
(2011) 12 KAR CK 0395

In the Karnataka High Court

Case No : Writ Petition No. 44701 of 2011 (GM-WAKF)

Mr. Mohammed Turab Administrator and Habrasthan
Robertsonpet, KGF Kolar District

APPELLANT

Vs

State of Karnataka Ministry of Wakfs and Others

RESPONDENT

Date of Decision : 08-12-2011

Acts Referred:

Citation : (2011) 12 KAR CK 0395

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

Bench : Single Bench

Advocate : Prakash T. Hebbar, for the Appellant; H.T. Narendra Prasad, HCGP for R1, for the Respondent

Final Decision : Dismissed

Judgement

B.S. Patil

1. Learned Government Header is directed to take notice for the 1st respondent.
2. Since a short question falls for consideration in this case, the petitioner to taken up for final disposal.
3. The contention of the petitioner is that, the respondent-Board could not have appointed another Administrator in the place of the petitioner by issuing the impugned order vide Annexure-E dated 29.10.2011 without affording an opportunity of being heard to the petitioner.
4. The undisputed facts reveal that the Karnataka State Board of Wakfs took over the administration of Jamia Masjid and Kabrashthan, the 4th respondent-Wakf which is situated at Robertsonpet, K.G.F., in Kolar District. Petitioner came to be appointed as its Administrator after nominating an Ad-hoc Managing Committee to frame Bye-laws to elect the Regular Managing Committee. Annexure-A is the order, whereunder the petitioner is appointed as the Administrator on 07.04.2011. It was made clear to the said order that, the Administrator shall

frame the Bye-laws to select,/ elect the Regular Managing Committee for the management of the Wakf within six months and during that period be shall not takes any policy decision.

5. On 28.06.2011 another order came to be issued by the Chief Executive Officer of the Karnataka State Board of Wakf, appointing one Mr. Muneer Ahmed M., as Election Officer to conduct election, to elect a Managing Committee for the Management of the Wakf and making it clear that the election process shall be completed within two months from 28.06.2011. It was also made clear in the said order that the petitioner would continue as Administrator till elections were over. The order is produced at Annexure-B, However, by the impugned order dated 29.10.2011, even before the election could be held, the petitioner was replaced by appointing one Mr. Fayaz Shariff, Retired Office Superintendent, Abasiya College, Bangalore, as the Administrator of Wakf. In the preamble, to the said order produced at Annexure-E, reference to made to the communication addressed by the Election Officer stating that he could not conduct election to the Management Committee within two months as the institution did not have approved By-laws. The order further makes it clear that the Administrator was directed to frame Bye-laws on the lines of the Model Bye-laws and to send draft Bye-laws for approval, tut the draft Bye-laws had not been received till 29.10.2011 and therefore it was held necessary to appoint Mr. Fayaz Shariff as Administrator to manage the day-to-day affairs of the Wakfs.

6. Learned counsel for the petitioner, drawing the attention of the Court to Annexure-C communication dated 04.10.2011, addressed to the Chairman, District Wakf Advisory Committee, Kolar by the Administrator, Wakf, Kolar, submits that after discussing with the jamath and the interested persons in the Wakf, be had prepared draft Bye-laws on par with the approved Scheme of Management of the Board and the same had been submitted in triplicate for recommendation of the same to the Board. Based on the said communication, it is urged by the learned counsel for the petitioner Sri Prakash T. Hebbar that the respondent - Chief Executive Officer was not right and justified in replacing the petitioner as Administrator of Wakfs and appointing another person in his place on the ground that he had not complied with the duties entrusted to him regarding preparation of the Bye-laws. His contention is, if only an opportunity was given to the petitioner to have his say in the matter, he would have satisfied the respondent -Wakf Board about the same.

7. Learned Government Pleader submits that no vested right is accrued to the petitioner to discharge his duties as Administrator for an indefinite period and that the appointment made being only a temporary one, the Board was entitled to appoint any other person in the place of the petitioner to discharge the duties as Administrator.

8. Learned counsel has placed reliance on the judgment in the case of Asthan-E-Khadri Trust, Bangalore and Others Vs. Karnataka State Board of Wakfs, Bangalore and Others, to support of his contention.

9. Upon hearing the learned, counsel for the petitioner and the learned Government Pleader, I find that the petitioner does not have any vested right to continue as Administrator of the respondent-Wakf, in the absence of any vested right, the petitioner cannot challenge the action of the respondent in appointing another person as Administrator. The question of affording an opportunity of being heard to the petitioner would arise, if the impugned order had the effect of attaching stigma on the petitioner. The impugned order though makes a reference to the fact that the Administrator had not submitted draft Bye-laws, does not impute anything against the petitioner. The fact that the draft Bye-laws were not submitted to the Chief Executive Officer, Karnataka State Board of Wakfs, cannot be disputed, in as much as by Annexure-C Communication, was addressed by the petitioner to the Chairman of the District Wakf Advisory Committee, Kolar, and not to the Karnataka State Board of Wakfs. In that background, the respondent-Board has taken a decision to appoint another Administrator and entrust the work of preparing the draft Bye-laws and managing the affairs of the Wakf to him.

10. Therefore, the grievance made by the petitioner is totally untenable. The judgment in ILK 2000 KAR 801 pertains to a case where challenge was made to the action of the Board in taking over and assuming direct management of a Wakf, without hearing the interested persons and in that background it was held that the action of the Board was arbitrary and violative of principles of natural justice. In the instant case, there is no grievance made regarding the taking over of the management of the Wakf by any of the interested persons. The limited grievance made by the petitioner is with regard to appointing another Administrator in his place. Therefore, the judgment on which the petitioner has placed reliance has no relevance to the facts of present case.

11. In view of the above, I do not find any merit in the present case.

12. Writ petition, is therefore, dismissed.

13. Learned Government Header is permitted to file memo of appearance within four weeks.