

(2000) 07 DEL CK 0096

In the Delhi High Court

Case No : CWP No. 5705/98 and C.M. 1477 of 2001

Kul Hind Tanziam-E-Masjid (Registered)

APPELLANT

Vs

Delhi Wakf Board and others

RESPONDENT

Date of Decision : 30-07-2000

Acts Referred:

Constitution of India, 1950 — Article 32

Citation : (2001) 59 DRJ 790

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : Mr. Bahar U. Barqi, for the Appellant; Ms. Nandini Ramachandran, for the Respondent

Final Decision : Allowed

Judgement

Vikramajit Sen, J.—As there was no representation on behalf of Respondents on 18.7.2001 they were proceeded ex parte. Ms. Nandini Ramachandran, learned counsel for UOI had only put in appearance for the Respondents on 24.7.2001 and stated that the said Respondent No.5 shall abide by the Orders of this Court.

2. In this petition filed on behalf of Imams of various Masjids in delhi, through the Petitioner-Society, the prayer is for the issuance of a mandamus directing Respondents 1 to 3 to pay the salaries and wages with all consequential benefits to the Imams, members of the Petitioner-Society. Earlier, a petition had been filed under Article 32 of the Constitution, for enforcement of the fundamental rights of the Imams, against their exploitation by Wakf Boards and for payment of their basic wages to enable them to survive. In those proceedings - All India Imam Organization and others Vs. Union of India and others, , following directions were passed.

"6. In the circumstances we allow this petition and issue following directions:

(i) The Union of India and the Central Wakf Board will prepare a scheme within a period of six months in respect of different types of mosques, some detail of six

months in respect of different types of mosques, some detail of which has been furnished in the counter affidavit filed by the Delhi Wakf Board.

(ii) Mosques which are under control of the Government shall not be governed by this order. But if their Imams are not paid any remuneration and they have no independent income. The Government may fix their emoluments on the basis as the Central Wakf Board may do for other mosques in pursuance of our order.

(iii) For other mosques, except those which are not registered with the Board of their respective States of which are not manned by members of Islamic faith the scheme shall provide for payment of remuneration to such Imams taking guidance from the scale of pay prevalent in the State of Punjab and Haryana.

(iv) The State Boards shall ascertain income of each mosque the number and nature of Imams required by it namely full time or part time.

(v) For the full time Punjab Wakf Board may be treated as a guideline. That shall also furnish guideline for payment to part time Imam.

(vi) In all those mosques where full time Imams are working they shall be paid the remuneration determined in pursuance of this order.

(vii) Part time and honorary Imam shall be paid such remuneration and allowance as is determined under the scheme.

(viii) The scheme shall also take into account those mosques which are small or are in the rural area or are such as mentioned in the affidavit of Pondicherry Board and have no source of income and find out ways and means to raise its income.

(ix) The exercise should be completed and the scheme be enforced within six months.

(x) Our order for payment to Imams shall come into operation from 1st Dec., 1993. In case the scheme is not prepared within the time allowed then it shall operate retrospectively from 1st December, 1993.

(xi) The scheme framed by the Central Wakf Board shall be implemented by the State Board.

3. Learned counsel for the Petitioner submits that an allocation of Rs.2.5 crores has been remitted to Respondent No.1. It is further stated by learned counsel for the Petitioner that a Scheme had been drafted and promulgated pursuant to this Order of the Supreme Court which was called The Scheme for Remuneration to Imams and Muazzins, 1995, which came into effect on 1.12.1993. The Petitioners are seeking the implementation and enforcement of the various terms of the Scheme, the salient feature of which is a categorisation of Mosques and Imams and their remunerations. My attention has specifically drawn to the fact that this Scheme in turn refers to that applicable to the Punjab and Haryana Wakf Board. It will be recalled that the Hon'ble Supreme Court had also referred

to the Scheme which had then been prevailing.

4. No Counter or Reply has been filed by any of the Respondents and hence the assertions made in the writ petition must be accepted as correct. The Extant Rules of the Punjab Wakf Board reads as follows:

"OFFICE OF PUNJAB WAKF BOARD

DATED 12-13.03.1999

Reference No.53-Education-1999/6/97

Former Administrator has constituted a Committee for the purposes of enhancement of the salary of the Imams and Muazzims on 14.10.1998. Accepting the recommendations made by the just mentioned committee, he has approved the following salaries for the Imams and Muazzims who are performing their duties in the Mosques in Haryana, Punjab, Himachal Pradesh and Chandigarh which are under the management of the Punjab Wakf Board in the following manner :-

1. Imam Aalim -- Rs.2100/- per month
2. Imam Hafis -- Rs.2000/- per month
3. Imam Nazira -- Rs.1500/- per month
4. Imam Moazin -- Rs.1400/- per month

Besides, they will also be entitled to 16% of the salary as Dearness Allowance and they are further entitled to Rs.250/- per month as medical allowance. Due to shortage of funds the above mentioned enhancement was kept in pending but now it would be effective from 1.11.1998 instead of 20.11.1998 and accordingly to this the salary would be paid from April, 1999 and all the dues would also be paid in the same month.

Syed Zafar Mehmood

Administrator

Punjab Wakf Board"

5. In these circumstances the Respondents 1 to 4 are directed to comply with the Orders of the Hon"ble Supreme Court passed in the case of All India Imam Organisation"s case (supra), and pay salaries and emoluments in consonance with the scheme applicable in the office of the Punjab Wakf Board. Compliance must be carried out within eight weeks from today.

6. The petition is disposed of accordingly.