

A DIARY
Dated: 11.12.2024

1.	OP No. 08/2023 Puthoor Pally Muslim Jama-ath, Kottayam Matter settled between parties. Compromise filed. OP closed on the basis of compromise which shall from part of the order.
2.	OP No. 200/2023 Broadway Hanafy Jama-ath Masjid, Ernakulam Order not ready. Posted to 15.01.2025
3.	OP No. 254/2023 Ettumanoor Athirampuzha Muslim Jama-ath, Kottayam Order not ready. Posted to 15.01.2025
4.	OP No. 132/2024 Kayaradi Muslim Jama-ath, Palakkad Order not ready. Posted to 15.01.2025
5.	<p>AA No. 156/2024 Mudikal Muslim Jama-ath, Ernakulam</p> <p>Present appeal is filed by the Secretary of Mudikkal Muslim Jama-ath, Ernakulam 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 2021-2022 to 2022-2023 pass a fresh order in this regard. The appellant had remitted the 1/3rd of the disputed of amount for the year 2021-2022 to 2022-2023 as provide under the Kerala Waqf Rules.</p> <p>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 hospitalization of the Jama-ath secretary 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.</p> <p>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</p>

	<p>disputed period.</p> <p>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.</p> <p>The present appeal is disposed of with the above direction.</p>
6.	<p>AA No. 158/2024 Thottumugham Muslim Jama-ath, Ernakulam</p> <p>Present appeal is filed by the Secretary of Thottumugham Kizhakke Jama-ath Pally, Ernakulam 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 2018-19 to 2021-2022 pass a fresh order in this regard. The appellant had remitted the 1/3rd of the disputed of amount for the year 2018-19 to 2021-2022 as provide under the Kerala Waqf Rules.</p> <p>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 hospitalization of the wife of the Jama-ath secretary for cancer treatment 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.</p> <p>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</p>

	<p>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.</p> <p>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.</p> <p>The present appeal is disposed of with the above direction.</p>
7.	<p>OP No. 34/2022 Kochi Thaikkav Pally, Ernakulam</p> <p>The main OP is filed seeking to implement the report of Waqf Inspector with regard to the appointment of Muthawalli. According to the petitioner an overall enquiry was conducted regarding the properties, complaint and hereditary mutawalli of the waqf and the Waqf Inspector who was deputed for enquiry had submitted his report. Hence the petitioner had approached the Board for implementing the findings in the report.</p> <p>While this matter was pending before the Board <u>I.A.No.119/2024</u> was filed seeking to implead the petitioner claiming himself as the present hereditary mutawalli. Respondent filed objection stating the petition is in the evidence stage and the impleading petition is belated. Eventhough the petition is in a belated stage Board finds that impleadment of the petitioner is necessary for the proper disposal of the matter. Eventhough the petitioner in the I.A. claimed to be impleaded as the present hereditary mutawalli there is no evidence before the Board at this stage to implead him as the hereditary mutawalli. Any person</p>

	<p>interested in the administration of a waqf can approach the Board with regard to that waqf. In such circumstances the I.A is allowed and the petitioner is impleaded in this case as additional respondent in his capacity as a beneficiary of the waqf. Office is directed to carryout necessary amendments on the basis of this order.</p>
8.	<p>OP No. 08/2024 Erumeli Mahallu Muslim Jama-ath, Kottayam</p> <p>The petitioners approached the Board claiming that they were the highest bidders in the auction conducted by the Erumely Mahallu Muslim Jama-ath for the purpose of providing parking place for the vehicles coming to Erumely during the Sabarimala Pilgrim season came before the Board seeking to call for the records leading to the auction of the parking grounds of the 1st respondent jama-ath, to direct the 1st respondent not to demand the balance amount due from the petitioners, considering the loss sustained by them, to direct the jama-ath not to restrain the petitioners from using the parking grounds till the permitted time, and other ancillary reliefs. The petitioners had filed an IA No. 17/2024 along with OP seeking to restrain the respondents from demanding the balance bid amount from the petitioners till the disposal of OP.</p> <p>The respondents had filed detailed counter statement in OP and IA. The respondents stated that even though the petitioners were the successful bidders in the auction of the parking ground, the checks submitted by the 1 & 2petitioners were dishonored by the bank for insufficient funds. Respondents have no privity of contract with 3rd & 4th petitioners. Hence the petitioners have violated the conditions of auction by including the 3rd & 4th petitioners as partners in the contract. The petitioners are bound by the agreement dated 17.10.2023 to perform their part of the obligations fixed by the agreement. The respondents have performed their part of the agreement by letting out the parking ground to the petitioners until 20.01.2024. The petitioners are thus duty bound to perform their part of the agreement and pay the bid amount in full to the 1st respondent.</p> <p>The petitioners have enjoyed the use of the parking ground during the full period of the lease and have made good business and</p>

	<p>they have not sustained any loss. There has not been any breach of contractual obligation by 1st respondent. Furthermore they even failed to specifically make averments with regard to the nature of the loss allegedly sustained by them.</p> <p>On perusal of the averments in the petition as well as counter the Board finds that the dispute in this matter is outside the purview of the jurisdiction of Board as the same is with regard to the contract entered with the parties. So also, then the matter came up before the Board for hearing the point of maintainability the petitioner was absent and hence it is to be reasonably presumed that the petitioner is not intending to prosecute the matter further. Eventhen the Board discussed and found that the question involved in this matter is not maintainable before the Board and hence the OP stands dismissed as not maintainable.</p>
9.	<p>EP No. 3338 & 3339/CR Haji Essa Haji Moosa Sait and Jan Muhammed Haji Eassa Sait Trust, Ernakulam Order not ready. Posted to 15.01.2025</p>
10.	<p>OP No. 40/2014 Mulavoor Central Mahallu Jama-ath, Ernakulam Order not ready. Posted to 15.01.2025</p>
11.	<p>OP No. 62/2022 Amayoor Juma Masjid, Palakkad</p> <p>The above original petition is filed by Sri. A.K. Aboobacker seeking an enquiry into the administration of the 1st respondent waqf ,for conducting auditing of accounts of the 1st respondent waqf and to recover the loss caused to the waqf by the maladministration of the responsible office bearers, to appoint an impartial returning officer to conduct secret ballot election, in a timely manner, to elect a 13 member governing body for the governance of above Waqf and office bearers from among the members who pay monthly subscription register, to appoint and hand over the administration to an interim mutawalli till the governing body is elected and for other related reliefs. Along with OP, the petitioner had filed 4 Interlocutory applications. The Board had heard the matters and this common order is passed in all the 4 Interlocutory Applications.</p> <p><u>IA 67of 2022</u> IA 67 of 2022 is filed seeking not to conduct any election</p>

without the prior sanction of the Board until election is conducted by a Returning Officer appointed by the Board . On 22.03.2022 the Board passed an interim order restraining the respondents from conducting the election in the jama-ath without the prior approval of the Board. On perusal of the files relating to this matter it is seen that vide an order dated 17/05/2022 in A9-EP 4224/2018/TSR number file the Board had already appointed a Returning Officer for the waqf involved in this matter. Hence at present the petition is infructuous. The Returning Officer appointed by the Board shall submit his report with regard to the conduct of election before the Board.

IA 74/2022

The I.A is filed by the petitioner seeking to appoint an interim Mutawalli till the election takes place. The respondents filed counter in this IA stating that the committee submitted all documents before the auditor appointed by the Board, in which the auditor had submitted a report on 15.06.2022 pointing out that the entire anomalies pointed out in the earlier audit report stands rectified and also that the name of the persons shown as the Secretary was wrongly mentioned. The same was placed before the Board and is under consideration. Board had already appointed Adv. Sayed Muhammed for conducting election and had appointed the committee of the 1st respondent waqf as the care taker committee. In such circumstances the Board finds that at present there is no situation which warrants appointment of an Interim Mutawalli and hence the petition stands dismissed.

IA No. 159/2022

The petitioner had filed this Impleading petition seeking to implead the returning officer as well as the Treasurer to the jama-ath committee in the OP. The respondent had filed counter statement stating that the intention of the petitioner is only to harass the respondents. The Returning Officer appointed by the Board is an officer of the Board and if at all any direction is to be given to the Returning Officer the Board will give it as and when necessary and there is no need to implead him in this proceedings. Also, there is no proper pleading with regard to the impleadment of the

	<p>Treasurer in this proceedings. Already, the Jama-ath is a party in this proceedings and no proper reason is explained in the petition for impleading the Treasurer in this proceedings. In such circumstances the Board decided that there is no point in allowing this petition and hence the petition stands dismissed.</p> <p style="text-align: center;"><u>IA No. 160/2022</u></p> <p>The IA is filed to pass an order restraining the respondents 3 & 4 from contesting the election to the jama-ath committee until the amount mentioned in the Board order dated 17.05.2022 in AP-EP 4224/2018/TSR is paid back to the jama-ath. The respondents filed a counter statement stating that the clarification placed before the auditor was accepted and hence they have every right to contest in the election. Furthermore the Hon'ble High in WPC No. 21092/2022, stayed the revenue recovery issued by the Board and the matter is pending before the High Court. As the Revenue Recovery Ordered by the Board is already stayed by the Hon'ble High Court and the said matter is pending before the Honourable High Court of Kerala. So also it is seen that the auditor had further recommended that Sri.Abdul Nasar can be exonerated from the actions taken against him. In such circumstances the Board finds that at present the prayer in the I.A. cannot be allowed. Hence I.A. stands dismissed.</p>
12.	<p>OP No. 122/2023 Kuttulanji Methala Muhiyudeen Juma Masjid, Ernakulam Order not ready. Posted to 15.01.2025</p>
13.	<p>IA No. 88/2024 in OP No. 116/2021 Kaitharam Muslim Jama-ath, Ernakulam Order not ready. Posted to 15.01.2025</p>
14.	<p>EP No. (A9) 620/2023/TSR School of Quran, Thrissur On perusal of the file it is seen that WPC No. 21870/2022 is pending before High court with regard to the administration of the Waqf. Hence a decision in this file could be taken after disposal of the same. Office is directed to put up this file after disposal fo the said writ. File is kept in abeyance.</p>

15.	OP No. 44/2023 Kuttulanji Methala Muhiyudeen Pally, Ernakulam Order not ready. Posted to 15.01.2025
16.	<p>OP No. 94/2024 Masjidul Ejaba Muslim Jama-ath, Alappuzha</p> <p>The main O.P is filed by the petitioners under Section 32,70 and 71 of the Waqf Act 1995 seeking to call for the records pertaining to notice issued by the 1st respondent dated 03.05.2024, to set aside the notice dated 03.05.2024 issued by the 1st respondent to schedule the election, to direct the respondents to call for the annual general body, to appoint an observer for presiding over annual general body, to appoint a returning officer to conduct the free and fair election in the democratic manner, to conduct the audit of the jama-ath for the last 10 years and for other related reliefs. In support of their contentions they have produced Bye-law of the respondent jama-ath, Mahal identity cards of the petitioners, General body notice dated 29.12.2023 that was already cancelled, complaint dated 01.05.2024 before the 1st respondent, Representation dated 02.05.2024 before the CEO and impugned notice dated 03.05.2024. They have also filed IA 118/2024 in the main O.P seeking to stay the further proceedings on the basis of the notice dated 03.05.2024 issued by the 1st respondent. On the same day the Board had passed order in the above I.A that the further proceedings in the notice dated 03.05.2024 was stayed and committee was directed not to conduct election without approval of the Board.</p> <p>Respondents appeared and filed their counter. They submitted that they are continued in the office for the purpose of clearing certain documents relating to the acquisition and consequential requirements for the National Highway development and they have no objections in appointment of a Returning Officer and to conduct election. Following the previous year's practice they had appointed an Advocate to conduct election to minimize the expenses from the waqf fund. They had also submitted that the petitioner's demand to convene general body and to make election etc is inviting unhealthy situations in the jama-ath. They had requested to appoint anybody as Returning Officer to conduct election and solve this dispute without any delay.</p> <p>The Board had already appointed Adv.Althaf Salim as Returning Officer for conducting election to the Jama-ath Committee and hence the prayer of the petitioner with regard to election and appointment of Returning Officer had become infructuous. There is another prayer to conduct audit of accounts of the Waqf for the past ten years. The conduct of audit for the past 10 years is not practical and hence the Board hereby directs Divisional Waqf Officer, Kottayam to conduct audit of accounts of the Jama-ath for the last 5 years. If already action for auditing is initiated then that is sufficient for compliance of this order. After completion of</p>

	<p>auditing the Divisional Waqf Officer shall call for explanation from necessary persons and shall take steps for correcting the mistakes pointed out by the auditor with regard to the maintenance of accounts in the Jama-ath. If any amount is to be Recovered from any person as certified by the auditor the Divisional Waqf Officer shall place the matter before the Board through administrative side. Matter is disposed of accordingly.</p>
17.	<p>OP No. 54/2022 Munnar Muslim Jama-ath, Alappuzha</p> <p>The above original petition is filed by the petitioners seeking to pass an order setting aside the election dated 07-01-2022 since it is in violation of the provisions of the bye-law of the jama-ath and against the agreement and assurance of the secretary/3rd respondent dated 08-08-2019 and 22-12-2021, to conduct election through secret ballot by appointing a returning officer and for other related reliefs.</p> <p>According to the petitioner there is an approved bye-law for the jama-ath and as per the bye-law the period of counsel is for 3 years and the details of jama-ath counsel, its eligibility, age of voting etc. are clearly stipulated in the bye-law. On the basis of wide spread demand to amend the bye-law a petition was submitted before the Divisional Waqf Officer, Changanassery and an agreement was entered on 08-08-2019 between the complainants and respondents 2 and 3. It was agreed by the respondents that members will be provided opportunity to submit their proposal for amendment of the bye-law and thereafter same will be published in the notice board and after publishing the proposal in the notice board general body will be convened and only after that final decision regarding amendment of bye-law will be taken. But, without complying the terms and conditions and ignoring the directions from the Divisional Waqf Officer, the respondents had conducted election to the jama-ath committee on 07-01-2022. Hence, the petitioner had approached the Board.</p> <p>The respondents appeared and denied the allegations raised in the petition. They had admitted that there was an agreement on 08-08-2019 in the line is claimed by the petitioners. But, the suggestions put forth by the petitioners were rejected by the general counsel. Due to the out break of Covid 19 pandemic</p>

and national lock down, general counsel nominated new sub committee for amendment of bye-law. It is admitted that election was held on 07-01-2022 and the delay in conduct of election was due to the covid circumstances. Audit is already ordered by the board.

As there is dispute with regard to the earlier conduct of election and the term of the said elected committee will expire on 06/01/2025 the Board is not going to the merits of the earlier election and hereby decides to appoint a Returning Officer for the conduct of election to the Jama-ath Committee as per the provisions of the Bye Law of the Jama-ath. As it is already admitted by both parties that there is a bye law in existence the Board finds that there is no need to frame a scheme for the administration of the Jama-ath. If the petitioners want any amendment in the bye law they can request the committee to call for a general body meeting in this regard and the date of such General body shall be intimated to the Divisional Office, Kottayam 15 days prior and in such situation the Divisional Waqf Officer shall depute an observer for the said meeting so as to ensure that the General Body considers the matter and takes decision on the basis of majority. On 08/03/2022 the Board had passed an order directing the Divisional Waqf Officer to audit the accounts of the Jama-ath for the period 2017-2022. The Divisional Waqf Officer is further directed to complete the audit process and shall call for explanations and give necessary directions for correcting the mistakes pointed out by the auditor in the account keeping system of the Jama-ath and if any amount is certified to be recovered from any person by the auditor the matter shall be placed before the Board through administrative side.

On the basis of the decision of the Board to appoint a Returning Officer for conducting election to the Jama-ath Committee Adv.A.A.Jaleel is appointed as the Returning Officer for conducting election to the JAMA-ath Committee of Mannar Muslim Jama-ath. He shall be entitled for an initial batta of Rs.25,000/- which shall be paid by the JAMA-ath Committee within a period of 15 days from the date of receipt of this order. The Returning Officer can fix a nomination fee not exceeding Rs.2000/-

	from the contesting candidates. The expenses for conducting the election shall be met from the Jama-ath funds. The Returning Officer shall complete the election process within 2 months and shall submit report.
18.	IA No. 240/2024 in OP No. 116/2023 Masjidunnoor Muslim Jama-ath, Idukky Order not ready. Posted to 15.01.2025
19.	IA No. 238/2024 in OP No. 246/2023 Kadooppadam Muslim Jama-ath, Ernakulam
20.	OP No. 98/2024 Kaithaaram Muslim Jama-ath, Ernakulam Order not ready. Posted to 15.01.2025
21.	OP No. 144/2024 Vakkam Padinjare Muslim Jama-ath, Thiruvananthapuram Order not ready. Posted to 15.01.2025
22.	OP No. 182/2018 Al Jamiathul Kausariya, Ernakulam Order not ready. Posted to 15.01.2025
23.	<p>OP No. 86/2023 Kanjiramchira Muslim Jama-ath, Alappzha</p> <p>The petitioners had approached this Board by filing this O.P. under sections 32, 63 and 70 of the Waqf Act, 1995 seeking to institute an enquiry into the administration and management of 1st respondent committee, to conduct election to the management committee under the direct supervision and control of Board and for other related reliefs.</p> <p>According to the petitioner the last election to the 1st respondent jama-ath was conducted in the year 2016 and due to various contingencies the then elected president, secretary and some other elected members resigned from their post and utilizing the situation the respondents 2 to 4 had assume the posts of secretary, joint secretary and treasurer respectively. The petitioner alleged that 2nd respondent is a person having criminal back ground and the crime is registered against him under section 302 of IPC and that the respondents 2 to 4 are unscrupulous persons and high handed men and they had even attacked the petitioner physically for questioning the maladministration of management by them. Petitioner had file police complaint against the respondents and from 2016 onwards no general body was conducted. The petitioner</p>

	<p>had raised several other allegations with regard to misappropriation and mismanagement of waqf properties. Even though notice for hearing were issued to the respondents the respondents failed to appear before the Board and they were set ex-parte.</p> <p>The Board discussed the matter in detail and finds that an overall enquiry with regard to the administration, management, income, properties and accounts of the Jama-ath is to be conducted so as to ensure that the Jama-ath is functioning properly. Hence Divisional Waqf Officer, Kottayam is directed to conduct an overall enquiry covering all aspects mentioned above and submit report before the Board through administrative side if he finds that interference of Board is necessary.</p> <p>From the report of the Divisional Waqf Officer before the Board it is seen that the term of the committee expired long back and the committee had not conducted proper election even after specific directions from the Divisional Office. In such circumstances the Board finds that conducting election to the Jama-ath committee through a Returning Officer appointed by the Board is highly necessary for the benefit of the Waqf. On the basis of the above finding Adv.Razak, Alappuzha is appointed as Returning Officer for conducting election to the Jama-ath Committee of Kanjiramchira Muslim Jama-ath through Secret Ballot system as per the provisions of the Bye law of the Jama-ath. The Returning Officer shall conduct election after following all procedural formalities. He shall be entitled for an initial batta of Rs.25,000/- which shall be paid by the Jama-ath Committee within a period of 15 days from the date of receipt of this order. He can fix a nomination fee not exceeding Rs.2000/- which shall be paid by the contesting candidates and the expenses for conduct of election shall be met from the Jama-ath funds. The Returning Officer shall complete the election process and shall submit report before the Board within a period of 2 months.</p>
24.	<p>OP No. 62/2024 Alappara Muslim Jama-ath, Kottayam</p> <p>The petitioners are the beneficiaries of the Aalappara Muslim Jama-ath, Kottayam and 2nd & 3rd respondents are the office bearers of the 1st respondent Waqf. The petitioners had approached the</p>

	<p>board seeking a direction to the respondents not to conduct the election to the 1st respondent jama-ath in undemocratic manner without secret ballot, to appoint a returning Officer and for other related reliefs including a direction to the respondents to provide the entire services of the jama-ath to the petitioners as a member and admit the children of the 1st and 2nd petitioners into the madrassa for imparting their religious education.</p> <p>On 6/11/2024 both parities informed the Board that the entire disputes between the petitioners and respondents are settled amicably. Along with the memo they have produced the copy of minutes of the general meeting conducted on 24.07.2024 also. In the light of the settlement arrived between the parties the Board had decided to close this OP. Even then, the Divisional Waqf Officer, Kottayam is directed complete the audit process, call for explanations from necessary parties regarding the allegations if any in the audit report, if the defects pointed out by the auditors in the method of keeping accounts in the Jama-ath can be rectified then the DO shall issue necessary directions for the same and if any recovery is to be made from any responsible person on the basis of certification auditor the Divisional Waqf Officer shall place the matter before the Board through administrative side. OP is closed accordingly.</p>
25.	<p>OP No. 186/2018 Abdul Sathar Haji Moosa Sait Dharmastapanam, Ernakulam Order not ready. Posted to 15.01.2025</p>
26.	<p>OP No. 4/2024 Ilippakkulam Kattanam Muslim Jama-ath, Alappuzha</p> <p>The petitioners had approached this Board seeking to conduct audit of accounts of the jama-ath for the past 10 years, to appoint a returning officer to conduct election to the jama-ath committee, to appoint an executive officer for the jama-ath and for other related reliefs.</p> <p>While this matter was pending before the Board, the Board had passed an order in I.A.3/2024 directing the Divisional Waqf</p>

	<p>Officer, Kottayam to conduct audit of accounts of the jama-ath for the past 5 years. Subsequently the said order was modified as per order in I.A.96/2024 directing to conduct audit for the past 3 years as ordered in O.P.36/2023 dated 08-11-2023. On 06-06-2024 the Board had passed another order in I.A. No.97/2024 appointing Adv. Naseer Hussain as returning officer for the jama-ath. The returning officer so appointed had conducted election and had submitted report on 21-10-2024. As the committee newly elected by the Returning Officer appointed by the Board had taken charge at present there is no need to appoint an Executive Officer as prayed by the petitioner. Already there is an order directing to conduct audit of accounts of the waqf, the Board cannot close this file without passing an order regarding the audit already ordered. Hence, Divisional Waqf Officer, Kottayam is directed to complete the audit process, call for explanation from necessary persons, give necessary directions for correcting the mistakes in keeping the accounts that are pointed out by the auditor and to do all necessary actions in connection with audit and audit report. If any recovery is to be made from any person as certified by the auditor the Divisional Waqf Officer shall place the matter before the Board thorough administrative side.</p>
27.	<p>OP No. 56/2024 Mavalli Muslim Jama-ath, Kollam</p> <p>The petitioners had filed the OP seeking to set aside the decisions taken by respondents in the General council of the Jama-ath held on 12/02/2024. According to the petitioners Mavally muslim Jama-ath is a waqf registered with the Kerala State Waqf Board as 3652/ RA, that it is having a byelaw which came into existence in the year 1964 and as per the bye law the Jama-ath is having a general council consisting of 40 members and the administrative committee consisting of 15 members are elected from the General Council. It was further submitted that as per clause 5(19) of the byelaw of the Jama-ath the non confidence</p>

against the members of the Jama-ath can be moved in a General Council meeting having a quorum of 1/3rd of the council members, that the non confidence motion is held as passed if 2/3rd of the council members cast their votes in favour of the non confidence motion.

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 was dispute with regard to the removal of 1st respondent through non-confidence motion and election of new office bearers. The Board had decided to 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 was 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 and report before Board. Against the same the Petitioners before the Board had approached the Honourable Waqf tribunal which had considered I.A.No.703/2024 in WOA No.84/2024 had passed an order dated 10/10/2024 stating that from the order of the Waqf Board it is clear that the intention of the Board is to obtain an opinion regarding the person who is having majority in the council so as to be elected as the Jama-ath President and directed the Board to pass final orders in this I.A. after considering the report of the Divisional Waqf Officer.

The question to be decided by the Board in this I.A is as to whether the non confidence motion passed against the petitioner is proper. The respondent contended in their counter that 22 members participated in the meeting in which non confidence motion was passed against the petitioner. On Perusal of the bye law it is seen that the clause 5(19) of the bye law stipulates that “കൗൺസിൽ അംഗങ്ങളുടെ മൂന്നിൽ ഒരു ഭാഗം ഒപ്പിട്ട ഔദ്യോഗിക ഭാരവാഹികളുടെയോ എസ്സിക് യൂട്ടീവ് അംഗങ്ങളുടെയോ പേരിൽ അവിശ്വാസപ്രമേയം അവതരിപ്പിക്കാവുന്നതാണ് . കൗൺസിൽ അംഗങ്ങളിൽ മൂന്നിൽ രണ്ടു ഭാഗം അവിശ്വാസപ്രമേയത്തെ അനുകൂലിച്ചാൽ അവിശ്വാസ

	<p>പ്രമേയം പാസ്സാകുന്നതും പകരം നിയമാവലി ഭാഗം 5 ഇൽ പ്രകാരം തിരഞ്ഞെടുപ്പ് നടത്തി ഒഴിവു നികത്തേണ്ടതുമാണ് .” From the above stipulation in the bye law it is clear that for passing a non confidence motion 2/3rd majority of total council members is necessary. As the total members in the council is 40 as admitted by the parties a minimum majority of 26 members are necessary for passing of a non confidence motion. The respondent admitted that 22 members were in favour of the non confidence motion on 12/02/2024. Hence it cannot be inferred that the said non confidence motion is passed against the petitioner President as there was no majority as stipulated by the Bye Law.</p> <p>The Divisional Waqf Officer had conducted election of President but a procedural irregularity occurred from his as he had declared the result instead of reporting before the Board. He was not directed by the Board to declare the result and the tribunal also is convinced about the same. In the said election also there was only 23 members which is also not enough to pass a non confidence motion against the President eventhough the simple majority of the council members is against him. The procedure stipulated for removing a person from a post through non confidence motion is not fulfilled while removing the Petitioner /President. In the light of the above findings the decision of the Council meeting held on 12/02/2024 which is produced as Exhibit 2 is not liable to be implemented due to the procedural irregularity of not having majority for passing a non confidence motion as stipulated in the bye law of the Jama-ath and it is confirmed from the election held through the Divisional Waqf Officer. The 1st petitioner can continue as President of the Jama-ath until he is removed as per the provisions of the bye law.</p>
28.	<p>EP No. 4195/2024 Kallor Muhiyudeen Pally, Thrissur This Enquiry Proceedings was initiated on the basis of a report submitted by the Divisional Waqf Officer, Thrissur stating that</p>

	<p>Kalloor Muhiyudheen Palli is a waqf registered with the Board as 4096/RA and the jama-ath committee had expelled one of the mahallu member Moideen and his family from the jama-ath membership and is not accepting membership fee. On the basis of the note of the Divisional Waqf Officer the Board had issued notice to the parties to appear before the Board on 06-11-2024. Jama-ath committee appeared and submitted that matter is settled and the jama-ath committee had submitted copy of a letter issued to Moideen stating that they had decided to withdraw temporary membership fee restriction imposed on him and that he shall be provided with all services as a member of the jama-ath. In the light of the above submission by the Jama-ath Committee the E.P. is closed.</p>
29.	<p>OP No. 166/2015 Randarkkara Himayathul Yatheem Khana, Ernakulam For commission report. Posted to 05.02.2025</p>
30.	<p>EP No. (B5) 867/2016 Aluva Muslim Jama-ath, Ernakulam No counter in IA No. 74/2024. Heard. Allowed. For steps. Posted to 05.02.2025</p>
31.	<p>OP No. 14/2016 Saithoona Islamic Trust, Thrissur Produce high court order. Posted to 05.02.2025</p>
32.	<p>OP No. 106/2017 Amaravathy Muslim Jama-ath, Ernakulam Report of Commisisoner received. PW1 examined. Exhibit A1 to 3 marked subject to objection. Petitioners evidence closed. For filing proof affidavit of the respondent. Posted to 05.02.2025</p>
33.	<p>OP No. 60/2017 Haji Usman Haji Allarakhiya and Ayyoob Haji Abdul Rahiman Trust, Ernakulam For steps. Posted to 05.02.2025</p>
34.	<p>OP No. 48/2018 Pavaratty Town Juma Masjid, Thrissur office informed that documents verified by the petitioner. IA No. 401/2024, 402/2024 and 403/2024. For counter. Posted to 05.02.2025</p>
35.	<p>OP No. 136/2019 Ettumanoor Athirampuzha Muslim Jama-ath, Kottayam For proof affidavit of the respondent. For commission report. Posted to 05.02.2025</p>

36.	OP No. 112/2019 Chettiyanagadi Hanafi Sunnath Jama-ath, Thrissur For report of Returning officer. Posted to 05.02.2025
37.	OP No. 48/2020 Nibrasul Islam Sangham, Palakkad No steps taken to implead requisite parties in the OP . Posted to 05.02.2025
38.	OP No. 66/2020 Ilfathul Islam Sangham (Ponnurunni Jama-ath), Ernakulam Connected OP No. 50/2020. For evidence. File proof affidavit. Posted to 05.02.2025
39.	OP No. 50/2020 Ilfahthul Isalm Sangham (Ponnurunnim Jama-ath), Ernakulam Connected OP No. 66/2020. For proof affidavit. Posted to 05.02.2025
40.	OP No. 16/2020 Kuriathole Muslim Jama-ath, Ernakulam For proof affidavit by the respondent. Posted to 05.02.2025
41.	OP No. 130/2021 Nusrathul Islam Madrassa Committee, Ernakulam For exparte affidavit. Posted to 05.02.2025
42.	OP No. 96/2022 Vadanappally North Mahall Muslim Jama-ath, Thrissur For returning officers report. Posted to 05.02.2025
43.	EP No. (A8) 3101/2022 Kairadi Mahallu Jama-ath, Palakkad Issue notice to the witness. Adv. Shaffi is appointed as advocate commissioner to record evidence. Pay Rs. 2500/- per day per witness. For commission report. Posted to 05.02.2025
44.	OP No. 06/2022 Pengattusserry Muslim Jama-ath, Ernakulam Audit report received. For objection in audit report. Posted to 05.02.2025
45.	OP No. 188/2022 Kakkattiri Juma Masjid, Palakkad As per order in IA No. 171/2024 documents produced and served copy to other side. For steps. Posted to 05.02.2025
46.	OP No. 104/2022 Pathiyasserry Muhiyudeen Juma Masjid, Thrissur Issue intimation to the commissioner. For commission report. Posted to 05.02.2025
47.	OP No. 174/2022 Muhiyudeen Juma Masjid, Kottayam For proof affidavit of the petitioner. Posted to 05.02.2025

48.	OP No 98/2022 Paimattom Muslim Jama-ath, Ernakulam No steps. For filing proof affidavit. Posted to 05.02.2025
49.	OP No. 136/2022 Marampally Muslim Jama-ath, Ernakulam The present Muthawalli is seen submitted interim report stating that former mutawalli has not handed over any document to the present muthawalli. For steps. Posted to 05.02.2025
50.	OP No. 50/2023 Ponkunnam Muhiyudeen Pally Muslim Jama-ath, Kottayam For counter of supplemental respondents. Posted to 05.02.2025
51.	OP No. 32/2023 Thottumugham Padinjare Pally, Ernakulam proof affidavit filed by the respondents and no oral evidence. Exhibit B1 to B12 subject to proof. Posted to 05.02.2025
52.	OP No. 192/2023 Ilfathul Islam Sangham (Ponnurunni Jama-ath), Ernakulam with connected OP. Posted to 05.02.2025
53.	OP No. 168/2023 Puvathoor Juma Muhiyudeen Masjid, Ernakulam Objetion in audit report. Posted to 05.02.2025
54.	OP No. 150/2023 Puthenchira Padinjare Muslim Jama-ath, Thrissur Proof affidavit filed. Adv. Naseeha Beegam is appointed as commissioner to record evidence. Pay Rs. 2500/- per day per witness. For commission report. Posted to 05.02.2025
55.	IA No. 132/2023 in OP No. 56/2021 Chettiyangadi Hanafi Sunnath Jama-ath, Thrissur Heard. For order in IA No. 132/2025. Posted to 05.02.2025
56.	OP No. 222/2023 Ettumanoor Athirampuzha Muslim Jama-ath, Kottayam For counter in OP. Posted to 05.02.2025
57.	OP No. 238/2023 Markkassu Dawathi Sunneeya, Thrissur No argument notes in IA No. 252/2024. No representation by the respondents. Heard. For orders. Posted to 15.01.2025
58.	OP No. 242/2023 Kanjippuzha Muslim Jama-ath, Alappuzha For counter and hearing in IA No. 145/2024 and 322/2024. Posted to 16.12.2024
59.	OP No. 34/2023 Amaravathi Muslim Jama-ath, Ernakulam Returning officer reported that voters list not received. Furnish draft voters list to the Returning officer. For returning officers report. Posted to 05.02.2025

60.	OP No. 256/2023 Ponnad Mahallu Muslim Jama-ath, Alappuzha Audit report not received. For audit report and steps. Posted to 05.02.2025
61.	EP No. 6868/2023/TSR Kollamkode Juma-ath Pally, Palakkad Memo filed to withdraw the matter. For orders. Posted to 15.01.2025
62.	OP No. 158/2023 Ponkunnam Muhiyudeen Muslim Jama-ath, Kottayam with connected OP No. 50/2024. Posted to 05.02.2025
63.	OP No. 228/2023 Masjidu Swahaba Mahallu Committee, Thrissur No objection to audit report. Posted to 05.02.2025
64.	OP No. 114/2023 Pengattusserry Mahallu Muslim Jama-ath, Ernakulam For commission report. Posted to 05.02.2025
65.	OP No. 230/2023 Pengattusserry Mahallu Muslim Jama-ath, Ernakulam For commission report. Posted to 05.02.2025
66.	OP No. 148/2023 Puthoor Pally Muslim Jama-ath, Kottayam High court order not produced. For filing razi. Posted to 05.02.2025
67.	OP No. 38/2023 Karukaputhoor Mahallu Jama-ath Committee, Thrissur For additional counter and counter in IA No. 129/2024 and hearing. Posted to 15.01.2025
68.	OP No. 60/2023 Pallikkara Muslim Jama-ath, Ernakulam Counter in IA No. 136/2024 and 137/2024. Batta paid to issue notice to witness as per orer in IA No. 229/2024. Posted to 15.01.2025
69.	OP No. 52/2023 Pazhaya Lakkidi Hidayathul Islam Mahallu Jama-ath, Palakkad Returning office is already appointed in OP No. 80/2024. For report of Returning Officer. Posted to 05.02.2025
70.	OP No. 208/2023 Muhiyudeen Sunni Juma Masjid and Assassul Islam Madrassa, Palakkad Interim Report submitted by Returning officer. For report of returning officer. Posted to 05.02.2025
71.	OP No. 58/2024 Mannar Muslim Jama-ath, Alappuzha Counter filed in IA No. 166/2024. Heard. IA No. 166/2024 made

	absolute. Counter in OP filed. For hearing. Posted to 15.01.2025
72.	OP No. 96/2024 Kaithakkad Muslim Jama-ath, Ernakulam IA No. 232/2024 to receive documents. For counter and hearing. Posted to 15.01.2025
73.	OP No. 134/2024 Masjidul Ijaba Muslim Jama-ath, Alappuzha For counter of R2. Posted to 05.02.2025
74.	OP No. 146/2024 Keralapuram Muslim Jama-ath, Kollam Counter in OP filed. For hearing. Posted to 16.12.2024
75.	OP No. 148/2024 Masjidul Hidayah Muslim Jama-ath, Alappuzha For counter. Posted to 05.02.2025
76.	OP No. 150/2024 Karattupally Muslim Jama-ath Committee, Ernakulam No steps taken as against R4. For steps finally and counter. Posted to 05.02.2025
77.	OP No. 126/2024 Vadakkekara Muslim Jama-ath, Ernakulam Counter in IA No. 186/2024 and counter in IA No. 408/2024 for impleading petition. For counter. Posted to 05.02.2025
78.	OP No. 180/2024 Cherman Juma Masjid, Thrissur Steps against R14 not taken. No representation by the petitioner. Name called. OP dismissed.
79.	OP No. 164/2024 Kaduvinal Muslim Jama-ath, Alappuzha Counter in IA No. 265/2024 filed. For counter in IA No. 270/2024, 271/2024, 272/2024, 273/2024. For counter and hearing. Posted to 15.01.2025
80.	OP No. 170/2024 Kayamkulam Muslim Jama-ath, Alappuzha Counter filed. For steps. Posted to 05.02.2025
81.	OP No. 184/2024 Koorikkuzhi Muslim Jama-ath, Thrissur OP not pressed by the petitioner. OP Closed.
82.	OP No. 186/2024 Kilikolloor Valiya Pally Jama-ath, Kollam Exparte affidavit. For orders. Posted to 05.02.2025
83.	OP No. 158/2022 Ilfathul Islam Sangham (Ponnuruni Jama-ath), Ernakulam with connected OP. Posted to 05.02.2025
84.	OP No. 188/2024 Alapanangad Sahib Juma Masjid, Thrissur Notice to R1 served. Notice served to R2 Ad not received. Allowed. For return of notice. Adv. Narayan for R2. For R1 Adv. Iqbal. For counter. Posted to 05.02.2025

85.	OP No. 196/2024 Poonthura Puthen Pally Muslim Jama-ath, Thiruvananthapuram Adv. Sadique filed vakkalath for R1. Notice to respondents 2,3,4 served. No representation. Name called. Set exparte. Posted to 05.02.2025
86.	OP No. 198/2024 Vadakkekka Muslim Jama-ath Committee, Thrissur Notice to counsel for the petitioner and respondent served. Adv. Majeed propose vakkalath for all respondents. IA No. 411/2024. Notice given. For counter. Posted to 05.02.2025
87.	OP No. 202/2024 Thekkanaryanad Mahal and Munavvirul Islam Sangham, Alappuzha Notice to all respondents served. Acknowledgement returned. Adv. Majeed filed vakkalath for 4 to 9. R1 to 3 appeared in person. For counter. Posted to 05.02.2025
88.	OP No. 204/2024 Karunagappally Muslim Jama-ath, Kollam Notice to all respondents served. Ad received. No representation. Set exparte. For exparte affidavit. Posted to 05.02.2025
89.	OP No. 206/2024 Pengattusserry Muslim Jama-ath, Ernakulam Notice to all respondent served. Adv. Sajitha filed vakkalath for R1 to R4. For counter. Posted to 05.02.2025
90.	OP No. 208/2024 Vellikulangara Muhiyudeen Town Juma Masjid, Thrissur Adv. Mansoor Ali offered vakkalath. For respondents vakkalath and counter. Posted to 05.02.2025
91.	EP No. 4833/2024/TSR Noolidampara Muhiyudeen Hanafi Juma Masjid (Chilathi Kokkarnni Kundukad Pally), Palakkad With connected OP No. 154/2024. Both parties appeared for mediation and call on 15.01.2024
92.	EP No. 7212/24/TSR Palathulli Juma Masjid, Palakkad Adv. Ishwara Iyer appeared for party No. 1 and propose to file vakkalath. Party No. 3 appeared in person. For appearance of parties. Call on 15.01.2025
93.	OP No. 230/2024 Movement of Islamic Trust, Thrissur Notice to respondents served. Adv. Narayanan for R1 to 5. For R6 Adv. Mohammed Al Rafi. For counter in IA No. 370/2024 and 371/2024. Posted to 05.02.2025

94.	OP No. 120/2024 Nainar Pally Central Jama-ath Committee, Kottayam Proof affidavit filed. Exhibit A1 to A5 marked. For orders. Posted to 15.01.2025
95.	OP No. 78/2024 Thayikkattukara Muslim Jama-ath, Ernakulam Counter in IA No. 319/2024 filed. Counter in IA No. 91/2024 filed. For argument notes and hearing. Posted to 15.01.2025
96.	OP No. 80/2024 Hidayathul Islam Mahallu Jama-ath, Palakkad Heard both parties. It is admitted by both the parties that election is to be conducted by appointing a Returning officer. Hence Adv. Aslem Sanjid is appointed as Returning Officer for conducting election to the Jama-ath committee as per the existing bye law as agreed by the committee. An initial batta of Rs. 25000/- is to be paid by the committee within 15 days from the date of receipt of this order. The returning officer shall collect an amount not more Rs. 2000/- as nomination fee. The expenses for the conduct of election shall be met from the Jama-ath funds. The Returning officer shall comply with all the process within 2 months and shall submit report on 05.02.2025
97.	OP No. 92/2024 Kalvathy Muslim Jama-ath, Ernakulam For commission report. Posted to 05.02.2025
98.	OP No. 216/2024 Mundakkayam Varikkani Muslim Jama-ath, Kottayam For orders. Posted to 15.01.2025
99.	EP No. 3258/2024/TSR Thiruvathra Ma Adu Thaskiyathul Islamiyya, Thrissur Parties 1 and 2 absent. Filed statement. Parties 3 and 4 filed statement. Heard. For orders. Posted to 05.02.2025
100.	OP No. 220/2024 Irumbakasserry Muslim Jama-ath Committee, Palakkad For all respondents Adv. Narayanan filed vakkalath. For counter in IA No. 220/2024 and OP . Posted to 05.02.2025
101.	OP No. 222/2024 Punnayoor Jama-ath Committee, Thrissur R1 to 3 and 5 appeared in person. Notice to R4 not served. Await return of notice. IA No. 364 and 365 for observer. For report of the observer. For counter. Posted to 05.02.2025
102.	OP No. 228/2024 Ilfathul Islam Sangham (Ponnurunni Jama-ath),

	Ernakulam Adv. E. S. M. Kabeer filed vakkalath for R1 to R3. IA No. 367/2024 and 368/2024. For counter in OP and IA. Posted to 05.02.2025
103.	OP No. 85/2024 Nusrathul Islam Samajam Committee, Kasargode Argument notes filed by the petitioner. For argument notes of the respondent. Posted to 20.01.2025
104.	OP No. 200/2024 Vadakkekkad Muslim Jama-ath Committee, Thrissur Adv. Majeed filed vakkalath for respondents. For counter in IA No. 328/2024 and 329/2024 and counter in OP. Posted to 15.01.2025
105.	OP No. 210/2024 Ilfathul Islam Sangham (Ponnurunni Jama-ath), Ernakulam observer filed report. OP Closed.
106.	OP No. 252/2023 Meppara Jama-ath Mosque, Palakkad Interim muthawalli appeared. For statement of muthawalli. Posted to 05.02.2025
107.	EP No. 4645/CR Putharippadam Mayyathankara Jama-ath, Palakkad Draft scheme produced. For objection. Posted to 15.01.2025
108.	OP No. 238/2024 Punnappadam Kakkod Puthen Pally, Palakkad Adv. Narayanan for R1,2,6 and 7. Adv. Amina for 3,4,5. For counter in IA No. 385/2024, 386/2024, 387/2024, 388/2024. Posted to 05.02.2025.
109.	OP No. 244/2024 Kaduvinal Muslim Jama-ath, Alappuzha Adv. E. S. M. Kabeer for Respondents. Counter filed in IA No. 397/2024. For hearing. Posted to 15. 01.2025
110.	OP No. 60/2024 Hyderiya Muslim Jama-ath, Kottayam WPC No. 4190/2024 produced. For hearing. Posted to 17.12.2024
111.	OP No. 192/2024 Thevalakkara Darul Islam Juma Masjid, Kollam No representation by both parties. Call on 19.02.2025
112.	OP No. 248/2024 Punaloor N. M. A. Hanafy Jama-ath, Kollam Issue notice to the respondents. Posted to 09.01.2025
113.	OP No. 250/2024 Mannar Muslim Jama-ath, Alappuzha IA No. 409/2024 Divisional Waqf Officer, Kottayam is directed to conduct audit of accounts for the period of 2019-2024 and complete all procedure in

	<p>connection with audit and if any amount is to be recovered matter shall be placed before the Board through administrative side.</p> <p>IA No. 410/2024</p> <p>Heard. The petitioner had made out a prima facie case. The respondents are directed not to conduct election without prior permission of Board.</p> <p>Issue notice to the respondents. Posted to 05.02.2025</p>
114.	<p>OP No. 252/2024 Karattupaly Muslim Jama-ath, Ernakulam</p> <p>Issue notice to the respondents. Posted to 05.02.2025</p>
115.	<p>OP No. 254/2024 Cheruthuruthy Juma Masjid and Madrassa Committee, Thrissur</p> <p>Issue notice to the respondents. Posted to 05.02.2025</p>
116.	<p>OP No. 256/2024 Ettumanoor Athirampuzha Muslim Jama-ath, Kottayam</p> <p>Issue notice to the respondents. Posted to 05.02.2025</p>
117.	<p>IA No. 359/2024 in OP No. 246/2023 Kadooppadam Muslim Jama-ath, Ernakulam</p> <p>Issue notice to the respondents. Posted to 15.01.2025</p>
118.	<p>IA No. 394/2024 in OP No. 116/2021 Kaitharam Muslim Jama-ath, Ernakulam</p> <p>Posted to 15.01.2025</p>
119.	<p>IA No. 398/2024 in OP No. 122/2023 Kuttulanji Methala Muhiyudeen Pally, Ernakulam</p> <p>Posted to 15.01.2025</p>
120.	<p>IA No. 400/2024 in OP No. 8/2024 Erumeli Muslim Jama-ath, Kottayam</p> <p>Order already pronounced. Hence this petition is dismissed.</p>
121.	<p>IA No 404/2024 in OP No. 2/2024 Balaramapuram Town Muslim Jama-ath, Thiruvananthapuram</p> <p>Posted to 16.12.2024 for counter.</p>
122.	<p>IA No. 406/2024 in OP No. 154/2023 Cheruthuruthy Juma Masjid and Madrassa Committee, Thrissur</p> <p>Issue notice to the respondents. Posted to 15.01.2025</p>
123.	<p>IA No. 414/2024 in OP No. 34/2021 Alappuzha Thekke Mahallu Muslim Jama-ath Committee, Alappuzha</p> <p>Issue notice to the respondents. Posted to 05.02.2025</p>
124.	<p>IA No. 625/2024 in OP No. 77/2022 Punnol Mahal Muslim Jama-</p>

	ath, Kannur Advanced. Posted to 21.01.2025
125.	<p>EC No. 169/2019 Nusrathul Islam Samajam, Ernakulam</p> <p>The Chief Executive Officer had submitted his Rule 79 report after conducting enquiry as stipulated under section 52 of the Waqf Act,1995 read with Rule 79 of the Kerala Waqf Rules.</p> <p>The Board considered the matter in detail and found that no document/ title deed is in favour of the waqf to prove that the property which is in possession of the Trust is a waqf property. Moreover Annexure I produced by the Manager of the School, shows that the property covered by Annexure C which is owned and possessed by the respondent is different from the property of the above waqf. The concerned files and documents with regard to the School and Madrassa were examined by deputing officers and it is seen that document nos.4010/1969 and 2324/1994 were properties purchased in favour of Nusrathul Islam Samajam (Madrassa) and document no.2329/1994 was purchased in favour of Nusrathul Islam Samajam(Trust). From the documents it is clear that Trust is a different entity from the Samajam Madrassa and that is not a part of Nusrathul Islam Samajam which is running Madrassa. It is seen that two different documents are created on the very same day by same persons, one for the Madrassa and other for the trust. From that itself it can be inferred that the intention at the time of purchase itself is to purchase property for two separate entities. With out proper title deed in favour of waqf the Board cannot come to a conclusion that the property covered by document No.2329/1994 is waqf. In such circumstances the Report of the Chief Executive Officer is accepted and the matter is closed finding that the property covered by Document No.2329/1994 in favour of Nasrathul Islam Samajam(Trust) is not waqf property.</p>
126.	<p>AA No. 32/2024 Thableegul Islam Jama-ath, Idukky</p> <p>Present appeal is filed by the Secretary of Thableegul Islam</p>

Jama-ath, Idukki 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 2019-20 to 2021-2022 pass a fresh order in this regard. The appellant had remitted the 1/3rd of the disputed of amount for the year 2019-20 to 2021-2022 as provide under the Kerala Waqf Rules.

The averment in the appeal memorandum is that the Divisional Waqf Officer had assessed the waqf on Best Judgment basis due to failure of submission of accounts of the , that same is not willfull, that the waqf is not having sufficient funds for remitting the contribution and prayed for pardon for the non submission of accounts before Board. They further submitted that due to the lock down as a result of Covid19 Pandemic the mosque was closed down and there was no income as assessed by the Divisional Waqf Officer. 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 and also to re-call the revenue recovery action initiated against them.

On verification of the office records, it is seen that the averments in the appeal memorandum is not fully correct. The report of the Divisional Waqf Officer revealed that till 2018-19 the waqf was assessed on the basis of the accounts submitted as well as through Best Judgment Assessment and the amount so assessed were regularly paid by the waqf. It is further revealed that on the basis of two complaints which were received in the office on 30/07/2019 and 04/09/2019 an enquiry was conducted by deputing an officer who had submitted a report on 05/10/2019 which revealed that the waqf is having income much more than that is assessed by the Board and the accounts submitted by the waqf authorities before the Board is not true. In such circumstances several opportunities were provided by the Divisional Waqf Officer for submission of true sstatement of accounts and as the committee failed to submit the same the waqf was assessed on Best Judgment basis after verifying the details revealed through enquiry. The appellant failed to remit the said amount even after repeated

directions for the same and in such circumstances Revenue Recovery proceedings was initiated against the office bearers for recovering the amounts from their personal properties. It was at this juncture the appeal is filed. As the appellant committee hesitated to submit true statement of accounts and it is revealed that the accounts already submitted was not true the Divisional Waqf Officer had passed order for auditing the accounts of the Jama-ath for the period 2018-19 to 2022-2023 but the Jama-ath committee had not remitted the fee for auditing and hence audit could not be conducted. Conducting auditing is mandatory for waqf as per the provisions of waqf act and with regard to this waqf it is revealed that the accounts submitted before the Board is not correct and complaints were submitted against the administration.

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 if the committee co-operates with the auditing steps initiated by the Board. As the Jama-ath Committee had not co-operated with the auditing steps of the Board the Board cannot ignore the same and allow this appeal unconditionally. Hence the appellant is directed to remit the requisite audit fee and hand over the documents to the auditor appointed by the Board. In such event the Divisional Waqf Officer shall take steps for recalling and cancelling the revenue recovery steps initiated against them. 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, on the basis of the audit report submitted by the Board. If they fail to comply with the above direction Revenue Recovery proceedings shall be proceeded along with prosecution steps under section 61 of the Waqf Act,1995.

The present appeal is disposed of with the above direction.