महाराष्ट्र राज्य वक्फ मंडळ

Minutes of the Board meeting dated 09/01/2010 held at Sahyadri Guest House, Malabar Hill, Mumbai at 11:00 am

The Board meeting was convened at 11:00 am on 09-01-2010 at Sahyadri Guest House, Malabar Hill, Mumbai the following Board members and officer were present.

1) **Hon'ble Shah Tarique Anwar, Member of Parliament and member, Maharashtra State Board of Wakfs.**
2) **Hon'ble A. U. Pathan, Member of Bar Council and Member of Maharashtra State Board of Wakfs.**
3) **Hon'ble Madam Shaheen Kadri, Joint Secretary, Minority Development Department Mantralaya Mumbai & Member Maharashtra State Board of Wakf.**
4) **Hon'ble Janab Ghulam Wastanvi Member Maharashtra State Board of Wakf.**
5) **S. S. Ali Quadri, Ex-Officio Secretary and Chief Executive Officer, Maharashtra State Board of Wakfs Aurangabad**

As the quorum was available therefore a meeting began at 11:00 am. Hon'ble Member Shah Tarique Anwar, presided over meeting with the consent of other Board member.

Point No. 1 To Grant leave of absence if any mebers is absent.

Resolutin No. 01/2010:- There is no member absent

Point No. 2 Confirmation of Minutes Dated 24th Dec -2010

Resolution No. 02/2010 :-

It is unanimously resolved that the minutes dated 24th Dec-2010 were read and confirmed.

ENQUIRY SECTION

3. Proposal for deciding application no 66/2005 filed by salimbhai m.j. Chimthanawala on 28-10-2005 pursuant to an order passed in writ petition

3338/2003 dated 7-10-2005 and order passed in writ petition no 1633 & 2669 / 2008 on 17-02-2009

Abderazzakbhai and 5 others had filed an application under Section 36(2) of the Wakf Act 1995 on 24.2.2003, for recording "Masjid Mehdibag" as Shia Wakf, the property of the Wakf consisting of Masjid along with 3.16 acres of adjoining land and also for recording the name of Janab Amiruddin s/o Hasan Nurani as Mutawalli of the said Wakf. The Chief Executive Officer of Wakf Board had by the order dated 29.3.2003 allowed the said application. Pursuant to the said order, entries were taken in the register of Wakf in Part-A and Part-B vide registration No.2/2003. This order was challenged by the applicant in the Nagpur Bench of Bombay High Court vide Writ Petition No.3338 of 2003, which came to be decided by the Hon'ble High Court by order dated 7.10.2005. As per the said order the Hon'ble High Court stayed the decision of the Wakf Board except the declaration that there exists a Wakf. A copy of the said order is enclosed.

That pursuant to the aforesaid order dated 7.10.2005 passed by the Hon'ble High Court in Writ Petition No.3338 of 2003, Salimbhai M.J. Chimthanawala had filed application No.66 of 2005 on 28.10.2005 with a prayer to quash and set aside the order/recall the order dated 29.3.2003 passed by the Chief Executive Officer, and also to delete all the entries taken pursuant to the said order in Part A and Part B in the register of Wakf vide registration No.2/2003. Notice on the said application was issued to the Non-applicants No 1 to 7 therein on 22.11.2005 and they have been duly served with the notice along with copy of the application no.66 of 2005 with its Enclosures. The Non-applicants have not filed any reply to the application No.66 of 2005. The Non-applicants no.1 to 6 have, however, filed written notes of argument on their behalf on 29.11.2006. On that date, a pursis was filed by the applicant for not proceeding with the application no.66 of 2005. On the same date, the Non-applicant no.7 had filed reply to the said pursis. The parties were heard on the same date i.e. 29.11.2006, and it was decided that matter needs further hearing. This fact was noted in the minutes of the meeting dated 29-11-2006 and resolution to this effect was duly passed.

That, thereafter, on 24.8.2007, the Hon'ble High Court has by two separate judgments decided Second Appeal Nos. 529 of 2005 and Second Appeal No.504 of 2005, on the basis of joint pursis filed by the parties therein. Copies of the orders of the Hon`ble High Court dated 24.8.2007 are enclosed. This was followed by a pursis dated 12.11.2007,which was filed by the applicant stating that he does not press earlier pursis dated 29.11.2006. Accordingly, the parties were heard on 7.3.2008. The Chief Executive Officer then passed the order dated 26.3.2008, pursuant to the two orders dated 24.8.2007 passed by the Hon`ble High Court in the aforesaid two second appeals. By this order, the Chief Executive Officer ordered the registration of "Mehadibag Wakf" details whereof are stated in the said order. Accordingly, vide registration no.39 dated 29.3.2008, fresh entries were taken regarding registration of Wakf in Part- A and Part- B of the register of Wakf. This order dated 29.3.2008 was subject matter of challenge in Writ Petition Nos. 1633 and 2669 of 2008 which was decided by the Hon`ble High Court by order dated 17.2.2009. A copy of the order of the Hon`ble High Court is enclosed. The Hon`ble High Court has directed that Application No.66 of 2005 filed by the applicant should be decided by the Wakf Board without being influenced by the order dated 29.3.2008 passed by the Chief Executive Officer. The Chief Executive Officer was authorized by the Board to initiate proceedings in respect of said application i.e. No 66/2005 vide their resolution no 36 / 2009 dated 26-07-2009. The said resolution was again ratified and confirmed in the meeting of the Board held on 14-08-2009.

On the basis of the said authority delegated by the Board the Chief Executive Officer by notice dated 31.8.2009 informed both parties that the Wakf Board is taking up application no.66 of 2005 for decision. The parties were called upon to submit their respective case in writing on 16.9.2009. This notice has been duly served on both the parties i.e. applicant and non-applicants no.1 to 7. Pursuant thereto, the applicant has filed written submissions on 16.9.2009. The Non-applicants remained absent on 16.9.2009. The Non-applicant no.4, 5 & 7 sent separate communication dated 13.9.2009, 14.9.2009 and pursis dated 14.9.2009 by fax which was received at 17:17 pm on 16.9.2009. They refused to

file any written submissions before the Chief Executive Officer. Similarly, a pursis by the Non-applicant no.4 informing that the Non-applicant no.1 expired on 26.5.2008 was received by fax at the same time. By that time the case was over and the order- sheet was already written by the Chief Executive Officer, treating the matter as closed for placing before the Board for decision. Accordingly all the records pertaining to entry no 2/2003 dated 29-03-2003 and application No 66/2005 with annexures, written notes of arguments filed by Non Applicant No 1 to 6 filed on 29-11-2006, written notes of arguments filed by Applicant filed on 16-9-2009 and all relevant documents and papers are placed before the Board for their decision on application no 66/2005 in accordance with the direction of the Hon'ble High Court vide its order dated 07-10-2005 and 17-02-2009.

In this matter the Mahashtra State Board of Wakfs has passed the following resolution:-

Resolution

The Applicant's advocate Mr. Sagheer Ahmed Khan was present and non applicant sent a fax for adjournment of hearing date. Mr. Sagheer Khan submited the details of case in application 66/2005 by the order of Hon'ble High court bench Nagpur in writ petition no. 1633-2008 with 2669-2008 the order dated 17-02-2009. with this pleading Mr. Sagheer Khan has brought forward all the facts before the Board Members. After the long discussion with the Board members it is unanimously decided that the request of non applicant be accepted by giving him a last chance to appear before the Board on dated 24-12-2009 he was informed accordingly. The non applicant could not be present on 24/12/2009 hence they were asked to be present on 09/01/2010

As per the resolution matter placed for hearing and decision

Resolution No. 03/2010 :-

In this matter the Maharashtra State Board of Waksf both the parties were heard through Advocate Mr. Sagheer Ahmed Khan and others and Adv. Mr. Zaka Haque and others. After long detailed disucussion the matter was adjourned for the next board meeting dated 8th Feb-2010.

Minute Date 09-01-2010

4. **Currimbhoy Ebrahimbhoy Khoja Orphanage Trust, Altamount Road, Mumbai regarding approval of Sale of land.** To be discussed with all the honourable members.

Resolution No. 04/2010:-

After discussion in the matter it is decided that the following members viz Janab Adv. A. U. Pathan, Miss Shaheen Kadri, and Chief Executive Officer should have a meeting with Ex-Chief Justice of India Mr. J. Ahmedi in this regard and submit report in the next Board meeting.

Note :- **After a long discussion on the above mentioned points and due to short time the remainig points of the agenda were deferred to the next meeting dated 08/02/2010**

Hon'ble Tarique Anwar
Member Maharashtra State Board of Wakfs

Hon'ble Ahmed Khan Usman Khan
Member Maharashtra State Board of Wakfs

Hon'ble Maulana Gulam Wastanvi
Member Maharashtra State Board of Wakfs

Hon'ble Miss Shaheen Kadri
Member Maharashtra State Board of Wakfs: :

S.S.Ali Quadri
Chief Executive Officer
Maharashtra State Board of Wakfs
Aurangabad