

No matter their sect, all Muslims have the freedom to pray in any mosque and be buried in any public kabaristan: High Court of Kerala

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According to the ruling of the court, a Jama-ath (congregation) cannot forbid Muslims of different sects from praying in the mosque or burying their dead in the open ground on their property.

The Kerala High Court in Mohammed Haneef v. Elappully Eranchery Jama-ath Palli, has ruled that every Muslim has the right to say prayers in any mosque and bury the dead in a public kabaristan, regardless of the sect to which they belong.

The Jama-ath (congregation) cannot prohibit Muslims of other sects from praying in the mosque or burying their dead in the public kabaristan on their property, according to a division bench of Justices SV Bhatti and Basant Balaji.

"In a mosque, which serves as a place of worship, every Muslim offers prayer. No Muslim, including a member of the first defendant (Jama-ath), has the right to prevent them from praying. Burying corpses is a civil right as well. A public cemetery is located on the property where the plaint schedule is located. According to civil rights laws, every Muslim is entitled to a respectable funeral, and since the cemetery that the first defendant oversees is a public one, any Muslim or member of the first defendant is free to bury their loved ones there "the prescribed order.

The Waqf Tribunal, Ernakulam, had issued an order, and a Jama-ath had filed a revision appeal against it.

Former members of the aforementioned Jama-ath, the plaintiffs in the initial lawsuit before the Tribunal (the respondents in the present) were excommunicated as a result of attending a religious sermon given by the Kerala Nadavuthul Mujahideen sect.

The plaintiffs were forbidden from interring their departed or offering prayers on waqf property, which encouraged them to file a new lawsuit with the tribunal.

The tribunal decided the case in the plaintiffs' favour and ruled that the plaintiffs and other people in a similar situation had the right to pray in the defendant mosque and bury their family members' bodies in the Jama-ath.

For the revision petitioner before the High Court, attorney P Jayaram argued that the Jama-ath and the Mujahideen sect's religious views and practises differ greatly from one another.

He stated that the tribunal's order violated Articles 15 and 25 of the Indian Constitution and would only damage the public order, morality, and health of Muslim community members.

He said that the plaintiffs should have contacted the Wakf Board, which is empowered by Section 69 of the Wakf Act to create a plan for the Wakf's administration.

However, attorney Abdul Azeez, speaking on behalf of the plaintiffs, contended that it was unlawful to stop the plaintiffs from praying or burying their dead just because they had attended a Mujahideen sect talk.

The Court ruled that the argument of Jama-ath's could not be upheld because every Muslim has the right to pray and bury their deceased in open mosques and kabaristans, such as those on the Jama-ath's property.

"The first defendant cannot prevent the plaintiffs from praying in the mosque and burying the bodies of their relatives because they adhered to the Kerala Naduvathul Mujahidhin Sect, according to the first defendant Jama-ath. The aforementioned argument will not hold up in court because every Muslim has the right to perform prayers in any mosque and to bury their deceased in a public

khabarsthan (sic). The defendants cannot prevent the plaintiffs from praying and burying the dead since the first defendant's mosque and khabarsthan are public spaces "the prescribed order.

As a result, the Court decided not to dispute the Waqf Tribunal's decision.