



2025:CGHC:39562



2025:CGHC:39562

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CR No. 56 of 2023

1 - Chhattisgarh State Waqf Board Through Chief Executive Officer,
Raipur, District : Raipur, Chhattisgarh

--- Applicant(s)

versus

1 - Abdul Mateen Siddiqui S/o Abdul Jabbar Siddiqui, R/o Phool
Chowk, Raipur, District : Raipur, Chhattisgarh.

2 - Sunni Hanifi Masjid, Trust Committee, Through Jiauddinb Rehman
(Haji Janu), Nayapara, Raipur District Raipur Chhattisgarh.

--- Respondent(s)

CR No. 44 of 2023

1 - Chhattisgarh State Waqf Board, Through Chief Executive Officer,
Raipur, District : Raipur, Chhattisgarh.

---Applicant(s)

Versus

1 - Abdul Mateen Siddiqui S/o - Abdul Jabbar Siddiqui R/o Phool
Chowk, Nayapara, Raipur, District : Raipur, Chhattisgarh.

2 - Sunni Hanifi Masjid, Trust Committee Through Jiauddin Rehman
(Haji Janu), Nayapara, Raipur, District : Raipur, Chhattisgarh.

--- Respondent(s)



For Applicant(s)	:	Mr. Prateek Singh Thakur, Advocate.
For Respondent(s) No. 1	:	Mr. Sumesh Bajaj, Advocate.

Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

07/08/2025

1. By way of this revision, the applicant has prayed for following prayer:-

“It is therefore prayed by the Hon'ble Court that the order passed in M.J.C. number 08/2022 dated 17.01.2023 (ANNEXURE A/1) by Chhattisgarh state waqf tribunal, Raipur Chhattisgarh may kindly be set aside, in the interest of justice.”

2. Brief facts of the case, is that, respondent No. 1 claims to be a tenant of a Waqf property situated at Fool Chowk, Raipur, admeasuring 500 square feet, which is registered as Waqf property pursuant to Gazette Notification dated 25.08.1989 at Serial No. 114 and also recorded at Serial No. 11/114 in the Auqaf Register. The said property is dedicated to Sunni Hanifi Masjid, Naya Para, Trust Committee, Raipur, C.G., which manages its affairs. The Waqf Board, while exercising its powers under Section 54(3) of the Waqf Act and after granting sufficient opportunity to the tenant, vide order dated 09.01.2022, upheld its



earlier eviction order on the ground of non-fulfilment of statutory obligations. As per non-applicant No. 2, pursuant to a letter dated 04.02.2020 issued by respondent No. 2 to the Waqf Board, a show-cause notice was served on the tenant for illegal possession and encroachment over the Waqf property. The tenant has failed to appear on 24.03.2020 due to the prevailing COVID-19 pandemic and lockdown, leading to an ex parte eviction order dated 07.08.2020. This eviction order was challenged before the Waqf Tribunal in M.J.C. No. 47/2020, which quashed the order on 01.10.2021 and remanded the matter to the Board for a fresh decision after granting an opportunity of hearing. Thereafter, vide order dated 09.02.2022, the applicant declared non-applicant No. 2 to be an encroacher and directed eviction within 30 days, handing over vacant possession to the Mutawalli and depositing damages of Rs. 1,83,333/- before the Board. As the tenant has failed to comply with the order dated 09.01.2022, the applicant has moved an application under Section 54(4) of the Waqf Act before the Tribunal for issuance of an eviction order. However, the State Waqf Tribunal, presided over by two members including the Presiding Officer, vide order dated 17.01.2023, dismissed the application and quashed the Board's order dated 09.01.2022. Notably, one member of the Tribunal refused to sign the



impugned order, indicating a clear dissent from the Presiding Officer's view. Hence, this revision.

3. Learned counsel for the applicant/Waqf Board submits that the Tribunal has passed the impugned order dated 17.01.2023, which suffers from a fundamental procedural infirmity. He further submits that the Tribunal, comprising three members, was required to act in accordance with law and deliver a valid and binding decision. However, in the present case, the said order bears the signature of only one member, while the other two members have expressly refused to sign the same. Such a course of action, according to the counsel, strikes at the very root of the legality and competence of the decision-making process. Learned counsel further submits that, in terms of Section 83(4) of the Waqf Act, 1995, the Tribunal is required to pronounce its orders through a competent panel duly constituted and acting in unison, and any decision lacking the concurrence and signatures of the requisite members is a nullity in the eyes of law. It is, therefore, urged that the order dated 17.01.2023 has been passed by an incompetent Tribunal, in contravention of the statutory mandate, and is liable to be set aside in toto.
4. On the other hand, learned counsel for respondent No. 1 respectfully submits that one of the members of the Tribunal, at the relevant point of time, was engaged in the capacity of a legal



consultant to the Sunni Hanifi Masjid Trust Committee. In view of such existing professional association and in adherence to the principles of natural justice, fairness, and propriety, the said member considered it inappropriate to involve himself in the adjudication process of the present dispute, as the same could potentially give rise to an apprehension of bias or a conflict of interest in the eyes of law. It is in order to maintain the sanctity, impartiality, and credibility of the proceedings that the said member, acting with due prudence, consciously refrained from affixing his signature upon the impugned order. The act of recusal, therefore, was not an act of dissent or disagreement with the findings of the Tribunal, but a step taken solely to uphold judicial decorum and the integrity of the decision-making process.

5. I have heard learned counsel for the parties and perused the material available on record.
6. Section 83(4) of the Waqf Act, 1995 reads as under:
- “83. Constitution of Tribunals, etc.–**
- (4) Every Tribunal shall consist of –**
- (a) one person, who shall be a member of the State Judicial Service holding a rank not below that of a District, Sessions or Civil Judge, Class I, who shall be the Chairman;**
- (b) one person, who shall be an officer from the State Civil Services equivalent in rank to that of the Additional District Magistrate, Member;**



(c) one person having knowledge of Muslim law and jurisprudence, Member;

and the appointment of every such person shall be made either by name or by designation.”

7. Be that as it may, from the order it seems that one Hamid Hussain, Member of the Board, has not signed the said order and another member has recused himself from participating in the passing of the order. As such, the order from its very inception is invalid as out of three members only one member has passed the order, hence it is void ab initio and the same is liable to be quashed as it is against the mandate of Section 83(4) of the WAQF Act, 1995 and accordingly impugned order dated 17.1.2023 is hereby quashed.
8. Accordingly, both the civil revisions are **allowed** and the matter is remitted back to the Tribunal to pass appropriate orders by appropriate members in accordance with Section 83(4) of the WAQF Act, 1995.
9. This be done within a period of 45 days from the date of receipt of copy of this order.
10. It is made clear that this Court has not passed any orders on the merits of the case and that this order has been passed solely on the basis that, as per Section 83(4) of the WAQF Act, 1995, three members are required to pass any order.

Sd/-

(Amitendra Kishore Prasad)

Judge