

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)**

Present:

**Mr. Justice Sheikh Abdul Awal
And
Mr. Justice Md. Mansur Alam**

WRIT PETITION NO. 12890 of 2023.

In the matter of:

An application under Article 102 of the
Constitution of the People's Republic
of Bangladesh

And

IN THE MATTER of :

Md. Mohiuddin

.....Petitioner

-VS-

Administrator of Waqfs, Bangladesh
Waqfs, Bhaban, 4 New Estanton Road,
Mogbazar, Dhaka The Government of
Bangladesh and others.

.....Respondents

Mr.Faisal Mahmud Faizee, Advocate with
Mr. Syed Minhaj Uddin Advocate

.....For the Petitioner

Mr. Mohammad Sazzad Islam, Advocate with
Mrs. Shakila Sultana, Advocate

.....For the respondent No.1-3

Mr. Mohammad Saiful Islam, Advocate

.....For the respondent No.6

Mr. Mustafizur Rahman, Advocate

.....For the respondent No.8

Mr. Md. Bodiuzzaman Tapader, D.A.G. with
Ms. Salma Sultana (Soma), D.A.G. with
J.R.Khan Robin, A.A.G. with

Mr. A.B.M. Ibrahim Khali, A.A.G. and

Mr. Md. Manowarul Islam, A.A.G

....For the Govt. respondents

Heard on: 10.07.2025 , 27.07.2025 & 18.08.2025.

Judgment on:26.08.2025.

Md. Mansur Alam J,

The petitioner Mohiuddin filed this writ petition challenging the impugned order dated 05.06.2023 under section 47 of the Waqf Ordinance 1962, (hereinafter referred as Ordinance) in Misc E.C. No. 28/2019, Misc E. C. No.35/2019, and Misc E. C. No. 41/2019 (consolidated) passed by respondent No.2, Deputy Administrator of Waqfs, Bangladesh and counter signed on 08.06.2023 by respondent No.1, Administrator of Waqf and circulated under the signature of respondent No.3, Assistant Administrator of Waqf through Memo no.16.02.0000.005.41.31.528.23/238(1-3). dated 08.06.2023 (Annexure-A) so far it relates to the formation and approval of the 18 member managing committee for Venda Choudhury 'Para' Jaame Masjid Waqf Estate ; and (ii) Memo no.16.02.0000.36.31.058.23/258 (2), dated 01.03.2023 (Annexure-B) issued by respondent No.1 Administrator of Waqfs, in E.C.No. 22540 (consolidation of Misc. E.C. No. 28/2019, E.C. No. 35/2019 and E.C No.41/2019) expressly in accordance/in compliance with the order dated 05.06.2023 passed by respondent No.2 Deputy Administrator of Waqf which has been circulated through Memo no.16.02.0000.005.31.528.23/238(1-3) dated 08.06.2023 (Annexure-A) under the signature of respondent No.3 so far it relates to the approval of the 18 member managing committee for Venda Choudhury Jame Masjid Waqf estate shall not be declared to have been passed without any legal authority and to be of no legal effect and (iii) respondent No.1 shall not be directed to

appoint Mutwalli in accordance with the provisions of the Ordinance for the Venda 'Para' Jaame Masjid waqf estate enrolled under E. C. No.22540 (consolidation of Misc. E.C. No.28/2019, E.C.No.35/2019 and E.C.No.41/2019) in the office of Administrator, Bangladesh, respondent No.1 and/or pass such other or further order or orders as to this Court may seem fit and proper.

The petitioner is a descendent of the Waqif Abdur Rashid and has been elected Mutwalli by all other surviving descendents of Waqf Abdur Rashid including the last Mutwalli Mr. Noor Mohammed and has been given the responsibilities to get the Venda Choudhury Jame Masjid waqf estate enrolled in the office of the Administrator of Waqf, Bangladesh. The petitioner being the newly selected Mutwalli filed an application on 29.08.2019 to respondent No.1, Waqf Administrator for enrollment of the alleged Masjid under section 47 of the Ordinance. The petitioner's application was registered as Misc E. C. No.28/2019 in the office of the Wakf Administrator, Bangladesh.

The Waqf Inspector, Chottogram Zone 4, Mr. Shawkat Hossain conducted a local inquiry in presence of the respected persons of the locality including the petitioner. After completing the enquiry through hearing and on perusing the Waqf deed, land records and others documents, the Waqf Inspector Chottogram zone 4 submitted an inquiry report being memo No. ও: পরি/চট্ট-8/১১৯ dated 11.11.2019 to the Waqf Administrator, respondent

No.1. In compliance with this inquiry report, though the Deputy Administrator, respondent No.2 has not been delegated with the power to appoint Mutuwalli, so to say, the powers and responsibilities under sections 43 & 44 of the Ordinance but respondent No.2 himself having taken the hearing and having passed the order of appointment of Mutuwalli, has travelled beyond his jurisdiction and also usurped the power of Administrator under section 44 of the Ordinance while performing his responsibility in dealing with enrolment of the instant Waqf Estate under section 47 of the Ordinance. Respondent No.2 Deputy Administrator has not been delegated with the power of sections 43, 44 of the Ordinance. Section 47 provides for the process of enrolment of Waqf only; do not provide the provision for appointment of a Mutuwalli. The respondent No.2 Deputy Administrator under the garb of section 47 of the ordinance cannot appoint any Mutuwalli or form any committee as Mutuwalli of the concerned Waqfs estate. In these circumstances, the appointment of 18 members committee as Mutuwalli is malafide, for collateral purpose and ultra vires of section 47 of the Ordinance. It is further stated that the respondent did not comply with the provision of section 47(5) of the Ordinance, where it transpires that the applicant shall be informed before rejecting the petition of enrolment.

This petitioner is an incumbent Mutuwalli as a descendent of the Waqif and the respondent has given the stigma of

misappropriation of Waqf fund and the respondent without giving any opportunity to defend the applicant, passed the impugned arbitrary and capricious order violating the principle of natural justice and depriving his inalienable right as guaranteed under article 31 of the Constitution.

Learned Advocate for the Petitioner Mr. Faisal Mahmud Faizee submits that the respondent No.2 Deputy Administrator has no any authority of hearing or to pass any order to appoint Mutuwalli under sections 43 and 44 of the Ordinance. In this connection Learned Advocate referred the Gazette Notification dated 10.03.1991 published as additional issue on March 12, 1991 where it is found that Deputy Administrator of Waqfs has been delegated with the powers and responsibilities under sections 32, 47, 50, 51, 64 and the Assistant Administrator with the powers and responsibilities under sections 47, 51, and 64. The provisions of these sections do not confer the powers and responsibilities upon Deputy Administrator or Assistant Administrator of taking hearing or passing any order to appoint Mutuwalli. But the Deputy Administrator has travelled beyond his jurisdiction and usurped the powers of the Administrator under section 44 of the Ordinance while performing his responsibility in dealing with enrolment of the instant waqf estate under section 47 of the Ordinance. Learned Counsel further contended that respondent No.2 passed the impugned order expressly under the grab of section 47 of the Ordinance. Learned Counsel alleged that Deputy Administrator has

no authority to adjudicate any matter and for that matter he cannot lead any hearing as well. Learned Counsel added that the respondent passed the impugned order without exhausting the procedure of sections 34, 35, 36, 37, 38 and 40. Also Learned Counsel argues that the petitioner was not served notice under section 47(5) or under section 43 of the Ordinance. Learned Counsel Mr. Faisal Mahmud Faizee reiterated that virtually respondent Nos. 2, 3 and 4 did everything to the effect of approval of the impugned order. Learned counsel keeps submitting that the impugned order itself discloses that it was passed and signed by respondent No.2 Deputy Administrator on 05.06.2023 and the same was countersigned three days later on 08.06.2023 by respondent No.1, Administrator of Waqf, which is nothing but an order of compliance with the order of Deputy Administrator dated 08.06.2023. Learned Counsel further contended that there is no any provision of recommendation for enrolment of a Waqf estate in favor of anybody but Union Land Assistant Officer recommended for respondent No.6, the applicant of Misc E. C. No.35/2019 is malafide, and ultra vires of the Ordinance. Lastly Learned Counsel argued that the respondent in this situation could appoint official Mutwalli under section 44 of the Ordinance but they did not follow the provision of section 44.

Learned Counsel for the respondents denying submissions of Learned Counsel for the petitioner contended that respondent No. 2 Deputy Administrator did not pass the impugned order on

05.06.2023 in considering the application for enrolment, rather he referred a proposal before respondent No.1 for his approval which the respondent No.1 on scrutinizing the whole proceeding finally on 08.06.2023, approved the proposal and the same got effect through Memo no.16.02.0000.36.31.058.23/258(2), dated 01.03.2023 (Annexure-B). The contention of Learned Counsel of the petitioner, that the petitioner is not notified under section 47(5) of the Ordinance is mere misconceived and wrong as the context of sub section 5 of section 47 will be applicable in the case of khas property only and the same must be claimed by the Deputy Commissioner and the Deputy Commissioner then obliged to notify the applicant. After notifying the concerned parties the respondent No.1 exercised his authority under section 43 of the Ordinance. Learned Counsel further contended that under general powers and functions of the Administrator as conferred upon him under section 27(g) of the Ordinance and the unfettered discretion of Respondent No.1 to appoint an official Mutwalli under section 44 of the Ordinance, the impugned order cannot in any manner be treated as malafide and illegal. Learned Counsel further submits that the petitioner has taken a double standing plea regarding the provision of law under which the impugned orders were passed. The contention of the petitioner that as the respondent No.2 is not been delegated the power under section 43 and 44 of the Ordinance, so he ought not to have allowed hearing the matter of appointment of Mutwalli or committee, is not at all tenable in this

writ petition. Because there is no such provision to notify the parties under section 44 of the Ordinance. So it appears that the petitioner is claiming benefit under both the provision of section 43 and section 44 of the Ordinance altogether which he cannot, because these two sections contain independent and different provisions and as such the petitioner cannot take advantage of the both as he wishes in his writ petition.

Reversely, the respondent entered into the case filing Affidavit-in-Opposition denying all material allegations made in the writ petition inter alia that the rule in the instant writ petition has been issued mainly on the ground that no power has been delegated upon the respondent Nos.2 and 3 i.e. Deputy Administrator and Assistant Administrator of Waqf to appoint the Mutwalli under section 43 and 44 of the Waqf Ordinance, 1962, therefore the Deputy Administrator of Waqfs should not have taken the hearing regarding the enrolment of applications and appointing the managing committee of the Estate. But it is evident from the impugned orders that respondent No.2 only took hearing under section 47 of the Ordinance regarding the enrolment of the applications but has not passed any final order. Respondent No.2 placed his proposal for the enrolling the Waqf Estate and approving the managing committee in the form of an order dated 05.06.2023 before the respondent No.1 which thereafter is approved by his order dated 01.08.2023. It is pertinent to state here that even the respondent

Nos. 2 and 3 have been delegated power to perform their duty and functions under section 47 and by the virtue of that power they performed the functions of holding enquiry and submitted proposal before respondent No. 1.

The petitioner has filed the instant writ petition by suppressing the facts that apart from the petitioner's enrolment application registered as Misc E. C. No.28/19, there were two more similar enrolment application one filed by the respondent No.6 registered as E. C. No.35/19 and another filed by the respondent No.7 registered as Misc. E. C. No.41/19 and the inquiry was conducted by the concerned officers and analogous hearing was taken by the respondent No.2 Deputy Administrator of waqfs for the above three applications. The petitioner also suppressed the facts that another combined inquiry was carried out by the respondent No.1 through Mr. Anwar Hossain, the inspector of Waqfs which was submitted on 28.08.2020, wherein it was recommended that the existing committee consisting of 15 members comprising of descendents of the Waqifs and local Mussallies may be approved for a period of 3 years. Also the petitioner suppressed the facts that his grandfather Waqif Abdur Rashid Sarkar has bequeathed 78 decimals of land and out of that land 67 decimals was acquired by the Bangladesh Railway in L. A. Case No.14/11/53-54 from where Waqif Abdur Rashid has withdrawn the compensation money. Abdur Rashid transferred some land to his wife and his wife then transferred the same to

Forag Ahmed. This property was recorded in the name of Abdur Noor, father of the petitioner. Also some land of that Waqf deed was recorded in the name of some other persons. This whole matter's are suppressed by the petitioners in this writ petition. The petitioner also suppressed that one Noor Mohammed, the paternal cousin of the petitioner has withdrawn Tk.2,37,946.67/ as compensation for the land amounting 5.50 decimals which was acquired in L. A. Case No.3/200-2003 but he did not pay a penny to the Waqf Estate rather he has misappropriated the entire amount.

That the instant Waqf estate has always been run by a committee consisting of 15 members has been reconstituted on 17.06.2019 with Haji Md. Mozammel Haque as the President and the respondent No.6 as the secretary thereof. The Committee had four members who were the descendents of said Abdur Rashid Sarkar and cousins of the petitioner. The other members of the committee were the persons related to the Waqf estate and the Mosque. The petitioner Mohiuddin also has been made member in the 18 members committee. But these facts are suppressed by the present petitioner. The members of the present committee have donated some lands and also money for the construction of the alleged Venda Mosque. The alleged Waqf Estate related to the Venda 'Para' Jame Masjid are well run by the present 18 committee members. The grounds taken in the writ petition are misconceived, purposeful and those have no force of law and therefore those do

not deserve any consideration. Therefore, the Rule issued in the instant writ petition is liable to be discharged.

Respondent No.8 Hazi M. Mozammel Haque entered with a power by learned Advocate Mr. M. Mustafizur Rahman and supported the arguments of respondent Nos.1-3.

Having heard the argument, perused the writ petition, the Affidavit in opposition and the annexure available in the case record and the facts and circumstances of the case.

We found that the impugned order in Memo no.16. 02.0000.005.31.528.23/238 (1-3) dated 08.06.2023 passed by the respondent No.2 Deputy Administrator suffers from no illegality. Though the Gazette notification of 10.03.1991 (Annexure-1) does not delegate powers to the Deputy Administrator to hold hearing or to pass any order under section 43/44 of the Ordinance but section 36 deals with the powers how the same will be exercised by the Administrator. It is stated in this section that the Administrator may exercise any of the powers conferred on him by the provision of section 36. This section provides that the Administrator may exercise his powers relating to enquiry, investigation and inspection either by himself or through the Deputy Commissioner where the property is situated or through any other persons whom he may appoint for such purpose and may delegate any of his powers to them and also can revoke such delegation. In this writ petition by virtue of the delegated power under section 36, Respondent No.2 held an enquiry on behalf of the respondent No.1

and sent a proposal to the Administrator on 05.06.2023, which the Administrator approved on 08.06.23. Thereafter the same is circulated/communicated on 01.08.2023. So it appears that impugned order on 08.06.2023 is passed by the respondent No. 1 in compliance with the proposal of respondent No.2. Deputy Administrator. As we found that the Deputy Administrator has the authority to hold enquiry under section 36 of the Ordinance, so there is no illegality with passing the impugned order by respondent No.1, the Administrator.

As to the nature of the dispute in the present writ petition and the acts of the respondents are concerned, it appears that the impugned order is passed in consideration of the provision of sections 43 and 44 of the Ordinance. It is admitted that the alleged Waqf estate has three different Waqf deeds endowing different properties in Waqf and also having different provisions for appointment of Mutwalli and the alleged Waqf estate. So the respondent found an impediment in appointing Mutawalli in the instant case, as envisaged in section 43 of the Ordinance and as such, therefore the respondent exercising his authority under section 43 of the Ordinance formed 15 members committee selected from Musalli's, descendents of Waqif and from respected persons of the society. The petitioner in para 14 of his writ petition claimed the benefit under section 44 of the Ordinance. On close perusal of the writ petition, it appears that the petitioner Mohiuddin is applicants of his E. C. Case No.28/2019. In concerned

proceeding Annexure 'A' discloses that the parties including the petitioner were duly notified and they have given their written submissions along with their documents. The petitioner being an applicant of E. C. No.28/2019, though not required to serve any notice thereof, is duly served the same upon him. Section 44 of the Ordinance does not require serving any notice upon the respondent. So we find that the whole proceedings of enquiry were in the notice of the petitioner since he was all along present during the hearing of his E. C. No.28/2019. Thus the petitioner is barred to raise the question that he is not notified under section 47(5) of the Ordinance at the time of hearing of his E. C. No. 28/2019, though no notice is required to serve upon him under the provision of this section. The sub section 5 of section 47 deals with only where the Deputy Commissioner is asked by the Waqf Administrator to ascertain whether the proposed property for enrolment is khas or not, where the property is a khas property then the Deputy Commissioner shall inform the petitioner. Thus it is found that the petitioner's contention does not fall within the purview of this section of 47(5).

Learned Advocate for the petitioner argues that the respondent can appoint a person as official Mutwalli but cannot appoint a committee of persons what he formed by the impugned order. Section 27 (g) of the Ordinance discloses that generally doing all such acts as may be necessary for the due control, maintenance and administration of Waqfs, the Administrator shall

do those acts. The powers to appoint a person shall include a body of persons or a body of individual. According to section 3 (39) of the General Clauses Act, 1897 the expression 'person' shall include inter alia "a body of individual". Therefore it can be reasonably conclude that the respondent No.1 can appoint a committee of persons in place of a single mutwalli for the due control, maintenance and administration of a Waqf Estate. Learned Counsel on the part of respondent cited here the case of Golam Akhter Choudhury Vs The Administrator of waqf & others reported in 5 BLD 1985 at page 7 where their Lordship observed as follows:

“Whether the appointment of a committee of persons offends the provisions for official Mutwalli—Though the word 'official Mutwalli' has been used in 'singular: yet this expression includes its plural also under the General Clauses Act. So instead of one person appointed official Mutwalli a committee of five persons has been so appointed Against an order under section 44 neither any appeal and revision shall lie if stigma is attached to the aggrieved party by such order. The order has been challenged as arbitrary or capricious. This being an innocuous order for the benefit of the Waqfs estate no interference is called for. The Waqf Ordinance 1962, Ss 32, 43 and 44.”

Similar observation is adopted in the case of Abdul Jabbar Mondol vs. Administrator referred in 10 BLC (AD) at page 118 and in another case of selfsame matter reported in 36 DLR (AD) at page 203. So it appears that since three different Waqf deeds have different provisions for appointment of different mutwallis, therefore there is an impediment to appoint a mutwalli in terms of Waqf deed and in that situation Honorable higher court provide guidelines that in order to proper management of the Waqf estate the Administrator, under section 44 of the Waqf Ordinance, is empowered to form a committee which in this case most reasonably done by respondent No. 1.

Mr. Faisal Mahmud Faizee, advocate for the petitioner contended that the respondent without exhausting the procedure of sections 34, 35, 36, 37, 38 and 40 passed the impugned order. On perusal of section 34 and 35 it appears that the provisions of these section applies where the Administrator takes over the Waqf property by notification. Section 36 deals with the delegation of power by the Administrator to other person whom he may appoint. Section 37 deals with the application by an interested person for enquiry and section 38, the power of Administrator thereof. Section 39 discloses that Waqf Administrator may take over and assume the administration, control etc from the mismanagement of the Waqf property where section 40 deals with the power of a mutwalli to apply for directions from the Administrator for certain issues. Therefore it appears that it is not required to pass the

impugned order exhausting the provisions of the aforesaid sections except the provision of section 36. Respondent No.2 by virtue of this delegated power under section 36 held the enquiry and forwarded his proposal to respondent No.1 for approval.

As we found in the above that the Waqf estate has three different Waqf deeds endowing different properties in waqf and also having different provisions of appointment of mutwallis, so there is an impediment to appoint mutwalli. In these circumstances the respondent applies the provision of section 43 of the Ordinance though the section is omitted to mention in the impugned order but this is mere a bona fide mistake on the part of the respondents. It is well settled principle of our legal system that mere omission or wrong mentioning of any provisions of law which contains the source of authority does not invalidate an order where source of such authority exists. This principle has been reiterated by the Appellate Division of the Supreme Court of Bangladesh in a case reported in 47 DLR (AD) at page 1.

As the impugned order falls within the purview of section 43 and the Administrator for a transitional period appointed a committee as official mutwalli where the petitioner himself is a member, so the petitioner since feels aggrieved by such appointment, he ought to have filed appeal before the District Judge of its jurisdiction within three months of the notice. We found earlier that the petitioner was all along aware of the matter of such appointment as an applicant of his E C No. 28/2019. So it

can be concluded here that the petitioner has efficacious remedy against the impugned order which he still can seek. In this stage, Learned Counsel of the petitioner stands for his contention that since the impugned order seems to be passed under section 44 of the Ordinance, so the petitioner is not required to prefer appeal to the District judge. For the sake of the arguments advanced by the petitioners Counsel if it is assumed that the impugned order falls within the purview of section 44 of the Ordinance, then it can be concluded that that the impugned order is not liable to be challenged as because the Waqf Administrator may apply his unfettered power by virtue of the provision this section. We, already observed earlier in our discussion that the impugned order is, in any manner, passed by the Waqf Administrator.

The petitioner suppressed the facts that his grandfather Waqif Abdur Rashid Sarkar has bequeathed 78 decimals of land and out of that land 67 decimals was acquired by the Bangladesh Railway in L. A. Case No.14/11/53-54 from where Waqif Abdur Rashid has withdrawn the compensation money. Abdur Rashid transferred some land to his wife and his wife then transferred the same to Forag Ahmed. This property was recorded in the name of Abdur Noor, father of the petitioner. Also some land of that Waqf deed was recorded in the name of some other persons. This whole matter's are suppressed by the petitioners in this writ petition. The petitioner also suppressed that one Noor Mohammed, the paternal cousin of the petitioner has withdrawn Tk.2,37,946.67/ as

compensation for the land amounting 5.50 decimals which was acquired in L A Case No. 3/200-2003 but he did not pay a penny to the Waqf Estate rather he has misappropriated the entire amount. The petitioner as suppressed the above facts of misappropriation of the Waqf property, so he is not entitled to get any protection under article 31 of the Constitution.

A question is raised by the Learned Advocate for the petitioner that the respondent No. 6 Shahadat Al Nuri is implicated in two criminal cases one in Kotwalli thana Chattogram being No.49, dated 23.09.2024 under sections 143,147, 148, 149, 323, 325, 326, 370,114, 34 of the Penal Code and another in Bandar thana being No.9 dated 16.05.2025 under section 6(2),7,8,9,10,12,13,14 of Anti Terrorism Act, 2009. Learned Counsel asserts here that being implicated in the above mentioned two criminal cases; the respondent has no legal stand to come before this Court of law with affidavit. In reply to the submissions of learned petitioner's counsel, Learned Counsel of the respondent put his argument that two criminal cases are also pending against the petitioner Mohiuddin in the Magistrates Court, Chattogram one in E P Z thana being No.02 dated 22.08. 2024 under section 15(3),/25D of special powers Act read with sections 147, 148, 149, 152, 307, 322, 333, 353, 447, 448, 379, 380, 427, 436, 109, 506(2)/34 of Penal Code and another one in Bandar thana being No.4 dated 11.02.2025 under sections 143, 148, 323, 427, 506 of the Penal Code. This petitioner Mohiuddin is accused No.1 in this

case and charge sheet is already submitted against him. We do not find any substance of the arguments advanced by the petitioner's Counsel how a pendency of a case can infringe the right of a person in seeking any relief before this Court of law. However we are not inclined to consider this argument advanced by the petitioner. Also we found that there is no malafide or ill intention in the impugned orders because the managing committee includes both the contending parties (including the petitioner) therein and it was the most reasonable and prudent decision that could be taken.

In the light of discussion made here above, this Court is led to find that the Waqf Administrator did no wrong in appointing alleged 18 committee member as official mutwalli under sections 43 and 44 of the Ordinance for three years through Memo No.16.02.0000.005.41.31.528.23/238(1-3) dated 08.06.2023 (Annexure-A) so far it relates to the formation and approval of the 18 member managing committee for Venda Choudhury 'Para' Jaame Masjid Waqf Estate ; and (ii) Memo No. 16.02.0000.36.31.058.23/258 (2), dated 01.03.2023 (Annexure-B) issued by respondent No.1, Administrator of Waqfs, in E. C. No. 22540 (consolidation of Misc. E.C. No.28/2019, E.C. No. 35/2019 and E.C No.41/2019) expressly in accordance/in compliance with the Order dated 05.06.2023 passed by respondent No.2 Deputy

Administrator of Waqf which has been circulated through Memo No.16.02.0000.005.31.528.23/238(1-3) dated 08.06.2023 (Annexure-A) under the signature of respondent No.3 so far it relates to the approval of the 18 member managing committee for Venda Choudhury Jame Masjid Waqf estate and the same is not liable to be interfered with. We, on thorough observation, find that the petitioner has the efficacious remedy by way of appeal and as such this writ petition is not maintainable. There is nothing in the writ petition to declare the impugned order of the Waqf Administrator to be illegal or without lawful authority.

In the Result, the Rule is discharged without any order as to costs.

In the facts and circumstances of the case the petitioner may avail the remedy of appeal against the impugned order in the Court Of Learned District judge with an application for delay, if he so advised and if it is open to them.

Let a copy of this judgment communicate at once.

Sheikh Abdul Awal, J

I agree