

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VISHAL DHAGAT
ON THE 2nd OF FEBRUARY, 2022
WRIT PETITION No. 28111 of 2021

Between:-

MOHAMMAD AFJAL S/O LATE MOHAMMAD YUSUF , AGED ABOUT 56 YEARS, OCCUPATION: VICE PRESIDENT ANJUMAN ISLAMIYA MASJID LAHASUI KOTMA DIST;. ANUPPUR MP (MADHYA PRADESH)

.....PETITIONER

(BY SHRI K. C. GHILDIYAL, ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THR. THE SECRETARY REVENUE DEPT. VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**
2. **MP WAQF BOARD THR. CHIEF EXECUTIVE OFFICER TAJ CAMPUS, NEAR TAJUL MASAJID (MADHYA PRADESH)**
3. **COLLECTOR ANUPPUR DISTT. ANUPPUR (MADHYA PRADESH)**
4. **SUPERINTENDANT OF POLICE POLICE HEADQUARTERS DISTT. ANUPPUR (MADHYA PRADESH)**
5. **SUB DIVISIONAL OFFICER MAGISTRATE K O T M A DISTT. ANUPPUR (MADHYA PRADESH)**
6. **STATION HOUSE OFFICER P.S KOTMA DISTT. ANUPPUR (MADHYA PRADESH)**
7. **SHRI MOHAMMAD IQBAL PRESIDENT WAQF ANJUMAN ISLAMIYA MASJID LAHASUI K O T M A DISTT. ANUPPUR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI SIDHARTH SHARMA, PANEL LAWYER FOR STATE & SHRI DHARMENDRA SONI, ADVOCATE FOR CAVEATOR)

WHETHER APPROVED FOR REPORTING : YES

LAW LAID DOWN : Petitioner cannot avail parallel remedy in view of **Delhi Gate Auto Service Station and others vs. Bharat Petroleum Corporation Limited, Agra and others, (2009) 16 SCC 766.**

RELEVANT PARAGRAPHS : 5 & 6

(Heard through Video Conferencing)

This petition has come up for hearing on this day and the court passed the following:

ORDER

1. Petitioner has filed this petition challenging order dated 2.11.2021 passed by respondent no.2 whereby suspension of respondent no.7 from office of President Waqf Anjuman Islamiya Masjid Lahasui, Kotma, District Anuppur has been revoked and he has been reinstated.

2. Respondent no.7 had filed I.A No.227/2022 for dismissal of writ petition. Petitioner has an alternative remedy to prefer an appeal under Section 67(4) of Waqf Act, 1995. Petitioner has challenged the impugned order by filing an appeal before M.P. Waqf Tribunal, Bhopal, therefore, writ petition filed by petitioner is not maintainable.

3. Learned counsel for petitioner submitted that Section 67(4) of Waqf Act, 1995 provides a rider that Tribunal shall have no power to suspend the operation of the order made by the Board pending such appeal. In view of same, petitioner does not have any other remedy but to approach this Court by filing writ petition. Prayer is made for dismissal of application filed by respondent no.7.

4. Heard learned counsel for the parties.

5. Petitioner has filed this writ petition making a prayer for quashing of impugned order dated 2.11.2021. Main relief in the writ petition is for quashing of impugned order and for said relief petitioner has already approached Waqf Tribunal, therefore, petitioner cannot avail parallel remedy in view of **Delhi Gate Auto Service Station and others vs. Bharat Petroleum Corporation Limited, Agra and others, (2009) 16 SCC 766.**

6. Availability of alternative remedy and approaching High Court without exhausting it will not make Writ Petition non-maintainable and it is discretion of High Court on basis of settled principle's to entertain it or not. But when a party has alternate remedy and had approached statutory forum then such party cannot be allowed to press his reliefs parallelly at High Court.

In such condition writ petition itself is not maintainable.

7. In view of aforesaid, writ petition, filed by petitioner, is **dismissed**.

(VISHAL DHAGAT)
JUDGE

mms

