



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 24th MAY, 2024

IN THE MATTER OF:

+ **W.P.(C) 3589/2024 & CM APPL. 14656/2024**

YAMIN ALI

..... Petitioner

Through: Mr. Shams Khwaja, Advocate.

versus

GOVERNMENT OF NCT OF DELHI AND ORS. Respondents

Through: Ms. Mehak Nakra, ASC with Ms. Aditi Kapoor, Advs for R-1 and 2.
Mr. Santosh Kumar, S.O (M.A) on behalf of R-2.

Ms. Shobhana Takiar, St. Counsel,
Mr. Sanjay Katyal, St. Counsel for DDA with Ms. Razia and Mr. Kuljeet Singh, Advs for R-3.

Mr. Yoginder Handoo and Mr. Ashwin Kataria, Advocates for R-4.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court for quashing the appointment of Respondent No.2 as the Administrator of Delhi Waqf Board.
2. The Petitioner claims that he is a resident of the ancient city of Mehrauli that now forms part of New Delhi. It is stated that the Petitioner's mother is buried in the graveyard adjacent to the historic Akhoundji Mosque, a property which the Petitioner claims is a property classified as a Waqf Property with the Delhi Waqf Board. Some portion of which has been



demolished under authority of Respondent No.2 who ought to have protected the mosque as custodian of the Delhi Waqf Board as hence should be removed as the Administrator of Delhi Waqf Board as he has failed in his duty to protect a Waqf Property. The Petitioner states that he is aggrieved by several actions taken by Respondent No.2 as an Administrator of the Delhi Waqf Board and therefore he states that the appointment of the Respondent No.2 must be quashed.

3. At this juncture it is pertinent to mention that the Petitioner had filed W.P.(C) 3293/2024 with very same allegations. Since what was challenged was the actions taken by Respondent No.2, this Court has suggested to the learned Counsel for the Petitioner that the actions can be challenged before the Tribunal under the Waqf Act, and accordingly the Petitioner withdrew the said Writ Petition. The Order dated 04.03.2024 passed by this Court in W.P.(C) 3293/2024 by which the Petitioner withdrew the writ petition, reads as under:-

“1. Since an alternate efficacious remedy is available to the Petitioner before the competent authority under the Delhi Waqf Act, on a suggestion given by this Court, learned Counsel for the Petitioner seeks permission to withdraw this writ petition with liberty to approach the authority under the Delhi Waqf Act.

2. Permission and liberty, as prayed for, is granted.

3. Since this Court has given the suggestion to the Petitioner to approach the competent authority under the Act, which has been graciously accepted by the learned Counsel for the Petitioner, this Court has not made any observation on the merits of the case.

4. The petition is disposed of as withdrawn along with



pending application(s), if any.”

4. The Petitioner has once again filed a Writ Petition with the very same averments and has approached this Court by filing the instant writ petition.

5. Learned Counsel for the Petitioner has vehemently attacked the actions of Respondent No.2 to contest that Respondent No.2 should not continue as the Administrator of the Delhi Waqf Board.

6. Section 99 of the Waqf Act gives the power to appoint Administrator to supersede the Waqf Board. Section 99 of the Waqf Act,1995, reads as under:-

"99. Power to supersede Board.—(1) If the State Government is of opinion that the Board is unable to perform or has persistently made default in the performance of, the duty imposed on it by or under this Act or has exceeded or abused its powers, or has wilfully and without sufficient cause failed to comply with any direction issued by the Central Government under section 96 or the State Government under section 97, or if the State Government is satisfied on consideration of any report submitted after annual inspection, that the Board's continuance is likely to be injurious to the interests of the [auqaf] in the State, the State Government may, by notification in the Official Gazette, supersede the Board for a period not exceeding six months:

Provided that before issuing a notification under this sub-section, the State Government shall give a reasonable time to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board:

[Provided further that the power of the State Government under this section shall not be exercised



unless there is a prima facie evidence of financial irregularity, misconduct or violation of the provisions of this Act.]

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members of the Board shall, as from the date of supersession, vacate their offices as such members;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board shall, during the period of supersession, be exercised and performed by such person or persons as the State Government may direct; and

(c) all properties vested in the Board shall, during the period of supersession vest in the State Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government may—

[(a) extend the period of supersession by another six months with reasons to be recorded in writing and, the period of continuous supersession shall not exceed more than a year; or]

(b) reconstitute the Board in the manner provided in section 14. "

7. Vide Order dated 10.01.2024 issued by the office of Divisional Commissioner, Minority Affairs Branch, GNCTD, Respondent No.2 has



been appointed as an Administrator of the Waqf Board till the time the Board is re-constituted.

8. Other than stating that the actions of Respondent No.2 are bad, no reason has been given by the Petitioner why Respondent No.2 lacks in qualification to be appointed as an Administrator of the Waqf Board. The Petitioner has attempted to give a communal flavour to the actions of Respondent No.2.

9. The very same Counsel who appeared on behalf of the Petitioner in W.P.(C) 3293/2024 was told that action is the subject matter of challenge before the Tribunal and the Petitioner must approach the Tribunal, the Petitioner withdrew the said writ petition to challenge the action of the Administrator. However, after withdrawing the Writ Petition, the Petitioner has once again filed the very same writ petition with the very same allegations.

10. This Court does not find any reason to quash the appointment of Respondent No.2. It cannot be said that Respondent No.2 is not qualified to be appointed as an Administrator. This Writ Petition is nothing but an abuse of the process of law and is a publicity-oriented litigation.

11. Material on record indicates that the decision for demolition of the structure is referred to in the Minutes of Meeting dated 02.01.2024 and it is for the Petitioner to challenge the said Minutes of Meeting and the decision taken therein rather than challenging the appointment of Respondent No.2 as an Administrator.

12. It is always open for the Petitioner to approach the Waqf Board for challenging the actions of the Administrator or file a petition challenging specific actions in this regard which has been done in several other petitions



pending before this Court.

13. This Writ Petition is an absolute abuse of the process of law without giving any valid reasons as to why the appointment of Respondent No.2 as an Administrator of the Delhi Waqf Board should be quashed. This Court is not inclined to entertain the present writ petition and is inclined to dismiss the writ petition imposing costs of Rs.10,000/- on the Petitioner to be deposited with the *Armed Forces Battle Casualties Welfare Fund* within four weeks from today.

14. The petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MAY 24, 2024

hsk