

Is a Wakīl Allowed to Spend the Sadaqah Wājibah on Himself?

Darulifta Ahlesunnat (Dawateislami)

Question

What do the noble scholars and jurists of Islamic law say about the following: A person made a vow (mannat) that upon the completion of their task, they will donate a certain amount in the path of Allah. When the task was completed, he gave the money to his friend so that he could give it to an eligible and deserving person. If the person appointed to give the money is himself a shar'ī faqīr, can he use the money for himself?

Answer

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
الْجَوَابُ بِعَوْنِ الْمَلِكِ الْوَهَّابِ اللَّهُمَّ هِدَايَةَ الْحَقِّ وَالصَّوَابِ

In the inquired situation, it is not permissible for the shar'ī faqīr wakīl [i.e. authorized representative] to spend the money of the mannat [i.e. vowed offering] on himself because a person who is appointed as a wakīl to distribute a sadaqah wājibah (e.g., zakāh, sadaqah al-fitr, kaffarah of oath, etc.) is not permitted to use the money for his personal needs even if he himself is a shar'ī faqīr. The reason for this is that the money is a trust (amānah) in his possession, and he is required to spend it according to the instructions of the mu'akil (the one who gave the money). However, if the mu'akil gives him general permission and authority to spend it wherever he deems appropriate, in this case, the wakīl may use the money for his personal needs provided that he is a shar'ī faqīr.

The masraf for the money of a mannat are the same as those eligible of zakāh and sadaqah al-fitr. Thus, it is stated in *Radd al-Muḥtār 'Alā al-Durr al-Mukhtār*:

(مصرف الزكاة والعشر) مصرف ايضا لصدقة الفطر والكفارة والندرو وغير ذلك من الصدقات الواجبة

(Radd al-Muḥtār Ma'a al-Durr al-Mukhtār, Vol. 03, Chapter of eligible recipients, p. 333, Publ. Quetta)

Muftī Jalāl-Uddīn Amjadī رحمه الله تعالى عليه (d. 1422 AH/2001 CE) states:

صدقہ واجبہ، مثلاً کسی نے نذرمانی کہ میرا لڑکا تندرست ہو گیا، تو میں اتنا مال اللہ کے راستے میں خرچ کروں گا، تو اس مال کے مصارف وہی ہیں جو زکوٰۃ و صدقہ فطر کے مصارف ہیں۔

Translation: Sadaqah wājibah, such as if someone made a vow that "if my son gets cured, I will spend in the path of Allāh", the masraf (eligible recipient) of that wealth is the one who is eligible for zakāh and sadaqah al-fitr. (Fatāwā Faiz-Ur-Rasool, Vol. 01, p. 500, Publ. Shabīr Brothers, Lahore)

The wealth that a wakīl holds is considered an amānah, as stated in *Bahār-e-Sharī'at*:

وکیل یا مضارب کو جو مال دیا جاتا ہے وہ امانت ہے۔

Translation: The wealth given to a wakīl and a mudārib (working partner) is an amānah. (Bahār-e-Sharī'at, Vol. 03, pt. 17, p. 711, Publ. Maktaba-Tul-Madinah, Karachi)

The wakīl must spend the money according to the instructions of the mu'akil, as written by Malik al-‘Ūlamā’, ‘Allāmah Kāsānī Hanafī (d. 587 AH/ 1191 CE) رحمه الله تعالى عليه:

الوكيل يتصرف بولاية مستفاد من قبل الموكل فيملك قدر ما افاده ولا يثبت العموم الا بلفظ يدل عليه وهو قوله: اعمل فيه برايك وغير ذلك مما يدل على العموم

(Badā'i' al-Sanā'i', Book of Wakalah, Vol. 06, p. 28, Publ. Dār al-Kutub al-‘Ilmiyah, Beirut)

Regarding a wakīl of sadaqah wājibah spending that wealth on himself, it is stated in *Fatāwā Shāmī, al-Baḥr al-Rā'iq*, and other books of fiqh as follows:

في الظهيرية: رجل دفع زكاة ماله الى رجل وامره بالاداء فاعطى الوكيل ولد نفسه الكبير او الصغير او امراته وهم يحاويح جاز ولا يمسك لنفسه شيئا ولو ان صاحب المال قال له: ضعه حيث شئت له ان يمسك لنفسه

(Al-Baḥr al-Rā'iq, Book of Zakāh, Vol. 02, p. 263, Publ. Dār al-Kitāb al-Islāmi)

A'ālā Ḥazrat, the Imām of Ahl as-Sunnah, Imām Aḥmad Razā Khān رحمه الله تعالى عليه (d.

1340 AH/ 1921 CE) was asked:

زيد نے بکر کو کچھ دیا اور کہا اس کو مساکین کو جہاں مناسب سمجھو دے دیجو، اگر زید خود اس کا مصرف ہو، اپنے اوپر اس کو صرف کر سکتا ہے یا نہیں؟

Translation: Zaid gave Bakr something and said: "give it to the masākīn wherever you think is appropriate." So, if Zaid is eligible, can he spend it on himself or not?

To which he answered:

جس کے مالک نے اُسے اذنِ مطلق دیا کہ جہاں مناسب سمجھو، دو، تو اسے اپنے نفس پر بھی صرف کرنے کا اختیار حاصل ہے، جبکہ یہ اس کا مصرف ہو۔

ہاں! اگر یہ لفظ نہ کہے جاتے، اُسے اپنے نفس پر صرف کرنا، جائز نہ ہوتا، مگر اپنی یا اولاد کو دے دینا جب بھی جائز ہوتا، اگر وہ مصرف تھے۔

Translation: When the owner gives general permission to spend it wherever one finds it appropriate, he can also spend it on himself, given that he is eligible.

However, if these words were not said, it would not be permissible for him to spend it on himself, but it would be permissible for him to give it to his children if they were eligible. (Fatāwā Razawiyah, Vol. 10, p. 158, Publ. Razā Foundation, Lahore)

Sadr al-Sharī'ah Muftī Muḥammad Amjad 'Alī A'zamī رحمه الله تعالى عليه (d. 1367 AH/1947

CE) writes:

وکیل کو یہ اختیار نہیں کہ خود لے لے، ہاں اگر زکاۃ دینے والے نے یہ کہہ دیا ہو کہ جس جگہ چاہو صرف کرو، تو لے سکتا ہے۔

Translation: A wakīl does not have permission to take it himself. However, if the one paying the zakāh said, "spend it wherever you want", then he may take it.

(Bahār-e-Sharī'at, Vol. 01, pt. 5, p. 888, Publ. Maktaba-Tul-Madinah, Karachi)

وَاللّٰهُ اَعْلَمُ عَزَّوَجَلَّ وَرَسُوْلُهُ اَعْلَمُ صَلَّى اللّٰهُ تَعَالٰى عَلَيْهِ وَاٰلِهٖ وَسَلَّمَ

(Allah Almighty knows best and His Messenger صَلَّى اللّٰهُ تَعَالٰى عَلَيْهِ وَاٰلِهٖ وَسَلَّمَ knows best.)

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