

KARNATAKA LOKAYUKTA

No.COMPT/LOK/BCD-978/2017/ARE-2

M.S. Building,
Bengaluru,
Date: 16.09.2021

**REPORT UNDER SECTION 12(1) OF
KARNATAKA LOKAYUKTA ACT, 1984**

Sub:- Complaint of Sri S.S. Sayeed, S/o Late Syedali, Social Worker, EWS-146-KHB Colony, Shanthi Nagar, M.S.K. Mill Road, Kalaburagi District.

Ref:- Complaint No. Compt/LOK/BCD/978/2017

Based on the complaint filed by the complainant Sri S.S. Sayeed S/o Late Syedali, Social Worker, Shanthi Nagar, Kalaburagi (herein after referred to as 'complainant' for short) against the respondent alleging that Anjuman-e-Tahreq Urdu Hind Society has occupied the Wakf property which belongs to Dargah Hazrath Khaza Bande Nawaz, Kalaburagi and has constructed shops and collecting rents from the shops since from 27 years illegally, an investigation U/Sec. 9 of Karnataka Lokayukta Act was taken up and a factual report was called for from the



Karnataka State Board of Auqaf, Cunningham Road,
Bengaluru.

2. Pursuant to the notice issued, the Chief Executive Officer, Karnataka State Board of Auqaf, Bengaluru has submitted a report dated 28.08.2017 along with the report of District Wakf Officer, Kalaburagi. It is useful to extract the said report which reads as here under:-

"KARNATAKA STATE BOARD OF AUQAF

[Constituted by the Govt. of Karnataka under the Wakf Act, 1995 (Central Act-43 of 95)]

"Darul Awkaf" #6, Cunningham Road, Bengaluru-560 052

Tel: 080-22264 594/22264 595 Fax: 080-22255 663

No.KSBA/MSA/158/KLB/2017-18

Date: 28.08.2017

To,

Addl. Registrar of Enquiries II,
Karnataka Lokayukta,
Bengaluru.

Sir,

Sub:- Regarding complaint filed by Sri. S.S. Sayeed, i.r.o., Sy.No.36, Extent 4Acre 14 guntas belonging to Dargah Hazrath Bande Nawaz, Bhrampur, Kalaburagi.

Ref:- 1. Hon'ble Lokayuktha, Bengaluru letter No.COMP/LOK/BCD/978/2017, dated: 30.05.2017.
2. Hon'ble Lokayuktha Bengaluru reminder letter No.COMP/LOK/BCD/978/2017, dated:03.08.2017.
3. The Board vide letter No.KSBA/MSA/158/KLB/2017-18, dated: 03.06.2017.

With reference to the letter cited under reference 1 and 2 regarding subject, I write to state that the Dargah Hazrath Bande Nawaz, Bhrampur,



Kalaburagi is a Gazette Notified Waqf Institution vide Notification No. KBW/4752/ASR/74, date: 16.07.1974 at Sl.No. 275 [Annexure-1].

As per the information sought in letters cited under reference 1 and 2 a report was called vide letter dated: 03.06.2017 from the Waqf Officer, Kalaburagi District directing him to examine the matter and submit factual report on each point of allegations made alongwith supportive documents. [Annexure-2].

The Waqf Officer, Kalaburagi district submitted report vide his letter dated: 17.07.2017. However, as more information is needed on the issue, District Waqf Officer is directed to furnish it accordingly. District Waqf Officer again submitted his letter dated: 09.08.2017, in this letter it is stated that "Late Sayeed Shah Mohammed Hussaini Ex-Muthwalli of the Waqf Institution has gifted the Waqf property vide Sy.No. 36 extent 3,300 Sq.feet (out of 4 Acres 14 Guntas) to Sri.Moulvi Abdul Raheem Sab, President of Anjuman-e-Tahreq Urdu Hind Society without getting permission of the Board."

Further, they have constructed 10 shops without approval of the Board and collecting Rs.32,000/- as Rent per month, but the said rent has not been deposited in Dargah Hazrath Khaza Bande Nawaz, Bharampur, Kalaburagi District. [Annexure-3&4].

The above information is submitted for your kind perusal.

Yours faithfully,
Sd/-
(S.M. Zulfiquar Ulla)
Chief Executive Officer,
Karnataka State Board of Auqaf,
Bangalore"

3. The report extracted above indicates that Dargah Hazrath Bande Nawaz, Bharampur, Kalaburagi is a Gazette Notified Waqf Institution vide Notification No. KBW/4752/ASR/74, dated: 16.07.1974 and Sy.No. 36 measuring 4Acres 14Guntas situated at Kalaburagi is a Wakf property. The report extracted above indicates that

out of 4Acres 14Guntas in land bearing Sy.No.36, an extent of 3300 Sq.ft was gifted to Sri Moulvi Abdul Raheem Sab, President, Anjuman-e-Tahreq Urdu Hind Society by Late Sayeed Shah Mohammed Hussaini, Ex-Muthwalli. Dargah Hazrath Khwaja Bande Nawaz, Kalaburagi without prior permission from the Karnataka Waqf Board and the said society had constructed 10 shops and collecting Rs.32,000/- per month as rent and the said rent has not been deposited in Dargah Hazrath Khwaja Bande Nawaz, Brahmapur, Kalaburagi District.

4. It is relevant to point out that Sec. 104 (A) of The Waqf Act, 1995 prohibits any alienation, gift, exchange, mortgage or transfer of movable or immovable property which is a Waqf property to any other person and if any sale, gift, exchange, mortgage or transfer of property is made in contravention of Sec.104(A)(1) shall be void ab initio.



5. The provisions of Waqf Act, 1995 contemplates that for transfer of any property either movable or immovable property to any person, prior permission from the Waqf Board is mandatory. As it can be seen from the report extracted above, one Sri Sayeed Shah Mohammed Hussaini, Ex-Muthwalli of Dargah Hazrath Khwaja Bande Nawaz, Bhrampur, Kalaburagi had gifted an extent of 3300 Sq.ft of land in Sy.No. 36 without obtaining permission from the Karnataka State Waqf Board to Anjuman-e-Tahreq Urdu Hind Society which is prima-facie illegal.

6. The report extracted above also indicates that the Anjuman-e-Tahreq Urdu Hind Society, Kalaburagi had constructed 10 shops over the area which was gifted by the said Muthwalli in its favour and collecting rent of Rs.32,000/- per month. It is the allegation of the complainant that though he has brought these facts to the notice of the Chief Executive Officer, Karnataka Waqf Board and to the respondent they have failed to take necessary steps required under law for taking the

possession of the said property to the Waqf Institution. The respondent is the then Hon'ble Minister for Waqf and he has ceased to be the Minister for Waqf Board. Under the Waqf Act it is the District Waqf Officer and Chief Executive Officer, Karnataka Waqf Board who are required to take steps for preservation of Waqf property. Under these circumstances I am of the view the ends of justice would be met by directing the concerned authority to take steps for recovery of the land which is in the possession of Anjuman-e-Tahreeq Urdu Hind Society, Kalaburagi in accordance with law by invoking the provisions of the Waqf Act, 1995; and restore the possession of the same to the original owner i.e., Dargah Hazrath Khwaja Bande Nawaz, Kalaburagi, originally to whom it belonged[✓] and also to recover the rent collected by the said Society from the tenants and remit the same to Dargah Hazrath Khwaja Bande Nawaz, Kalaburagi.

7. In the light of what is stated above, based on the materials collected during the course of investigation,



prima-facie I am satisfied that the transfer of Waqf property made by Sri Sayeed Shah Mohammed Hussaini, Ex-Muthwalli, Dargah Hazrath Khwaja Bande Nawaz, Kalaburagi in favour of Anjuman-e-Tahreq Urdu Hind Society is illegal as it was made without prior permission from the Karnataka Waqf Board. Therefore, in exercise of the powers conferred on me U/Sec. 12(1) of Karnataka Lokayukta Act, 1984, I hereby make the following recommendation to the State Government, Department of Minorities, Haj, Auqaf, Vikasa Soudha, Bengaluru:-

- (i) to take necessary steps to recover the Waqf property which is in the possession of Anjuman-e-Tahreq Urdu Hind Society, Kalaburagi and restore the possession of the same to the original owner i.e., Dargah Hazrath Khwaja Bande Nawaz, Kalaburagi, originally to whom it belongs.
- (ii) to recover the rent collected by the Anjuman-e-Tahreq Urdu Hind Society, Kalaburagi from the tenants and remit the same to Dargah Hazrath Khwaja Bande Nawaz, Kalaburagi.

8. The Authorities concerned are required to send a report setting out the action taken in the light of this report

within a month from the date of receipt of this report in terms of Sec. 12(2) of the Karnataka Lokayukta Act, 1984.


(JUSTICE P. VISHWANATHA SHETTY) 10/9/2019.
Lokayukta,
State of Karnataka.