

(2011) 11 KAR CK 0115

In the Karnataka High Court

Case No : Writ Petition No. 35687-88 of 2011 (GM-Wakf)

Akbar Sharief

APPELLANT

Vs

The Karnataka State Board of Wakfs and Others

RESPONDENT

Date of Decision : 08-11-2011

Acts Referred:

Citation : (2011) 11 KAR CK 0115

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : C.G. Gopalaswamy, for the Appellant;

Final Decision : Dismissed

Judgement

B.S. Patil

1. In this writ petition, petitioner is challenging the notification dated 25.05.2011 issued by respondent No. 3 -Election Officer and the Assistant Commissioner, Mangalore Sub-Division, Mangalore, publishing the list of elected members to the Managing Committee of respondent No. 4 - Thannirubavi Mohiyuddin Jumma Masjid. A direction is also sought against the respondents to take appropriate steps to constitute a managing committee of respondent No.4 in accordance with its bye-laws. Petitioner is also challenging the order dated 31.05.2011 passed by respondent No.1-Karnataka State Board of Wakfs, Bangalore, thereby extending the term of the managing committee for a period upto three years.

2. Various contentions are urged in support of first two prayers which are essentially in the nature of challenge to the managing committee of respondent No.4. Some of the contentions urged by the petitioner are, that contrary to the requirements in law to conduct the election to the managing committee as per the bye-laws of the wakf and in violation of Clause 8(1) and 8(2) of the bye-laws, respondent No.3 has straight away gone in for election of the members of the managing committee without exploring the possibility of selecting the candidates on consensus as mandated in the bye laws. It is also urged that persons who

were ineligible to contest in the election have been permitted to participate in the election process and are declared elected.

3. Upon hearing the Learned Counsel for the petitioner and on perusal of the grounds urged in the writ petition and the relief sought as per prayer Nos. (a) & (b), I find that the petitioner has to agitate his grievance before the alternative forum where he can challenge the election. this Court in exercise of the writ jurisdiction cannot undertake the task of considering the validity of the election of the managing committee members of respondent. No.4. Therefore, the two reliefs sought at prayer Nos. (a) & (b) cannot be granted. Reserving liberty to the petitioner to avail the alternative remedy of challenging the election of the members of the managing committee, this writ petition is dismissed.

4. However, as regards the grievance made against extension of the tenure of the managing committee to three years vide Annexure-X as per order dated 31.05.2011, petitioner is entitled to maintain a separate writ petition laying proper foundation for that grievance. Liberty as such is reserved in so far as the said grievance is concerned.