

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

Present:
Justice Sheikh Abdul Awal
And
Justice Md. Mansur Alam

Writ Petition No. 12827 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. Ayub Ali Sikder

..... Petitioner.

-Versus-

Government of Bangladesh represented by the Secretary, Ministry of Religious Affairs and others.

..... Respondents.

Mr. Syed Md. Rezaur Zaman, Advocates

..... For the Petitioner

Mr. Pirjada Syed Abu Hanifa Ebna Jamal Md. Alam, Advocate

..... For the Respondent No.5

Mr. Mohammad Shazzadul Islam with

Ma. Shakila Sultana with

Mr. Shahriar Mehedi Ferdous, Advocates

..... For the Respondent Nos. 2 and 3

Mr. Md. Bodiuzzaman Tapadar, D.A.G with

Ms. Salma Sultana (Soma), D.A.G with

Mr. Md. J.R. Khan Robin, A.A.G with

Mr. A.B.M. Ibrahim Khalil, A.A.G with

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

... For the Government-Respondents

**Heard on 14.08.2025, 19.08.2025 and
Judgment on 24.08.2025**

Sheikh Abdul Awal, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule Nisi was issued calling upon the respondents to show cause as to why the impugned letter

issued under reference No. 16.02.0000. 079.31. 000.43/62(1) dated 01.08.2023 (Annexure-F) by the respondent No. 3. appointing the petitioner as well as respondent No. 5 as joint official Mutawalli under Section 44 of Waqfs Ordinance, 1962 of Md. Kamal Sikder Waqf Estate (E.C. No. 10407) of Batagi Upazila, District Barguna for a period of 3(three) years commencing from 01.08.2023 should not be declared to have been passed without any lawful authority and is of no legal effect so far it relates to appointment of respondent No. 5 as joint official mutawalli to the said waqf Estate and/or pass such other or further order or orders as to this Court may seem fit and proper.

To cut short the matter at the very outset, we like to quote hereunder the inquiry report dated 11.07.2023 submitted by the Waqf inspector which reads as follows:

১। জনাব মোঃ আইয়ুব আলী সিকদারের বিরুদ্ধে আনিত গাছ বিক্রি ও জমি-জমা বন্দোবস্ত সংক্রান্ত অভিযোগের সত্যতা পাওয়া যায়। যা থেকে প্রতীয়মান হয় তিনি ওয়াক্ফ প্রশাসন ও ওয়ারিশদের-কে ওয়াক্ফ সম্পত্তির আয় ও ব্যয়ের হিসাব না দিয়ে ওয়াক্ফ কন্ট্রিবিউশন ফাকি দেওয়া ও ওয়ারিশদের প্রাপ্য পাওনা থেকে বঞ্চিত করার পায়তারা করেছেন।

২। জনাব আইয়ুব আলী সিকদার (আবেদনকারী-২) রহেম আলী সিকদার এর পুত্র ও জনাব মোঃ মুশিফুর রহমান মোসারেফ (আবেদনকারী-১) রহেম আলী সিকদার এর মেয়ের ঘরের নাতী।

৩। যেহেতু জনাব আইয়ুব আলী সিকদার (আবেদনকারী-২) এর বিরুদ্ধে আনিত ২৫ বছর যাবৎ এস্টেটের আয়, ওয়ারিশদের এবং ওয়াক্ফ প্রশাসনকে কোন প্রকার হিসাব না দিয়ে আত্মসাৎ করার অভিযোগের সত্যতা সরেজমিনে পাওয়া যায়। সেহেতু তাকে এস্টেটে একক মোতাওয়াল্লীর দায়িত্ব দিলে এস্টেটের মেয়ে ওয়ারিশগণ প্রাপ্য হিস্যা থেকে বঞ্চিত হওয়ার সম্ভাবনা থাকায় এবং দলিলে মোতাওয়াল্লী নিয়োগের শর্তে স্পষ্ট পুরুষ অথবা মেয়ে ওয়ারিশদের বর্ণনা না থাকায় জনাব মোঃ মুশিফুর রহমান মোসারেফ (আবেদনকারী-১) ও জনাব আইয়ুব আলী

সিকদার (আবেদনকারী-২) দ্ব্যকে দলিলে উল্লেখিত যুগ্ম মোতাওয়াল্লীর বিধান মোতাবেক অফিসিয়াল যুগ্ম মোতাওয়াল্লী হিসাবে নিয়োগ প্রদান করা যায়।

৪। এস্টেটের হালসন পর্যন্ত আয়-ব্যয়ের হিসাব ও ওয়াক্ফ চাদা গ্রহন করা হয়েছে।

বিষয়টি মহোদয়ের সদয় অবগতি ও পরবর্তী নির্দেশের জন্য প্রেরণ করা হলো।

On a reading of the above quoted inquiry report dated 11.07.2023, it appears that Waqif Raham Ali Sikder died long before in 1995 and thereafter, his son Md. Ayub Ali Sikder (petitioner) became Mutwalli of Kamal Sikder Waqf Estate (E.C. No. 10407), who deprived all the legal heirs and others and used to enjoy the Waqf property at his own motion and he also purchased huge land by 10 deeds from the income of waqf Sstate in his name and his son's name and also misappropriated the income of the waqf estate and he did not give any accounts of waqf property over a period of 27 years before the waqf administrator and under such facts and circumstances the respondent No.5, Md. Moshifur Rahman Mosharef as heir of waqif filed an application for getting appointment of Mutwalli in place of corrupt Mutwalli Md. Ayub Ali Sikder (petitioner) and thereafter, on getting the above inquiry report the Waqf Administrator by the impugned order/letter dated 01.08.2023 appointed the petitioner as well as the respondent No.5 as joint Motwalli under section 44 of the Waqfs Ordinance, 1962.

From a combined reading of section 44 of the Waqfs Ordinance it appears that the Administrator is empowered to appoint any one as Motwalli if so required in the interest of the Waqf Estate.

In this case it is found that the petitioner misappropriated a huge amount of Waqf Estate and a criminal case has been filed against him being C.R. No. 329 of 2023 under section 406/420/506

of the Penal Code, which is now pending in the Court of learned Judicial Magistrate, Barguna.

Mr. Md. Bodiuzzaman Tapadar, the learned Deputy Attorney General on a query from the Court points out that since a criminal case is pending against the petitioner and it is on record that the petitioner having misappropriated a huge amount of the Waqf estate from 1995 to 2020 and in such facts and circumstances the Administrator committed no illegality in appointing joint Mutwalli by the impugned dated 01.08.2023 under section 44 of the Waqfs Ordinance.

Mr. Syed Md. Rezaur Zaman, the learned Advocate appearing for the writ petitioner submits that since the respondent No.5 is not direct heir of waqif he is not entitled to get appointment of Mutwalli of Waqf Estate and as such, the impugned order so far as it relates to appointment of respondent No.5 as Joint Mutwalli is liable to be stuck-down. The learned Advocate to fortify his submission has relied on the decision reported in 15 ALR 97.

Mr. Mohammad Shazzadul Islam, the learned Advocate appearing for the Respondent Nos. 2&3, on the other hand, submit that as per provision of section 44 of the Waqfs Ordinance, 1962, the Waqf Administrator is empowered to appoint any one as Mutwalli of the Waq estate if so required.

Mr. Pirjada Syed Abu Hanifa Ebna Jamal Md. Alam, the learned Advocate, appearing for the respondent No.5, at the very outset adopted the submissions of the learned Deputy Attorney General and Mr. Mohammad Shazzadul Islam, the learned Advocate for the respondent Nos. 2-3. The learned Advocate in support of the impugned order refers 2 decisions reported in 10 BLC 118, 36 DLR (AD) 203.

In the case of Abdul Jabbar Mondal (MD) Vs. Administrators of Waqfs and other reported in 10 BLC (AD) 118 it has been held as follows:

“It appears that the petitioner did not file any revision against the order either. This point was also settled in the same case of Golam Akhter Chowdhury vs. Administrator of Waafs and others reported in 36 DLR (AD) 203 wherein appointment of 5 members committee was challenged in place of the petitioner of that case and it was further held that provisions of section 4 of the Waqf Ordinance override all other things contained either in the Waqf Deed or elsewhere in this Ordinance. The appellant was appointed Mutwalli by the Administrator in terms of the Waqf Deed and it was further held that in view of the circumstances as stated, the Administrator modified his earlier order appointing the appellant as Mutwalli and proceeded to appoint a committee of nine persons to act as Mutwalli under section 44 of the Ordinance. Admitted position is that by order dated 24-3-98 the Waqf Administrator directed the parties to file joint list of the members of the committee but list was not filed by the petitioner, and in such circum-stances, the respondent No.1 had no other way but to form 9 member committee.

On a reading of the above quoted decisions together with section 44 of the Waqfs Ordinance read with section 67, we find clear principle of law as it stand today that Section 44 of the Waqfs Ordinance allows the Administrator to appoint an official Mutwalli for waqf property if considered necessary. Section 67 states that if there are multiple mutawallis for a qaqf, they must act jointly to perform their duties, unless the waqf deed specifies otherwise. Therefore, read together, these sections mean that if the Administrator appoints an official mutawalli under Section 44, this appointed mutwalli can manage the waqf independently or jointly with others, while if there were multiple traditional mutawallis, they would need to act as a group.

Further, in this case it is found that the petitioner as Mutwalli of the estate played not a very good role in the interest of the Waqf Estate for a long period of 205 years.

On the facts of the case and on consideration of the legal position, we find no illegality in the impugned order/ letter.

In view of our discussions made in the foregoing paragraphs it is by now clear that the instant Rule must fail.

In the result the Rule is discharged. The impugned letter issued under reference No. 16.02.0000. 079.31. 000.43/62(1) dated 01.08.2023 (Annexure-F) is hereby maintained.

Communicate this judgment and order to the concerned authority at once.

Md. Mansur Alam, J:

I agree.

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

Present:
Justice Sheikh Abdul Awal
And
Justice Md. Mansur Alam

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..... Petitioner.

-Versus-

Government of Bangladesh represented by the Secretary, Ministry of Religious Affairs and others.

..... Respondents.

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..... For the Petitioner

Mr. Pirjada Syed Abu Hanifa Ebna Jamal Md. Alam, Advocate

..... For the Respondent No.5

Mr. Mohammad Shazzadul Islam with

Ma. Shakila Sultana with

Mr. Shahriar Mehedi Ferdous, Advocates

..... For the Respondent Nos. 2 and 3

Mr. Md. Bodiuzzaman Tapadar, D.A.G with

Ms. Salma Sultana (Soma), D.A.G with

Mr. Md. J.R. Khan Robin, A.A.G with

Mr. A.B.M. Ibrahim Khalil, A.A.G with

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

... For the Government-Respondents

**Heard on 14.08.2025, 19.08.2025 and
Judgment on 24.08.2025**

Sheikh Abdul Awal, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule Nisi was issued calling upon the respondents to show cause as to why the impugned letter

issued under reference No. 16.02.0000. 079.31. 000.43/62(1) dated 01.08.2023 (Annexure-F) by the respondent No. 3. appointing the petitioner as well as respondent No. 5 as joint official Mutawalli under Section 44 of Waqfs Ordinance, 1962 of Md. Kamal Sikder Waqf Estate (E.C. No. 10407) of Batagi Upazila, District Barguna for a period of 3(three) years commencing from 01.08.2023 should not be declared to have been passed without any lawful authority and is of no legal effect so far it relates to appointment of respondent No. 5 as joint official mutawalli to the said waqf Estate and/or pass such other or further order or orders as to this Court may seem fit and proper.

To cut short the matter at the very outset, we like to quote hereunder the inquiry report dated 11.07.2023 submitted by the Waqf inspector which reads as follows:

১। জনাব মোঃ আইয়ুব আলী সিকদারের বিরুদ্ধে আনিত গাছ বিক্রি ও জমি-জমা বন্দোবস্ত সংক্রান্ত অভিযোগের সত্যতা পাওয়া যায়। যা থেকে প্রতীয়মান হয় তিনি ওয়াক্ফ প্রশাসন ও ওয়ারিশদের-কে ওয়াক্ফ সম্পত্তির আয় ও ব্যয়ের হিসাব না দিয়ে ওয়াক্ফ কন্ট্রিবিউশন ফাকি দেওয়া ও ওয়ারিশদের প্রাপ্য পাওনা থেকে বঞ্চিত করার পায়তারা করেছেন।

২। জনাব আইয়ুব আলী সিকদার (আবেদনকারী-২) রহেম আলী সিকদার এর পুত্র ও জনাব মোঃ মুশিফুর রহমান মোসারেফ (আবেদনকারী-১) রহেম আলী সিকদার এর মেয়ের ঘরের নাতী।

৩। যেহেতু জনাব আইয়ুব আলী সিকদার (আবেদনকারী-২) এর বিরুদ্ধে আনিত ২৫ বছর যাবৎ এস্টেটের আয়, ওয়ারিশদের এবং ওয়াক্ফ প্রশাসনকে কোন প্রকার হিসাব না দিয়ে আত্মসাৎ করার অভিযোগের সত্যতা সরেজমিনে পাওয়া যায়। সেহেতু তাকে এস্টেটে একক মোতাওয়াল্লীর দায়িত্ব দিলে এস্টেটের মেয়ে ওয়ারিশগণ প্রাপ্য হিস্যা থেকে বঞ্চিত হওয়ার সম্ভাবনা থাকায় এবং দলিলে মোতাওয়াল্লী নিয়োগের শর্তে স্পষ্ট পুরুষ অথবা মেয়ে ওয়ারিশদের বর্ণনা না থাকায় জনাব মোঃ মুশিফুর রহমান মোসারেফ (আবেদনকারী-১) ও জনাব আইয়ুব আলী

সিকদার (আবেদনকারী-২) দ্ব্যকে দলিলে উল্লেখিত যুগ্ম মোতাওয়াল্লীর বিধান মোতাবেক অফিসিয়াল যুগ্ম মোতাওয়াল্লী হিসাবে নিয়োগ প্রদান করা যায়।

৪। এস্টেটের হালসন পর্যন্ত আয়-ব্যয়ের হিসাব ও ওয়াক্ফ চাদা গ্রহন করা হয়েছে।

বিষয়টি মহোদয়ের সদয় অবগতি ও পরবর্তী নির্দেশের জন্য প্রেরণ করা হলো।

On a reading of the above quoted inquiry report dated 11.07.2023, it appears that Waqif Raham Ali Sikder died long before in 1995 and thereafter, his son Md. Ayub Ali Sikder (petitioner) became Mutwalli of Kamal Sikder Waqf Estate (E.C. No. 10407), who deprived all the legal heirs and others and used to enjoy the Waqf property at his own motion and he also purchased huge land by 10 deeds from the income of waqf Sstate in his name and his son's name and also misappropriated the income of the waqf estate and he did not give any accounts of waqf property over a period of 27 years before the waqf administrator and under such facts and circumstances the respondent No.5, Md. Moshifur Rahman Mosharef as heir of waqif filed an application for getting appointment of Mutwalli in place of corrupt Mutwalli Md. Ayub Ali Sikder (petitioner) and thereafter, on getting the above inquiry report the Waqf Administrator by the impugned order/letter dated 01.08.2023 appointed the petitioner as well as the respondent No.5 as joint Motwalli under section 44 of the Waqfs Ordinance, 1962.

From a combined reading of section 44 of the Waqfs Ordinance it appears that the Administrator is empowered to appoint any one as Motwalli if so required in the interest of the Waqf Estate.

In this case it is found that the petitioner misappropriated a huge amount of Waqf Estate and a criminal case has been filed against him being C.R. No. 329 of 2023 under section 406/420/506

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Mr. Syed Md. Rezaur Zaman, the learned Advocate appearing for the writ petitioner submits that since the respondent No.5 is not direct heir of waqif he is not entitled to get appointment of Mutwalli of Waqf Estate and as such, the impugned order so far as it relates to appointment of respondent No.5 as Joint Mutwalli is liable to be stuck-down. The learned Advocate to fortify his submission has relied on the decision reported in 15 ALR 97.

Mr. Mohammad Shazzadul Islam, the learned Advocate appearing for the Respondent Nos. 2&3, on the other hand, submit that as per provision of section 44 of the Waqfs Ordinance, 1962, the Waqf Administrator is empowered to appoint any one as Mutwalli of the Waq estate if so required.

Mr. Pirjada Syed Abu Hanifa Ebna Jamal Md. Alam, the learned Advocate, appearing for the respondent No.5, at the very outset adopted the submissions of the learned Deputy Attorney General and Mr. Mohammad Shazzadul Islam, the learned Advocate for the respondent Nos. 2-3. The learned Advocate in support of the impugned order refers 2 decisions reported in 10 BLC 118, 36 DLR (AD) 203.

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Further, in this case it is found that the petitioner as Mutwalli of the estate played not a very good role in the interest of the Waqf Estate for a long period of 205 years.

On the facts of the case and on consideration of the legal position, we find no illegality in the impugned order/ letter.

In view of our discussions made in the foregoing paragraphs it is by now clear that the instant Rule must fail.

In the result the Rule is discharged. The impugned letter issued under reference No. 16.02.0000. 079.31. 000.43/62(1) dated 01.08.2023 (Annexure-F) is hereby maintained.

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I agree.

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Sheikh Abdul Awal, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule Nisi was issued calling upon the respondents to show cause as to why the impugned letter

issued under reference No. 16.02.0000. 079.31. 000.43/62(1) dated 01.08.2023 (Annexure-F) by the respondent No. 3. appointing the petitioner as well as respondent No. 5 as joint official Mutawalli under Section 44 of Waqfs Ordinance, 1962 of Md. Kamal Sikder Waqf Estate (E.C. No. 10407) of Batagi Upazila, District Barguna for a period of 3(three) years commencing from 01.08.2023 should not be declared to have been passed without any lawful authority and is of no legal effect so far it relates to appointment of respondent No. 5 as joint official mutawalli to the said waqf Estate and/or pass such other or further order or orders as to this Court may seem fit and proper.

To cut short the matter at the very outset, we like to quote hereunder the inquiry report dated 11.07.2023 submitted by the Waqf inspector which reads as follows:

১। জনাব মোঃ আইয়ুব আলী সিকদারের বিরুদ্ধে আনিত গাছ বিক্রি ও জমি-জমা বন্দোবস্ত সংক্রান্ত অভিযোগের সত্যতা পাওয়া যায়। যা থেকে প্রতীয়মান হয় তিনি ওয়াক্ফ প্রশাসন ও ওয়ারিশদের-কে ওয়াক্ফ সম্পত্তির আয় ও ব্যয়ের হিসাব না দিয়ে ওয়াক্ফ কন্ট্রিবিউশন ফাকি দেওয়া ও ওয়ারিশদের প্রাপ্য পাওনা থেকে বঞ্চিত করার পায়তারা করেছেন।

২। জনাব আইয়ুব আলী সিকদার (আবেদনকারী-২) রহেম আলী সিকদার এর পুত্র ও জনাব মোঃ মুশিফুর রহমান মোসারেফ (আবেদনকারী-১) রহেম আলী সিকদার এর মেয়ের ঘরের নাতী।

৩। যেহেতু জনাব আইয়ুব আলী সিকদার (আবেদনকারী-২) এর বিরুদ্ধে আনিত ২৫ বছর যাবৎ এস্টেটের আয়, ওয়ারিশদের এবং ওয়াক্ফ প্রশাসনকে কোন প্রকার হিসাব না দিয়ে আত্মসাৎ করার অভিযোগের সত্যতা সরেজমিনে পাওয়া যায়। সেহেতু তাকে এস্টেটে একক মোতাওয়াল্লীর দায়িত্ব দিলে এস্টেটের মেয়ে ওয়ারিশগণ প্রাপ্য হিস্যা থেকে বঞ্চিত হওয়ার সম্ভাবনা থাকায় এবং দলিলে মোতাওয়াল্লী নিয়োগের শর্তে স্পষ্ট পুরুষ অথবা মেয়ে ওয়ারিশদের বর্ণনা না থাকায় জনাব মোঃ মুশিফুর রহমান মোসারেফ (আবেদনকারী-১) ও জনাব আইয়ুব আলী

সিকদার (আবেদনকারী-২) দ্ব্যকে দলিলে উল্লেখিত যুগ্ম মোতাওয়াল্লীর বিধান মোতাবেক অফিসিয়াল যুগ্ম মোতাওয়াল্লী হিসাবে নিয়োগ প্রদান করা যায়।

৪। এস্টেটের হালসন পর্যন্ত আয়-ব্যয়ের হিসাব ও ওয়াক্ফ চাদা গ্রহন করা হয়েছে।

বিষয়টি মহোদয়ের সদয় অবগতি ও পরবর্তী নির্দেশের জন্য প্রেরণ করা হলো।

On a reading of the above quoted inquiry report dated 11.07.2023, it appears that Waqif Raham Ali Sikder died long before in 1995 and thereafter, his son Md. Ayub Ali Sikder (petitioner) became Mutwalli of Kamal Sikder Waqf Estate (E.C. No. 10407), who deprived all the legal heirs and others and used to enjoy the Waqf property at his own motion and he also purchased huge land by 10 deeds from the income of waqf Sstate in his name and his son's name and also misappropriated the income of the waqf estate and he did not give any accounts of waqf property over a period of 27 years before the waqf administrator and under such facts and circumstances the respondent No.5, Md. Moshifur Rahman Mosharef as heir of waqif filed an application for getting appointment of Mutwalli in place of corrupt Mutwalli Md. Ayub Ali Sikder (petitioner) and thereafter, on getting the above inquiry report the Waqf Administrator by the impugned order/letter dated 01.08.2023 appointed the petitioner as well as the respondent No.5 as joint Motwalli under section 44 of the Waqfs Ordinance, 1962.

From a combined reading of section 44 of the Waqfs Ordinance it appears that the Administrator is empowered to appoint any one as Motwalli if so required in the interest of the Waqf Estate.

In this case it is found that the petitioner misappropriated a huge amount of Waqf Estate and a criminal case has been filed against him being C.R. No. 329 of 2023 under section 406/420/506

of the Penal Code, which is now pending in the Court of learned Judicial Magistrate, Barguna.

Mr. Md. Bodiuzzaman Tapadar, the learned Deputy Attorney General on a query from the Court points out that since a criminal case is pending against the petitioner and it is on record that the petitioner having misappropriated a huge amount of the Waqf estate from 1995 to 2020 and in such facts and circumstances the Administrator committed no illegality in appointing joint Mutwalli by the impugned dated 01.08.2023 under section 44 of the Waqfs Ordinance.

Mr. Syed Md. Rezaur Zaman, the learned Advocate appearing for the writ petitioner submits that since the respondent No.5 is not direct heir of waqif he is not entitled to get appointment of Mutwalli of Waqf Estate and as such, the impugned order so far as it relates to appointment of respondent No.5 as Joint Mutwalli is liable to be stuck-down. The learned Advocate to fortify his submission has relied on the decision reported in 15 ALR 97.

Mr. Mohammad Shazzadul Islam, the learned Advocate appearing for the Respondent Nos. 2&3, on the other hand, submit that as per provision of section 44 of the Waqfs Ordinance, 1962, the Waqf Administrator is empowered to appoint any one as Mutwalli of the Waq estate if so required.

Mr. Pirjada Syed Abu Hanifa Ebna Jamal Md. Alam, the learned Advocate, appearing for the respondent No.5, at the very outset adopted the submissions of the learned Deputy Attorney General and Mr. Mohammad Shazzadul Islam, the learned Advocate for the respondent Nos. 2-3. The learned Advocate in support of the impugned order refers 2 decisions reported in 10 BLC 118, 36 DLR (AD) 203.

In the case of Abdul Jabbar Mondal (MD) Vs. Administrators of Waqfs and other reported in 10 BLC (AD) 118 it has been held as follows:

“It appears that the petitioner did not file any revision against the order either. This point was also settled in the same case of Golam Akhter Chowdhury vs. Administrator of Waafs and others reported in 36 DLR (AD) 203 wherein appointment of 5 members committee was challenged in place of the petitioner of that case and it was further held that provisions of section 4 of the Waqf Ordinance override all other things contained either in the Waqf Deed or elsewhere in this Ordinance. The appellant was appointed Mutwalli by the Administrator in terms of the Waqf Deed and it was further held that in view of the circumstances as stated, the Administrator modified his earlier order appointing the appellant as Mutwalli and proceeded to appoint a committee of nine persons to act as Mutwalli under section 44 of the Ordinance. Admitted position is that by order dated 24-3-98 the Waqf Administrator directed the parties to file joint list of the members of the committee but list was not filed by the petitioner, and in such circum-stances, the respondent No.1 had no other way but to form 9 member committee.

On a reading of the above quoted decisions together with section 44 of the Waqfs Ordinance read with section 67, we find clear principle of law as it stand today that Section 44 of the Waqfs Ordinance allows the Administrator to appoint an official Mutwalli for waqf property if considered necessary. Section 67 states that if there are multiple mutawallis for a qaqf, they must act jointly to perform their duties, unless the waqf deed specifies otherwise. Therefore, read together, these sections mean that if the Administrator appoints an official mutawalli under Section 44, this appointed mutwalli can manage the waqf independently or jointly with others, while if there were multiple traditional mutawallis, they would need to act as a group.

Further, in this case it is found that the petitioner as Mutwalli of the estate played not a very good role in the interest of the Waqf Estate for a long period of 205 years.

On the facts of the case and on consideration of the legal position, we find no illegality in the impugned order/ letter.

In view of our discussions made in the foregoing paragraphs it is by now clear that the instant Rule must fail.

In the result the Rule is discharged. The impugned letter issued under reference No. 16.02.0000. 079.31. 000.43/62(1) dated 01.08.2023 (Annexure-F) is hereby maintained.

Communicate this judgment and order to the concerned authority at once.

Md. Mansur Alam, J:

I agree.