

TO

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUDGES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE
PETITIONERS ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The present Special Leave Petition is being filed against the impugned interim order dated 15.07.2026 passed by the Hon'ble High Court of Kerala at Ernakulam in WP (PIL) No. 117 of 2026 (S) by which the Hon'ble High Court erroneously restrained the Petitioner herein (Waqf Board) from taking any policy decisions or incur any capital expenditure and direct the Board to function under the supervision of the joint secretary to the State Government dealing with Waqf matters.

2. **QUESTIONS OF LAW:**

The following questions of law arise for consideration by this Hon'ble Court:

- A. Whether the impugned interim order passed by the Hon'ble High Court is contrary to Section 22 of the Unified Waqf Management, Empowerment, Efficiency and Development Ac, 1995.?

- B. Whether, while passing the impugned interim order, the Hon'ble High Court erred to appreciate that the doctrine of necessity must apply to ensure the functioning of the statutory bodies like the Petitioner Board.?
- C. Whether, the impugned interim order passed by the Hon'ble High Court is in violation of the principles of natural justice as the same was passed without affording any opportunity of proper hearing to the Petitioner herein.?
- D. Whether the impugned interim order passed by the Hon'ble High Court is in total violation of the principles of natural justice as held by this Hon'ble Court in **Uma Nath Pandey & Others Vs. State of U.P & Anr (AIR 2009 SC 2375)** wherein this Hon'ble Court discussed the issue of violation of the principles of natural justice while passing judicial orders.?
- E. Whether the Hon'ble High Court erred to appreciate that there exists no extraordinary circumstances to pass an interim order restraining the Waqf Board from taking policy decisions or incur any capital expenditure and direct the Board to function under the supervision of the joint secretary to the State Government dealing with Waqf matters in view of the failure on the part of the State Government in nominating the non-Muslim members to the Waqf Board.?
- F. Whether the Hon'ble High Court erred to appreciate that the functioning of the Waqf Board is not in violation of Section 14 (1) of the Waqf Act as

amended in 2025 since the Waqf Board has no role in the matter of nominating the non-Muslim members to the Waqf Board.?

3. DECLARATION IN TERMS OF RULE 3 (2)

The Petitioners states that no other petition seeking Special Leave to appeal has been filed by them against the impugned interim order dated 15.07.2026 passed by the Hon'ble High Court of Kerala at Ernakulam in WP (PIL) No. 117 of 2026 (S).

4. DECLARATION IN TERMS OF RULE 5

That the Annexures P-1 to P-6 are produced herewith are true copies of the documents which formed a part of the records of the case against whose order the leave to appeal is sought for in the instant Special Leave Petition.

5. GROUNDS

- A. BECAUSE the Respondent No. 1 herein filed W.P. (PIL). No. 117 of 2026 with an allegation that the Kerala State Waqf Board is functioning in violation of Section 14 (1) of the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995, since the post of non-Muslim members in the Waqf Board are vacant. It is further alleged that the Amendment in 2025 mandates that at least 2 non-Muslim members, excluding non-officio members, in the Waqf Board must be part of the Board for its functioning. It is submitted that the Petitioners herein are the Waqf Board and its Chief Executive Officer and Chairperson respectively. That the Hon'ble High Court heard the above writ petition along with

connected matters and erroneously passed the impugned interim order on 15.07.2026 without appreciating the facts and circumstances of the matter. It is submitted that the vacancies in the Waqf Board have been filled in strict compliance with the statutory provisions and there are no grounds to suspend the functioning of the present Waqf Members on the ground of vacant post of two non- Muslim members. That a mere perusal of the statement dated 14.07.2026 filed by the State Government in the connected W.P. (PIL) No. 135 of 2026 would show that the Government is in the process of filling the said vacancies.

- B. BECAUSE, a similar writ petition was filed before the Hon'ble High Court of Judicature at Madras challenging the constitution of Tamil Nadu Waqf Board on the ground that one out of two persons as mandated in Clause (d) of Section 14 of the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995 has not been nominated and hence the constitution of the Board is neither complete nor in accordance with mandate of law as contained in Section 14. That as per the interim order dated 08.01.2026 passed in W.P. No. 49241 of 2025 & W.M.P. No. 55011 of 2025, the Hon'ble High Court of Judicature at Madras, held that the Tamil Nadu State Waqf Board cannot be allowed to exercise any powers and functions under the Act and restrained the Board from exercising any powers and functions. That Tamil Nadu Waqf Board filed SLP (C) No. 6178 of 2026 before this Hon'ble Court against the above judgment and as per the order

dated 19.02.2026 passed in SLP (C) No. 6178 of 2026, this Hon'ble Court issued notice to the Respondents therein and stayed the operation of the judgment dated 08.01.2026 passed by the High Court rendering the Waqf Board defunct. That the above said SLP (C) No. 6178 of 2026 is likely to be listed before this Hon'ble Court on 20.07.2026.

- C. BECAUSE the impugned interim order dated 14.07.2026 passed by the Hon'ble High Court of Kerala is contrary to Section 22 of the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995. That, while passing the above order, the Hon'ble High Court, totally ignored the fact that mere existence of vacancies will not render the constitution of the Board invalid. It is submitted that there is no law that all the members in the Waqf Board should be nominated at once. Section 22 of the Act is extracted as follows:-

*“Section. 22:- Vacancies, etc., not to invalidate proceedings of the Board:-
No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy amongst its member or any defect in the constitution thereof”.*

- D. BECAUSE the interim order passed by the Hon'ble High Court is not maintainable since the Hon'ble High Court has no power Under Section 99 to supersede the Board. That Section 99 of the Act grants the State Government the power to supersede a State Waqf Board if it is unable to perform its duties. Section 99 (1) of the Act is extracted as follows: -

“99. Power to supersede Board.—(1) If the State Government is of opinion that the Board is unable to perform or has persistently made default in the performance of, the duty imposed on it by or under this Act or has exceeded or abused its powers, or has wilfully and without sufficient cause failed to comply with any direction issued by the Central Government under section 96 or the State Government under section 97, or if the State Government is satisfied on consideration of any report submitted after annual inspection, that the Board’s continuance is likely to be injurious to the interests of the [auqaf] in the State, the State Government may, by notification in the Official Gazette, supersede the Board for a period not exceeding six months: Provided that before issuing a notification under this sub-section, the State Government shall give a reasonable time to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board:

[Provided further that the power of the State Government under this section shall not be exercised unless there is a prima facie evidence of financial irregularity, misconduct or violation of the provisions of this Act]”

- E. BECAUSE, the Hon’ble High Court totally erred to appreciate that there exist no circumstances to pass an interim order staying the functioning of the Waqf Board for want of non-Muslim members. It is submitted that a mere perusal of the statement dated 14.07.2026 filed by the State

Government in the connected W.P. (PIL) No. 135 of 2026 would show that the State is prepared to reconstitute the Waqf Board strictly in compliance with the provisions of the Act, 1995. That the State Government has also made a prayer before the Hon'ble High Court to dismiss the above Writ Petition. Relevant portion of the statement dated 14.07.2026 filed by the State Government in W.P. (PIL) No. 135 of 2026, is extracted as follows:-

“4. Taking note of all the above facts and infirmities, the Government is prepared to reconstitute the Board strictly in compliance with the mandate of Section 14 of the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995

“In the above circumstances, the writ petition is devoid of any merits and hence the same is liable to be dismissed”

- F. BECAUSE the Hon'ble High Court has passed the impugned interim order in violation of the principles of natural justice since the same was passed without hearing the Waqf Board or its members. That the Respondent No. 1 has not projected any extra ordinary circumstances for passing an interim order restraining the Waqf Board from taking any policy decisions and function under the supervision of the Joint Secretary to the State Government dealing with Waqf matters. It is submitted that there are no provisions in the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995 to appoint an officer to supervise the functions of

the Waqf Board and therefore the interim order passed by the Hon'ble High Court is against the statutory provisions.

- G. BECAUSE, the Hon'ble High Court, without issuing notice to the members of the Waqf Board and without giving reasonable opportunity to the Board and members, put the functioning of the Board in limbo and directed the Joint Secretary to the Government to supervise the functioning of the Board, which is beyond the reliefs sought in the writ petition. That with respect to the direction to file law notes, it is submitted that there is no provision in the High Court Rules to file law notes and the High Court Rules only provides for filing of counter affidavit.
- H. BECAUSE, a mere perusal of the contents of Para No. 3 of the impugned interim order would show the denial of opportunity of hearing to the Waqf Board. That though the counsel for the Waqf Board requested the Hon'ble High Court for a short accommodation to address arguments since he has not received the copy of the statement dated 14.07.2026 filed by the State Government, the same was declined by the Hon'ble High Court without assigning any reasons and the impugned interim order was passed against the Petitioners. That the impugned interim order was passed solely on the basis of the submissions made by the writ petitioners and learned Additional Solicitor General for India, which is evident from Para No. 2 and 4 of the impugned interim order. That the denial of opportunity of hearing has resulted in causing great prejudice to the Petitioners herein.

- I. BECAUSE in **Uma Nath Pandey & Others Vs. State of U.P. & Anr, (AIR 2009 SC 2375)** this Hon'ble Court considered the issue of violation of the principles of natural justice while passing judicial orders and observed as follows:-

“8. The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. These principles are well settled. The first and foremost principle is what is commonly known as audi alteram partem rule. It says that no one should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should appraise the party determinatively the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time. When the historic document was made at

Runnymede in 1215, the first statutory recognition of this principle found its way into the “Magna Carta”. The classic exposition of Sir Edward Coke of natural justice requires to “vocate, interrogate and adjudicate”. In the celebrated case of Cooper v. Wandsworth Board of Works [(1863) 143 ER 414], the principle was thus stated:

“Even God did not pass a sentence upon Adam, before he was called upon to make his defence. “Adam” says God, “where art thou? hast thou not eaten of the tree whereof I commanded thee that thou shouldest not eat”.

9. Since then the principle has been chiselled, honed and refined, enriching its content. Judicial treatment has added light and luminosity to the concept, like polishing of a diamond.

10. Principles of natural justice are those rules which have been laid down by the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice”.

J. BECAUSE, this Hon’ble Court, in **Canara Bank Vs. V.K. Aswathy, (2005 (6) SCC 321)**, elaborately described the principles governing the concept of Natural Justice and its application in the judicial/quasi

judicial/administrative proceedings. The relevant portion of the said judgment is extracted as follows:-

“11. Principles of natural justice are those rules which have been laid down the Courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi- judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice”.

- K. BECAUSE the Respondent No. 1 has no allegations against the Chairman and Members of the Waqf Board in the matter of their functioning and only the grievance of the Respondent No. 1 is the non- inclusion of non-Muslim members in the Waqf Board. It is submitted that the present Waqf Board has been functioning efficiently in the State of Kerala and it is the only Board which achieved 100 % registration of Waqf properties in accordance with Waqf Act 2025 and in compliance with the directions passed by this Hon’ble Court.
- L. BECAUSE the Hon’ble High Court erred to appreciate that the impugned interim order would adversely affect more than 600 cases pending before the learned Waqf Tribunal, more than 500 cases pending before the Hon’ble High Court of Kerala and many matters pending before this Hon’ble Court. That the Waqf Board is considering approximately 200 cases per week in its

judicial sitting and Waqf Board is also conducting Adalaths to consider large number of cases. It is submitted that there are more than 89,000 Waqf properties in the State. It is submitted that a 100 days training programs in Waqf Act 2025 for more than 15,000 Mutawalis in the State are scheduled to begin from 17.07.2026 onwards with a view to empower the Mutawalis about the Waqf Act 2025 and its strict compliance. That the interim order passed by the Hon'ble High Court would adversely affect the functioning of the Waqf Board as well as the above mentioned proceedings pending before various judicial forums and ongoing training programs.

- M. BECAUSE the impugned interim order would adversely affect the following Board meetings of the Kerala State Waqf Board scheduled from 15th July to 29th October 2026:-

15.07.2026	Ernakulam	Administration
21.07.2026	Kozhikode	Judicial
28.07.2026	Ernakulam	Judicial
30.07.2026	Kozhikode	Adalath
04.08.2026	Kozhikode	Judicial
06.08.2026	Ernakulam	Judicial
11.08.2026	Kozhikode	Order discussion
18.08.2026	Ernakulam	Administration & Order discussion

19.08.2026	Ernakulam	Judicial
31.08.2026	Kozhikode	Judicial
01.09.2026	Kozhikode	Judicial
08.09.2026	Kozhikode	Judicial
11.09.2026	Kozhikode	Adalath
22.09.2026	Ernakulam	Administration & Order discussion
23.09.2026	Ernakulam	Judicial
29.09.2026	Kozhikode	Judicial
06.10.2026	Ernakulam	Judicial
13.10.2026	Kozhikode	Judicial
22.10.2026	Ernakulam	Administration
27.10.2026	Kozhikode	Judicial
29.10.2026	Ernakulam	Judicial

N. BECAUSE the Petitioners herein are not against the constitution of the Waqf Board in accordance with the Section 14 of the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995. That it is the State Government to nominate members to the Waqf Board and appoint members in accordance with the statutory provisions. It is submitted that the appointment of member from Bar Council is delayed on account of the Bar Council elections. It is submitted that elections to Kerala Legislative

Assembly were conducted on 9th April 2026 and the new legislative assembly was formally constituted on 21.05.2026. That after a change in the ruling party, the newly formed Government did not show any interest in constituting the Waqf Board since the present Waqf Board members are appointed by the erstwhile ministry and the State Government wanted to re-constitute the entire Waqf Board with their nominees.

- O. BECAUSE the Hon'ble High Court has passed the impugned interim order without considering the above crucial aspects touching the subject matter of the present case which resulted in causing great prejudice to the Petitioners herein.

6. **GROUND FOR INTERIM RELIEF:**

- a. Because the Petitioners have set out all the relevant facts in details in the accompanying Synopsis, List of Dates, Grounds and Question of law and the Petitioners shall crave leave to refer to and rely upon the same as if incorporated herein verbatim for the sake of brevity.
- b. Because the Petitioners have a prima facie good case on merits and balance of convenience is also in their favor and therefore just and necessary that this Hon'ble Court may have kind indulgence to stay the operation of the impugned judgment, during the pendency of the Special Leave Petition, otherwise the Petitioners will be put to irreparable loss, injury and hardships.

7. MAIN PRAYER

In the above premises, the Petitioners above named most humbly prays that this Hon'ble Court may graciously be pleased to:

- a. Grant Special Leave to Appeal against the impugned interim order dated 15.07.2026 passed by the Hon'ble High Court of Kerala at Ernakulam in WP (PIL) No. 117 of 2026 (S); and
- b. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant case.

8. PRAYER FOR INTERIM RELIEF

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to: -

- a. Pass an ad-interim ex-parte order staying the operation of the impugned interim order dated 15.07.2026 passed by the Hon'ble High Court of Kerala at Ernakulam in WP (PIL) No. 117 of 2026 (S); and
- b. Pass such other order or orders as deem fit and proper in the facts and circumstances of the case.

FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.

Drawn & Filed by:



**SUBHASH CHANDRAN K.R.
ADVOCATE FOR THE PETITIONERS**

Place: New Delhi

Drawn on: 16.07.2026

Filed on: 16.07.2026