

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.3028 OF 2023

Shakir M. Ebrahim .. Petitioner
Versus
State of Maharashtra & Ors. .. Respondents

ALONGWITH
WRIT PETITION NO.853 OF 2024
ALONGWITH
WRIT PETITION NO.955 OF 2024
ALONGWITH
WRIT PETITION NO.1069 OF 2024
ALONGWITH
WRIT PETITION NO.1412 OF 2024
ALONGWITH
WRIT PETITION NO.1124 OF 2024
ALONGWITH
WRIT PETITION NO.3359 OF 2023

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Mr.Sagheer A. Khan a/w Aqil Khan, Dawood Khan and Afsha Khan i/b Judicare Law Associates for the Petitioners in all the Petitions.

Ms.Nikita Lad a/w Abdu Hafeez Yakub Kotwala for Respondent No.3.

Mr.Suraj Gupte, AGP for State in WP No.853/2024.

Mr.Manish Upadhye, AGP for State in WP No.955/2024.

Mr.Prashant Kamble, AGP for State in WP No.1069/2024.

Ms.Prachi Tatake, Addl. GP for State in WP No.1412/2024.

Ms.Gauri Sawant, AGP for State in WP No.1124/2024 & 3028/2023

Mr.Himanshu Takke, AGP for State in WP No.3359/2023.

**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATE : 17th FEBRUARY, 2026**

P.C:-

1 A communication is received from the Maharashtra State Waqf Tribunal, Aurangabad, dated 06/01/2026, appraising the Court about the compliance of the directions issued, directing it to decide the main Applications filed under Section 7 of the Waqf Act, 1995, alongwith the Applications for condonation of delay, which could not be disposed of and, therefore, the communication seek extension of 3 months from 13/01/2026 to dispose of 8 matters.

2 We have perused the communication addressed by the Tribunal to the Assistant Registrar, Judicial II and also heard the learned counsel representing the Waqf Board.

The background facts reveal that this Court on 03/04/2025 while entertaining Writ Petition No.3028/2023, directed that the Waqf Application filed under Section 7 of the Waqf Act, 1995, alongwith the Application of condonation of delay be taken up and decided as expeditiously as possible and in any event within a period of three months from the date of the order. The Petitioner was also permitted to file accounts with the Charity Commissioner for the financial year 2024-25, without prejudice to the rights and contentions of the Parties.

With this direction Writ Petition No.3028 of 2023 was disposed of.

Since this direction could not be complied with, an extension was sought from this Court by moving appropriate applications and accordingly extension is granted on two occasions.

This is the third time the extension is sought and now, we are informed by the Tribunal that the Applications for condonation of delay are allowed by the Tribunal against which 16 Appeals are instituted before the Aurangabad Bench and the learned Single Judge on 02/12/2025, while issuing notice for final disposal has requested the Tribunal not to pass any orders on merit till the next date.

3 The communication addressed by the Tribunal highlight the aforesaid difficulty.

However, the learned counsel representing the original Petitioners would submit that even if the Tribunal is desirous of deciding the main applications, it will not be in a position to do so, as the Tribunal do not have the composition of full members.

He would point out that by notification issued by the Minority Development Department on 09/10/2025, the Government of Maharashtra has cancelled the appointment of Mr. Anis Shaikh as a Member and, therefore, the Applications under Section 7 of the Waqf Act cannot be determined in absence of the substitution of Mr. Anis Shaikh and till date the Government has not done anything, though the Notification removing him is published on 09/10/2025. It is his submission that the Waqf Tribunal cannot function only with two members and unless and until the third member of the Tribunal is nominated, it cannot become functional.

The learned counsel, therefore, make a request that the State Government shall be directed to appoint the third member so as to have the composition of Tribunal complete

and any proceedings pending before it shall be taken up for consideration which shall include the proceedings arising from Petition which was disposed of by this Court, directing decision on the Applications under Section 7 of the Waqf Act, alongwith the condonation of delay application in a time bound manner.

4 Facing above difficulties, though the learned counsel for the Petitioners would submit that as far as the First Appeals are concerned, which have raised a challenge to the order condoning the delay and since it is informed that the proceedings are listed before the learned Single Judge on 24/02/2026, appropriate pleadings shall be made before the Court. However, according to the learned counsel, the most serious issue is about nomination of third member so as to have the full coram of the Tribunal and for this purpose we call upon the learned AGP to seek instructions from the State Government i.e. the Minority Department as to what steps have been taken for nomination/appointment of the third member, substituting Mr.Anis Shaikh, whose appointment was cancelled as notified on 09/10/2025.

5 While we grant extension as prayed for in the communication addressed by the Tribunal, we also call upon the State Government to respond to the query on the next date.

List on 09/03/2026.

[MANJUSHA DESHPANDE, J.]

[BHARATI DANGRE, J.]