



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 WRIT PETITION NO. 1515 OF 2026

WAQF TRUST MUSLIM GRAVE YARD THROUGH ITS PRESIDENT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. R.R. Bangar, Advocate h/f Mr. I.D. Maniyar, Advocate for petitioner
Miss. Neha B. Kamble, AGP for State
Mr. S.B. Pulkundwar, Advocate for respondent Nos.3 and 4

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CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

DATE : 10th FEBRUARY, 2026

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

. Present petition has been filed for directions to respondent Nos.3 to 5 to decide representation filed by petitioner and as per order dated 24.03.2025 passed by respondent No.2 to delete names of encroachers from Waqf property in the Grampanchayat record.

2 Heard learned Advocate Mr. R.R. Bangar holding for learned Advocate Mr. I.D. Maniyar for petitioner, learned AGP Miss. Neha B. Kamble for respondents/State and learned Advocate Mr. S.B. Pulkundwar for

respondent Nos.3 and 4.

3 Petitioner is stated to be a Waqf Trust. It is notified in the official gazette of the Government at Sr. No.206 on 10.04.1975 under the provisions of Waqf Act, 1995. Application for registration under Section 43 of the said Act to include the name of petitioner in the Waqf Register was filed and after due procedure the registration certificate has been issued to petitioner on 03.03.2020. Respondent No.1 has issued Government Resolution dated 13.04.2016 and it has been directed to all the authorities that as per the provisions of Waqf Act, 1995, all the names of encroachers should be deleted and only Waqf name should be mentioned to the property documents. Petitioner, therefore, approached before respondent No.2 by filing application dated 06.03.2025. As per the petitioner, Muslim graveyard property is to the extent of 82 R and accordingly 7/12 extract has been prepared. In the application it was prayed that names of encroachers be deleted. Respondent No.2 by making necessary enquiry passed order dated 24.03.2025 and directed respondent No.5 to delete names of encroachers and to effect the correction in 8-A extract. When the petitioner approached respondent No.2 to act upon the order; yet no further steps have been taken. Respondent No.5, who has been directed by higher authority to implement the order, yet not taken the decision. Hence, this petition.

4 The first and the foremost fact that is required to be noted is that though petitioner appears to be a registered institution and there is Government Resolution dated 13.04.2016; yet the petition as well as representation lack on the point that how many persons have made encroachment, to what extent and since when. Those persons are not made party to present proceedings. It also does not appear that respondent Nos.2 to 4 have not even heard those persons, whose names are sought to be deleted. The orders or directions issued by respondent Nos.2 to 4 are very vague and not to the point. Another fact to be noted is that mere deletion of name of so called encroacher will not give vacant possession to the petitioner if at all the encroacher is in possession of the land and has erected any structure thereon. Therefore, only on the basis of some vague representation this Court will not be justified in passing an order of deciding the representation. The petitioner will have to take substantial procedure to assert its right. Hence, we do not find this to be a fit case where we should exercise our powers under Article 226 of the Constitution of India. Writ Petition stands dismissed.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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