

A DIARY
Dated: 11.07.2024

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| 1. | OP No. 38/2024 Perumkuzhi Muslim Jama-ath, Thiruvananthapuram Order not ready. Posted to 07.08.2024 |
| 2. | OP No. 110/2023 Kilikolloor Valiya Pally Muslim Jama-ath, Kollam Order not ready. Posted to 07.08.2024 |
| 3. | OP No. 124/2023 Neeravil Muslim Jama-ath, Kollam Order not ready. Posted to 07.08.2024 |
| 4. | <p>OP No. 126/2022 Mylappore Muslim Jama-ath, Kollam</p> <p>The above O.P. 44/2024 is filed by the petitioner to appoint a returning officer to conduct an election through secret ballot system, . To frame a scheme for the election affairs of the 1st respondent waqf jama-ath in the absence of a registered bye-law and for other related reliefs. From the averments in the petition it is seen that there is no bye-law in existence for Mylapore Muslim Jamaa-th. Another case bearing No. O.P.126/2022 was pending before the Board for conducting election to the jama-ath committee as per the bye-law of the jama-ath and for other related reliefs. In the said case the secretary of the jama-ath committee had filed a counter affidavit stating that there is no written and recognized bye-law in the jama-ath. While this matter was pending before the Board the petitioner in O.P. 44/2024 had approached the Hon'ble High Court of Kerala in which it was directed to pass orders in I.A.48/2024 and 49/2024 within a period of 6 weeks. As Board found that both the matters are connected and with regard to the election to the jama-ath committee and bye-law of the jama-th, the Board heard the matters together on 11-07-2024. All the parties agreed that at present there is no proper bye-law for the administration of the jama-ath and a proper election could be conducted only after framing a scheme by the Board for the administration of the jama-ath. Hence, the Board hereby decides to frame a scheme for the administration of the jama-ath under section 69 of the Waqf Act, 1995. On the basis of the above decision a draft scheme is framed by the Board and had decided to call for objection. The said draft scheme shall form part of this order and the office is directed to publish the same in the notice Board of the Waqf as well as the notice board of the Board calling for objection to be filed within 15 days of the date of publication of the draft scheme. The matter is posted to 05-09-2024 on which date the objections to the draft scheme shall be considered by the board for the finalization of the same.</p> |
| 5. | AA No. 100/2024 Pulluvila Muslim Jama-ath, Thiruvananthapuram |

Present appeal is filed by the Secretary of Pulluvila Muslim Jama-ath, Thiruvananthapuram under section 72(7) of the Waqf Act, 1995 seeking to set aside the assessment of the order passed by the assessing authority for the assessment year 2022-2023 pass a fresh order in this regard. The appellant had remitted the 1/3rd of the disputed of amount for the year 2022-2023 as provide under the Kerala Waqf Rules.

The averment in the appeal memorandum is that prayed for pardon for the non submission of accounts before Board. Hence, they approached this appellate authority seeking to set aside the order of assessment passed by the Assessing Authority and to exempt from remitting the amount so assessed.

On verification of the office records, it is seen that Best Judgment Assessment was made as the committee administering the waqf failed to submit the accounts before the Board as contemplated under the Waqf Act and the waqf failed to remit the contribution amount due. Even though several notices directing to submit accounts were issued to the Jama-ath, it failed to submit accounts in time. In the above circumstances, the assessing authority has assessed the waqf on best judgment basis for the disputed period.

On going through the above facts and circumstances, the Board is of the opinion that one more opportunity can be given to the appellant to prove the contentions raised in the appeal. The assessing authority is directed to re-assess the accounts of the waqf for the appeal period in accordance with the Act, Rules and Regulations, after considering the returns submitted along with the appeal memorandum. If the assessing authority is not satisfied with the accounts submitted along with this appeal, the authority is free to call for the supporting books and documents and conduct audit of accounts if found necessary. The present appeal is disposed of with the above direction.

6. AA No. 102/2024 Salafy Jama-ath, Kollam

Present appeal is filed by the Secretary of Salafy Jama-ath, Kollam under section 72(7) of the Waqf Act, 1995 seeking to set aside the assessment of the order passed by the assessing authority for the assessment year 2020-2021 and to pass a fresh order in this regard. The appellant had remitted the 1/3rd of the disputed of amount for the year 2020-2021 as provide under the Kerala Waqf Rules.

The averment in the appeal memorandum is that the failure of submission of accounts of the waqf is due to Covid -19 pandemic situation and prayed for pardon for the non submission of accounts before Board. Hence, they approached this appellate authority seeking to set aside the order of assessment passed by the Assessing Authority and to exempt from remitting the amount so assessed.

On verification of the office records, it is seen that Best Judgment Assessment was made as the committee administering the waqf failed to submit the accounts before the Board as contemplated under the Waqf Act and the waqf failed to remit the contribution amount due. Even though several notices directing to submit accounts were issued to the Jama-ath, it failed to submit accounts in time. In the above circumstances, the assessing authority has assessed the waqf on best judgment basis for the disputed period.

On going through the above facts and circumstances, the Board is of the opinion that one more opportunity can be given to the appellant to prove the contentions raised in the appeal. The assessing authority is directed to re-assess the accounts of the waqf for the appeal period in accordance with the Act, Rules and Regulations, after considering the returns submitted along with the appeal memorandum. If the assessing authority is not satisfied with the accounts submitted along with this appeal, the authority is free to call for the supporting books and documents and conduct audit of accounts if found necessary.

The present appeal is disposed of with the above direction.

7. AA No. 104/2024 Chittar Town Muslim Jama-ath, Pathanamthitta

Present appeal is filed by the Secretary of Chittar Town Muslim Jama-ath, Pathanamthitta under section 72(7) of the Waqf Act, 1995 seeking to set aside the assessment of the order passed by the assessing authority for the assessment year 2015-2016 to 2020-2021 and to pass a fresh order in this regard. The appellant had remitted the 1/3rd of the disputed amount for the year 2015-2016 to 2020-2021 as provide under the Kerala Waqf Rules.

The averment in the appeal memorandum is that prayed for pardon for the non submission of accounts before Board. Hence, they approached this appellate authority seeking to set aside the order of

assessment passed by the Assessing Authority and to exempt from remitting the amount so assessed.

On verification of the office records, it is seen that Best Judgment Assessment was made as the committee administering the waqf failed to submit the accounts before the Board as contemplated under the Waqf Act and the waqf failed to remit the contribution amount due. Even though several notices directing to submit accounts were issued to the Jama-ath, it failed to submit accounts in time. In the above circumstances, the assessing authority has assessed the waqf on best judgment basis for the disputed period.

On going through the above facts and circumstances, the Board is of the opinion that one more opportunity can be given to the appellant to prove the contentions raised in the appeal. The assessing authority is directed to re-assess the accounts of the waqf for the appeal period in accordance with the Act, Rules and Regulations, after considering the returns submitted along with the appeal memorandum. If the assessing authority is not satisfied with the accounts submitted along with this appeal, the authority is free to call for the supporting books and documents and conduct audit of accounts if found necessary. The present appeal is disposed of with the above direction.

8. AA No. 106/2024 Padavancode Muslim Jama-ath, Thiruvananthapuram

Present appeal is filed by the Secretary of Padavankode Muslim Jama-ath, Thiruvananthapuram under section 72(7) of the Waqf Act, 1995 seeking to set aside the assessment of the order passed by the assessing authority for the assessment year 2016-2017 to 2020-2021 and to pass a fresh order in this regard. The appellant had remitted the 1/3rd of the disputed amount for the year 2016-2017 to 2020-2021 as provide under the Kerala Waqf Rules.

The averment in the appeal memorandum is that the failure of submission of accounts of the waqf is not willfull, that it occurred due to the non action on the part of erstwhile committee members and prayed for pardon for the non submission of accounts before Board. Hence, they approached this appellate authority seeking to set aside the order of assessment passed by the Assessing Authority and to exempt from remitting the amount so assessed.

On verification of the office records, it is seen that Best Judgment Assessment was made as the committee administering the waqf failed to submit the accounts before the Board as contemplated under the Waqf Act and the waqf failed to remit the contribution amount due. Even though several notices directing to submit accounts were issued to the Jama-ath, it failed to submit accounts in time. In the above circumstances, the assessing authority has assessed the waqf on best judgment basis for the disputed period.

On going through the above facts and circumstances, the Board is of the opinion that one more opportunity can be given to the appellant to prove the contentions raised in the appeal. The assessing authority is directed to re-assess the accounts of the waqf for the appeal period in accordance with the Act, Rules and Regulations, after considering the returns submitted along with the appeal memorandum. If the assessing authority is not satisfied with the accounts submitted along with this appeal, the authority is free to call for the supporting books and documents and conduct audit of accounts if found necessary.

The present appeal is disposed of with the above direction.

9. OP No. 28/2024 Ithikkara Muslim Jama-ath, Kollam

The above O.P. is filed by the petitioner seeking to declare that the decision of the extra ordinary general body meeting of the 1st respondent jama-ath dated 22-12-2023 is illegal, that the jama-ath has no right to take action against the petitioner on the basis of notice dated 25-12-2023 and for other related reliefs.

According to the petitioner he is one of the member of 1st respondent jama-ath and was also member of managing committee earlier. The petitioner submitted before the Board that he is a believer and well wisher of the jama-ath, that is daughter fell in love with the Christian boy and had married him without converting to Christianity, that alleging that the petitioner conducted the marriage of his daughter against the Shariyath Law the jama-ath committee had suspended the petitioner from the managing committee for a period of 20 years and directed the petitioner to pay Rs.75.000/- as financial help to the marriage of a financially poor lady member of the jama-ath. The petitioner further stated that the jama-ath committee had passed such an order without hearing him and hence approached the Board. Up on getting such a petition, the Board had conducted a mediation talk with

the petitioner and jama-ath committee members. The jama-ath committee submitted at the time of mediation that they will not deny any religious rights like marriage, burial, right to worship in the mosque and other rights which are enjoyed by members of the jama-ath to the petitioner and his family members. In the mediation which was conducted on 11-06-2024, the jama-th committee had submitted a letter stating that taking into consideration of the advice of the Board at the time of mediation they had decided to withdraw the fine imposed by the jama-ath committee to the petitioner. The co-operation put forth by the jama-ath committee with the suggestions of the Board in the mediation deserves appreciation. On the basis of the mediation the following order is passed by the Board.

- 1) The jama-ath committee is directed to provide religious rights like marriage, burial, right to worship in the mosque and other rights which are enjoyed by members of the jama-ath to the petitioner and his family members.
- 2) The fine imposed by the jama-ath committee is withdrawn by them and hence there is no further action.
- 3) The petitioner is directed to co-operate with the jama-ath committee in its activities and shall not do any act which affects the unity and beliefs of the members of the jama-ath and shall pay all money due to the jama-ath as a member of the jama-ath without any fail.

10. OP No. 44/2024 Mylapore Muslim Jama-ath, Kollam
The above O.P. 44/2024 is filed by the petitioner to appoint a returning officer to conduct an election through secret ballot system, . To frame a scheme for the election affairs of the 1st respondent waqf jama-ath in the absence of a registered bye-law and for other related reliefs. From the averments in the petition it is seen that there is no bye-law in existence for Mylapore Muslim Jamaa-th. Another case bearing No. O.P.126/2022 was pending before the Board for conducting election to the jama-ath committee as per the bye-law of the jama-ath and for other related reliefs. In the said case the secretary of the jama-ath committee had filed a counter affidavit stating that there is no written and recognized bye-law in the jama-ath. While this matter was pending before the Board the petitioner in O.P. 44/2024 had approached the Hon'ble High Court of Kerala in which it was directed to pass orders in I.A.48/2024 and

49/2024 within a period of 6 weeks. As Board found that both the matters are connected and with regard to the election to the jama-ath committee and bye-law of the jama-th, the Board heard the matters together on 11-07-2024. All the parties agreed that at present there is no proper bye-law for the administration of the jama-ath and a proper election could be conducted only after framing a scheme by the Board for the administration of the jama-ath. Hence, the Board hereby decides to frame a scheme for the administration of the jama-ath under section 69 of the Waqf Act, 1995. On the basis of the above decision a draft scheme is framed by the Board and had decided to call for objection. The said draft scheme shall form part of this order and the office is directed to publish the same in the notice Board of the Waqf as well as the notice board of the Board calling for objection to be filed within 15 days of the date of publication of the draft scheme. The matter is posted to 05-09-2024 on which date the objections to the draft scheme shall be considered by the board for the finalization of the same.

11. IA No. 163/2024 in OP No. 56/2024 Mavalli Muslim Jama-ath, Kollam

The above I.A is filed by the petitioners in the main O.P. seeking to pass an order restraining the respondents from implementing the decisions taken as per exhibit 2 which is decisions taken by 1st respondent jama-ath council against the 1st petitioner in its meeting held on 12-12-2024 until an order is passed by the Board. The matter was heard ex-parte at the time of admission of the O.P. and the Board had passed an order dated 28-02-2024 after hearing the petitioner staying the decision vide exhibit 2 dated 12-02-2024. After the passing of the above mentioned order the Board had issued notice to the respondents who appeared and submitted a counter to the above I.A. and both parties were heard.

According to the petitioner as per clause 5(11) of the bye-law the quorum of the jama-ath counsel is 26 and violating the same and respondents 2 to 23 had conducted a council meeting in which they had passed a non-confidence motion against the 1st respondent and removed him from the post of president and had declared that the 23rd respondent is elected as the president of the jama-ath. Hence, the petitioners approached the Board. The respondents appeared and submitted counter and denied the allegations raised by the petitioners and contented that clause 5(11) of the bye-law was amended on 20-10-2013 and as per that

the quorum is 21. The respondent submitted that the petitioners are aware of the amendment of the bye-law and had suppressed the facts for obtaining the order. According to the respondent 22 members participated in the council meeting in which non-confidence motion was passed and had removed the petitioners. The newly elected president had taken charge and it was at this point the above order was passed by the Board which caused difficulty in the administration of the jama-ath. The respondents had raised severe allegations against the petitioners with regard to the accounts kept by them when they were the office bearers of the jama-ath.

As there is dispute with regard to the removal of 1st respondent through non-confidence motion and election of new office bearers. The Board finds that it is necessary to call for a council meeting and to obtain an opinion regarding the person to be elected as the president of the jama-ath so that clarity can be obtained with regard to the person who is having majority in the council so as to be elected as the jama-ath president. Hence, Divisional Waqf Officer, Thiruvananthapuram is deputed to call for a council meeting after giving due notice to all the council members and to elect the President of the jama-ath committee through secret ballot system after following all procedural formalities within a period of two weeks from the date of receipt of this order and shall report the matter before the Board in its meeting to be held on 05-09-2024.

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| 12. | OP No. 04/2022 Pangode Puthen pally Muslim Jama-ath, Thiruvananthapuram Chief affidavit filed. Posted to 05.09.2024 |
| 13. | OP No. 14/2020 Chilakkoor Muslim Jama-athm, Thiruvananthapuram Argument notes filed on 14. 02.2024. For orders. Posted to 05.09.2024 |
| 14. | OP No. 42/2021 Thajul Islam Jama-ath, Kollam For steps. Await audit report. Posted to 05.09.2024 |
| 15. | OP NO. 26/2021 Umayanalloor Vadakkumkara Muslim Jama-ath, Kollam No objection in audit report. No representation for the petitioner. Name called. For orders. Posted to 05.09.2024 |
| 16. | OP No. 14/2022 Manakkad Valiya Pally Muslim Jama-ath, Thiruvananthapuram |

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| | Chief affidavit as last chance. Posted to 05.09.2024 |
| 17. | OP No. 164/2023 Anchal Muslim Jama-ath, Kollam Notice of R5 returned with endorsement no such addressee. Steps against R5 by substitute service and await of Return of notice of R12. Posted to 05.09.2024 |
| 18. | OP No. 62/2023 Karalikkonam Karakkal Muslim Jama-ath, Kollam IA No. 172/2024 to receive minutes. No counter filed. IA allowed. For counter and steps in OP. Posted to 05.09.2024 |
| 19. | OP No. 188/2023 Kattumurakkal Muslim Jama-ath, Thiruvananthapuram For counter in IA No. 162/2024. For hearing. Posted to 05.09.2024 |
| 20. | OP No. 248/2023 Manakkattupuzha Muslim Jama-ath, Kollam Counter filed. For steps. Posted to 05.09.2024 |
| 21. | OP No. 48/2024 Kilikolloor Thekkumkara Muslim Jama-ath Committee, Kollam Put up report of the returning officer from OP No. 10/2022 and petitioner shall produce minutes on 05.09.2024 |
| 22. | OP NO. 02/2024 Balaramapuram Miuslim Jama-ath, Thiruvananthapuram The petitioner and counsel not present for mediation or Razi. Respondent counsel present. OP dismissed. |
| 23. | OP No. 170/2023 Sayed Usman Sahib Memorial Madrassa, Thiruvnanthapuram Chief affidavit of the petitioner filed. Adv. Shifa is appointed as advocater commissioner. Pay Rs. 2000/- per day per witness. Posted to 05.09.2024 |
| 24. | OP No. 240/2023 N. M. A. Hanafi Jama-ath, Kollam Election document produced by the returning officer along with document list No. 10. Counter filed in IA No. 164/2024, for counter in IA No. 257/2023 and 165/2023. Returning officer further directed to produce the nomination papers. Posted to 05.09.2024 |
| 25. | OP No. 02/2021 Kilikolloor Valiya Pally Muslim Jama-ath, Kollam IA No. 208/2024 for impleading petition. Issue notice to the respondent in IA. Call on 05.09.2024 |
| 26. | OP No. 182/2023 Palayam Muslim Jama-ath, Thiruvananthapuram For filing chief affidavit of the petitioner and the parties shall appear for mediation. Posted to 05.09.2024 |
| 27. | OP No. 10/2024 Paravoor Jama-ath, Kollam Fresh vakkalath filed by Adv. Sajal for R1 to R5. Heard. Adv. |

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| | Badarudeen is appointed as Returning officer to conduct election. Initial batta of Rs. 25000/- to be paid by Jama-ath committee. Returning officer shall complete election on or before September 30 th . Call on 05.09.2024 |
| 28. | OP No. 42/2024 North Mynagappally Muslim Jama-ath, Kollam Counter filed. Copy given. For steps. Posted to 05.09.2024 |
| 29. | OP No. 142/2024 Paravur Muslim Jama-ath, Kollam Issue notice to the respondents. Posted to 05.09.2024 IA No. 213/2024 Heard. The Divisional Waqf officer, Thiruvananthapuram is directed to audit of accounts for the period of 2007- 2008 to 2014-2015 and submit report. |
| 30. | IA No. 209/2024 in OP No. 216/2023 Kumarapuram Muslim Jama-ath, Thiruvananthapuram Allowed. Advanced posting for orders 05.09.2024 to 07.08.2024 at Ernakulam |
| 31. | OP No. 140/2024 Kilikolloor Thekkumkara Muslim Jama-ath, Kollam Issue notice to the respondents. Posted to 05.09.2024 |
| 32. | OP No. 144/2024 Vakkam Kizhakke Muslim Jama-ath, Thiruvananthapuram Issue notice to the respondents. Posted to 05.09.2024 IA No. 214/2024 The Divisional Waqf Officer, Thiruvananthapuram is directed to conduct audit of accounts of the Jama-ath from 2013-2014 to 2023-2024 and submit report. |