

HIGH COURT OF ANDHRA PRADESH

MAIN CASE No.: WRIT PETITION No.18349 OF 2023

PROCEEDING SHEET

S. No	DATE	ORDER	
01.	24.07.2023	<u>RC, J</u> <u>W.P.No.18349 of 2023</u> Notice before admission. Learned Government Pleader for Minority Welfare, takes notice for R1. Sri Mohammad Gayasuddin, learned Standing Counsel for Waqf Board, takes notice for R2 to R4. Sri Mohammad Gayasuddin, learned Standing Counsel sought time to file counter. Post on 07.08.2023. <u>RC, J</u> <u>I.A.No.1 of 2023</u> Heard Sri V.N.V. Surya Dattu, learned counsel for the petitioner and Sri Mohammad Gayasuddin, learned Standing Counsel for Waqf Board. Learned counsel for the petitioner, in elaboration to what has been stated in the affidavit contended that, the petitioner is a Mutawalli and his appointment order was kept in abeyance until further orders vide order	

		dt.27.06.2023 of the 2nd respondent. Questioning the same the present Writ Petition is filed. He further submitted that, the said impugned order is contrary to the provisions of Section-64(5) of Waqf act, 1995, as it was passed without providing an opportunity of personal hearing to the petitioner. If the said order is allowed to continue, the petitioner will be put to irreparable loss and hardship and prayed to protect the interest of the petitioner, pending Writ Petition. Perused the record. The order impugned dt.27.06.2023, shows that the appointment order of the petitioner has been kept in abeyance until further orders which is contrary to the provisions of Section-64(5) of Waqf act 1995 which is relevant, reads as follows: <i>“Where any inquiry under sub-section (3) is proposed, or commenced, against any mutawalli, the Board may, if it is of opinion that it is necessary so to do in the interest of the waqf, by an order suspend such mutawalli until the conclusion of the inquiry: Provided that no suspension for a period exceeding ten days shall be made except after giving the mutawalli a reasonable opportunity of being heard against the proposed action ”</i> The provision under Section-64(5) of Waqf Act, 1995 is very clear that, no suspension can be made for a period exceeding ten (10) days, except after giving the Mutawalli a reasonable opportunity of being heard against the proposed action. The word abeyance is used in the impugned order is nothing but suspending the	
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		petitioner from Mutawalli that too beyond ten (10) days and until further orders. As the petitioner has made out a <i>prima facie</i> point for consideration in this Writ Petition, this Court is inclined to pass the following interim order: “The impugned order dt. 27.06.2023, is hereby suspended, further, this order does not preclude the authorities from proceeding with the enquiry”. RC, J DSB/NKA	
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