Reserved On : 18/09/2026
Pronounced On : 13/10/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/FIRST APPEAL NO. 3494 of 2026

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2026
In R/FIRST APPEAL NO. 3494 of 2026
With
CIVIL APPLICATION (FOR STAY) NO. 2 of 2026
In R/FIRST APPEAL NO. 3494 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

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Approved for Reporting	Yes	No

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MOHAMMAD YUSUF MOHAMMAD PUNJANI
Versus
GUJARAT STATE WAQF BOARD & ORS.

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Appearance:
MR R R MARSHAL, SENIOR ADVOCATE WITH
MS CHINTANIKA P LUKHI(10189) for the Appellant(s) No. 1
SHREY H DAVE(8444) for the Appellant(s) No. 1
JAY P PATEL for the Appellant(s) No.1
MR MANISH S SHAH(5859) for the Defendant(s) No. 1,2
NOTICE NOT RECD BACK for the Defendant(s) No. 4,6,7,8,9
NOTICE SERVED for the Defendant(s) No. 3
RIZWAN SHAIKH(7146) for the Defendant(s) No. 5

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CORAM:**HONOURABLE MR.JUSTICE MOOL CHAND TYAGI**

CAV JUDGMENT

1. The captioned appeal is filed against the impugned judgment dated 28.07.2026, passed by the learned WAQF

Tribunal, Gandhinagar (herein after referred to as the “learned Tribunal”) in WAQF Appeal No.19 of 2026, whereby the learned Tribunal has issued numerous directions against the appellant and the WAQF Board.

2. The appellant herein are the original appellant and the respondents herein are the original respondents before the learned Tribunal, therefore, the parties herein are referred to as per their status before the learned Tribunal.

3. The succinct facts, which lead to the filing of the captioned appeal are summarized as under :-

3.1 The appellant is the duly appointed Muttavalli of B/100 – Junagadh Suryawad Memon Jamat, Porbandar. The appellant came to be appointed as Muttavalli pursuant to Resolution No. 181 passed in the General Meeting convened on 30.12.2023.

3.2 Respondent No. 1 issued two notices bearing Nos. 17679 and 17680, both dated 16.12.2025, purportedly under Section 70 of the Act, upon taking cognizance of the applications submitted by respondent nos. 6 to 9.

3.3 The appellant, in compliance with the aforesaid notices, submitted a common reply dated 22.12.2025 along with all documents and particulars sought for therein.

3.4 Thereafter, to the utter shock and surprise of the appellant, he received a communication dated 10.06.2026 issued by the respondent Nos. 3 and 4 stating that they had been appointed by Respondent No. 2 vide order dated 26.05.2026. The appellant had neither been served with nor informed about the said order at any point of time. Further, no opportunity of hearing was afforded to the appellant before passing the said order. Upon inquiry by the appellant regarding the authority under which the communication dated 10.06.2026 had been issued, the respondent No.3 furnished a soft copy of the order dated 26.05.2026. It was only then that the appellant became aware of the existence of the said order, whereby respondent nos. 3 and 4 had been appointed as Election Officer and Assistant Election Officer, respectively. Thus, the order dated 26.05.2026 was passed behind the back of the appellant and without adherence to the principles of natural justice.

3.5 Being aggrieved by and dissatisfied with the order dated 26.05.2026 passed by the respondent No. 2 and the consequential communication dated 10.06.2026 issued by respondent nos. 3 and 4, the appellant preferred Waqf Appeal No. 19 of 2026 under Section 83 of the Act before the learned Tribunal. The learned Tribunal, vide judgment and order dated 28.07.2026, allowed the appeal and quashed and set aside the order dated 26.05.2026 passed by the respondent no. 2- Chief Executive Officer, Waqf Board along with all consequential

proceedings arising therefrom. However, while granting the aforesaid relief, the learned Tribunal issued further directions for taking possession of the books of accounts, records and movable as well as immovable properties of the Waqf. The learned Tribunal also directed the Waqf Board and its Chief Executive Officer to initiate criminal proceedings against the appellant and six other members. Being aggrieved and dissatisfied with the judgment dated 28.07.2026 passed by the learned Tribunal in WAQF Appeal No. 19 of 2026, the appellant has preferred the present appeal challenging the legality, propriety and validity of the impugned directions contained therein.

4. Heard learned advocates for the parties.

5. Mr. R.R. Marshal, learned Senior Advocate assisted by Ms. Chintanika Lukhi and Mr. Shrey Dave, learned counsels appearing for the appellant vehemently submitted that the learned Tribunal had exceeded the jurisdiction vested in it by law inasmuch as by issuing directions for taking possession of the books of accounts, records, and the movable as well as immovable properties of the Wakf and lodging F.I.R. It is submitted that the learned Tribunal had gravely erred in directing the Wakf Board and its Chief Executive Officer to initiate criminal proceedings against the appellant and six other members without following the due process of law. According to the learned Senior Advocate, such directions are wholly without jurisdiction, beyond the scope of the

proceedings before the learned Tribunal and could not have been issued in the absence of any adjudication or finding warranting such action. He, therefore, submitted that the impugned directions deserve to be quashed and set aside.

6. It is submitted that the impugned judgment passed by the learned Tribunal is internally inconsistent and self-defeating. The learned Tribunal has categorically held that the Waqf Board had failed to follow the procedure prescribed under Section 71 of the Act and on such ground, interfered with the action of the Board. However, having arrived at such a finding, the learned Tribunal itself proceeded to issue directions to respondent nos. 2 and 3 to initiate proceedings against the appellant and other members without following the very procedure contemplated under Section 71 of the Act. It is submitted that having found fault with the Waqf Board for non-compliance with the statutory procedure, the learned Tribunal could not have itself issued directions, which are contrary to the mandate of the said provision. According to the learned Senior Advocate, such directions are legally unsustainable and suffer from a patent internal inconsistency, besides being beyond the scope of the jurisdiction exercised by the learned Tribunal. He, therefore, submitted that the said directions deserve to be quashed and set aside.

7. It is further submitted that the jurisdiction and function of the learned Tribunal are essentially adjudicatory in nature. The learned Tribunal is not vested with any supervisory jurisdiction

over the affairs of the Waqf. It is submitted that the supervisory powers and functions are vested with the Waqf Board under the statutory scheme. Therefore, while exercising its adjudicatory jurisdiction, the learned Tribunal ought not have assumed unto itself supervisory powers and issued directions to the Waqf Board and its Chief Executive Officer to initiate proceedings against the appellant and other members. Such directions are wholly beyond the scope of the jurisdiction vested in the learned Tribunal and, therefore, cannot be sustained in the eyes of law. In support of his submissions, he has placed reliance upon the judgment of the Hon'ble Apex Court in the case of **M.P. Wakf Board v. Subhan Shah (Dead) by L.Rs. & Ors., (2006) 10 SCC 696**, wherein the scope and nature of the jurisdiction of the Waqf Tribunal have been considered. He has also placed reliance upon the judgment of the Hon'ble Apex Court in the case of **S.V. Cheriyakoya Thangal v. S.V.P. Pookoya & Ors., Civil Appeal No. 4629 of 2024 arising out of SLP (C) No. 3182 of 2019**, in support of the submission that the jurisdiction of the Tribunal is circumscribed by the statutory provisions and cannot be enlarged beyond the authority conferred upon it by law.

8. Per contra, Mr. Manish Shah, learned advocate appearing for the respondent nos. 1 & 2 vehemently submitted that the learned Tribunal has been vested with wide and ample powers under Sections 83 and 85 of the Act to adjudicate disputes relating to Waqf and Waqf property and to pass such appropriate orders as may be necessary for securing the

proper administration and management of the Waqf and protection of its properties. It is submitted that the jurisdiction conferred upon the learned Tribunal is not narrowly confined to adjudication of the dispute brought before it, but extends to passing appropriate consequential and incidental directions necessary for effectuating the object and purpose of the Act. It is submitted that the directions issued by the learned Tribunal were issued in furtherance of the proper administration and protection of the Waqf and its properties and were within the statutory jurisdiction conferred upon the Tribunal. Learned advocate further submitted that merely because the learned Tribunal has issued consequential directions for securing the books of accounts, records and properties of the Waqf and for taking appropriate action in accordance with law, the same cannot be said to amount to an exercise of supervisory jurisdiction or an assumption of powers not vested in it by the statute. It is, therefore, submitted that the contention of the appellant that the learned Tribunal had exceeded its jurisdiction is misconceived and deserves to be rejected. In support of his submissions, he has placed reliance upon the judgment of the Hon'ble Apex Court in the case of **Board of Wakf, West Bengal & Anr. v. Anis Fatma Begum & Anr., (2010) 14 SCC 588** and submitted that the jurisdiction of the Waqf Tribunal is of wide amplitude and that the learned Tribunal is competent to pass appropriate orders in matters concerning the administration and management of the Waqf.

9. Mr. Rizwan Shaikh, learned advocate appearing on behalf of the respondent no.5 vehemently submitted that having

regard to the facts and circumstances of the case, the learned Tribunal has committed no error in issuing the directions contained in the impugned order. He submitted that, as per the bye-laws governing the Waqf, the election of the Trustees is required to be conducted every year. However, in the present case, the last election of the Trustees was conducted in the year 1996 and, thereafter, no election has been held till date. He, therefore, submitted that the directions issued by the learned Tribunal were justified in the facts and circumstances of the case and were intended to ensure proper administration and management of the Waqf in accordance with its bye-laws.

10. It is submitted that the respondent nos.5 to 9 had addressed several complaints to the Waqf Board with regard to the administration and management of the Waqf. However, despite receipt of such complaints, the Wakf Board failed to take any effective action. It is submitted that the inaction on the part of the Waqf Board was deliberate and that the Waqf Board was acting in connivance with the appellant. It is submitted that a complaint was also addressed to the Hon'ble Chief Minister; however, even thereafter, no effective action was taken by the authorities. It is further submitted that the Central Waqf Council had also directed the Waqf Board to conduct an inquiry into the maladministration and mis-management of the Waqf and to take appropriate steps in accordance with law. Pursuant to the said directions, the Waqf Board entrusted the inquiry to Mr. Siraj Mandavia. However, when Mr. Siraj Mandavia visited the Waqf premises for conducting the inquiry, he was allegedly misbehaved and

assaulted by the Trustees. It is submitted that Mr. Siraj Mandavia thereafter, submitted a report to the Waqf Board regarding the alleged misbehavior and assault. Despite receipt of the said report, the Waqf Board failed to take any action in the matter. It is submitted that, on the basis of a complaint lodged by one Salim Yusuf Surya, the Wakf Board appointed an Inquiry Officer. The said order was challenged by the appellant by preferring WAQF Appeal No. 36 of 2021 before the learned Tribunal. The learned Tribunal, vide order dated 12.05.2022, set aside the said order on the ground that the same had been passed in contravention of Sections 33 and 71 of the Act. It is submitted that, thereafter, no further action was taken against the appellant or the Trust. The aforesaid circumstances demonstrate that, despite repeated complaints and directions for conducting an inquiry into the affairs of the Waqf, the Waqf Board failed to discharge the statutory duties and functions cast upon it under the Act. It is, therefore, submitted that the conduct and inaction of the Waqf Board give rise to a serious apprehension of collusion between the appellant and the Waqf Board. It is submitted that in the aforesaid circumstances, where the statutory authority had failed to discharge its duties and take appropriate steps for proper administration and protection of the Waqf and its properties, the learned Tribunal was justified in exercising its jurisdiction and issuing appropriate directions. It is, therefore, submitted that the learned Tribunal has committed no error or illegality in passing the impugned judgment and issuing the consequential directions contained therein. It is accordingly urged that the impugned judgment does not suffer from any infirmity

warranting interference by this Court in exercise of its appellate jurisdiction and that the present appeal deserves to be dismissed

11. In rebuttal, learned Senior Advocate Mr. R.R. Marshal submitted that having regard to the peculiar facts and circumstances of the present case, the impugned order, to the extent it contains the directions impugned in the present appeal, deserves to be quashed and set aside. It is submitted that instead of permitting the proceedings to continue on the basis of the impugned directions, the matter may be remanded to the Board with an appropriate direction to ensure that the election of the Trustees is to be conducted within a reasonable time and strictly in accordance with the applicable bye-laws and the provisions of the Act. It is submitted that such course would adequately safeguard the interest of the Wakf and would also ensure that its administration is conducted in accordance with law.

12. Having considered the submissions advanced by the learned advocates for the respective parties and having carefully gone through the record of the learned Tribunal, it emerges that numerous complaints were made with regard to the functioning and administration of the Waqf including allegations of mismanagement of the Waqf properties and misappropriation of Waqf funds.

13. It also emerges from the record that numerous complaints were made against the Trust before the Waqf Board from time to time. Complaints were also addressed to the Hon'ble Chief Minister, raising grievances with regard to the functioning and administration of the Waqf and alleging inaction on the part of the Wakf Board despite receipt of such complaints. It further emerges from the record that, on the basis of a complaint made by one Salim Yusuf Surya, the Waqf Board had initiated proceedings against the appellant and passed an order in that regard. However, the said order came to be passed without following the procedure prescribed under Section 71 of the Act and the Rules framed thereunder. The said order was challenged by the appellant by preferring Waqf Appeal No. 36 of 2021 before the learned Tribunal. The said appeal came to be allowed by the learned Tribunal vide order dated 12.05.2022, holding that the order passed by the Waqf Board was not in conformity with the procedure prescribed under the Act. Thus, the record indicates that, on an earlier occasion also, the proceedings initiated by the Waqf Board in relation to the affairs of the Waqf were set aside on account of non-compliance with the statutory procedure. At the same time, the aforesaid circumstances, by itself, cannot dispense with the requirement of following the procedure prescribed by law. The question that arises for consideration in the present appeal is whether, notwithstanding the aforesaid circumstances and the alleged inaction on the part of the Waqf Board, the learned Tribunal was justified in issuing the impugned directions and whether such directions fall within the jurisdiction conferred upon the Tribunal under the Act.

14. It also emerges from the record that the order passed by the Wakf Board pursuant to the complaints made by the respondent nos.2 to 9 came to be challenged before the learned Tribunal, inter alia, on the ground that the Waqf Board had failed to follow the procedure prescribed under Section 71 of the Act and the Rules framed thereunder and had not conducted the inquiry in the manner prescribed by law. The aforesaid circumstances prima facie indicate that either the Waqf Board has failed to adhere to the statutory procedure while conducting inquiries under the Act or that the Board has otherwise not been functioning in accordance with the powers and procedure prescribed by the Act. So far as the former possibility is concerned, once the order impugned in Waqf Appeal No. 36 of 2021 came to be set aside on the ground of non-compliance with the procedure prescribed under the Act, it would be difficult to accept that the procedure required to be followed while conducting an inquiry under the Act was thereafter unknown to the Waqf Board. In the facts and circumstances of the present case, therefore, a prima facie inference can be drawn that the Waqf Board has failed to discharge its statutory functions in accordance with the provisions of the Act. The record prima facie reflects that the Waqf Board has failed to properly exercise the powers vested in it under Section 32 and other relevant provisions of the Act and has not discharged the statutory duties and obligations entrusted to it by the Legislature.

15. At this stage, it is required to be borne in mind that the Waqf Board is a statutory authority entrusted with the duty of proper supervision, administration and protection of Waqf properties. When the material on record prima facie indicates repeated non-compliance of the statutory procedure and failure to take appropriate action despite complaints of maladministration and mismanagement of the Waqf, the learned Tribunal bonafidely issued directions with a view to safeguarding the interests of the Waqf and its properties and passed the following orders:-

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- The order dated 26.05.2026 passed by the Chief Executive Officer, Gujarat State Waqf Board, Gandhinagar, whereby Mr. Hussainbhai Dal was appointed as the Election Officer and Mr. Arifbhai Rathod (Mir) was appointed as the Assistant Election Officer for the smooth administration of B-100/Junagadh, Suryawad Memon Jamaat Trust, is hereby declared illegal and is accordingly quashed and set aside. Consequently, all proceedings undertaken pursuant to or in furtherance of the said order dated 26.05.2026 shall also stand quashed and set aside.

- The Gujarat State Waqf Board, Gandhinagar, is hereby directed to forthwith undertake an inquiry into the alleged financial irregularities by taking possession of all books of accounts relating to the income and expenditure, along with the audit reports of the Porbandar Suryawad Memon Jamaat Trust in accordance with the provisions of the Wakf Act, 1995. The inquiry shall be undertaken in light of the

written complaints submitted by the stakeholders of Porbandar Suryawad Memon Jamaat viz. (1) Salim Yusuf Surya, (2) Afzal Yusuf Afini, (3) Yasin Junaid Aghadi, (4) Mohammad Shafi Gulamhussain Bera and (5) Farooq Nurmohammad Baghad. The aforesaid books of accounts, records and audit reports shall be produced before the panel Chartered Accountant/Government Auditor of the Gujarat State Wakf Board for examination and audit and the entire exercise shall be completed within a period of 30 days from the date of the order.

- The Gujarat State Wakf Board, Gandhinagar, is hereby directed to forthwith lodge a criminal complaint before the competent police authority against the defendant and such other persons as may be found responsible in respect of the allegations of financial embezzlement and other irregularities in the affairs of the Trust, as raised in the complaints submitted before the Wakf Board.

- The Chief Executive Officer of the Gujarat State Waqf Board is hereby directed to forthwith lodge a complaint before the competent police authority against the persons found responsible, in accordance with law in respect of the allegations concerning financial irregularities in the affairs of the Porbandar Suryawad Memon Jamaat Trust.

- The Gujarat State Wakf Board, Gandhinagar, is hereby directed to place the entire matter before the Board for consideration in accordance with law, having regard to the fact that the disputants in the present proceedings and (1)

Taufiq Abdul Sattar Hamdani, (2) Abdul Jabar Mohammad Punjani, (3) Abdul Habib Abdul Gani Chitalwala, (4) Altaf Ali Mohammad Sakrani, (5) Ibrahim Ahmed Punjani and (6) Yunus Siddique Chitalwala were not unanimously appointed as successor trustees by all the members of the Porbandar Suryawad Memon Jamaat in the Aam Sabha and that the tenure of the existing trustees had expired in the year 1996. The Gujarat State Wakf Board shall, after considering the matter and passing an appropriate order, take necessary steps for appointment of successor trustees of the Porbandar Suryawad Memon Jamaat in accordance with the constitution/bye-laws of the Wakf. Such appointment shall be completed within a period of 60 days from the date of the order and shall be in conformity with the relevant provision of the constitution of the Wakf, which provides that the members of the Porbandar Suryawad Memon Jamaat shall meet every year and conduct elections and that the Managing Committee shall appoint a Secretary. Upon completion of the aforesaid process, the names and particulars of the duly appointed successor trustees shall be recorded in the Wakf Register in accordance with Section 42 of the Wakf Act, 1995.

- It is alleged that the disputants in the present proceedings and (1) Taufiq Abdul Sattar Hamdani (2) Abdul Jabar Mohammad Punjani, (3) Abdul Habib Abdul Gani Chitalwala, (4) Altaf Ali Mohammad Sakrani (5) Ibrahim Ahmed Punjani and (6) Yunus Siddique Chitalwala have been in unauthorised occupation and possession of the properties of the Porbandar Suryawad Memon Jamaat Wakf for several years and that, despite such allegations, no effective action has been taken by the Gujarat State

Wakf Board, Gandhinagar against the aforesaid persons. In the interest of proper administration and protection of the Wakf properties, the Gujarat State Wakf Board, Gandhinagar is hereby directed to appoint, forthwith, an Administrator in accordance with the provisions of Section 38 of the Wakf Act, 1995 for the administration and management of the Porbandar Suryawad Memon Jamaat Wakf. The Administrator so appointed shall administer and manage the affairs of the Wakf in accordance with law until the appointment of successor trustees is duly completed by the Gujarat State Wakf Board, Gandhinagar.

- The disputant in the present proceedings, namely, Mohammad Yusuf Mohammad Punjani is hereby directed to hand over and submit to the Gujarat State Wakf Board, Gandhinagar within a period of seven days from the date of the order, all books of accounts, audit reports and other records relating to the income and expenditure of the Porbandar Suryawad Memon Jamaat Wakf for the period from the year 1993 up to 23.07.2026. He shall also peacefully hand over possession of all movable and immovable properties of the Wakf to the Chief Executive Officer, Gujarat State Wakf Board, Gandhinagar. In the event of failure to comply with the aforesaid directions, the Gujarat State Wakf Board, Gandhinagar shall take appropriate action in accordance with law against the disputant and (1) Taufiq Abdul Sattar Hamdani, (2) Abdul Jabar Mohammad Punjani, (3) Abdul Habib Abdul Gani Chitalwala, (4) Altaf Ali Mohammad Sakrani, (5) Ibrahim Ahmed Punjani and (6) Yunus Siddique Chitalwala, as may be permissible under the provisions of the Wakf Act, 1995 for ensuring the proper administration and management

of the Wakf.

- A certified copy of this order shall be forthwith forwarded to the Gujarat State Wakf Board, Gandhinagar, for information and necessary action in accordance with law."

16. The directions issued by the learned Tribunal, at the first blush, may appear to have been issued in the interest of the Trust and with a view to ensuring proper administration and management of the Trust, its properties and accounts. However, while considering the legality and sustainability of such directions, this Court cannot lose sight of the fundamental principle that the learned Tribunal is a creature of the statute and derives its jurisdiction and powers therefrom. It is, therefore, required to act strictly within the four corners of the Act and cannot assume unto itself powers which have not been conferred upon it by the Legislature. The jurisdiction vested in the learned Tribunal is essentially adjudicatory in nature. It is not a supervisory authority over the Waqf Board nor has the Act conferred upon it any general power of superintendence over the functioning of the Waqf Board or its statutory authorities. The supervisory and administrative powers contemplated under the Act are vested in the Waqf Board, whereas the learned Tribunal is required to exercise the jurisdiction specifically conferred upon it by the statute. Consequently, however well-intentioned a direction may be, the same cannot be sustained merely on the ground that it is intended to secure proper administration of the Waqf, if such direction travels beyond the statutory jurisdiction vested in the learned Tribunal.

17. At this stage, it would be apposite to refer to the judgment relied upon by the learned advocate appearing for respondent Nos.1 and 2 rendered by the Hon'ble Apex Court in the case of **Board of Wakf, West Bengal & Anr.** (*supra*). In paragraph 10 of the said judgment, the Hon'ble Apex Court has observed as under:

> "10. Thus, the Wakf Tribunal can decide all disputes, questions or other matters relating to a wakf or wakf property. The words "any dispute, question or other matters relating to a wakf or wakf property" are, in our opinion, words of very wide connotation. Any dispute, question or other matters whatsoever and in whatever manner which arises relating to a wakf or wakf property can be decided by the Wakf Tribunal. The word "wakf" has been defined in Section 3(*r*) of the Wakf Act, 1995 and hence once the property is found to be a wakf property as defined in Section 3(*r*), then any dispute, question or other matter relating to it should be agitated before the Wakf Tribunal."

18. In the aforesaid case, the dispute before the Hon'ble Apex Court primarily concerned the rights and interests in respect of Waqf property and the jurisdiction of the Waqf Tribunal in relation thereto. The controversy in the present case, however, stands on an entirely different footing. The principal issue before this Court is not merely with regard to

any right, title or interest in Waqf property, but concerns the administration and management of the Waqf and more particularly, the extent of the statutory jurisdiction and powers exercisable by the learned Tribunal vis-à-vis the Waqf Board. The decision relied upon by learned advocate for respondent Nos.1 and 2, therefore, cannot be read as conferring upon the learned Tribunal a general or supervisory jurisdiction over the functioning of the Wakf Board nor can the observations made therein be construed as authorizing the Tribunal to issue directions in exercise of powers not otherwise vested in it by the Act. The factual and legal matrix in the present case being materially distinguishable the ratio laid down in the said decision would not govern the controversy involved herein or sustain the impugned directions issued by the learned Tribunal.

19. Learned Senior Advocate Mr. R.R. Marshal has placed reliance upon the judgment rendered by the Hon'ble Apex Court in the case of **M.P. Wakf Board** (supra). In paragraph 28 of the said judgment, the Hon'ble Supreme Court has observed as under:

> "28. The Tribunal had been constituted for the purposes mentioned in Section 83 of the 1995 Act. It is an adjudicatory body. Its decision is final and binding but then it could not usurp the jurisdiction of the Board. Our attention has not been drawn to any provision which empowers the Tribunal to frame a scheme. In absence of

any power vested in the Tribunal, the Tribunal ought to have left the said function to the Board which is statutorily empowered therefor. Where a statute creates different authorities to exercise their respective functions thereunder, each of such authority must exercise the functions within the four corners of the statute."

20. Further, the Hon'ble Apex Court in the case of **S.V.Cheriyakoya Thangal** (supra) has observed as under:-

" Though arguments have been made at length, we are inclined to hold that the impugned order cannot be sustained in the eyes of law as the Waqf Board has rightly exercised the jurisdiction in exercise of power conferred under Section 32(2)(g) read with the definition under Section 3(i) which defines a 'Mutawalli'.We have also perused Section 83 sub- Sections (5) and (7) of the Act which deals with the powers of the Tribunal. The Waqf Tribunal is deemed to be a civil court having the same powers that can be exercised by the civil court under the Code of Civil Procedure, 1908. In other words, a dispute can be tried like a suit by the Waqf Tribunal. Under sub-section (7) of Section 83 of the Waqf Act, the decision of the Tribunal shall be final and binding upon the parties and it shall have force of a decree made by a civil court.

The word 'competent authority' as mentioned in the definition clause contained in Section 3(i) makes the position further clear that it is the Waqf Board which has got the jurisdiction and not the Waqf Tribunal. After all,

> the Waqf Tribunal is only an adjudicating authority over a dispute while the Waqf Board is expected to deal with any issue pertaining to administration. The power of superintendence cannot be confined to routine affairs of a Waqf but it includes a situation where a dispute arises while managing the property and that would certainly include a right of a person to be a Mutawalli after all, it is the Mutawalli who does the job of administering and managing the Waqf.
>
> In such view of the matter, we are of the view that the impugned order cannot be sustained in relegating the matter to an adjudicating authority by treating it as a competent authority, which is none other than the Waqf Board."

21. Thus, in view of the ratio laid down by the Hon'ble Apex Court in the case of **M.P. Wakf Board** (supra) and **S.V. Cheriyakoya Thangal** (supra), the legal position that emerges is that the Waqf Tribunal is essentially an adjudicatory forum and not a supervisory authority. The jurisdiction of the learned Tribunal is circumscribed by the provisions of the Act and it is required to act within the four corners thereof. It is a settled principle of law that where jurisdiction is conferred upon an authority under a special statute subject to the fulfillment of certain conditions, such conditions must necessarily be complied with for the valid exercise of such jurisdiction; in the absence of compliance with the statutory conditions, the jurisdiction does not arise. The statutory scheme of the Act makes it abundantly clear that the

primary power and responsibility for the management, administration and control of the affairs of a Waqf are vested in the Waqf Board. The Waqf Board is empowered to take appropriate measures for remedying mismanagement and maladministration and, where warranted in accordance with law, to issue appropriate directions, including orders of supersession. The Act further empowers the Waqf Board to issue such directions as may be necessary for the proper, effective and smooth administration of the Waqf. In particular, Sections 32 and 67 of the Act deal with the powers of the Waqf Board in relation to the administration, management and control of Waqfs. Section 70 of the Act specifically empowers the Waqf Board to conduct an inquiry into the administration of a Waqf. Where a complaint is received regarding the administration of a Waqf, the Waqf Board may initiate an inquiry and, upon being satisfied that there are reasonable grounds for believing that the affairs of the Waqf are being mismanaged, may take such action as it deems appropriate in accordance with the provisions of the Act. Thus, the statutory scheme itself draws a clear distinction between the adjudicatory jurisdiction of the Waqf Tribunal and the supervisory, administrative and regulatory powers vested in the Waqf Board. The learned Tribunal, while exercising its jurisdiction under Section 83 of the Act, cannot assume to itself the powers which the Legislature has specifically entrusted to the Waqf Board.

22. In the present case, it emerges from the record that, despite the provisions contained in the bye-laws of the Wakf

requiring elections to the office of Trustees to be conducted every year, no such elections have been conducted since the year 1996. It further emerges that numerous complaints were submitted to the Waqf Board by respondent Nos.5 to 9 herein as well as by other independent persons concerning the administration and management of the Waqf; however, the Waqf Board has not taken effective steps in respect thereof. It also emerges from the record that, on an earlier occasion, when an inquiry was undertaken by the Waqf Board, the same was conducted without following the procedure prescribed under the Act and the Rules framed thereunder. The aforesaid circumstances do not present a satisfactory picture with regard to the functioning of the Waqf Board. The material on record prima facie indicates that the Waqf Board has not discharged its statutory functions in the manner contemplated by the Act, particularly in relation to the proper administration, management and protection of the Waqf and its properties. At the same time, the aforesaid lapses on the part of the Waqf Board cannot, by themselves, confer upon the learned Tribunal a jurisdiction which is otherwise not vested in it by the statute. The failure of a statutory authority to discharge its duties in accordance with law cannot be a ground for another statutory authority to assume powers which have not been conferred upon it. The remedy for such failure must necessarily be worked out within the statutory framework. This Court, therefore, expects and trusts that the Waqf Board shall henceforth discharge its statutory functions with due diligence and strictly in accordance with the provisions of the Act and the Rules framed thereunder. The Waqf Board shall take

appropriate and timely steps, in accordance with law, for ensuring proper administration, management and protection of the Waqf and its properties and shall consider the complaints placed before it in accordance with the procedure prescribed by law. The Board is expected to discharge the statutory and pious duty entrusted to it under the Act in its true letter and spirit.

23. Now, turning to the impugned judgment and order, there can be no doubt that the directions issued by the learned Tribunal appear to have been intended for the benefit and proper administration of the Waqf. However, as discussed herein above, the jurisdiction of the learned Tribunal is essentially adjudicatory in nature and not supervisory. The learned Tribunal, while exercising its adjudicatory jurisdiction, could not have assumed the supervisory and administrative powers specifically vested in the Waqf Board under the Act. In view of the aforesaid discussion and having regard to the facts and circumstances of the present case, the impugned judgment and order, to the extent it travels beyond the adjudicatory jurisdiction of the learned Tribunal and issues directions falling within the supervisory and administrative domain of the Waqf Board, cannot be sustained in law. The same is, therefore, liable to be quashed and set aside to that extent.

24. Accordingly, the matter is remanded to the Gujarat State Waqf Board, Gandhinagar with a direction to undertake and

complete the requisite proceedings in accordance with law within a period of three months from the date of receipt of a copy of this order. The learned Waqf Board shall conduct an inquiry into the complaints received by it strictly in accordance with the procedure prescribed under the Waqf Act, 1995 and the Rules framed thereunder, after affording due opportunity to all concerned persons. The Waqf Board shall thereafter take such consequential and appropriate action, as may be permissible under the Act including such steps as are necessary for the proper administration, management and protection of the Waqf, its properties and accounts. The entire exercise shall be undertaken expeditiously, strictly in accordance with law and without being influenced by any observations made by this Court. The present appeal stands allowed. Rule is made absolute to the aforesaid extent. Record and proceedings be sent back to the concerned Court forthwith. No order as to costs.

25. In view of the order passed main appeal, the connected applications does not survive and stands disposed of, accordingly.

(MOOL CHAND TYAGI, J)

GIRISH

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: PARMAR GIRISH KANTILAL(HC00954), Principal Pvt Secretary, at High Court of Gujarat on 13/10/2026 15:04:25