



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

THURSDAY, THE 22ND DAY OF JANUARY 2026 / 2ND MAGHA, 1947

W.P. (C)NO.47612 OF 2025

PETITIONERS:

- 1 ERIYAD PALLI @ ERIYAD MAHALLU JAMA-ATH
PAY BAZAAR, ERIYAD, KODUNGALLUR, THRISSUR DISTRICT,
REPRESENTED BY ITS SECRETARY K.K. ABU, S/O
KUNJUMHAMMED, ERIYAD PALLI @ ERIYAD MAHALLU JAMA-ATH
PAY BAZAAR, ERIYAD KODUNGALLUR, THRISSUR DISTRICT, PIN
- 680666
- 2 SECRETARY
K.K. ABU, S/O KUNJUMHAMMED, ERIYAD PALLI @ ERIYAD
MAHALLU JAMA-ATH, PAY BAZAAR, ERIYAD, KODUNGALLUR,
THRISSUR DISTRICT, PIN - 680666
- 3 PRESIDENT
MOHAMMED IQBAL, S/O A.K. AJEENA, ERIYAD PALLI @ ERIYAD
MAHALLU JAMA-ATH, PAY BAZAAR, ERIYAD KODUNGALLUR,
THRISSUR DISTRICT, PIN - 680666
- 4 TREASURER
K.A. NAZAR, AGED 58 YEARS, S/O ABDU, ERIYAD PALLI @
ERİYAD MAHALLU JAMA-ATH, PAY BAZAAR, KONDUNGALLUR,
THRISSUR DISTRICT, PIN - 680666

BY ADVS.
SMT.M.R.MINI
SHRI.K.K.MOHAMED RAVUF

RESPONDENTS:

- 1 ABOOBACKER K.M.
AGED 65 YEARS, SON OF MOIDU,
KATTUPARAMBIL HOUSE, PAY BAZAAR, ERIYAD, THRISSUR
DISTRICT, PIN - 680666
- 2 BADARUDEEN K.K.,



AGED 63 YEARS, SON OF KUNJUMARAKKAR,
KULAKKANDATHIL, AZHEEKOD,
THRISSUR DISTRICT, PIN - 680666

- 3 SADATH K.M.
AGED 48 YEARS, SON OF MOHAMMEDUNNI,
KADAKKATHAKATH, PAY BAZAAR, ERIYAD P.O., THRISSUR
DISTRICT, PIN - 680666
- 4 MUHAMMED
AGED 65 YEARS, SON OF MOIDU,
THEVARATH, PAY BAZAAR, ERIYAD, THRISSUR DISTRICT, PIN
- 680666
- 5 ASHARAF
AGED 68 YEARS, SON OF KUNJUMHAMMED,
KONNATH HOUSE, KARUKKULAM HOSPITAL, AZHEEKOD, THRISSUR
DISTRICT, PIN - 680666
- 6 KERALA STATE WAQF BOARD
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER, V.I.P.
ROAD, KALoor, KOCHI, PIN - 682017

OTHER PRESENT:

SRI. T. KRISHNANUNNI, SR.
SRI. JAMSHEED HAFIZ, SC, WAQF BOARD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22.01.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

"C.R"**JUDGMENT****Anil K. Narendran, J.**

The petitioners have filed this writ petition under Article 226 of the Constitution of India, seeking a writ of certiorari to quash Ext.P5 order dated 15.10.2025, Ext.P6 order dated 15.10.2025, and Ext.P7 order dated 15.10.2025 of the State Waqf Board in O.P.No.272 of 2025. They have also sought for an order directing the Waqf Board not to proceed with Exts.P5, P6 and P7 orders before affording them an opportunity of being heard.

2. Heard the learned Senior Counsel for the petitioners and also the learned Standing Counsel for the Kerala State Waqf Board for the 6th respondent.

3. The issue that requires consideration in this writ petition is whether the petitioners can invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India, challenging Exts.P5, P6, P7 orders of the State Waqf Board in the interlocutory applications filed in O.P.No.272 of 2025.

4. The argument of the learned Senior Counsel for the petitioners is that Exts.P5, P6, P7 orders of the State Waqf Board are legally unsustainable. If the petitioners are given a reasonable opportunity, they could have submitted the audited accounts of

the waqf and convinced the State Waqf Board that a further audit is not necessary. The bye-law of the waqf specifically provides the procedure for conducting an election to the Managing Committee. There was not even a single instance where a proper election was not conducted. Therefore, the State Waqf Board went wrong in passing Exts.P5 to P7 interim orders, which seriously affect the day-to-day management of the affairs of the waqf.

5. O.P.No.272 of 2025 is one filed by respondents 1 to 5 herein before the Kerala State Waqf Board, invoking the provisions under Sections 32, 47, 63, 69, 69(4) and 70 of the Waqf Act, 1995, seeking various reliefs, alleging that the waqf, i.e., Eriyad Mosque and Eriyad Mahallu Jama-ath, is not properly managed by the petitioners herein and proper accounts are not regularly submitted before the State Waqf Board, as contemplated under the said Act.

6. The Waqf Act, 1995, which was re-named as the United Waqf Management, Empowerment, Efficiency and Development Act, 1995, vide Waqf (Amendment) Act, 2025, is enacted by the Parliament to provide for the better administration of Auqaf and for matters connected therewith or incidental thereto. Section 32 of the Act deals with the powers and functions of the State Waqf Board. As per sub-section (1) of Section 32, subject to any rules

that may be made under this Act, the general superintendence of all Auqaf in a State shall vest in the Board established or the State; and it shall be the duty of the Board so to exercise its powers under this Act as to ensure that the Auqaf under its superintendence are properly maintained, controlled and administered and the income thereof is duly applied to the objects and for the purposes for which such Auqaf were created or intended. Section 47 of the Act deals with the audit of accounts of Auqaf; Section 63 deals with the power to appoint Mutawallis in certain cases; Section 69 deals with the power of the Board to frame a scheme for the administration of waqf; Section 69(4) deals with the power of the Board to cancel or modify the scheme; and Section 70 deals with inquiry relating to administration of waqf.

7. In I.A.No.388 of 2025 filed in O.P.No.272 of 2025, the State Waqf Board passed Ext.P5 order dated 15.10.2025, whereby the Divisional Waqf Officer was directed to conduct an inquiry and submit report; in I.A.No.389 of 2025, the Waqf Board passed Ext.P6 order; whereby the respondents therein, their representatives and any other person are restrained from conducting election to the Jama-ath committee, without obtaining



prior permission of the Waqf Board; and in I.A.No.390 of 2025, the Waqf Board passed Ext.P7 order, whereby the Divisional Waqf Officer is directed to carry out audit of accounts of the Jama-ath for the period 2019-25 through an empanelled Auditor. After completion of the audit, the Divisional Waqf Officer shall seek explanations and clarifications and give necessary directions to cure the defects or mistakes pointed out by the Auditor. Thereafter, if any amount is to be recovered, the matter shall be placed before the Board on the administrative side.

8. Section 83 of the 1995 Act deals with the constitution of Tribunals, etc. As per sub-section (1) of Section 83, the State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit, for the determination of any dispute, question or other matter relating to a waqf or waqf property, eviction of a tenant or determination of rights and obligations of the lessor and the lessee of such property, under the Act and define the local limits and jurisdiction of such Tribunals. As per the proviso to sub-section (1) of Section 83, any other Tribunal may, by notification, be declared as the Tribunal for the purposes of this Act.

9. As per sub-section (2) of Section 83 of the 1995 Act,



any mutawalli person interested in a waqf or any other person aggrieved by an order made under the Act, or rules made thereunder, may make an application within the time specified in the Act or where no such time has been specified, within such time as may be prescribed, to the Tribunal for the determination of any dispute, question or other matter relating to the waqf. As per the proviso to sub-section (2) of Section 83, inserted by the Waqf (Amendment) Act, 2025, with effect from 08.04.2025, if there is no Tribunal or the Tribunal is not functioning, any aggrieved person may appeal to the High Court directly.

10. As per sub-section (9) of Section 83 of the 1995 Act, prior to its substitution by the Waqf (Amendment) Act, 2025, no appeal shall lie against any decision or order, whether interim or otherwise, given or made by the Tribunal. As per the proviso to sub-section (9) of Section 83, the High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination or pass such other order as it may



think fit. As per sub-section (9) of Section 83 of the 1995 Act, substituted by the Waqf (Amendment) Act, 2025, any person aggrieved by the order of the Tribunal may appeal to the High Court within a period of ninety days from the date of receipt of the order of the Tribunal.

11. In **West Bengal Wakf Board v. Anis Fatma Begum [(2010) 14 SCC 588]**, the Apex Court opined that all matters pertaining to wakfs should be filed in the first instance before the Wakf Tribunal constituted under Section 83 of the Wakf Act, 1995 and should not be entertained by the civil court or by the High Court straightaway under Article 226 of the Constitution of India. In the said decision, the Apex Court noticed that the obvious purpose of constituting a special Tribunal for deciding disputes relating to wakfs was that a lot of cases relating to wakfs were being filed in the courts in India, and they were occupying a lot of time of all the courts in the country, which had resulted in increased pendency of cases in the courts. Hence, a special Tribunal has been constituted for deciding such matters.

12. In view of the proviso to sub-section (2) of Section 83 of the 1995 Act, inserted by the Waqf (Amendment) Act, 2025, a challenge against an order made under the Act, or rules made

thereunder, can be entertained by the High Court if there is no Tribunal constituted under sub-section (1) of Section 83 or the Tribunal is not functioning. Therefore, when the State Government, by notification in the Official Gazette, has constituted the Waqf Tribunal and the said Tribunal is functioning, a mutawalli interested in a waqf or any other person aggrieved by an order made under the Act, or rules made thereunder, has to invoke the statutory remedy provided under sub-section (2) of Section 83 of the 1995 Act, by approaching the Waqf Tribunal, instead of challenging the said order by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

13. In the above circumstances, if the petitioners are aggrieved by Exts.P5 to P7 orders of the State Waqf Board in I.A.Nos.388 of 2025, 389 of 2025 and 390 of 2025 in O.P.No.272 of 2025, they have to challenge the said orders before the Waqf Tribunal, by invoking the provisions contained in sub-section (2) of Section 83 of the 1995 Act, instead of challenging the said orders before this Court, by invoking the extraordinary jurisdiction under Article 226 of the Constitution of India.

In the result, this writ petition filed on 17.12.2025 fails on



the ground of maintainability, and the same is accordingly dismissed; however, without prejudice to the right of the petitioners to challenge Exts.P5 to P7 orders before the Waqf Tribunal, by invoking the provisions contained in sub-section (2) of Section 83 of the 1995 Act, raising appropriate legal and factual contentions.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

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APPENDIX OF WP(C) NO. 47612 OF 2025

PETITIONER EXHIBITS

- Exhibit P1** TRUE COPY OF O.P. 272/2025 DATED 12.10.2025 ON THE FILE OF THE KERALA STATE WAQF BOARD
- Exhibit P2** TRUE COPY OF I.A.NO.388/2025 IN O.P. NO.272/2025 DATED 12.10.2025, WAQF BOARD, ERNAKULAM
- Exhibit P3** TRUE COPY OF I.A.NO.389/2025 IN O.P. NO.272/2025 DATED 12.10.2025 WAQF BOARD, ERNAKULAM
- Exhibit P4** TRUE COPY OF I.A.NO.390/2025 IN O.P. NO.272/2025 DATED 12 .10.2025 WAQF BOARD, ERNAKULAM
- Exhibit P5** TRUE COPY OF THE ORDER DATED 15.10.2025 IN I.A. NO. 388/2025 IN O.P. 272/2025 PASSED BY THE WAQF BOARD, ERNAKULAM
- Exhibit P6** TRUE COPY OF THE ORDER DATED 15.10.2025 IN I.A. NO. 389/2025 IN O.P. 272/2025 PASSED BY THE WAQF BOARD, ERNAKULAM
- Exhibit P7** TRUE COPY OF THE ORDER DATED 15.10.2025 IN I.A. NO. 390/2025 IN O.P. 272/2025 PASSED BY THE WAQF BOARD, ERNAKULAM