

(2004) 06 JH CK 0031

In the Jharkhand High Court

Case No : Writ Petition (C) No. 76 of 2004

Anjuman Islamia

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 29-06-2004

Acts Referred:

Constitution of India, 1950 — Article 226
Waqf Act, 1995 — Section 102

Citation : (2005) 1 JCR 315

Hon'ble Judges : P.K. Balasubramanyan, C.J.;Narendra Nath Tiwari, J

Bench : Division Bench

Advocate : V. Shivrath, for the Appellant; A. Allam, B.S. Lall, Addl. AG and Rajiv Ranjan, for the Respondent

Judgement

1. This writ petition filed by some of the members of the Anjuman Islamia having its registered office at Anjuman Plaza, challenges the constitution of a Management Committee for Anjuman Islamia by the Bihar State Sunny Waqf Board. The order is dated 19.12.2003 and by that order, taking note of the fact that the tenure of the last elected Managing Committee of the Anjuman Islamia had expired on 25.9.1999 and that no new Managing Committee has been elected, the Bihar State Sunny Waqf Board constituted a Committee of 11 members for better management of the Institution and specifying that the life of the Committee would be one year from the date of the notification. According to the petitioner, the Bihar State Sunny Waqf Board, has no jurisdiction to constitute such a Committee after the Bihar Re- organization Act, 2000 came into force and it is for the State of Jharkhand to constitute a Waqf Board for the State and consequently, the order of appointment of the Committee is without jurisdiction. This is met by Counsel for the Bihar State Sunny Waqf Board, by contending that the Bihar State Sunny Waqf Board had jurisdiction over the entire territory of undivided State of Bihar, that it was a body constituted under the Waqf Act, 1954, that there is no bar in the Central enactment and there is no provision to restrict the field of operation of the Waqf Board to any particular

geographical region or State and in that context, atleast so long as a Waqf Board is actually constituted for the State of Jharkhand, the Bihar State Sunny Waqf Board continued to have jurisdiction. This argument is also supported by Mr. Rajiv Ranjan appearing on behalf of the Secretary, Nigran Committee which may be called the Care Taker Committee. Section 102 of the Waqf Act, 1995 was also brought to our notice by learned Counsel for the writ petitioner. But considering the circumstances as a whole we are not inclined to go into in that question. It is not necessary to decide that question in the present writ petition.

2. What is seen is that the Anjuman Islamia is being managed by a Managing Committee elected by its members. The term of the last elected Managing Committee expired on 25.9.1999. But due to one reason or another, no new election has been held and no new Management Committee to be in- charge of the affairs of Anjuman Islamia could be brought into existence in terms of the Rules of the Institution. In a sense a void is created. It is in that situation, that the Bihar State Sunny Waqf Board stepped in and appointed a Committee by the notification dated 19.12.2003 called the Nigran Managing Committee to be the in- charge of the affairs of the Anjuman Islamia for a period of one year from the date of the notification. Obviously, the main responsibility of that Committee is to regularize the affairs of the Anjuman Islamia and to hold an election of the Managing Committee as prescribed by the bye-laws of Anjuman Islamia. We think that it is absolutely necessary to expedite the process of election and to have a duly elected Managing Committee for Anjuman Islamia. Counsel for the Bihar State Sunny Waqf Board and counsel appearing for the Secretary of the Nigran Committee both fairly submitted that they have absolutely no objection to this Court issuing a direction to the Nigran Committee to complete the process and hold the election to the Managing Committee before the expiry of the term of the Nigran Committee.

3. In the circumstances, we think that it is necessary to direct the Nigran Managing Committee, respondent No. 5 to complete the process of the election of the Managing Committee before the expiry of its term by December, 2004. The Nigran Committee will ensure that a fair and free election is held in terms of the by-laws of Anjuman Islamia and the Management handed over to that Committee. The Bihar State Sunny Waqf Board will also ensure that this direction issued by us is duly carried out by the Nigran Managing Committee. Mr. V. Shivnath, learned counsel for the petitioner tried to argue that the election should be held through independent agency. We have no reason to doubt that the Nigran Managing Committee will hold a free and fair election as contemplated by the bye-laws. In this situation we are not inclined to accede to the payer of counsel for the petitioner to have an observer to ensure that the Nigran Managing Committee holds a free and fair election in terms of the bye- laws, including the preparation of a proper voters list and so on.

Thus writ petition is disposed of with the direction as above.