits that an Appeal would be filed within three weeks from the date of uploading of this order.

10. Thus, we dispose of this Petition by relegating the Petitioner to avail of the alternate remedy under Rule 12(9)(a) of the said Rules.

11. If the appeal is filed within three weeks from the date of uploading of this order, then the Tribunal should decide the Appeal on merits without adverting to the issue of limitation. In any event, as observed earlier, the Petitioner was pursuing the remedy before this Court *bona fide*. Therefore, the time spent in pursuing this remedy would have to be excluded under Section 14 of the Limitation Act.

12. All contentions of all parties, including those concerning the composition of the Board, remain open. However, we clarify that the Respondents will not raise the issue of the limitation as now stated by them, provided the Petitioner

institutes an Appeal within three weeks from the date of uploading of this order.

13. This Petition is disposed of with liberty in the above terms. No costs. All concerned are to act on an authenticated copy of this order.

14. The Interim Application does not survive the disposal of this Petition and is therefore disposed of with liberty to apply for appropriate reliefs/interim reliefs before the Tribunal.

(Advait M. Sethna, J)

(M.S. Sonak, J)