

(2015) 02 KAR CK 0320

In the Karnataka High Court

Case No : Writ Petition No. 59367 of 2014 (GM-WAKF)

Rafiulla

APPELLANT

Vs

Karnataka State Board of Wakfs and Others

RESPONDENT

Date of Decision : 20-02-2015

Acts Referred:

Waqf Act, 1995 — Section 106, 13, 18, 27, 3

Citation : (2015) 02 KAR CK 0320

Hon'ble Judges : S. Abdul Nazeer, J.

Bench : Single Bench

Advocate : Naveed Ahmed, for the Appellant; S.R. Anuradha, Advocates for the Respondent

Final Decision : Dismissed

Judgement

S. Abdul Nazeer, J.—In this case, the petitioner has called in question the validity of the order at Annexure-B dated 4.12.2014 whereby the second respondent has constituted the District Wakf Advisory Committee of Mandya District (for short "Advisory Committee").

2. The petitioner is one of the aspirants for the post of Chairman of the Advisory Committee. The first respondent passed an order at Annexure-A dated 23.9.2014, appointing an administrator to the Advisory Committee, for a period of six months or until further orders whichever is earlier. The Wakf Board issued an order dated 4.12.2014 constituting the Advisory Committee consisting of chairman, two vice chairmen and 18 members.

3. The contention of the learned counsel for the petitioner is that the Advisory committee has not been constituted in accordance with law. It is argued that the Wakf Board has not passed a resolution for constituting the Advisory committee. Thus, the constitution of the Advisory committee is invalid and unauthorized. The appointment of the third respondent as the Chairman of the Advisory Committee is also illegal.

4. On the other hand, learned advocates appearing for the respondents submit that the Wakf Board has passed a resolution dated 29.5.2014 and 5.6.2014 (Annexure-R.1), delegating the power to constitute the Advisory Committee with the consent of respective Divisional Members of the Wakf Board subject to the ratification by the Board. The Wakf Board has appointed the third respondent as the Chairman of the Advisory Committee as per Annexure-R.3 which has been approved by the Chairman on 29.11.2014. It is argued that the meeting of the Board has not been convened after 29.11.2014. The matter will be placed before the next Board meeting for its ratification. They pray for dismissal of the writ petition.

5. I have carefully considered the arguments of the learned counsel made at the Bar and perused the materials placed on record.

6. Section 18 of the Wakf Act, 1995 (for short "the Act") provides for constitution of the committee. Sub- Section (1) of Section 18 states, Board may whenever it considers necessary, establish either generally or for a particular purpose or for any specified area or areas committees for the supervision of wakfs.

7. Sub-section (2) states that the constitution, functions and duties and term of office of such committees shall be determined from time to time by the Board. Proviso to this section states that it shall not be necessary for the members of such committees to be members of the Board.

8. "Board" has been defined in Sub-section (c) of Section 3 of the Act, as under:

"Board means, a Board of Wakf established under sub-Section (1) or as the case may be, under sub-section (2) of Section 13 and shall include a common Wakf Board established under Section 106." 9. Section 27 provides for delegation of powers. It states that the Board may, by a general or special order in writing, delegate to the Chairperson, any other members, the secretary or any other officer or servant of the Board or any area committee, subject to such conditions and limitations as may be specified in the said order, such of its powers and duties under this Act, as it may deem necessary.

10. In exercise of power under Section 27 of the Act, the Board has passed a resolution at Annexure-R. 1, delegating the power to the Chairman of the Wakf Board which is as under:--

"Further, it is also unanimously resolved to authorize the Hon"ble Chairman of the Board to take appropriate action in respect of matters that are urgent in nature, with the consent of respective Divisional Hon"ble Members with regard to approval of Managing Committees, appointment of Administrators/change of Administrators, constitution of Ad hoc Committee, constitution/filling up of Vice-Chairmen and Members of District Waqf Advisory Committees, subject to ratification by the Board." 11. A careful perusal of the aforesaid resolution would clearly indicate that the Chairman with the consent of the respective Divisional members of the Wakf Board is authorized not only to constitute the District Wakf

Committee, but also filling up the Vice-chairmen and members of the District Wakf Advisory Committees, subject to the ratification by the Board.

12. A Divisional member of the Board has sent the recommendation as per Annexure-R. 3 dated 17.11.2014, for appointment of the third respondent as the Chairman of the Advisory Committee. This has been approved by the Chairman on 29.11.2014. The Chairman of the Advisory committee is a part and parcel of the said Committee. The power to appoint the Chairman of the Advisory Committee includes the power to appoint its Chairman. Therefore, it is futile to contend that the Chairman of the Board is not authorized to appoint the Advisory Committee or the Chairman of the Advisory Committee. Needless to state that the Chairman of the Board has to place the order appointing the District Wakf Advisory Committee before the next meeting of the Board for its ratification. I do not find any merit in this writ petition. It is accordingly dismissed.

13. In view of dismissal of the writ petition as above, IA No. 1/15 does not survive for consideration. It is accordingly dismissed. No costs.