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CR-279-2023

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ALOK AWASTHI

ON THE 16<sup>th</sup> OF SEPTEMBER, 2025

CIVIL REVISION No. 279 of 2023

*SAIYYAD RASHID ALI*

*Versus*

*MADHYA PRADESH STATE WAKF BOARD AND OTHERS*

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Appearance:

Shri Pourush Ranka - Advocate for the petitioner [P-1].

Shri Syed Asif Ali Warsi, learned counsel for the respondent [R-2].

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Heard on : 20.08.2025

Pronounced on : 16.09.2025

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ORDER

This civil revision has been preferred by the petitioner under Section 115 of the Code of Civil Procedure, against the order dated 23.01.2023 passed by Madhya Pradesh Wakf Tribunal in Appeal No.02/2020 whereby the appeal of the petitioner has been dismissed.

2. Facts in nutshell leading to the present revision is that various complaints were filed against the respondent no.2, who in the capacity of President of Dargah Baba Badakshani misused his powers and built a hotel & marriage garden on Wakf property thereby encroached the same for his own gains and against the said complaints, Collector, Rajgarh took cognizance against Respondent no.2. A complaint on M.P. C.M. Helpline



Portal was also registered against the encroachment further to the complaint a report was prepared by Revenue Department mentioning the respondent no.2 as an encroacher. On 22.09.2017 a show cause notice was issued by Municipal Corporation pertaining to the encroachment and on 25.08.2018, the CEO of Wakf Board issued a show-cause notice to the respondent no.2 in this regard.

3. Being aggrieved with the notice, the respondent no.2 approached this Court by writ petition and got stay over the aforesaid notice. The CEO, Wakf Board removed the Respondent no.2 from the post of President of the Shrine on the ground that he has not filed any reply to the notice. On 14.09.2018, Mr. Khalid Qureshi was appointed as new President of the Shrine. The respondent no.2 filed his reply, subsequent to which vide order dated 05.10.2018, the order of removal was revoked on the ground that the reply filed by the respondent no.2 is satisfactory. It is further alleged that after getting stay from High Court, the respondent no.2 tried to implicate the persons who are involved in matter in false criminal cases. The petitioner approached this Court against the order of revocation by W.P. No.26419/2018, the same was disposed of with the directions to the petitioner to file an appeal before the Wakf Tribunal and the Tribunal was directed to decide the matter within a period of four months. In compliance of which the petitioner filed an appeal before Wakf Tribunal, however, the Tribunal could not dispose the matter as per the directions of this Court issued in W.P. No.26419/2018, therefore, the petitioner again filed a writ petition wherein the Tribunal was directed by this Court to dispose the matter



within a further period of two weeks. Thereafter the appeal was finally decided by the Tribunal on 23.01.2023. Being aggrieved of the aforesaid order petitioner has preferred the present petition.

4. Learned counsel for the petitioner submitted that Tribunal has held that the petitioner is not an aggrieved person as defined U/s. 67(2) of The Wakf Act, 1995 (for short 'the Act') as he is neither the President of the managing committee of the Shrine nor hold any other post in the committee. Moreover the Ld. Tribunal in its order also held that the petitioner has not stated in his appeal memo as to how he falls in the category of the aggrieved person. Further it was observed that the petitioner is a teacher by profession, hence he must be concerned only about teaching the students and not to get involved in the functions of the Shrine Committee. The Ld. Tribunal while deciding the Appeal completely lost its sight to the fact that Appeal was preferred U/s. 67 as well as S. 83 of 'the Act', which provides that any person aggrieved by the order, this includes every person having interest in Wakf or its dispute. The logic and reasons accorded by the Ld. Tribunal lacks merit, it is presumed by the Tribunal that until and unless any member of the committee does not raise the question with regard to the irregularities, no irregularity exists. The Tribunal has also recorded the findings which are in complete contravention of the law and logic. Hence the impugned order is unsustainable and deserves to be quashed.

5. Learned counsel for the respondent no.2 opposed the prayer and submitted that the tenure of the respondent no.2 got completed in the year 2021 and at present he is not holding any position in the Wakf Committee.



The committee members would have raised objections if the respondent no.2 has misappropriated the funds or misused the Wakf property during his tenure, as such no documentary evidence has been presented on behalf of the appellant to prove that respondent no. 2 is earning profit as the president and not depositing the amount in the committee's account and there is no complaint against the respondent no.2 in this regard. Counsel also submitted that Hazrat Baba Badakhshani Dargah Wakf is related to the management of the Dargah, wherein donation is deposited in the Wakf Board at the rate of 7% as per the provisions of Section 72 'the Act' and the said money is used for the welfare of the poor or the needy. It has been contended that the petitioner with malafide intention to take possession of a rich Wakf has made false allegations against the respondent no.2. It has also been argued emphatically on behalf of the appellant that it is the money of widowed women and poor people which respondent no. 2 is siphoning off, however, there is no documentary evidence/conviction judgment presented in the case which shows that respondent no. 2 has committed embezzlement of the income of Baba Badakhshani Dargah. Under these circumstances, counsel prayed for dismissal of this revision.

6. After hearing learned counsel for the parties, I have perused the record.

7. The Tribunal in para 14 of the impugned order has held that petitioner is not an aggrieved person and therefore he does not possess any requisite qualification to become eligible for the post of manager/receiver or president of the committee, however, if he wishes to serve the dargah he can do it without any post. Section 83(2) of 'the Act', establishes a specialized legal recourse for individuals and entities involved in wakf-related matters. An "aggrieved person" is anyone negatively affected by a decision or action relating to a



wakf property. The Act specifies who qualifies as an aggrieved person in different contexts, allowing them to seek redressal from the Tribunal. In the present case, the petitioner and other aggrieved persons have filed complaint against the respondent no.2 towards misappropriation of shrine's property and funds. There seems to be no personal interest on the part of the petitioner.

8. According to the counsel for the petitioner several strictures and observations were made against petitioner in the impugned order while discussing about the petitioner's application applying for the post of receiver. The relevant portion of the impugned order is reproduced here under:-

"15.....अपीलार्थी ने यह भी लिखा था, कि वह पेशे से शिक्षक है। अपील में भी उसका व्यवसाय शिक्षक लेख है। एक शिक्षक का कर्तव्य है, कि वह बच्चों को शिक्षा प्रदान करे, शिक्षा देने में रुचि ले, ना कि दरगाहों का मुतावल्ली या रिसीवर या अध्यक्ष बने। अपीलार्थी की ओर से ऐसा कोई डिप्लोमा, कोई डिग्री कोई ट्रेनिंग का प्रमाण पत्र पेश नहीं किया गया है, कि वह दरगाह का मुतावल्ली / अध्यक्ष बनने या रिसीवर होने की विशेष योग्यता या पात्रता रखता हो। यदि अपीलार्थी दरगाह की खिदमत करना चाहता है, तो उसे अध्यक्ष / मुतावल्ली या रिसीवर पद की क्या आवश्यकता है, वैसे ही कर सकता है।....."

9. On this aspect, it is condign to refer the judgment passed by the Hon'ble Apex Court in the case of *S.K.Bhatt, Civil Judge I, Muzaffarnagar vs. II Additional District Judge, Muzaffarnagar* reported as *1987 Supreme (All)1* wherein it has been held that the remarks made by the appellate court were unnecessary and inappropriate. It is further observed that the appellate court should have confined its comments to the record of the case and should have avoided making personal attacks on the petitioner. Accordingly, this Court is of the view that a tribunal member is ethically and legally prohibited from making personal, derogatory comments about a petitioner in a judicial order.



Orders must be confined to the facts, evidence, and applicable law of the case. Personal remarks, strictures, or observations based on a judge's or tribunal member's own opinions are considered judicial misconduct and can be grounds for setting aside the order. A tribunal member's role is to administer justice fairly, and making personal comments undermines this function. Making adverse personal comments against a petitioner, violates the principle of natural justice.

10. In the light of the aforesaid discussions, the impugned order is hereby set aside, the revision petition is disposed of with the direction to the Tribunal to expunge the remarks from the impugned order, to reconsider the matter afresh and the pass a reasoned and cogent order in accordance with law.

(ALOK AWASTHI)  
JUDGE

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