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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 17.09.2021

+ W.P.(C) 10429/2021

MOHD SHAMIM & ORS.

..... Petitioners

versus

DELHI WAQF BOARD & ANR.

.....Respondents

Advocates who appeared in this case:

For the Petitioner: Ms. Shashi Karan, Advocate (Through VC)

For the Respondent: Mr. Wajeeh Shafiq, Advocate for Delhi Waqf Board
(Through VC)
Mr. Shadan Farasat, ASC, GNCTD with Ms. Hafsa,
Advocate (Through VC)

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM. APPL. 32074/2021 (Exemption)

Exemption is allowed, subject to all just exceptions.

W.P.(C) 10429/2021 & CM APPL. 32087/2021

1. Petitioners impugn order dated 01.04.2021, whereby the Delhi Waqf Board has removed the petitioners, who were members of the

Managing Committee of Dargah Hazrat Khwaja Qutubuddin Bakhtiyar Kaki (RAH), Mehrauli without giving them any show cause notice and opportunity of hearing.

2. Learned counsel for petitioner submits that Section 67 of the Waqf Act, 1995 mandates that prior to removal, a reasonable opportunity of showing causing against the proposed action is required to be taken.

3. Learned counsel appearing for Waqf Board submits that Section 67 is not applicable to the petitioners as Section 67 applies only to the Management Committee appointed by the Waqf and the admitted case of the petitioners is that they were not appointed by the Waqf but by the Waqf Board pursuant to order dated 22.09.2008 in Suit No. 151/2002, *Taufiq Farooqui & Others Vs. Khwaja Syed Hilal Qutabi & Ors.*

4. Learned counsel for respondent/Waqf Board without prejudice submits that the respondent shall give an ex-post facto show cause notice and an opportunity of hearing to the petitioners and thereafter, pass a speaking order.

5. In view of the above, the petition is disposed of, directing the respondent/Waqf Board to issue ex-post facto show cause notice within a period of one week enclosing therewith entire material as may be available with the Waqf Board *inter alia* complaints from

different sections of the community about the management of the Dargah referred to in order dated 01.04.2021.

6. Reply to the show cause notice shall be filed by the petitioners within a period of within two weeks. Thereafter, an opportunity of personal hearing shall be granted to the petitioners and a speaking order passed, preferably within a period of three weeks thereafter.

7. It would be open to the petitioners to take further recourse in law in case they are aggrieved by the speaking order.

8. In the meantime, till the passing of the final speaking order, SDM, Mehrauli shall act as an observer for the purposes of observing the opening of the collection boxes. The entire collection shall be duly recorded in an account book and expenditure therefrom shall also be recorded.

9. The observer shall continue till the passing of the speaking order and thereafter continuation shall be subject to the speaking order to be passed by the Waqf Board.

10. Petition is disposed of in the above terms.

SANJEEV SACHDEVA, J.

SEPTEMBER 17, 2021

NA