

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2025
(ARISING FROM PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL)
NO. 2138/2024)

MD. FIROZ AHMAD KHALID

APPELLANT(S)

VERSUS

THE STATE OF MANIPUR & ORS.

RESPONDENT(S)

WITH
CIVIL APPEAL NO. OF 2025
(ARISING FROM PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) No.
8642/2024)

O R D E R

1. Leave granted.
2. The short issue has come for consideration is as to whether a Muslim member of the Bar Council of the State or the Union Territory, duly elected to the State Waqf Board shall continue to be in the said capacity even after he ceases to be elected member of the Board. By the impugned judgment, the High Court placing reliance upon Explanation II of Section 14 of the Waqf Act, 1995 came to the conclusion that inasmuch as its only speaks about a case of Muslim member who ceases to be a Member of the Parliament from the State or the National Capital Territory of Delhi or a Member of State Legislature Assembly, the same has got no application to Muslim member of the concerned Bar Council.

3. Learned senior Counsel appearing for the appellant and learned counsel appearing for the State would submit that Section 14 of the

Waqf Act, 1995 is very clear and unambiguous. Under sub-section (1) which deals with the composition of the Board it shall mandatorily consists of a Chairperson and among other members, Muslim members of the Bar Council of the concerned State or the Union Territory. The Explanation II to Section 14 is only clarificatory a member of the State Legislature or Parliament any for the said community. Any interpretation as approved by the High Court in the impugned judgment would militate against the very provision itself.

4. *Per-contra*, the learned counsel appearing for the respondent-State by placing reliance upon decision of this Court in The State of Maharashtra versus Shaikh Mahemud & Anr. (Civil Appeal No.2784 of 2022 arising out of Special Leave Petition (Civil) No.11652 of 2021) and also placing reliance upon decision of High Court of Judicature at Bombay, Nagpur Bench, Nagpur in Shri Asif S/o Shaukat Qureshi Versus The State of Maharashtra and Anr. (Writ Petition No.4343 of 2016) would submit that what have to see the provision as a whole, the legislature in wisdom as thought fit to apply Explanation II a Member of the Parliament and Member of the State Legislative Assembly and, therefore, there is conscious omission in so far as the a member of the Bar Council. In such view of the matter there is no need for interference.

5. Section 14 of the Waqf Act, 1995, as stated speaks of the composition of the Board. The Board for a State and the National Capital Territory of Delhi shall consist of Muslim members of the Bar Council of the concerned State of Union Territory. This is a mandatory provision which deals with the eligibility of a member to

be elected to the Board to have such eligibility he or she shall have to be a member of the Bar Council of the concerned State this only a case where such a Muslim member is not available then discretion is given to the State Government or Union Territory to undertake the exercise of nomination by nominating any senior Muslim Advocate from the State or Union Territory. Thus the representation is meant from among the Muslim members of the Bar Council of the State or Union Territory. The reliance on Explanation II has no basis as stated, to understand the provision the substantive part of it will have to be considered as an explanation merely explains. In other words, **a substantive provision cannot be understood from the point of an explanation.** The Explanation II in this case is merely explains a case pertaining to a member of Legislative Assembly or the Member of the Parliament. To give an interpretation to Explanation II, to mean that a member of the Bar Council shall continue to hold the post would amount to reiterating make the provision itself. In the case on hand, admittedly, the State Government has thought fit to accept the membership of the appellant who is admittedly member of the Bar Council. A Gazette notification was also issued on 26th December, 2022 in this regard. Therefore, as such, a Member is available and who has been elected as a member by following the provisions contained under Section 14. **The respondent who is no longer holding the post cannot be allowed to contend that even after he ceases to be a member of the Bar council is entitled to be member of the Waqf Board.** In such view of the matter, we are not inclined to concur with the reasoning adopted by the High Court in the impugned

judgment and for the same reason the decision rendered by the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in Shri Asif S/o Shaukat Qureshi Versus The State of Maharashtra and Anr. (Writ Petition No.4343 of 2016) is not a good law. Accordingly, the impugned judgment is set aside. The appeals are allowed.

6. We also note on the facts that the appellants is only a Muslim member of the Bar Council this fact is rightly take note down by the respondent-State while appointing as a member of the Board. In any case, there is no dispute with respect to his eligibility and is entitlement to continue as member of the Board by virtue of his membership as the member of the Bar council.

7. Pending application(s), if any, shall stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[RAJESH BINDAL]

New Delhi
Dated; 17th March, 2025

ITEM NO.56

COURT NO.8

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO.2138/2024

[Arising out of impugned final judgment and order dated 23-11-2023 in WA No. 75/2023 passed by the High Court of Manipur at Imphal]

MD. FIROZ AHMAD KHALID

PETITIONER(S)**VERSUS**

THE STATE OF MANIPUR & ORS.

RESPONDENT(S)**WITH**

SLP(C) No.8642/2024 (XIV)
FOR ADMISSION and I.R.

Date : 17-03-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) : Mr. Pukhrambam Ramesh Kumar, AOR
 Mr. Karun Sharma, Adv.
 Ms. Anupama Ngangom, Adv.
 Mr. Rajkumari Divyasana, Adv.

Mr. R Balasubramanian, Sr. Adv.
 Mr. David Ahongsangbam, Adv.
 Mr. S Gunabanta Meitei, Adv.
 Mr. Debashish Misra, Adv.
 Mr. Rahul Kumar, Adv.
 Mr. Rajeev L Mahuntha, Adv.
 Ms. Rajkumari Banju, AOR

For Respondent(s) : Mr. Pukhrambam Ramesh Kumar, AOR
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 Ms. Anupama Ngangom, Adv.
 Ms. Rajkumari Divyasana, Adv.

Mr. B. P. Sahu, Sr. Adv.
 Mr. B. Krishna Prasad, AOR
 Mrs. Rajani K Prasad, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1. Leave granted.**
- 2. Arguments concluded.**
- 3. Judgment reserved.**

**(JAGDISH KUMAR)
COURT MASTER (SH)**

**(POONAM VAID)
ASSISTANT REGISTRAR**