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APHC010052222026



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3330]
(Special Original Jurisdiction)**

FRIDAY, THE TWENTY FOURTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

**PRESENT
THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO**

WRIT PETITION No.3259 of 2026

Between:

1.MULLA SARMAS VALI, S/O. LATE MR. MULLA MOHAMMED
HUSSAIN AGED 43 YEARS, OCC AGRICULTURE, R/O. H.NO.
1-59, GOVINDWADA, BOMMANHALL ANATHAPUR DISTRICT,
A.P

...PETITIONER

AND

- 1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, MINORITY WELFARE DEPARTMENT, A.P.
SECRETARIAT, VELAGAPUDI, AMARAVATHI, A.P.522237
- 2.THE ANDHRA PRADESH STATE WAKF BOARD, REP. BY ITS
CHIEF EXECUTIVE OFFICER, 4TH AND 5TH FLOOR IMDAD
GHAR WAKF COMPLEX, OPP KALESWARARAO MARKET,
VIJAYAWADA, KRISHNA DISTRICT, A.P.520001
- 3.THE CHAIRPERSON, ANDHRA PRADESH STATE WAKF
BOARD, 4TH AND 5TH FLOOR IMDAD GHAR WAKF
COMPLEX, OPP KALESWARARAO MARKET, VIJAYAWADA,
KRISHNA DISTRICT, A.P 520001
- 4.THE CHIEF EXECUTIVE OFFICER, ANDHRA PRADESH STATE
WAKF BOARD, 4TH AND 5TH FLOOR IMDAD GHAR WAKF
COMPLEX, OPP KALESWARARAO MARKET, VIJAYAWADA,
KRISHNA DISTRICT, A.P. 520001
- 5.MR MULLA FAROOQ, S/O. LATE MR. G.M. SARMAS SAB,
AGED 48 YEARS, OCC DRIVER, R/O. 495, ASHRAY COLONY,
MUNDARGI, WARD V, BELLARI TOWN AND DISTRICT
KARNATAKA STATE. 583101

- 6.MR SHAIK JAHEED BASHA, S/O. LATE MR. MULLA ABDUL WAHAB SAB, AGED 53 YEARS, OCC PVT. TEACHER, R/O. H.NO.19/375 A GUNTAKAL, ANANTAPUR DISTRICT, A.P.515001
- 7.MR MULLA ADAM SAHEB, S/O. LATE MR. MULLA ABUBAKAR SAB, AGED 53 YEARS, OCC AGRICULTURE, R/O. GOVINDWADA, BOMMANHALL ANATHAPUR DISTRICT, A.P. 515001
- 8.MR KHAYUM BASHA, S/O. LATE MD KHAJA HUSSAIN AGED MAJOR, OCC BUSINESS, HOSPET TOWN, KARNATAKA STATE.583201

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or Writs more appropriately a Writ of Mandamus declaring the impugned proceedings F.NO.07/T/ATP/2OI 1/Z-IV/Supple dated 26.12.2025 issued by the respondent NO.2 to 4 appointing the respondent Nos. 5 to 8 as Mutawallies of the Wakf Institution i.e., Ashurkhana and its attached properties situated at Govindawada Village, Bommanahall Mandal, Anantapur District, A.P., under section 63 of the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995 for a period of two (2) years and rejecting the application of the petitioner for the appointment of Mutawalli vide Intimation proceedings F.NO.07/T/ATP/2OI 1/Z-IV/Supply dated 26.12.2025 contrary to the enquiry report submitted by the Enquiry Officer as per the direction of the Learned Wakf Tribunal passed in O.A. No. 17 of 2014 dated 08.02.2017 as illegal, void, ultra virus, without jurisdiction, unconstitutional and contrary to the section 27, 32, 42, 63 and 65 of the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995 and also in violations of principles of Natural Justice and consequently set aside the same in the interest of justice and equity.

Counsel for the Petitioner:

- 1.MD ABDUL MATEEN QURESHI

Counsel for the Respondent(S):

- 1.MASALEGAR HIDAYATHULLA
- 2.GP FOR SOCIAL WELFARE
- 3.SHAIK KHAJA BASHA

The Court made the following:

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO**WRIT PETITION No.3259 OF 2026****ORDER:**

Shorn of all necessary facts, the present Writ Petition is filed challenging the proceedings of the respondent No.3 in appointing the respondent Nos.5 to 8 as Mutawallies on the ground that the respondent No.2 has no power to delegate the powers, as outlined in Section 27 of the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995 (for short, 'the Act') and, consequently, prayed to set aside the impugned proceedings dated 26.12.2025.

2. Respondent Nos.5 to 8 are appointed as temporary Mutawallies under Section 63 of the Act by the respondent No.3 on the delegation of the power by the respondent No.2 under section 27 of the Act.

3. Learned counsel for the petitioner would submit that according to Section 27 of the Act, the Board may, by a general or special order in writing, delegate its power and duties under the Act, as it may deem necessary, 'except' the powers and functions of the Board mentioned under clauses (c), (d), (g) and (j) of sub-section (2) of Section 32 and Section 110 of the Act. Specifically, under Section 32(g) of the Act, the

delegatee is not authorised to appoint or remove the Mutawalli in accordance with the provisions of the Act and also further contends that no disputed facts are present in this case and it is purely a jurisdictional issue present in the present Writ Petition, as such, this Court possess jurisdiction under Article 226 of the Constitution of India and prayed to set aside the impugned proceedings.

4. Learned counsel appearing for the unofficial respondents Sri S.M.Subhani, *inter alia*, would submit that respondent Nos.5 to 8 are appointed as temporary Mutawallies for a period of two years and there is no specific excluding provision incorporated under Section 27 of the Act and therefore the petitioner cannot invoke Section 27 of the Act, and there was no such intention in the mind of legislature. Had the legislature possessed such an intention, they would have been included Section 63 of the Act in Section 27 of the Act. As the appointment of the unofficial respondents was a temporary appointment made under Section 63 of the Act, the word “except” in Section 27 of the Act is not applicable to Section 63 of the Act and also further stated that the disputed questions are involved in the present case and the petitioner has to invoke the jurisdiction under Section 83(2) of the Act. And it is further stated that an enquiry was conducted against the writ petitioner

and it found that the writ petitioner has committed irregularities, this emerges disputed questions and that the petitioner should seek the jurisdiction under Section 83(2) of the Act. Hence, prayed to dismiss the Writ Petition.

5. Learned counsel appearing for the Waqf Board would submit that the petitioner herein filed Writ of Mandamus, instead of Writ of Certiorari, therefore, he would submit that the present Writ Petition is liable to be dismissed on the said ground.

6. Heard Sri Md. Abdul Mateen Qureshi, learned counsel for the petitioner; Sri Shaik Khaja Basha, learned Standing Counsel for the Waqf Board; and Sri S.M.Subhani, learned counsel representing Sri M.Hidayathulla, learned counsel for the unofficial respondent Nos.5 to 8.

7. Point for consideration: For effective disposal of the Writ Petition, the following provisions are hereby extracted hereunder:

"27. Delegation of powers by Board.—The Board may, by a general or special order in writing, delegate to the Chairperson, any other member, the Chief Executive Officer 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, except the powers and functions of the Board mentioned under

clauses (c), (d), (g) and (j) of sub-section (2) of section 32 and section 110.

32. Powers and functions of the Board—

xxxxxx

(2) Without prejudice to the generality of the foregoing power, the functions of the Board shall be—

xxxxxx

(g) to appoint and remove mutawallis in accordance with the provisions of this Act; "

8. The learned counsel for the unofficial respondents 5 to 8 Sri S.M.Subhan would submit that the Section 63 of UWMEED Act 1995 is exempted from Section 27 of the Act and contends that the Waqf Board has the authority to delegate such powers for appointing Temporary Muttavalli, therefore, it shall be deemed that the Waqf Board may delegate the powers to appoint Temporary Muttawalli under the Act.

9. In the case of ***Vijay Narayan Thatte and others Vs State of Maharashtra & others*** reported in 2009 (9) SCC 92 - at pg.98, para-22. The Apex Court held that in the opinion of the Court, when the language of the statute is plain and clear, then the literal rule of interpretation has to be applied and there is ordinarily no scope for consideration of equity, public interest or seeking the intention of the legislature. It is only when the language of the statute is not clear or ambiguous or there is some

conflict, etc., or the plain language leads to some absurdity that one can depart from the literal rule of interpretation.

10. Section 27 of the UWMEED Act, 1995, clearly manifests or specifies or envisages that Waqf Board can delegate such or its powers and duties under the Act, as it may deem necessary, except the powers and functions of the Board mentioned under clauses (c),(d),(g), of sub-section (2) of Section 32 and Section 110 of the Act. The Board cannot delegate the powers and functions under clauses (c),(d),(g), of Sub-Section (2) of Section 32 and Section 110 of the UWMEED Act, 1995.

11. Sub-section (2) (g) of Section 32 of the Act speaks about the appointment and removal of the Muttawalli. The word “except” in the Section 27 of the Act, carves out an exception and exempts the appointment of Muttawalli under sub-section (2) (g) of Section 32 of the Act. However, sub-section (2)(g) of Section 32 of the Act doesn’t outline about the appointment of Permanent and Temporary Muttawalli under Sections 42 and 63 of the Act, respectively. There is no ambiguity in the Section and the Section is plain and clear in the absence, this Court need not interpret the provision. A reading of Section 27 of the UWMEED Act, 1995, it shows that the language of the Section is clear.

Hence, the literal rule of interpretation must be applied to it. Hence, the Board cannot delegate the power of appointment either under Section 42 or Section 63 of the Act. Accordingly, the point is answered in favour of the writ petitioner against the respondents.

12. On the other hand, it is the contention of the Sri S.M.Subhan, learned counsel for the un-official respondents that a writ is not maintainable when an alternative remedy is provided under Section 82(2) of the Act. In the case of ***State Of A.P. (Now State of Telangana) vs A.P.State Wakf Board*** reported in (2022) 20 SCC 383: the Hon'ble Apex Court, after considering plethora of judgements, held that statutory remedy is no bar for exercising writ jurisdiction under Article 226 of the Constitution of India, held that when the question was in respect of interpretation of the statutes and is not a case where any oral evidence would be necessary or is available now (See paras from 119 to 136 of the Judgment). In the case on hand, it is the contention of the petitioner that the Waqf Board cannot delegate the power for appointment of Muttawalli. In the case on hand, no oral evidence is required, it is purely question of law whether the Board can delegate to appoint Muttawhallis, when there is bar under Section 32 (2) (g) of the Act. Hence, this Court

holds that the writ petition is maintainable under Article 226 of the Constitution of India.

13. The learned standing counsel would contend that the petitioner instead of filing the writ petition under Writ Certiorari to quash the impugned proceedings filed the writ of Mandamus, hence, voiced that writ is liable to be dismissed.

14. Learned counsel for the petitioner Sri Md. Abdul Mateen Qureshi has argued that a writ of Mandamus means a command issued to direct any public authority, inferior Courts or Government, requiring them to do some particular thing therein specified which appertains to their office and is in the nature of a public duty. If the authority fails to do or exceeds his authority, a writ of mandamus can be sought.

15. As rightly argued by the learned counsel for the petitioner, the Board has no right or authority to delegate the power to appoint or remove Muttawalli under Section 27 of the Act due to the exception clause included in the Act. Sub-section 2(g) of Section 32 of the Act excludes both permanent Muttawalli under Section 43 and temporary appointment of Muttawalli under Section 63 of the Act. Therefore, the impugned proceedings in F.No.07/T/ATP/2011/Z-IV/Supple., dated

26.12.2025, issued by the respondent Nos.2 to 4 in appointing the respondent Nos.5 to 8 as Mutawallies of the Waqf Institution i.e., Ashurkhana and its attached properties situated at Govindawada Village, Bommanahall Mandal, are liable to be set aside and, accordingly, it is set aside. The respondents are directed to appoint in accordance with law, as expeditiously as possible.

16. Accordingly, the Writ Petition is allowed. There shall be no order as to costs.

As a sequel, Interlocutory Applications, if any, pending shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 24.04.2026

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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.3259 OF 2026

Date: 24.04.2026

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