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This Case Explanation includes important Laws, background of case, Facts of case, question in matter, judgment and reference cases.

First

Important Laws covered in the case are,

- Section 40 of the Wakf Act, 1995
- Section 13 of the Wakf Act, 1995
- Section 14 of the Wakf Act, 1995
- Section 112 of the Wakf Act, 1995
- Section 32 of the Wakf Act, 1995
- Section 51 of the Wakf Act, 1995
- Section 103 of the Wakf Act, 1995
- Section 106 of the Wakf Act, 1995
- Section 5(2) of the Wakf Act, 1995
- Section 4(3) of the Wakf Act, 1995
- The Muslim Personal Law (Sharia) Application Act 1937
- Article 254 of the Constitution of India
- Article 32 of the Constitution of India
- Article 226 of the Constitution of India

Second

Background of case

- This appeal has been filed in the Supreme Court to decide on the issue whether appellant is a wakf board or a public trust.

Third

Facts of the case

- The appellant is the Maharashtra State Board of Wakfs constituted by the State. A survey board was also constituted. Several writ petitions were filed challenging the formation of wakfs and boards respectively. The circular declaring them wakfs was also stayed by the High Court stating it as full of mistakes and highly malicious, granting an interim relief to the petitioners. It was also discussed in a meeting whether the wakfs Board was constituted legally and according to the provisions of Wakfs Act. Orders were given to the board to publish their details and ask the public whether they really are wakfs

or trusts and whether they are shiya waakf or sunni wakf. The appellant challenges the judgement of High Court.

Fourth question in matter

- Whether the respondents before us who turned out to be the writ petitioners before the High Court are Public Trusts or they are in essence or in substance, Wakfs under the Mohammedan Law.

Fifth judgment stated

- The court has held that in the situation obtaining, particularly, after such a long passage of time, we cannot allow the impugned judgment of the High Court to be sustained as it is. As far as the incorporation of the Board is concerned, we have found that it is not flawed. Therefore, the judgment of the High Court to the extent that it sets aside the notification is found to be unsustainable. We cannot totally be unmindful of the fact that there were seven members in the Board and also Section 22 appears to work as a shield against invalidation. In the form of the formation of the Bifurcation Committee and various proceedings, we cannot accept the request of the respondents that the matter must again go back to the Survey Commissioner who must be asked to look into the proceedings of the Bifurcation Committee. We must observe that the constitution of the Bifurcation Committee and various proceedings thereafter, would appear to be not proceedings which are strictly within the ambit of the Act as such. There cannot also be plea of estoppel or equity against Statute. 192. But, at the same time, it would appear that both the Charity Commissioner and the Wakf Board were indeed proceeding under the misapprehension as far as the true purport of a Muslim public Trust registered under the 1950 Act is concerned.

Sixth Reference cases used in judgment

- State of Kerala & Ors. v. Mar Appraem Kuri Co. Ltd. & Another
- Nawab Zain Yar Jung (Since Deceased) and Others v. Director of Endowments and Another
- Board of Muslim Wakfs, Rajasthan v. Radha Kishan and Others
- Madanuri Sri Rama Chandra Murthy v. Syed Jalal
- Ramjas Foundation and Another v. Union of India and Others
- Mohd. Khasim v. Mohd. Dastagir and Others
- The Kassimiah Charities Rajagiri v. The Madras State Wakf Board