

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

**HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE**

&

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 1st OF FEBRUARY, 2023

WRIT PETITION No. 19024 of 2022

BETWEEN:-

**ALEEM QURESHI S/O SHEIKH ISLAM QURESHI, R/O
H.NO. 17, MISHA APARTMENT, KARBALA ROAD,
BHOPAL(MADHYA PRADESH)**

.....PETITIONER

(BY SHRI AMIT KHATRI - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH,
THROUGH PRINCIPAL SECRETARY,
DEPARTMENT OF BACKWARD CLASSES AND
MINORITY, VALLABH BHOPAL (M.P.)**
- 2. MP WAKF BOARD, THROUGH CEO OFFICE
NEAR TAJUL MASJID, BHOPAL (M.P.)**
- 3. RETURNING OFFICER, (DAWOOD AHMED
KHAN), MP WAKF BOARD OFFICE, NEAR
TAJUL MASJID, BHOPAL (MADHYA PRADESH)**
- 4. DR. SANWAR PATEL, S/O SHER
MOHAMMAD, R/O 15/2 KHUDIRAM BOSE
MARG, UJJAIN (MADHYA PRADESH)**
- 5. MAHBOOB HUSSAIN, S/O MANSOOR HUSSAIN,
ADDRESS B-1, HOUSING BOARD
COLONY, KOH-E-FIZA, BHOPAL (M.P.)**

.....RESPONDENTS

(SHRI AMIT SETH - DEPUTY ADVOCATE GENERAL FOR RESPONDENTS NO.1 AND 3, SHRI NIKHIL TIWARI – ADVOCATE FOR RESPONDENT NO.2, SHRI SANJAY AGRAWAL - SENIOR ADVOCATE WITH SHRI ANUJ AGRAWAL – ADVOCATE FOR RESPONDENT NO.4 AND SHRI AKASH CHOUDHURY – ADVOCATE FOR RESPONDENT NO.5)

WRIT PETITION No. 20311 of 2022

BETWEEN:-

**SHEKH RAFIK MANSOORI, S/O SHEKH GUFRAAN,
AGED ABOUT 42 YEARS, OCCUPATION: BUSINESS,
R/O 879, MAKKA NAGAR, GALI NO. 3, ADHARTAL
JABALPUR (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI PRAVEEN DUBEY - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH,
THROUGH ITS CHIEF SECRETARY,
MANTRALAYA, VALLABH BHAWAN, BHOPAL
(MADHYA PRADESH)
2. PRINCIPAL SECRETARY, DEPARTMENT OF
BACKWARD CLASSES AND MINORITIES
WELFARE, VALLABH BHAWAN, BHOPAL
(MADHYA PRADESH)
3. DEPUTY SECRETARY, DEPARTMENT OF
BACKWARD CLASSES AND MINORITIES
WELFARE, VALLABH BHAWAN, BHOPAL
(MADHYA PRADESH)
4. DR. SANWAR PATEL, S/O SHER MOHAMMED
PATEL, AGED ADULT, R/O 15/2, KUDIRAM
BOSE MARG, UJJAIN, DISTRICT UJJAIN
(MADHYA PRADESH)
5. CHIEF EXECUTIVE OFFICER, MP WAQF
BOARD, TAJ CAMPUS, BEHIND TAJUL
MASJID, BHOPAL (MADHYA PRADESH)

.....RESPONDENTS

(SHRI AMIT SETH - DEPUTY ADVOCATE GENERAL FOR RESPONDENTS NO.1 TO 3, SHRI SANJAY AGRAWAL - SENIOR

ADVOCATE WITH SHRI ANUJ AGRAWAL – ADVOCATE FOR RESPONDENT NO.4 AND SHRI NIKHIL TIWARI – ADVOCATE FOR RESPONDENT NO.5)

WRIT PETITION No. 19674 of 2022

BETWEEN:-

MUZAFFAR NAEEM, S/O SHRI MOHD. ISHAQ, AGED ABOUT 57 YEARS, OCCUPATION: BUSINESS, R/O A/13, MAYPUR VIHAR COLONY, ASHOKA GARDEN, BHOPAL, DISTRICT BHOPAL (MADHYA PRADESH)

.....PETITIONER

(BY SHRI UTKARSH AGRAWAL - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH, THROUGH ITS PRINCIPAL SECRETARY, DEPARTMENT OF BACKWARD CLASSES AND DEPARTMENT OF MINORITIES WELFARE, MANTRALAYA, VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**
- 2. M.P. STATE WAQF BOARD, THROUGH ITS CHIEF EXECUTIVE OFFICER, TAJ CAMPUS, BEHIND TAJ-UL-MASJID, BHOPAL, DISTRICT BHOPAL (MADHYA PRADESH)**
- 3. MAHBOOB HUSSAIN, S/O MANSOOR HUSSAIN, AGE NOT KNOWN (ADULT), OCCUPATION: BUSINESS, R/O B-1, HOUSING BOARD COLONY, KOH-E-FIZA, BHOPAL DISTRICT BHOPAL (MADHYA PRADESH)**
- 4. SHIA DAWOODI BOHRA JAMAAT DAWATE HADIYA, THROUGH JANAB SYEDNA MUFADDAL SAIFUDDIN SAHAB, S/O LATE SHRI SYEDNA BURHANUDDIN SAHAB, AGED NOT KNOWN (ADULT), 53RD SOLE TRUSTEE OF 325 SHIA DAWOODI BOHRA AUQAF IN MADHYA PRADESH, R/O BADRI MAHAL, DADABHAI NAUROJI ROAD, FORT, MUMBAI (MAHARASHTRA)**

.....RESPONDENTS

(SHRI AMIT SETH - DEPUTY ADVOCATE GENERAL FOR RESPONDENT NO.1, SHRI NIKHIL TIWARI – ADVOCATE FOR RESPONDENT NO.2 AND SHRI AKASH CHOUDHURY – ADVOCATE FOR RESPONDENTS NO.3 AND 4)

WRIT APPEAL No. 1362 of 2022

BETWEEN:-

ASLAM MOHAMMAD KHAN, S/O SHRI ANWAR MOHAMMAD KHAN, AGED ABOUT 56 YEARS, OCCUPATION: BUSINESS, R/O ANWAR MANZIL, RIYAZ MANZIL COMPOUND, KHANUGAON HUZUR, BHOPAL DISTRICT BHOPAL (MADHYA PRADESH)

.....APPELLANT

(BY SHRI SHASHANK SHEKHAR - SENIOR ADVOCATE WITH SHRI SRAJAN KASHYAP - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH, THROUGH ITS CHIEF SECRETARY, MANTRALAYA, VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**
- 2. PRINCIPAL SECRETARY, DEPARTMENT OF BACKWARD CLASSES AND MINORITIES WELFARE, VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**
- 3. DEPUTY SECRETARY, DEPARTMENT OF BACKWARD CLASSES AND MINORITIES WELFARE, VALLABH BHAWAN, BHOPAL (MADHYA PRADESH)**
- 4. DR. INAMUR REHMAN, S/O MUNIR KHAN, R/O C.H.D. 638, SUKHALIYA, INDORE, DISTRICT INDORE (MADHYA PRADESH)**
- 5. DR. SANWAR PATEL, S/O SHER MOHAMMED PATEL, R/O 15/2, KHUDIRAM BOSE MARG UJJAIN DISTRICT UJJAIN (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI AMIT SETH - DEPUTY ADVOCATE GENERAL FOR RESPONDENTS NO.1 TO 3 AND SHRI SANJAY AGRAWAL - SENIOR ADVOCATE WITH SHRI ANUJ AGRAWAL – ADVOCATE FOR RESPONDENTS NO.4 AND 5)

WRIT APPEAL No. 360 of 2021

BETWEEN:-

ABDUL SHAFIQUE QURESHI S/O LATE SHRI HAJI ABDUL BASEER, AGED ABOUT 58 YEARS, OCCUPATION: PRESIDENT, MUTWALI COMMITTEE, AUKAF JAMA MASJID SADAR BAZAR R/O GALI, NO.9.SADAR BAZAR JABALPUR DISTRICT (MADHYA PRADESH)

.....APPELLANT

(BY SHRI UTKARSH AGRAWAL – ADVOCATE)

AND

1. M.P. WAQF BOARD THROUGH CHIEF EXECUTIVE OFFICER TAJ CAMPUS NEAR TAZUL MASJID BHOPAL (MADHYA PRADESH)
2. HAZI ABDUL WAHEED S/O SHRI GULAM MASTER, AGED ABOUT 74 YEARS, OCCUPATION: BUSINESS R/O HO.NO.75/11, PLOT NO. 76 PEERJEE BAGICHA, SADAR BAZAR JABALPUR (MADHYA PRADESH)
3. MOHAMMAD SIRAJ QURESHI S/O SHRI AZAD QURESHI, AGED ABOUT 38 YEARS, OCCUPATION: BUSINESS R/O HOUSE NO. 709, GALI NO. 14, SADAR BAZAR, JABALPUR (MADHYA PRADESH)
4. MOHAMMAD HAROON S/O SHRI MOHAMMAD ISHAQ, AGED ABOUT 34

**YEARS, OCCUPATION: BUSINESS R/O
G.K. HUSSAIN COMPOUND, GALI NO. 5
WARD NO. 3, SADAR BAZAR
JABALPUR (MADHYA PRADESH)**

5. **ABDUL NASIR S/O SHRI ABDUL
GAFFAR, AGED ABOUT 65 YEARS,
OCCUPATION: BUSINESS R/O HOUSE
NO. 391, WARD NO. 5 SADAR BAZAR
JABALPUR (MADHYA PRADESH)**
6. **MOHAMMAD ASHRAF PARVEZ S/O
SHRI SAKUR SULTANI, AGED ABOUT
35 YEARS, OCCUPATION: BUSINESS
R/O PEERJEE COMPOUND, SADAR
BAZAR JABALPUR (MADHYA
PRADESH)**
7. **MOHAMMAD AFZAL S/O SHRI ABDUL
SAMAD, AGED ABOUT 28 YEARS,
OCCUPATION: BUSINESS R/O GALI
NO. 12 SADAR BAZAR JABALPUR
(MADHYA PRADESH)**
8. **MOHAMMAD JEESHAN ALI S/O SHRI
MAKSOOD AHMAD, AGED ABOUT 28
YEARS, OCCUPATION: BUSINESS R/O
PLOT NO. 75 PEERJEE BAGICH SADAR
BAZAR JABALPUR (MADHYA
PRADESH)**
9. **MOHAMMAD HUSSAIN S/O
MOHAMMAD RASHEED, AGED ABOUT
26 YEARS, OCCUPATION: BUSINESS
R/O HOUSE NO. 479/1, GALI NO. 3/11,
SADAR BAZAR JABALPUR (M.P.)**
10. **MOHAMMAD HANEEF S/O
MOHAMMAD RAFAEEK, AGED ABOUT
35 YEARS, OCCUPATION: BUSINESS
R/O GALI NO. 9, SADAR BAZAR
JABALPUR (MADHYA PRADESH)**
11. **NAZMUDDIN S/O SHRI
JAHEERUDDIN, AGED ABOUT 35**

**YEARS, OCCUPATION: BUSINESS R/O
HOUSE NO. 314, SANJAY GANDHI
NAGAR T.P.KHAR SADAR BAZAR
JABALPUR (MADHYA PRADESH)**

- 12. MOHAMMAD NADEEM S/O SHRI
ABDUL JAFFAR, AGED ABOUT 35
YEARS, OCCUPATION: BUSINESS R/O
HOUSE NO. 350 GALI NO. 01 LEO
COMPOUND SADAR BAZAR.
JABALPUR (MADHYA PRADESH)**

....RESPONDENTS

(SHRI NIKHIL TIWARI - ADVOCATE FOR RESPONDENT NO.1)

*These petitions and appeals coming on for admission this day,
Hon'ble Shri Justice Ravi Malimath, Chief Justice passed the following:*

ORDER

In the appeals and the petitions, the challenge is to the nomination made by the State in exercise of the powers conferred under Sections 14(1)(c)(d)(e), 14 (1)(b)(ii) and 14 (3) of the Waqf Act, 1995 (for short “the Act”). The nominations of Dr. Sanwar Patel, Shri Mahboob Hussain and Dr. Inaur Rehman (Dr. Inamur Rehman) are under challenge.

2. Since the subject matter is one and the same with reference to the question of law namely the powers to the State under Section 14 of the Act, we have heard and considered all matters together.

3. The Waqf Board issued an election program on 12.07.2022 in exercise of the powers under Section 13(1) read with Section 14(1) of the Act. In order to constitute the Board, as contemplated under Section 13 of the Act, the State intended to make nominations as provided under Section 14 of the Act. In terms whereof, respondents - Dr. Sanwar Patel, Shri Mahboob Hussain and Dr. Inaur Rehman were nominated in exercise of the

powers vested with the State under Section 14(1)(c)(d) and (e) of the Act. Questioning the same, the aforesaid writ petitions have been filed.

4. The prayer sought for by the petitioner in Writ Petition No.19024 of 2022 is as follows:-

“(1) To issue a writ in the nature of certiorari quashing the Gazette Notification dated 05.08.2022 Annexure P-1, being illegal and arbitrary.

(2) To issue a writ in the nature of Quo warranto quashing the Gazette Notification dated 05.08.2022 Annexure P-1, declaring that the Respondent No.4 and 5 are not qualified to be nominated under the Act.

(3) To issue a writ in the nature of certiorari quashing the Gazette Notification dated 22.07.2022 Annexure P-1, being illegal and arbitrary.

(4) To issue any other suitable directions/orders along with the cost of the petition.”

5. So far as Annexure P/1 is concerned, it is a Gazette Notification dated 05.08.2022, which pertains to various subject matters. Therefore, the question of quashing the entire Gazette Notification would not arise for consideration. Hence, the prayer No.1 is dismissed as being misconceived. We understand prayer No.2 to mean that what is challenged in the writ petition is the Gazette Notification dated 05.08.2022 only with reference to the notification of the State dated 29.07.2022. Therefore, it is that order of the Government which is published in the Gazette Notification dated 05.08.2022 alone which is under challenge. Petitioner's counsel submits that the prayer No.3 to quash the Gazette Notification dated 22.07.2022 would not survive for consideration in view of the subsequent events. Hence, the said prayer is rejected.

6. So far as the nomination of respondent No.4 - Dr. Sanwar Patel is concerned, it is contended by the learned counsel that he does not possess any professional experience in town planning or business management etc. as provided under Section 14(1)(c) of the Act. That, in order to be

nominated under Clause (c) the requirements therein had to be fulfilled. Dr. Sanwar Patel does not fulfill any one of the requirements. Only because he possesses certain certificates does not indicate that he has any professional experience in the subject as mentioned therein. The only ground urged so far as respondent No.4 - Dr. Sanwar Patel is concerned, is that he does not fit into the definition of Section 14(1)(c) of the Act.

7. So far as it relates to Shri Mahboob Hussain, we do not find any ground has been raised to question the validity of his nomination.

8. In Writ Petition No.20311 of 2022, the petitioner seeks for a prayer to quash the impugned notification dated 29.07.2022 so far as it restricts itself to the nomination of respondent No.4 - Dr. Sanwar Patel alone. It is pleaded in the grounds that he does not satisfy the requirements as contemplated under Section 14(1)(c) of the Act. That he lacks professional experience in the fields as mentioned therein. That in terms of the notification dated 23.06.1995 a scheme was notified by the Madhya Pradesh Waqf Board in relation to the management of the affairs of the Board. In terms whereof, it is prescribed that if anyone has an interest in any Waqf property, he shall be debarred from appointment as "*Muttawalli*". So far as the father of respondent no.4 – Dr. Sanwar Patel is concerned, he was held to be an encroacher of Waqf property in the proceedings before the Waqf Tribunal at Bhopal, in Case No.42A of 1995 in terms of the order dated 28.04.1999. Therefore, since the father of the respondent no.4 Dr. Sanwar Patel has been declared to be an encroacher of Waqf property, he is not entitled to be nominated by the State.

9. In Writ Petition No.19674 of 2022 the prayer sought for is for a writ, order or direction to quash the impugned notification dated 05.08.2022 so far as it relates to the nomination of the respondent No.3 Shri Mahboob Hussain as a member of the Waqf Board. The challenge to his nomination is

made on various grounds. Firstly, that in terms of Clause (d) on the basis of which he has been appointed, he is not a recognized scholar in Shia and Sunni Islamic Theology. That, there is a recovery of more than Rs.4 crores pending against the Shia Dawoodi Bohra Jamaat Dawate Hadiya. As on date, the Shia Dawoodi Bohra Jamaat Dawate Hadiya is represented by this very respondent. The proceedings for recovery of the amount have been ordered by the Madhya Pradesh Waqf Board, Bhopal and the proceedings have been transmitted to the District Magistrate at Mumbai for recovery, in view of the fact that the registered office of the Shia Dawoodi Bohra Jamaat Dawate Hadiya is at Mumbai.

10. Writ Appeal No.1362 of 2021 is filed by appellant being aggrieved by the order dated 26.08.2022 passed by the learned Single Judge dismissing Writ Petition No.18880 of 2022 as well as the subsequent order dated 09.09.2022 dismissing M.C.C.No.2120 of 2022, wherein a challenge was made to the very notification dated 29.07.2022. That insofar as it relates to Dr. Sanwar Patel (respondent No.5 therein), who was appointed in terms of provisions of Section 14(1)(c) of the Act and Dr. Inaur Rehman (respondent No.4 therein) who was appointed under the provisions of Section 14(1)(e) of the Act, the learned Single Judge while considering the plea of the petitioner took note of the fact that the petition was contested only so far as Dr. Inaur Rehman is concerned. On the petition being dismissed, a review petition was filed and it was contended that the claim against Dr. Sanwar Patel was not given up. The said review petition was dismissed. Hence, the instant appeal is filed. The ground urged in the writ petition so far as the appointment of respondent No.4 - Dr. Inaur Rehman is concerned, is to the effect that he is a Professor of Law and, therefore, does not fall within the requirement of the said provision. The requirement therein is that apart from being a Muslim, he should be one of the officers of the State Government

not below the rank of the Joint Secretary to the State Government. Therefore, he does not satisfy the said requirement. Further, the requirement in terms of the second proviso to Section 14 of the Act wherein atleast two members appointed to the Board shall be women, is not satisfied by the State. The Board does not consist of two women. That even pursuant to the impugned notification issued by the State appointing various persons to the Board, the same does not satisfy the provision of having two women on the Board. Hence, it is pleaded that the appeal be allowed and the order dated 26.08.2022 passed by the learned Single Judge in Writ Petition No.18880 of 2022 be set aside by allowing the said writ petition.

11. The plea of the petitioners is opposed to by the State through their statement of objection filed in Writ Petition No.19024 of 2022. The Government Advocate submits that the same is being adopted with respect to the challenge in other writ petitions also. The respondent Nos.1 and 2 have filed preliminary objection on 06.09.2022 and an additional return has also been filed on 01.11.2022. The respondent no.4 - Dr. Sanwar Patel in Writ Petition No.19024 of 2022 has also filed his return on 31.10.2022. Learned counsel submits that he adopts the reply as filed by the State.

12. The preliminary objection of the State is with regard to the maintainability of the writ petitions. It is pleaded that the petitioners have no right to challenge the nomination of the contesting respondents. That they cannot be said to be a person aggrieved in order to maintain the petitions. The petitions are not in public interest but in their individual interests. Therefore, the writ petitions be dismissed on the ground of maintainability and locus. It is further contended that so far as the nomination of respondent No.4 - Dr. Sanwar Patel under clause 14(1)(c) of Act is concerned, it is stated that the petitioners have tried to mislead this Court. The question of encroachment on waqf property, is incorrect. So far as respondent No.5 –

Shri Mahboob Hussain is concerned, he has been appointed under the provision of Section 14(1)(d) of the Act. That there is substantial material to indicate that he is a recognized scholar in Shia and Sunni Islamic Theology. That the claim against Shia Dawoodi Bohra Jamaat Dawate Hadiya Community is not against the respondent no.5 – Shri Mahboob Hussain in his individual capacity. Therefore, unless there is anything against him personally, the contention of the petitioners that he represents the said community may not be appropriate. Even otherwise action has been initiated by the State seeking execution before the District Magistrate at Mumbai, which is under progress. Therefore, it is not a case of no action by the State. They have initiated proceedings for recovery. The recovery will be answerable by the said community.

13. An additional return has been filed by the State. Various documents have been filed along with the same. It is submitted that a perusal of the Bio-data of respondent - Dr. Sanwar Patel would reveal that he has obtained his Graduation in Sociology and Post Graduation in Sociology. He has obtained degree in Law, Post Graduation in Law and Ph.D in Law. That apart, he has a wide experience in business management, social work, finance and agriculture. He has been working in various capacities in institutes and rendering services as a social worker. They have produced documents to show that he was the member of Maulana Azad Education Foundation, Government of India, New Delhi for the year 2003-2005. Therefore, it is incorrect to say that respondent – Dr. Sanwar Patel does not possess professional experience in the related category as mentioned therein. The Bio-data of respondent - Dr.Sanwar Patel with regard to his educational qualifications and social and professional work experience are reproduced herein as follows:-

“Educational qualifications:

Year of Passing	Qualification	Subjects / Specialization Subjects	College/ University
1995 1996 1997	B.A. Sociology	* Sociology * Gen. Awr. Hin. Eng. * Political Science * History	Vikram University, Ujjain
1998 1999	M.A . Sociology	* Advanced Sociological Theory. * Social Anthropology. * Criminology and Correctional Administration. * Labour Kefirian & Society. * Sociological Theory. * Social Survey & Research. * Demography & Pop. Prob. * Rural Sociology.	Vikram University, Ujjain
2001 2002 2003	LL.B. Part-I Part-II Part-III	* Gen. Prin. of Contract & Spe. Relief * I.C. Act, S.O.G. Act & Oth. Spe. Cont. * LAW of Toris & Cons. Protection * LAW of Crimes * Juris Prudence * Cons T. LAW of India * Fam. LAW I(Hin. LAW) * Fam. LAW I(Mus. LAW) * Labour Laws * Crim. Proc. Code. Jus. Act. & Prob. of F. Act. * LAW Rel. To Civil Procedure	Vikram University, Ujjain
		* LAW of Evidence * Practical Training in LAW * Tenancy LAW of M.P. * Genaral LAW * Environmental LAW * Interp. of Status * Eng. Legal Writing * Moot Court P.T. & P. Int. Pro. * Tra. Of Pro. Act & Easement Act * Company LAW * Ind. Leg. Icon. His. * Crim in Ilogy & Penol. * Admin is Trative LAW of India * LAW Rel. to Eot. & Trust * Hum. Rts. & Pub. Int. LAW * P.E.AC. for Lawyer & Bar Bench Rel. * Pub. Int. L. Leg. Aid Para-Legal Ser.	

2006 2007	LL.M. Merit Holder	* DRUG. ADDI. CRIM. Just. & Human Rig. * Juvenile Deliqu. & * Colle. Violen. & Crim. Just. System * Dissertation * Viva Voce * Legal Education & Research Method * Law & Social Transf. In India * Indian Const. LAW :- The New Chall. * Judicial Process * Comp. Crim. Proc. * Penology :- Treat of Offenders * Priv. Class Devi.	Vikram University, Ujjain
2011	Ph.D.LAW	* Research Methodology * Computer Application * Literature Review * Int. Assessment	Vikram University, Ujjain
2009	Participation Certificate of National Workshop As Research Scholar	General Poor Classes-Welfare and Empowerment	Vikram University, Ujjain in association with State General PoorClasses Welfare Commission, M.P. Bhopal (Dept. of Social Justice)

Social Work Experience

No of Years	Organisation	Designation	Duties and Responsibilities
2003-2005	Maulana Azad Education Foundation, Govt. of India New Delhi	Member	The MAEF is a Voluntary, Non-Political, Non-Profit Making, Social Services Organization, established to prompt education amongst Educationally Backward Section of society. MAEF provides Grant-in-aid (Financial Assistance) to Schools working for Educationally Backward Minorities.
2002- continued	Ujjain-District Amtr. Athletic Association, Ujjain (M.P.)	President	For Promotion of Sports and Athletics Activities amongst the Youth in the district of Ujjain.

2006-2010	Madhya Pradesh Amateur Athletic Association Bhopal (M.P.)	Vice President	For Promotion of Sports and Athletics Activities amongst the Youth in the State Madhya Pradesh.
2008-2011	M.P. State Haj Committee, Govt. of M.P.	Member	As described below.
2011-2013	M.P. State Haj Committee, Govt. of M.P.	Chairman State Minister Status	<p><u>To Arrange and provide assistance to Haj pilgrims of M.P. State Haj Committee as follows :-</u></p> <p>Arrangements to apply for Haj Pilgrimage by applicants across the state. (approximately 25000 the applicants per year), To arrange Haj Training across the state for Haj Pilgrims, to arrange for the stay of two days of Haj Pilgrims at the embarkation points Bhopal and Indore, to arrange and supervise departure arrangements of Haj Pilgrims at the embarkation points Bhopal and Indore in coordination with Airport Authority of India, Director of Immigration, CISF, Local Administration and to supervise and arrange the arrival of Haj Pilgrims at the nominated Airports i.e. at Jeddah and Madina Saudi Arabia in coordination with Consulate General of India, Jeddah and Saudi Authorities. to provide direct assistance by selected and placing Khadim-ul- Hujjaj (Haj Assistance and Guide) in the ratio of 200 is to 1 KuH, to provide medical assistance to Haj Pilgrims and the embarkation points and at the place of stay, to monitor & provide assistance for safe arrival of Haj Pilgrims of the State at embarkation points.</p>

2013-2016	Haj Committee of India, Govt. of India	Member of different standing committees for Haj Pilgrimages Arrangements Haj Coordinator for coordination with states	Member of different monitoring committees for arrangements of Haj Pilgrimages of Indian citizens 1,25,000 pilgrims per year, For all activities in regards with applying for Haj Pilgrimages, selection for Haj Pilgrimages, arrangements of the states. Arrangements and finalization residential facilities for Haj Pilgrimages at Makkah and Madina Saudi Arabia. Arrangements of transport (Air Charter and Road Transport) of Haj Pilgrims at Makkah and Madina Saudi Arabia. Arrangements of medical assistance facilities for the Haj Pilgrims at Makkah and Madina Saudi Arabia. Arrangements of Air-Transports for 1,25,000 Haj Pilgrims. Coordination with state in regard with operation arrangement and management of Haj Pilgrimage work.
2014	Govt. of M.P., Backward Classes Minority Welfare Department	Jury Member for मध्य प्रदेश अल्पसंख्यक वर्ग सेवा राज्य पुरस्कार	To scrutinise and finalize awardees for state level award in the field of social works, education etc to be conferred to the persons selected among the Backward Classes and Minorities Communities.
2015	Govt. of M.P., Backward Classes Minority Welfare Department	Jury Member for मध्य प्रदेश अल्पसंख्यक वर्ग सेवा राज्य पुरस्कार	To scrutinise and finalize awardees for state level award in the field of social works, education etc to be conferred to the persons selected among the Backward Classes and Minorities Communities.
2017	Govt. of India Ministry of Human Resource Development, Department of Higher Education, Minority Cell	Member of National Monitoring Committee for Education (NMCME) Representing Social Activist	For Advising the Government on all matters pertaining to education of minorities and to review the functioning of various schemes launched by the Ministry, Govt. of India for the purpose of promoting minority education.

		Segment	
2012	Office of Municipal Corporation of Ujjain	Special Invite to the committee for the Arrangement of Singhast (सिंहस्थ)-2016	To review of arrangement for Singhast (सिंहस्थ)- 2016.

Professional Work Experience:-

No of Years	Organisation	Designation	Duties and Responsibilities
1998-1999	Ujjain Audhyogik Vikas Nagrik Sahkari Bank MYDT.	Active Worker & Promoter	Provide direct support to local offices and local partners in developing project proposals, establishing adequate management structures.
1999-2005	Ujjain Audhyogik Vikas Nagrik Sahkari Bank MYDT.	Elected Founder Director	Provide and monitor ad-hoc expertise on project development and formulation in the field of rural and regional development, when required.
2015-2018	Ujjain Audhyogik Vikas Nagrik Sahkari Bank MYDT.	Elected Director & Vice President	Review and discuss the technical merits of project proposals, assistance in submitting promising proposals to and seeking additional technical support and guidance when required.
2018-2020	Ujjain Audhyogik Vikas Nagrik Sahkari Bank MYDT.	Officiating Chairman	Review and discuss the technical merits of project proposals, assistance in submitting promising proposals to and seeking additional technical support and guidance when required. Ensure timely preparation and support effective implementation of projects, monitoring human resource inputs, review draft terms of reference, help on equipment purchase, contracts and training.

2020- Continue	Ujjain Audhyogik Vikas Nagrik Sahkari Bank MYDT.	Elected Director & Chairman	<p>Monitor progress of on-going projects relevant to achievement of objectives and assess impact and effectiveness of the assistance through regular consultations with government counterparts and project managers, field visits, preparation of reports. Familiarise with and actively apply corporate policies, standards and management.</p> <p>Work closely with the host Government, maintaining contacts with the appropriate departments and officials to increase knowledge about and visibility of Bank policies.</p> <p>Assist in donor coordination activities in the field of local development including provision of information, presentations and other backstopping as required, maintaining close contacts with donors, government and relevant authorities.</p>
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Agricultural Work Experience:

Experience No of Years	Details of Agriculture Land Acquired	Crops	Works and Achievement in the fields of Agriculture
30 years	37.5 Bigha (7.701 Hact.) Self & Wife	Advance agriculture & Warehouse for Food Security	Motivated fallow villagers to grow different profitable crops by using advance agriculture techniques.
			Own warehouse in the name and style of "Kaka Warehouse" of 5000 MT capacity to support "National Food Security Mission".

14. So far as respondent – Shri Mahboob Hussain is concerned, it is pleaded that he is a recognized scholar in Shia and Sunni Islamic Theology. He possesses a certificate of Quaran Islamic Law & Jurisprudence issued by Aljamea Tus Saifiyah Surat – Gujarat in the year 2010. He is a Post Graduate in Commerce and possesses a Law Degree. That he is also a scholar recognized by community and follower of Dawat-e-Hadiyah. That he has been a member of State Waqf Board in the previous tenure commencing from October, 2013.

15. Having considered all these material, the State was satisfied that they have rightly applied their mind having considered all available material. They are convinced with the suitability and eligibility of respondent - Dr. Sanwar Patel as well as Shri Mahboob Hussain.

16. Respondent - Dr. Sanwar Patel has also filed his return. He has indicated therein the various positions held by him in the past and the present. He has stated that the allegation made against the encroachment of certain properties belonging to the Waqf is not against him but against his father. He has also placed reliance on the judgment and decree dated 18.09.2014 passed by the III Additional District Judge, Ujjain in Civil Appeal No.35-A of 2013, in which a decree of title has been granted in favour of his father. Second Appeal No.2 of 2015 challenging the said judgment and decree is pending adjudication before the Indore Bench of this Court. Hence, it is pleaded that the petition be dismissed.

17. Heard learned counsels.

18.(a) Before considering the contentions of learned counsels, it would be necessary to note the following:

(b) In terms of Section 13 of the Wakf Act, 1995, the State Government shall establish a Board of Wakf. The composition of the Board is as defined under Section 14. The nomination of members of the Board by the State is

required to be done after due application of mind considering the various material and other relevant factors. The State cannot nominate any person it so chooses unless they conform to the requirements of the particular subsection. The State does not have absolute power to appoint a person of its choice if he does not fulfill those criteria. The State must be reasonably satisfied that the nomination is strictly in terms of Section 14 of the Act. Therefore, when an issue is raised with regard to nomination of the members by the State, the State would have to produce such material in order to defend such a nomination. The sufficiency of material, which formed the basis of such nomination, requires to be placed by the State. It is such material that the court will look into in order to arrive at the conclusion whether the decisions taken by the State for the purposes of nomination are as a result of application of mind and consideration of the relevant material. It is this subjective satisfaction that the court would look into. However, if there is no adequate material and the State is unable to show reasons for such nomination, then the nomination would have to fail. It would be considered that the nomination is arbitrary and vitiates the legal provisions. Therefore, it is with this background that the nomination of the concerned respondents will be considered.

19. The primary contention of the petitioners is with regard to the validity of the nomination made by the State in favour of respondents - Dr. Sanwar Patel, Shri Mahboob Hussain and Dr. Inaur Rehman (respondent No.4 in W.A.No.1362 of 2022).

20. So far as the nomination of Dr. Sanwar Patel is concerned, what is being primarily contended by the petitioners is that he does not possess any professional experience in town planning etc. The nomination of respondent - Dr. Sanwar Patel has been made in terms of the provisions of Section 14(1)(c) of the Act which reads as follows :-

“14. Composition of Board.-(1) The Board for a State and the National Capital Territory of Delhi shall consist of—

(c) one person from amongst Muslims, who has professional experience in town planning or business management, social work, finance or revenue, agriculture and development activities, to be nominated by the State Government;”

21. The Bio-data of respondent - Dr. Sanwar Patel has been extracted in the objection filed by the State. He is a Graduate in Arts (Sociology) and Post Graduate in Arts (Sociology). He is a holder of a Law Degree. He is also a holder of a LL.M. Degree. He has done his Ph.D in Law. He has participation certificate of the National Workshop as Research Scholar. He has done various social work as has been extracted herein above. Having considered the various activities of the respondent – Dr. Sanwar Patel, it cannot be said that the State has not applied its mind while nominating him. He indeed has a vast experience in doing social work and other related issues. The requirement of law is that he must be a person amongst the Muslim community who has professional experience in the subjects as mentioned therein. The requirement that he must be a person amongst Muslims, is undisputed. The reading of his Bio-data would indicate that he has substantial professional experience in the categories as mentioned therein. There is substantial material to indicate that he has professional experience in the categories mentioned therein. The State has, therefore, applied its mind and considered the material while nominating him. It cannot, therefore, be said that his nomination is either arbitrary or malafide. The various positions that he held and the work that he has undertaken, would leave no room for doubt that he has professional experience in the said subjects. It is based on relevant material which, in our considered view, satisfies the requirement of Section 14(1)(c).

22. The further contention of the petitioners is that proceedings have been initiated against the father of respondent - Dr.Sanwar Patel for encroaching on property belonging to the Waqf. A suit has been filed. Therefore, he cannot be nominated by the State. Respondent - Dr. Sanwar Patel has filed his return wherein he has produced the judgment and decree dated 18.09.2014 passed by the III Additional District Judge, Ujjain in Civil Appeal No.35-A of 2013, in which a decree of title has been granted in favour of his father. Second Appeal No.2 of 2015 challenging the said judgment and decree has been filed by the M.P. Waqf Board against the father of respondent No.4 – Dr. Sanwar Patel, which is pending adjudication before the Indore Bench of this Court. It is further contended that the litigation, if any, is between the Waqf and his father. That he has no role to play in the same. That he is not one of the parties to the litigation. On considering the contentions, we are of the view that the same may not act as a deterrent for his nomination. Firstly is the fact that he is not a party to any of the litigations. It is his father who is in litigation. Secondly, the question of encroachment or otherwise is pending adjudication in Second Appeal No.2 of 2015 before the High Court of Madhya Pradesh Bench at Indore. Therefore, the matter is sub-judice. Whether a decree is to be granted or the suit is to be dismissed, would be decided in the second appeal. Therefore, no conclusion could be drawn with regard to the encroachment or otherwise as on date since the matter is sub-judice. Therefore, we are of the considered view that this contention cannot be accepted.

23. On considering the aforesaid material, we have no hesitation to hold that the State was justified in nominating respondent - Dr. Sanwar Patel under Section 14(1)(c) of the Act. Therefore, we uphold the nomination of respondent - Dr. Sanwar Patel made by the State.

24. So far as respondent – Shri Mahboob Hussain is concerned, he is said to have been nominated under Section 14(1)(d) of the Act which reads as follows :-

“(d) one person each from amongst Muslims, to be nominated by the State Government from recognized scholars in Shia and Sunni Islamic Theology;”

25.(a) The learned counsel for the petitioner contends that respondent – Shri Mahboob Hussain is not a recognized scholar in Shia and Sunni Islamic Theology. The same is disputed by the State through their return. The respondents have produced his Bio-data. The Bio-data indicates that he has a certificate of Quaran, Islamic Law and Jurisprudence of the year 2010 in the subject Holy Quaran Islamic Law from Aljamea Tus Saifiyah, Surat (Gujarat). He has a HSS certificate from Madhya Pradesh Education Board of the year 1973. He holds a B.Com Degree of the year 1976, M. Com Degree of the year 1980 and LL.B Degree of the year 1979 from the Bhopal University, Bhopal. He has also produced a certificate of Appreciation in Quranic Studies and Community Welfare. It has been awarded by Aljamea Tus Saifiyah, Surat dated 11th August, 2010. The same reads as follows :-

“Certificate of Appreciation in Quranic Studies and Community Welfare

This certificate is awarded to

MR.MEHBOOB HUSAIN

MANSOOR HUSAIN

for his outstanding performance in QURANIC STUDIES (Tehfeez), ISLAMIC LAW and JURISPRUDENCE and his overwhelming response and endeavours for

Community Welfare purposes,

ALJAMEA TUS SAIFIYAH SURAT

is pleased to award him with this APPRECIATION

Sd/-

for Aljamea tus Saifiyah
SURAT
11 August, 2010”

(b) Therefore, it is pleaded that – Shri Mahboob Hussain is a recognized scholar in Shia and Sunni Islamic Theology and hence the State was justified in nominating him.

(c) The second ground is that there was a revenue recovery certificate issued by the Waqf Board against the respondent No.4 in Writ Petition No.19674 of 2022 namely, Shia Dawoodi Bohra Jamaat Dawate Hadiya having its headquarters at Mumbai. A Special Power of Attorney dated 07.02.2019 was executed in favour of respondent – Shri Mahboob Hussain on behalf of said community to do all such acts in relation to Case No.A-4/2021 and all proceedings pertaining to the same for a period ending February 6th, 2024. Therefore, it is his bounded duty to ensure that he protects the interest of the community in pursuance to the power of attorney given to him. That the recovery is to a sum of almost Rs.4 Crores against the community. In case, he is nominated, he will make all efforts to ensure that the community is saved from the payment of Rs.4 Crores. Therefore, the Government should have considered this aspect of the matter before appointing him. Failure to do so, would, therefore, lead to gross miscarriage of justice. Hence, it is pleaded that his nomination be set aside.

26. The same is disputed by the State on various grounds. By placing reliance on the aforesaid certificate, they submit that the same amounts to he being a recognized scholar in Shia Sunni Islamic Theology. The State has further contended that since the head office of respondent - community is situated at Mumbai, the proceedings have been shifted to the District Magistrate, Mumbai for the purposes of recovery. Therefore, the concerned respondent- Shri Mahboob Hussain would have no role to play so far as the

recovery is concerned. Therefore, the said issue has been answered by the State.

27. On hearing learned counsels, we are of the view that appropriate interference is called for.

28. The first contention that he is a recognized scholar requires to be considered. Except the sole certificate produced by the respondents, we do not find any material to indicate that he is a scholar. The certificate only indicates that it has been issued due to his outstanding performance in Quranic studies. The same has been issued on 11th August, 2010. The remaining educational qualification that he possesses has nothing to do with Shia and Sunni Islamic Theology. This is the only certificate that is relied upon. We have our own doubts as to whether this would constitute a material in order to show that the respondent – Shri Mahboob Hussain is a recognised scholar.

29. The question of determining whether a person is a scholar was considered by the Division Bench of the High Court of Karnataka in its order passed in Writ Petition No.34002-03 of 1998, disposed off on 01.06.2001. A similar question of law pertaining to the requirements of Section 14(1)(d) of the Act was considered by the Division Bench therein. The Division Bench placed reliance on the book titled “Outlines of Islamic Culture” - 2nd Edition by Shri A.M.A.Shushtery, who is a Professor of Iranian Language and Literature in the University of Mysore. It was noted therein that Theology has been systematized into a Science. Under this head, the following subjects have to be studied by those desirous of knowing it for practical purposes;

- (i) A commentary on Quran;
- (ii) Pertaining to tradition;

- (iii) Fundamental principles of Muslim Law based on the Quran, the Tradition, consensus of opinion and analogy;
- (iv) Rules relating to morals, civil and criminal law;
- (v) Scholastic theology based on the knowledge of unity of God, His attributes, the word of God, freedom of will, the sacred books, the Prophets, the angels, the punishment and the reward, the resurrection, etc.
- (vi) A brief study of logic.

30. On considering the contentions and the available material, we are of the considered view that none of the requirements are fulfilled by respondent– Shri Mahboob Hussain. We do not find that he possesses the requirements as are required in order to be called a scholar or a recognized scholar. Merely producing a certificate from an institution which is claimed to be a worldwide institution, in our considered view, may not satisfy the requirement of classifying him as a recognized scholar. As stated hereinabove in order to constitute a scholar, one has to have readings as mentioned therein. None of them is forthcoming from the certificate issued to him. Even otherwise it is a mere certificate issued by an institution. A certificate issued by any institution of any eminence in our considered view is not a certification of any scholarship of the concerned person. The institute may have worldwide standing, but the question is not with regard to the standing of the institution, but whether the person can be considered to be a recognized scholar in Shia and Sunni Islamic Theology.

31. So far as the second contention with regard to the financial interest of the respondent – Shri Mahboob Hussain is concerned, we do not find any material to indicate as to how the respondent – Shri Mahboob Hussain would absolve himself of his responsibility in protecting the community. Admittedly, an RRC has been issued against the community. In terms of the special power of attorney which is valid even as on date, it is his duty to

ensure that he protects the interest of the community. Therefore, if at all he is appointed as a member of the Board, the function that he has to discharge as a member of the Board would run contrary to the duty assigned to him as a power of attorney holder, in order to protect the respondent - community. This aspect of the matter may not have been considered by the State while nominating him.

32. For the aforesaid reasons, we are of the view that so far as his nomination is concerned, the same does not adhere to the requirements in terms of Section 14(1)(d) of the Act. Hence, we are of the considered view that the nomination of respondent - Shri Mahboob Hussain requires to be set aside.

33.(a) So far as the nomination of Dr. Inaur Rehman (respondent No.4 in W.A.No.1362 of 2022) is concerned, he has been nominated in terms of the provision of Section 14(1)(e) of the Act. The same reads as follows:-

“(e) one person from amongst Muslims, to be nominated by the State Government from amongst the officers of the State Government not below the rank of Joint Secretary to the State Government.”

(b) It is contended by the petitioners that Dr. Inaur Rahman is only a Professor of Law and, therefore, does not conform the requirement of Section 14(1)(e) of the Act. The same is disputed by the State through their return. It is contended that requirement under Section 14(1)(e) is that he has to be a Muslim and he should be an officer of the State Government who is not below the rank of Joint Secretary to the State Government. That he is a Muslim, is not disputed. A Professor of Law is equivalent to the rank of Additional Secretary or Special Secretary to the State Government, which is a rank much higher than the rank of Joint Secretary. The same is not disputed by the petitioner. The pay-scale as offered to the person holding the rank of Joint Secretary is much lower than that of the post being held by

Dr. Inaur Rehman. It is also not disputed that he is one of the officers of the State Government. Under these circumstances, in view of the fact that he is above the rank of Joint Secretary, the learned Single Judge was justified in dismissing Writ Petition No.18880 of 2022 vide the order dated 26.08.2022 and upholding the nomination of Dr. Inaur Rehman. We do not find any ground to interfere in the well considered order passed by the learned Single Judge. It is further pleaded by the learned counsel for appellant in Writ Appeal No.1362 of 2022 that in terms of second proviso to Section 14 of the Act, atleast two members appointed on the Board shall be women. The action of the respondents does not indicate that there are two members belonging to woman category who are on the Board. The same is disputed by the learned Deputy Advocate General on the ground that the Board is yet to be constituted. That it is only after the constitution of the Board that its validity can be questioned. There is every possibility that there would be atleast two women. In case there is any infraction, the same is always liable to be challenged. Therefore, it is pleaded that the ground is premature and need not be considered.

34. On hearing learned counsels, we are of the view that since the Board itself has not been constituted, we do not find it necessary to go into the said issue as to whether two woman members are on the Board or not. Since the entire process is being undertaken and in view of setting aside the nomination of one of the nominated members, necessary consequences would flow. Hence, Writ Appeal No.1362 of 2022 requires to be dismissed.

35. For the aforesaid reasons, the writ petitions are partly allowed.

(i) The nominations of respondent No.4 - Dr.Sanwar Patel and Dr.Inaur Rehman (respondent No.4 in W.A.No.1362 of 2022) are upheld.

(ii) The nomination of respondent No.5 - Shri Mahboob Hussain in terms of the Notifications dated 05.08.2022 and 29.07.2022 issued by the State is

quashed. The State is at liberty to proceed further for nomination in terms of Section 14(1)(d) of the Act.

(iii) Writ Appeal No.1362 of 2022 is dismissed.

36. Writ Appeal No.360 of 2021 is filed being aggrieved by the order dated 15.03.2021 passed by the learned Single Judge in Writ Petition No.5138 of 2021 declining to grant interim relief to the petitioner. The challenge in the said writ petition was to the legality of the order dated 15.02.2021 whereby the administrator had ordered to constitute a managing committee of Jabalpur Waqf Jama Masjid, Sadar Bazar, Jabalpur and the order was communicated under the name of Chief Executive Officer, M.P. Waqf Board, Bhopal. For the reasons assigned hereinabove, the writ appeal is disposed off.

37. The writ appeals and the writ petitions are accordingly disposed off. Pending interlocutory applications stand disposed off.

(RAVI MALIMATH)
CHIEF JUSTICE

(VISHAL MISHRA)
JUDGE

Tarun/C