महाराष्ट्र राज्य वक्फ मंडळ

Minutes of the Board Meeting Dated 27th May, 2008 at Sahyadri Guest House Conference Hall, Malabar Hill Mumbai at 11.00 a.m.

The Board Meeting was convened at 11:00 a.m. on 27th May 2008.at Sahyadri Guest House Malbar Hill, Mumbai. The following Board Members & Officers were present.

1) Honourable Tariq Anwar (Member of Parliament)
2) Honourable A. U. Pathan (Member Bar Council)
3) Shri S. S. Gunjal (Ex-Officio Secretary)
4) Mr. S. F. Daimi

As the quorum was available therefore meeting started as per schedule Honourable Member Mr. Tariq Anwar presided over the meeting.

Point No. 1. To grant leave of absence if any to be decided in meeting.
There was no application received, hence no resolution.

Point No. 2. Confirmation of Minutes of Meeting held on 3-4-2008.
Proposal: The Draft minutes of the meeting dated 3-4-2008 have been circulated to the Honourable Members, the same may be approved.
Resolution No. 35/2008.
The Board resolved to confirm the Minutes of the Board Meeting held on 3-4-2008 at Nandgiri Guest near Santacruz Air Port, Mumbai.

Point No. 3. Transfer of Chief Executive Officer Maharashtra State Board of Wakfs Aurangabad.
Proposal: Mr. A. R. Shaikh Chief Executive Officer Maharashtra State Board of Wakfs has suddenly been transferred by Government vide its order Dated 3.5.2008. Mr. Shaikh with his experience, competitive and efficient capabilities has not only improved the administration of Wakf but also restored many Wakf properties his transferred in fact is irreparable loss to the Board.
Resolution No. 36/2008.
Mr. S. S. Gunjal acting Chief Executive Officer apprised the Members of the Board that the matter regarding the transfer of Mr. Shaikh is still pending before Honourable High Court and as such subjudice matter. It would be proper to pass any Resolution after the disposal of the matter. Honourable Member Mr. A. U. Pathan emphasized that the matter is related to the provision of rule 7 of Maharashtra Wakf Rules 2003 which provides that Government should concerned Wakf Board before Chief Executive Officer is recalled and section 23 of Wakf Act, 1995 provides that Chief Executive Officer should be a Muslim officer. Government however has ignored both the statutory provisions while recalling Mr. A. R. Shaikh, therefore this issue is kept for consultation, deliberations before the Board on special request of Mr. A. U. Pathan.

Board resolved to express its displeasure over the unilateral action of the Government in transferring Mr. A. R. Shaikh without consultation of Board and Government direction to handover the charge to Dy. Commissioner Aurangabad.

SIYANT SECTION-1:-
Point No. 4. To grant permission to file application before Honourable High Court Bench at Bombay for vacating the interim Stay Order granted to Antilia Commercial Pvt. Ltd. In Writ Petition No. 3026/2005.

Proposal: In view of the interim Stay granted by Honourable High Court Bench at Bombay against the restoration process under section 51 of Wakf Act 1995, Special Leave Petition was filed before Honourable Supreme Court. The Matter was heard and Honourable Supreme Court allowed to withdraw the application and endorsed view to file an application before Honourable High Court Bench at Bombay for vacating interim Stay Order given to Antilia Commercial Pvt. Ltd. in above Writ Petition.

Resolution No. 37/2008.

The Board after having a detailed discussion over the present legal status of the issue resolved to grant permission to file an application before Honourable High Court for vacating stay before Honourable High Court bench at Bombay.

Point No. 5. Development project of Wakf properties.

Proposal No. 5.1. The re-development of Wakf properties held by Mohammed Ali Noor Bhai Bandukwala Trust at Agripada, West estate Plot No. 119 Gell Street, Mumbai.

A public Charitable Trust known as Mohammedali Noorbhoy Bandukwala Trust at Agripada West Estate, plot No. 119, Gell Street, Mumbai and registered under the Bombay Public Trust Act 1950 under No. B-54 with the Charity Commissioner, Mumbai is holding the property on a lease at C.T.S.No. 4/3529, 3505 Cadestal Survey No. 1/1902 admeasuring 841.98 Sq. Mts. The property above the lease hold land is solely owned by the trust. As a matter of fact the holding of the trust in the from of Buildings are extremely in dilapidated condition and categorized as dangerous building by MAHADA and the tenants have been served with notices under section 88(3) on 7th March 2007.

The buildings provide shelter to a large number of tenants and to avoid any untoward loss of lives of the inhabitants by accidental collapse of the buildings, the trust intends to re-develop / re-construct the buildings through a private agency. The trust invited competitive Offers by way of Tenders giving it wider publicity in widely circulated news papers and fixed M/s Nathani Parikh Constructions Private Ltd. as an agency to re-develop / re-construct the buildings. Further the trust has moved a Writ Petition before Honourable High Court Bench at Bombay; vide its Petition No. 3/2007. Honourable High Court has passed an order on 26th October, 2007 directing the Maharashtra State Board of Wakfs to decide the matter by 8-4-2008. In view of the Honourable High Court's directions and the stipulated time limit, it is proposed that the Board may consider the proposal of the trust and grant permission by way of issuing No Objection Certificate to re-construct / re-develop buildings.

Resolution No. 38/2008.

It is explained before the Board that the land is leased out by Municipal Corporation greater Mumbai for a period of 99 years. The said lease is on the verge of termination in couple of years. The buildings are in dilapidated state of conditions posing danger to the lives of inhabitants. The buildings on the lease hold land are solely owned by the trust. The very fact that the structures above the land are owned by the Trust, it may be inferred that the lease conditions provides a provision of authorizing the lessee to develop property above the land. It is also brought to the notice of the Board that the project cost of the project is to the tune of Rs. 70 lakhs approximately and agency fix for the redevelopment / reconstruction of the building would accommodate all the legal existing tenants as per the prevailing norms of MAHADA. The Board is entitled to share 3% to 5% of the total project cost as one time development charges from the developer, beside the Wakf Fund.

After considering the physical status of the buildings in view of the notices issued under section 88(3) by MAHADA and Honourable High Court's directions, the Board resolved to issue No Objection Certificate to the developer on merits and in pursuance of the procedure laid down to allow the trust to sell / transfer are assign the property above the land on "as is where is" basis to M/s. Nathani Parikh Construction Pvt. Ltd. with conveyance between the purchasers and the existing tenants accommodated in the redeveloped / reconstructed structure.

Proposal No. 5.2. Unauthorized construction on the premises of Peer Bagdadi Dadar Dargah Trust.

The proprietor of Hotel Visava Mr. Vijay Shetti has been carrying unauthorized construction of Visava Hotel on the wakf land. In view of this illegal activity, the Chief Executive Officer

initiated action against the developer and the trustees as empowered under section 25(1)(c) of the Wakf Act 1995 by issuing notices.

On hearing all the parties and perusing the record the Chief Executive Officer has concluded the proceeding for the decision of the Board under section 36 of Wakf Act, 1995.

It is therefore, proposed that the recommendation of the Chief Executive Officer after concluding the hearing which are as follows may be considered and approved by the Board.

1. All trustees should reconsider this issue afresh and decide the issue by majority of votes by conveying a special meeting.
2. The agreement / supplementary agreement should be reconsidered and considerations / amount and rent be re fixed suitably.
3. In view of above situation, the interim orders or directions given by the Chief Executive Officer, Maharashtra State Board of Wakfs shall stand withdrawn.
4. Parties may be informed accordingly.

Resolution No. 39/2008.

The issue has been discussed in detail and the Board after considering all the facts resolved to accept and approve the recommendations of the the then Chief Executive Officer.

The Board directed to the acting Chief Executive Officer to issue necessary orders as per this resolution.

ESTABLISHMENT SECTION :-

Point No. 6. Decision in case of suspension of Mr. Aziz Ahmed Assistant Chief Executive Officer.

Proposal: Mr. Aziz Ahmed (under suspension) was charge sheeted for committing misappropriation of Wakf Fund and gross misconduct in performance of duties. A Departmental Enquiry was instituted against him and the Enquiry Officer appointed in this behalf has completed his enquiry and submitted his report of findings. He has established that Mr. Aziz Ahmed is responsible to have committed misappropriation of Wakf Fund to the tine of Rs. 1,73,480/- during the period from 1-4-2003 to 31-10-2005. Beside this he is found guilty of misconduct / misbehavior in discharge of his duties by the Enquiry Officer. Mr. Aziz Ahmed has also been given a final opportunity to submit his say on the findings of the Enquiry Officer's report. It is proposed that an FIR should be launched in the area police station against him.

Resolution No. 40/2008.

The Board resolved that the Chief Executive Officer should take necessary steps to lodge an FIR against Mr. Aziz Ahmed for the misappropriation of wakf fund and submit compliance report in the next Board meeting. The Board also resolved that the Chief Executive Officer should examine all his papers with track record and put up the matter for decision in the next Board meeting.

Point No. 7. Decision in case of suspension of Mr. Anwar Siddi Hussain, Clerk.

Proposal: Mr. Anwar Siddi Hussain has been placed under suspension with effect from 28-4-2008. An enquiry was instituted against him for absconding from duty and willful disobedience and misconduct in discharge of his duties. The Enquiry Officer has completed Departmental Enquiry against him and established the very facts of absconding from duty, willful disobedience and misconduct as charge sheeted.

It is proposed that the Board may consider imposition of major penalty and stringent action such as dismissal or removal from services.

Resolution No. 41/2008.

The Board resolved to approve suspension of Mr. Anwar Siddi Hussain till further decision of the Board.

Point No. 8. Decision in case of suspension of Mr. Siraj Ahmed Khan.

Proposal: Mr. Siraj Ahmed Khan, clerk (under suspension) was charge sheeted for misappropriation, misconduct. Further he has also been reported to have misguided and cheated people and not honest in his duties. The Enquiry Officer in his findings has established the very facts as he was charge sheeted. It is further pertinent to note that Mr. Siraj Ahmed Khan was put under suspension for his irregularities committed earlier. He was given opportunity to improve in his

duties, however he has not shown any acceptable improvement in his behavior and deserves major penalty such as dismissal or removal from services.

It is therefore, proposed that the Board may consider such a penalty to be imposed on him.

Resolution No. 42/2008.

The Board resolved that if misappropriation has been confirm in respect of Mr. Siraj Ahmed Khan, an FIR should be lodged in the police station against him. Further the Board also resolved that all the track record of Mr. Siraj Ahmed Khan should be scrutinized by the Chief Executive Officer and matter should be put up for decision in the next Board meeting.

Point No. 9. Appointment of Mr. Ameenuz Zaman S/o Khaleekhuz Zaman on contract basis:-

Proposal: Mr. Ameenuz Zaman has been deployed in the services of the Board on job work basis with effect from 8-2-2007. During the tenure of his duties, he is found to be sincere and his performance is satisfactory. He has now applied for appointment as a Clerk on the establishment of Maharashtra State Board of Wakfs. As the matter of framing Recruitment Rules and Establishment strength for approval of the Government is still pending with the Board.

In these circumstances, it is proposed that the Board may approve appointment of Mr. Ameenuz Zaman on contract basis on a fixed honorarium purely on temporary basis.

Resolution No. 43/2008.

The contingency of deployment of additional staff on establishment of the Board was discussed by the Board Members. The Board resolved not only the appointment of Mr. Ammenuz Zaman but also delegated powers to the Chief Executive Officer and Honourable Member Mr. A. U. Pathan to appoint additional Staff on contract basis in accordance with the demand and the requirement of the Board Establishment.

Point No. 10. Appointment of Mr. Fayaz Khan on contract basis:-

Proposal: Maharashtra State Board of Wakfs has started a new Regional Wakf Office at Nasik under the charge of Mr. Pathan Munir Khan as Regional Wakf Officer. Mr. Pathan Muneer Khan has recommended appointment of Mr. Fayaz Khan as his assistant to cope up the management of Wakf administration at Nasik Region. Mr. Fayaz Khan has been working as an assistant to Regional Wakf Officer for last three months. His services as recommended by Mr. Pathan Munir Khan are protective and efficient in collecting Wakf Fund registration process.

It is therefore, proposed that Mr. Fayaz Khan may be taken up as clerk on contract basis on fixed honorarium

Resolution No. 44/2008.

The Board resolved to approve the appointment of Mr. Fayaz Khan as clerk on contract basis in Regional Wakf Office Nasik on a fixed honorarium. The Board also resolved to delegate the powers to the Chief Executive Officer to reasonably fix the quantum of honorarium to the employees appointed on contract basis.

Point No. 11. Release of Hadiya of Imams and Moazins:-

Proposal: Imams and Moazins of Masjids are paid Hadiya (Nazrana) in the Holy month of Ramzan to compensate the additional burden of expenditure. However the Imams and Moazins were kept deprived of this Nazrana and as a result of this there is a wave of discontent and displeasure among them for which they have protested before the Board. Further Honourable Member Mr. A. U. Pathan assured them to release the Nazrana. In view of this it is proposed to resume the practice of granting Nazrana equivalent to one Salary to Imams and Moazins.

Resolution No. 45/2008.

The Board reviewed and confirmed availability of funds to release the Nazrana to Imams and Moazins, and resolved that the previous practice of Nazrana should be resumed with release of arrears of payment for the preceding year.

Point No. 12. Appointment of Legal Cell Officer:-

Proposal: Wakf Act 1995 has been implemented for the whole State of Maharashtra with effect from 1-1-1996 and obviously the work of legal section of the Board has increased many folds due to

large number of legal matters pending in various Courts of the State. The work of legal section presently handled by one Pairokar and a part time Legal Advisor. Appointment of Legal Cell Officer is essential to handle Government correspondence, day to day legal affairs and constant inflow of the Right to Information correspondence.

Considering the significant role of the Legal Cell Officer, it is proposed that permission may be granted for the appointment of suitable Legal Cell Officer.

Resolution No. 46/2008.

The Board resolved to approve the appointment of Legal Cell Officer on contact basis. However the Chief Executive Officer and Honourable Mr. A. U. Pathan have been delegated with powers to select suitable candidate on a fixed honorarium.

Point No. 13. Delegation of powers to the Chief Executive Officer Maharashtra State Board of Wakfs for finalizing annual Laoni auction and Tenders:-

Proposal: The Board Office has conducted annual Laoni auction process and enrolled the highest competitive bid of Laoni auction by inviting competitive offers through advertisement in News Papers. Similarly Tenders are invited by the Board for granting annual contracts.

It is proposed that practice prescribed by the government is observed in all such transactions. The Chief Executive Officer may be delegated with the powers to process and finalize Laoni auctions and Tenders.

Resolution No. 47/2008.

The annual Laoni of agriculture lands under the direct control of the Board and the allotment of annual contracts by way of inviting Tenders in many matters have been explained. As the procedure laid down by the Government is followed, the Board resolved to delegate powers of finalizing annual Laoni Auctions and Tenders to the Chief Executive Officer. Further the Board apprised of the non-responsive attitude of the Bidders for the bids invited for the sale of Entry Tickets of Panchakki. The Board approved of the rates of the tickets prescribed in the Tender and also authorized to take over the management of Sale of Entry Tickets as per previous practice. The Board also authorized the Chief Executive Officer to recall the Tenders.

Confirmation of Resolutions:

The Board discussed all the urgent items of meeting and confirmed the above resolutions from No. 35/2008 to 47/2008 for their immediate implementation without waiting for confirmation and the detailed minutes may be circulated to the Board members for confirmation in next meeting.

The meeting concluded with the vote of thanks of the Chief Executive Officer.

(Shah Tariq Anwar)
Presiding Chairman
Maharashtra State Board of Wakfs

(S. S. Gunjal)
Ex-Officio Secretary
Maharashtra State Board of Wakfs
Aurangabad.

(Adv. A. U. Pathan)
Member
Maharashtra State Board of Wakfs.