



2026:CGHC:21330



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 2267 of 2026**

1 - Mohd. Shahabuddin S/o. Late Shamshuddin Aged About 47 Years
R/o. Village- Ajad Chowk, Pendra, District- Gaurela-Pendra-Marwahi
(C.G.) (Mutawalli Anjuman Islamiyah Jama Masjid Committee, Pendra,
District- Gaurela-Pendra-Marwahi (C.G.))

... Petitioner(s)**versus**

1 - State Of Chhattisgarh Through The Secretary, Department Of
Minority Affairs, Mahanadi Bhawan, Nava Raipur, Atal Nagar District-
Raipur (C.G.)

2 - Chhattisgarh State Waqf Board Through- Chief Executive Officer,
Chhattisgarh State Waqf Board Office At Ambedkar Chowk, Raipur
District- Raipur (C.G.)

3 - District Collector Pendra Raod, District- Gaurela-Pendra-Marwahi
(C.G.)

4 - Sub Divisional Officer (R)/sdm Pendra Raod, District- Gaurla-
Pendra-Marwahi (C.G.)

5 – Tahsildar, Pendra, District – Gaurela – Pendra – Marwahi (C.G.)

6 - Mohd. Yusuf S/o. Late Moh. Ayub Aged About 65 Years R/o Chetan
Chowk Pendra, District- Gaurela-Pendra-Marwahi (C.G.) (Former
Mutawalli Anjuman Islamiyah Jama Masjid Committee, Pendra, District-
Gaurela-Pendra-Marwahi (C.G.))

... Respondent(s)

(Cause Title is taken from CIS System)

For Petitioner : Mr. Yogendra Chaturvedi, Advocate

For State : Mr. R. K. Gupta, Addl. Advocate General

For Resp. No. 2: Mr. Prateek Sharma, Advocate



Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

07/05/2026

1. The petitioner has filed this writ petition seeking following reliefs:

"10.1. That, this Hon'ble Court may kindly be please to call entire record.

10.2 That, this Hon'ble court may kindly be pleased to direct the Respondent No. 4 / Sub-Divisional Magistrate to immediately enforce the orders dated 23.01.2026 and 05.02.2026 by taking physical possession of all records, accounts, and properties of the Anjuman Islamiyah Jama Masjid Committee, Pendra District- GPM from Respondent No. 6.

10.3 That, this Hon'ble court may kindly be pleased to direct Respondent No. 4 to initiate criminal prosecution as provided under Section 68(2) and Section 68(3) of the Waqf (Amended) Act, 1995 against Respondent No. 6 for his willful and persistent refusal to hand over the Waqf property and records.

10.4 That, this Hon'ble court may kindly be pleased to direct the Respondent No. 4 and Respondent No. 5 / Tahsildar to take all necessary coercive steps, including the use of police force to recover the Waqf records and



properties from the illegal possession of Respondent No. 6.

10.5 Any other relief or reliefs may also be granted to the petitioner which this Hon'ble court deems fit and proper in the facts and circumstances of the case.”

2. Facts of the case, as projected, are that the petitioner participated in the election conducted for the post of Mutawalli/Manager of the Anjuman Islamiyah Jama Masjid Committee, Pendra, District Gaurela-Pendra-Marwahi (C.G.). Earlier, as the election for the said post was not being conducted, the petitioner approached this Court by filing W.P.(C) No. 694/2024 followed by Contempt Case No. 850/2024. Pursuant to the directions issued therein, election for the post of Mutawalli/Manager was conducted on 13.09.2025 and the petitioner was declared elected. It is the case of the petitioner that despite declaration of the election result and subsequent registration/recognition of the newly elected committee vide order dated 14.01.2026, respondent No. 6, who was the former Mutawalli, refused to hand over charge, records, accounts and other properties relating to the Waqf institution. Thereafter, the petitioner again approached this Court by filing W.P.(C) No. 5408/2025, which came to be disposed of on 27.01.2026 in view of the stand taken by the authorities that objections against the election had already been considered and rejected and steps were being taken for transfer of charge to the newly elected committee. Pursuant thereto, the Collector issued



directions and the concerned Sub-Divisional Officer passed order dated 23.01.2026 directing handing over of charge to the petitioner. Consequential notice/order dated 30.01.2026 was issued by the Tahsildar directing respondent No. 6 to hand over charge within the stipulated period. Since respondent No. 6 remained absent and did not cooperate, a Panchnama dated 04.02.2026 was prepared and thereafter the SDO passed a peremptory order dated 05.02.2026 directing handing over of charge within fifteen days. The petitioner submits that despite repeated notices and orders, respondent No. 6 did not hand over the relevant records and documents. Subsequently, proceedings under Section 68 of the Waqf Act, 1995 were also initiated by the petitioner. It is further pleaded that although an order dated 26.02.2026 passed by respondent No. 2 resulted in stay of the proceedings, the said order was challenged before this Court in W.P.(C) No. 1147/2026 and vide interim order dated 17.03.2026, operation and effect of the said order was stayed, pursuant to which ex-parte charge was handed over to the petitioner. According to the petitioner, despite grant of ex-parte charge, the essential records, accounts and documents relating to the Waqf institution are still being retained by respondent No. 6 illegally and no effective action has been taken by the authorities under Section 68 of the Waqf Act.

3. Learned counsel for the petitioner submits that once the petitioner has been duly elected and recognized as Mutawalli/Manager of the Anjuman Islamiyah Jama Masjid Committee and has also



been handed over ex-parte charge pursuant to orders passed by the competent authorities, respondent No. 6 has no authority in law to continue retaining records, accounts, documents and properties belonging to the Waqf institution. It is contended that repeated directions have already been issued by the competent authorities including orders dated 23.01.2026, 30.01.2026 and 05.02.2026, however, respondent No. 6 has deliberately disobeyed the same and continues to obstruct functioning of the petitioner. Learned counsel submits that the conduct of respondent No. 6 squarely attracts the provisions of Section 68 of the Waqf Act, 1995. It is further submitted that despite several representations and requests made by the petitioner, the authorities have failed to take coercive action against respondent No. 6 for non-compliance of lawful orders. The continued withholding of records and accounts is causing serious prejudice to the administration and functioning of the Waqf institution and is adversely affecting the religious and charitable activities connected therewith. Learned counsel further submits that objections regarding the election are pending before the competent tribunal, however, no interim order has been passed against the petitioner restraining him from functioning as Mutawalli. Therefore, respondent No. 6 cannot refuse to hand over records and charge on the basis of pendency of such proceedings. Accordingly, it is prayed that necessary directions be issued to the authorities to ensure handing over of all records, accounts and properties by respondent No. 6 to the petitioner and



further action under Section 68 of the Waqf Act be initiated against respondent No. 6.

4. Learned State counsel as well as learned counsel appearing on behalf of Waqf Board jointly submits that the dispute relating to election of the petitioner as Mutawalli is already pending consideration before the competent authority/tribunal and, therefore, the matter requires adjudication before any coercive action is taken. It is submitted that the authorities have already issued notices and passed necessary orders from time to time directing handing over of charge and records. It is further contended that the authorities shall abide by any direction issued by this Court and appropriate proceedings shall be undertaken in accordance with law. Learned counsel further submits that since proceedings concerning the election are pending consideration before the competent forum, respondent authorities are proceeding cautiously so that no prejudice is caused to either party.
5. Heard learned counsel for the parties and perused the documents available on record. Respondent No. 6 is not being issued notice in the present case, considering the grievance raised by the petitioner and further taking into account the fact that the sole dispute pertains to handing over of charge to the petitioner, who has been elected as Mutawalli.
6. The petitioner has prayed for as many as five reliefs in the present writ petition. However, considering the nature of controversy



involved in the matter, this Court deems it appropriate to confine the consideration primarily with regard to prayer No. 10.4.

7. From perusal of the record, it appears that the petitioner was declared elected as Mutawalli/Manager pursuant to election conducted on 13.09.2025. Thereafter, several orders have been passed by the competent authorities directing handing over of charge and records to the petitioner, including the order dated 05.02.2026 passed by the concerned Sub-Divisional Officer. It is also not in dispute that though challenge in respect of election of the petitioner is pending before the competent authority/tribunal, no order restraining the petitioner from functioning as Mutawalli has been brought to the notice of this Court. In absence of any prohibitory order operating against the petitioner, the orders passed by the competent authorities directing transfer of charge and records are required to be complied with.
8. Accordingly, the concerned Tahsildar is directed to take all necessary steps for obtaining records, accounts, documents and other relevant materials from respondent No. 6 in due compliance of the order dated 05.02.2026 passed by the concerned SDO. It is further directed that if charge has not yet been fully handed over and the records of the earlier Mutawalli have not been delivered to the petitioner, the concerned SDO (R) / Tahsildar shall proceed in accordance with law and make every possible effort to ensure handing over of such records and documents to the petitioner. For the aforesaid purpose, the concerned Tahsildar shall issue



appropriate notice and afford opportunity of hearing to respondent

No. 6. However, it is made clear that any objection sought to be raised by respondent No. 6 with regard to the election dispute shall not be considered insofar as the issue relating to handing over of charge and records is concerned, particularly when no restraint order has been passed by the competent tribunal against the petitioner.

9. The petitioner is further granted liberty to take recourse to the provisions contained under Section 68 of the Waqf Act, 1995 in accordance with law. In case the petitioner approaches the competent authority by filing appropriate proceedings/application under Section 68 of the Act, the concerned authority shall consider and decide the same strictly in accordance with law and with utmost expedition.
10. With the aforesaid observations and directions, the writ petition stands disposed of.

Sd/-

(Amitendra Kishore Prasad)
Judge

Shayna