ANNEXURE 'D'

PROPOSED ADVOCATE'S CHECK LIST (TO BE CERTIFIED BY ADVOCATE-ON-RECORD)

1.	SLP (C) has been filed in Form No. 28 with certificate.	No
2.	The Petition is as per the provisions of Order XV Rule 1.	Yes
3.	The papers of SLP have been arranged as per Order XXI, Rule (3)(1)(f).	Yes
4.	Brief list of dates/events has been filed.	Yes
5.	Paragraphs and pages of paper books have been numbered consecutively and correctly noted in Index.	Yes
6.	Proper and required number of paper books (1+1) have been filed.	yes
7.	The particulars of the impugned judgment passed by the court(s) below are uniformly written in all the documents.	No
8.	In case of appeal by certificate the appeal is accompanied by judgment and decree appealed from and order granting certificate.	No
9.	The Annexures referred to in the petition are true copies of the documents before the court(s) below and are filed in chronological order as per List of Dates.	yes
10.	The annexures referred to in the petition are filed and indexed separately and not marked collectively.	Yes
11.	In SLP against the order passed in Second Appeal, copies of the orders passed by the Trial Court and First Appellate Court have been filed.	No
12.	The complete listing proforma has been filled in, signed and included in the paper books.	Yes
13.	In a petition (PIL) filed under clause (d) of Rule 12(1) Order XXXVIII, the petitioner has disclosed:	No

(a) his full name, complete postal address, e-mail address, phone number, proof regarding personal identification, occupation and annual income, PAN number and National Unique Identity Card number, if any:

(b) the facts constituting the cause of action;

(c) the nature of injury caused or likely to be caused to the public;
(d) the nature and extent of personal interest, if any, of the petitioner(s);
(e) details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the petitioners, which has or could have a legal nexus with the issue(s) involved in the Public Interest Litigation.

14. In case of appeals under Armed Forces Tribunal Act, 2007, the petitioner/ appellant has moved before the Armed Forces Tribunal for granting certificate for leave to appeal to the Supreme Court. No

15. 21. All the paperbooks to be filed after curing the defects shall be in order. Yes

I hereby declare that I have personally verified the petition and its contents and it is in conformity with the Supreme Court Rules, 2013. I certify that the above requirements of this Check List have been complied with. I further certify that all the documents necessary for the purpose of hearing of the matter have been filed.

Name and Code of the Advocate on-record.
Signature
Contact Number
Date:

LZAFEER AHMAD B F
Advocate for Petitioner
Code:- 2941

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
(Petition under Article 32 of the Constitution of India read with Order XXXVIII of the Supreme Court Rules, 2013)
WRIT PETITION (CIVIL) NO. _____OF 2025

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

ASADUDDIN OWAISI …PETITIONER

VERSUS

UNION OF INDIA …RESPONDENT

WITH

IA No. _____ of 2025	*Application for stay*
IA No. _____ of 2025	*Application seeking permission to file lengthy Synopsis and List of Dates*

PAPERBOOK
(FOR INDEX KINDLY SEE INSIDE)

FILED ON 04.04.2025

AOR FOR THE PETITIONER: **LZAFEER AHMAD B F**

Code - 2941

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LISTING PROFORMA

SUPREME COURT OF INDIA

SECTION: ____

The case pertains to (Please tick/check the correct box):

- ☐ Central Act: **Constitution of India, 1950, Waqf Act, 1995, Waqf (Amendment) Act, 2025**
- ☐ Section: **Articles 13, 14, 15, 21, 25, 26, 29, 30**
- ☐ Central Rule: **NA**
- ☐ Rule No(s): **NA**
- ☐ State Act: **NA**
- ☐ Section: **NA**
- ☐ State Rule: **NA**
- ☐ Rule No(s): **NA**
- ☐ Impugned Interim Order: **NA**
- ☐ Impugned Final Order/Decree: **NA**
- ☐ High Court: **NA**
- ☐ Names of Judges: **NA**
- ☐ Tribunal/Authority: **NA**

---

1. Nature of matter: **Civil Writ Petition**
2. (a) Petitioner/Appellant: **Asaduddin Owaisi**
   (b) E-mail ID: asadowaisi@hotmail.com
   (c) Mobile Phone Number: +91 92465 88083
3. (a) Respondent: **Union of India**
   (b) E-mail ID: **NA**
   (c) Mobile Phone Number: **NA**
4. (a) Main Category Classification: 08
   (b) Subclassification: 12
5. Not to be listed before: **NA**
6. (a) Similar disposed of matter with citation, if any, & case details: **No similar Matter Disposed off**
   (b) Similar pending matter with case details: **No Similar matter Pending**

7. Criminal Matters: **NA**

   (a) Whether accused/convict has surrendered: **NA**

   (b) FIR No.: **NA** Date: **NA**

   (c) Police Station: **NA**

   (d) Sentence Awarded: **NA**

   (e) Period of sentence undergone including period of detention / custody undergone: **NA**

   (f) Whether any earlier case between the same parties filed: **NA**

   (g) Particular of the FIR and Case: **NA**

   (h) Whether any bail application preferred earlier and decision thereupon: **NA**

8. Land Acquisition Matters: **NA**

   (a) Date of Section 4 notification: **NA**

   (b) Date of Section 6 notification: **NA**

   (c) Date of Section 17 notification: **NA**

9. Tax Matters: State the tax effect: **NA**

10. Special Category (first petitioner/appellant only): **NA**

    ☐ Senior Citizen > 65 years ☐ SC/ST ☐ Women/Child

    ☐ Disabled ☐ Legal Aid Case ☐ In Custody

11. Vehicle Number (in case of Motor Accident Claim matters): **NA**

12. Whether there was/is litigation on the same point of law, if yes, detail thereof: **NO**

(LZAFEER AHMAD B F)
CC No.: 2941
AOR for the Petitioner
Address: 5, LGF, Jaipur Estate,
Nizamuddin East, New Delhi – 110013
Mob: +91 95822 96522
Email: filing@lzafeer.in

Drawn on: 03.04.2025

Filed on: 04.04.2025

Place: New Delhi

SYNOPSIS

The Petitioner, Asaduddin Owaisi, a five-time Member of Parliament, the President of the All India Majlis-e-Ittehad-ul-Muslimeen, and a staunch advocate of minority rights, is constrained to invoke the jurisdiction of this Hon'ble Court under Article 32 of the Constitution of India, read with Order XXXVIII of the Supreme Court Rules, 2013, to challenge the constitutional validity of Clauses 2A, 3(v), 3(vii), 3(ix), 4, 5(a), 5(b), 5(c), 5(d), 5(f), 6(a), 6(c), 6(d), 7(a)(ii), 7(a)(iii), 7(a)(iv), 7(b), 8(ii), 8(iii), 8(iv), 9, 11, 12(i), 14, 15, 16, 17(a), 17(b), 18, 19, 20, 21(b), 22, 23, 25, 26, 27, 28(a), 28(b), 29, 31, 32, 33, 34, 35, 38, 39(a), 40, 40A, 41, 42, 43(a), 43(b), and 44 of the Waqf (Amendment) Act, 2025 (**"Amendment Act"**). The instant Petition has been necessitated by the enactment of the Amendment Act, which was passed by the Lok Sabha on April 2-3, 2025, and the Rajya Sabha on April 3-4, 2025.

Islam is a religion which is unique in that charity is not merely a prescription but a foundational pillar of the faith. The concept of waqf can be traced back to a system evolved in the earliest days of Islam by the Prophet (PBUH) to form a means for Muslims to give away their property for use of the larger Muslim community. It is universally acknowledged across sects that have now developed within Islam that the first waqf was created by Umar bin Al-Khattab on the instructions of the Prophet (PBUH) when Umar expressed the desire that he wished to give away some valuable immovable property he held for benefit of the Muslim community. The Prophet (PBUH) advised him to tie up the property in the form

of waqf, where the ownership would be of the Almighty and the usufruct would be distributed among the poor and the needy.

Accordingly, waqfs – their establishment, management, and administration – form an integral aspect of the practice of Islam, which are therefore entitled to constitutional protection under various provisions of the Constitution of India.

In our constitutional scheme, the right (i) to establish and maintain institutions for religious and charitable purposes, (ii) to manage its own affairs in matters of religion, (iii) to own and acquire movable and immovable property, and (iv) to administer such property in accordance with law is recognised as an independent right given to religious groups and denominations. Under Article 26 of the Constitution, only the right to administer in Article 26(iv) is qualified by the expression *"in accordance with law"*. It is this expression that must circumscribe the degree of interference permitted to the State in our constitutional scheme with the right of a religious group or denomination granted under Article 26.

The Amendment Act also takes away from waqfs various protections which were accorded to waqfs and Hindu, Jain, and Sikh religious and charitable endowments alike. This diminishing of the protection given to waqfs while retaining them for religious and charitable endowments of other religions constitutes hostile discrimination against Muslims and is violative of Articles 14 and 15 of the Constitution, which prohibit discrimination on the grounds of religion.

While Parliament represents the will of the people, in today's era of majoritarian politics, this Hon'ble Court has to discharge its constitutional duty as a sentinel on the *qui vive* to protect the minority from the tyranny of the majority. It was for this very purpose that Article 32 was introduced into the Constitution by the Constitution-makers to make this Hon'ble Court the final arbiter of the constitutional validity of laws made by Parliament when it makes unjustifiable inroads into the protections granted by Part III of the Constitution to minorities.

The 1995 Act must also be seen as a law governing the private properties of a section of the citizens of the country. If the degree of interference by the State in the freedoms available to a citizen or a section of citizens in dealing with their private properties exceeds the constitutionally permissible threshold, the same constitutes a violation of Article 300A of the Constitution.

Muslims, as a minority having their own distinct culture, also enjoy protection under Article 29 of the Constitution, and educational institutions established by them are protected under Article 30 of the Constitution. Constant and unjustifiable interference by the majority community into the life of the minority and various constitutionally protected forms of expression of their identity also interferes with their right under Article 21 of the Constitution to lead a life of dignity without unjustifiable interference by the State.

It is from this lens of Articles 14, 15, 21, 25, 26, 29, 30, and 300A that this Hon'ble Court must view the Amendment Act and strike down the impugned provisions of the Act wherever it finds them to

constitute an unjustifiable inroad into these rights, in the exercise of its powers under Article 32 of the Constitution read with Article 13.

It is evident from a scrutiny of this Amendment Act that the impugned amendments to the Waqf Act, 1995 (**"1995 Act"**) are *ex facie* violative of Articles 14, 15, 21, 25, 26, 29, 30, 300A of the Constitution of India and are manifestly arbitrary.

Further, the 1995 Act, as it stood prior to the impugned amendments, represented an organic process of evolution whereby Islamic law came to be recognised and protected – first by common law, and thereafter by the Constitution of India. Over time, greater and wider protections have been accorded to waqfs with every iteration and amendment of waqf law. The Amendment Act, 2025 marks a departure from this consistent progression towards affording greater protections to the rights of the Muslim community under Articles 25 and 26 of the Constitution and charts a new course of diluting the protections to waqfs undermining the rights of the minority communities in its properties and expanding the interference of the State over waqf administration.

Therefore, the impugned amendments irreversibly dilute the statutory protections afforded to waqfs and their regulatory framework while conferring undue advantage upon other stakeholders and interest groups, undermining years of progress and setting back waqf management by several decades. As such, the impugned amendments are also repugnant to the doctrine of non-retrogression of rights, which is firmly entrenched in our

constitutional jurisprudence, and which has been affirmed by this Hon'ble Court in a catena of judgments, including ***Navtej Singh Johar & Ors.* v. *Union of India*, (2018) 10 SCC 1**. The relevant portion of ***Navtej Singh Johar* (*supra*)** is reproduced hereinbelow:

> *This also gives birth to an equally important role of the State to implement the constitutional rights effectively. And of course, when we say State, it includes all the three organs, that is, the legislature, the executive as well as the judiciary. The State has to show concerned commitment which would result in concrete action. The State has an obligation to take appropriate measures for the progressive realisation of economic, social and cultural rights.*
>
> *The doctrine of progressive realisation of rights, as a natural corollary, gives birth to the doctrine of non-retrogression. As per this doctrine, there must not be any regression of rights. In a progressive and an ever-improving society, there is no place for retreat. The society has to march ahead.*
>
> *The doctrine of non-retrogression sets forth that the State should not take measures or steps that deliberately lead to retrogression on the enjoyment of rights either under the Constitution or otherwise."*

Set forth below are some of the most glaring and manifestly unconstitutional aspects of the impugned amendments, which brazenly violate the fundamental rights of Muslims and the Muslim community, besides being in direct contravention of the foundational principles that underpin our Constitution and the very fabric of our nation's secular and democratic framework.

RESTRICTION ON WHO CAN CREATE WAQF

Clauses 3(ix)(a) and 3(ix)(d) of the Amendment Act have introduced a manifestly arbitrary, vague, and unconstitutional restriction on who can create a waqf by amending the definition of 'waqf' and 'waqif' under Section 3(r) of the 1995 Act. Requiring the

waqif to show or demonstrate that they have practised Islam for at least five years undermines constitutional protections under Articles 14, 15, and 300A of the Constitution, as it discriminates against recent converts by selectively preventing them from seeking religious merit immediately upon conversion by disposing of their property in a manner they deem fit. This has to be seen in juxtaposition with endowment laws of other religions where no similar restrictions are imposed and this constitutes discrimination on the grounds of religion as individuals of other religions are free to dedicate property notwithstanding the period for which they have professed their religion. This amendment also violates Article 25 of the Constitution, which only allows restrictions on grounds of public order, morality, or health.

Further, Islamic law has historically permitted even non-Muslims to dedicate property as waqf, which was recognised in a limited sense as early as 1964, by the introduction of Section 66-C to the 1954 Act. This provision was carried forward in the Waqf Act, 1995, as Section 104, and in 2013, an amendment was introduced in the 1995 Act by which the words "by a person professing Islam" were replaced with the words "by any person" in the definition of waqf, permitting non-Muslims to create valid waqfs, beyond what had already been allowed by virtue of Section 104. Therefore, Clauses 3(ix)(a) and 3(ix)(d) of the Amendment Act, especially when read in conjunction with Clause 40 of the said Act, by which Section 104 of the 1995 Act has been omitted, is not only unconstitutional but also effectively reverses years of progress

and evolution of the waqf legislation. Further, the impugned amendment imposes an additional requirement of the waqif 'demonstrating' that he has been practising Islam for at least five years, placing a third-party authority in a position to judge the practice and adherence of a citizen's faith, which makes a mockery of Article 25. The amendment also imposes a requirement of demonstrating that there is no 'contrivance' involved in the dedication of the property. This also gives another vague and entirely subjective ground for the authority to invalidate a dedication of property on a ground that does not exist in any other law relating to any other endowments of any other religion. This is again violative of Articles 14 and 15 of the Constitution.

It is also apposite to mention that the restriction on who can create a waqf, as introduced by the Amendment Act, is in direct conflict with Sections 3 and 4 of the Muslim Personal Law (Shariat) Application Act, 1937 (**"1937 Act"**), which guarantees the right of a Muslim meeting the criteria prescribed therein to have Muslim personal law applied to them. The only conditions set out in the 1937 Act are that such a person must be Muslim, competent to contract within the meaning of Section 11 of the Indian Contract Act, 1872, and a resident of the territories to which the 1937 Act extends. This Hon'ble Court in ***Shayara Bano* v. *Union of India & Ors.*, (2017) 9 SCC 1**, reaffirmed that the objective of the 1937 Act was to preserve Muslim personal law, or *Shariat*, as it existed from time immemorial, and recognise the same as the 'rule of decision' in the same manner as Article 25 recognises the supremacy and

enforceability of personal law of all religions. Therefore, Muslim personal law as a body of law, was made binding by the 1937 Act, and by imposing a restriction that is entirely foreign to Muslim personal law, the Amendment Act undermines the legislative intent of the 1937 Act, besides being patently unconstitutional.

DERECOGNITION OF 'WAQF BY USER' AND ORAL DEDICATIONS

The principle of 'waqf by user' is a well-established rule of evidence under Islamic jurisprudence and has been consistently upheld by judicial precedent as a facet of Muslim personal law, and as such, its exclusion through the deletion of Sub-Clause (i) of Section 3(r) (by virtue of Clause 3(ix)(b) of the Amendment Act) is arbitrary, unreasonable, and violative of constitutional principles, in particular, Article 25 of the Constitution. This Hon'ble Court in ***M Siddiq* v. *Mahant Suresh Das*, (2020) 1 SCC 1** affirmed that Muslim law recognises oral dedication and that the existence of a waqf can be legally recognised in situations where property has been the subject of public religious use since time immemorial, even in the absence of an express dedication. Therefore, the derecognition of this principle would not only jeopardise the status of numerous ancient waqf properties that rely on this principle to establish their existence but also run contrary to established legal precedent, including the judgment by a Constitution Bench of this Hon'ble Court. By exposing historic waqfs, including mosques and dargahs, to encroachment and legal challenges, Section 3(ix)(b) of the Amendment Act undermines the State's constitutional duty under Article 25 and the Places of Worship (Special Provisions) Act,

1991 (**"1991 Act"**), which contains the legislative manifestation of the doctrine of non-retrogression that this Hon'ble Court in ***M Siddiq* (*supra*)** has recognised as being an essential facet of secularism, which forms a core element of the basic structure of the Constitution of India. The proviso introduced to Section 3(r) of the 1995 Act, which states that "*Provided that existing waqf by user properties registered on or before the commencement of the Waqf (Amendment) Act, 2025 as waqf by use will remain as waqf properties except that the property, wholly or in part, is in dispute or is a government property*" does not address the problem at all insofar as it excludes reliance on waqf by user in all cases where there is a dispute or the property is claimed to be government property. Therefore, effectively, in all cases where mischievous disputes are filed against ancient waqfs to vitiate the communal atmosphere, as well as cases of disputes with the Government, the Muslim side will not have resort to the concept of waqf by user. This is in blatant violation of Articles 25 and 26 of the Constitution.

In this context, it is important to note that a similar rule of evidence is also well-recognised in the law relating to Hindu endowments, allowing properties used as religious endowments from time immemorial to also be recognised as such, even in the absence of formal documentation. In ***Commissioner for Hindu Religious and Charitable Endowments* v. *Ratnavarma Heggade*, (1977) 1 SCC 525**, this Hon'ble Court held that the dedication of property for religious or public purposes does not always require a written instrument; rather, it may be inferred from immemorial or long-

standing usage, the conduct of the parties, and other relevant circumstances. Therefore, the derecognition of 'waqf by user' is also in the teeth of Article 14 of the Constitution inasmuch as it unfairly singles out Muslim endowments for differential treatment, creating an arbitrary and unjustified distinction without any rational basis.

Similarly, the omission of the words "*either verbally or*" from the definition of mutawalli in Section 3(i) of the 1995 Act (through Clause 3(v) of the Amendment Act) is inconsistent not only with Islamic law – which has long recognised the validity of verbal contracts, oral testaments, and gifts, including the creation of waqfs through verbal declarations – but also with established legal precedents and analogous religious endowment laws of other faiths. This change, combined with the insertion of Sub-Section (1A) in Section 36 of the 1995 Act (through Clause 18(a) of the Amendment Act) mandating the execution of a waqf deed for the creation of a waqf, the deletion in Sub-Section (4) of Section 36 of the 1995 Act (through Clause 18(c) of the Amendment Act) allowing for a situation where no waqf deed exists, and the exclusion of 'waqf by user' from the definition of 'waqf' in Section 3(r) of the 1995 Act (through Clause 3(ix)(b) of the Amendment Act), effectively takes away the legal basis for the recognition of oral waqfs, disregarding a principle of Islamic law of recognition of oral contracts and testimonies, which has been duly affirmed by this Hon'ble Court in ***M Siddiq* (*supra*)**, and which forms an essential element of Muslim personal law.

INCLUSION OF NON-MUSLIMS IN WAQF COUNCIL AND BOARDS

The wholesale amendments to Sections 9 and 14 of the 1995 Act through Clauses 9 and 11 of the Amendment Act, introducing non-Muslim members into the Central Waqf Council and State Waqf Boards, undermines the autonomy of the Muslim community in managing properties dedicated for their religious and charitable purposes, in blatant contravention of Articles 14, 15, 25 and 26 of the Constitution. It is apposite to mention here that Article 26(d) balances the right of the religious group/denomination to administer its own properties and the power of the State to make law to regulate the exercise of this right. This flows from the principle that the right to administer does not include the right to maladminister. However, at the same time, the regulation cannot be such as to obliterate the right itself, as held by the Hon'ble Supreme Court in ***Ratilal Panachand Gandhi* v. *State of Bombay*, (1954) 1 SCC 487**.

Further, in ***Commissioner, Hindu Religious Endowments* v. *Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, (1954) 1 SCC 412**, this Hon'ble Court established a simple test: while the institutions and properties of a religious denomination may be subject to regulatory measures, the fundamental right to administer them cannot be legislatively abrogated. By allowing the government to nominate a majority of non-Muslim members, these amendments effectively strip the Muslim community of its right to manage its own religious institutions, in direct violation of the test laid down in ***Shirur Mutt* (*supra*)** and Article 26 of the Constitution.

The creation of a statutory board comprising exclusively of Muslims to ensure that charitable properties of the community are not maladministered and dissipated by some unscrupulous individuals was an effective mechanism created by the (unamended) Waqf Act to balance these interests. Appointing non-Muslims on the Central Waqf Council and the State Waqf Boards disturbs this delicate constitutional balance and tilts it to the detriment of the right of Muslims as a religious group to remain in control of their waqf properties.

The phrasing of Sections 9 and 14, as they now stand, can even lead to a scenario where non-Muslim members form a majority in the Central Waqf Council or the State Waqf Boards, disrupting the constitutional balance between State regulation and religious autonomy. Unlike Hindu and Sikh religious endowment laws, which restrict membership to adherents of the respective faiths, these amendments represent a stark departure, selectively targeting Muslim waqfs, thereby making it arbitrary and discriminatory. It is also pertinent to mention that restricting membership of the Central Waqf Council or State Waqf Boards to Muslims is also envisioned by our constitutional framework, having been explicitly saved by Article 16(5) of the Constitution, which permits laws requiring officeholders in connection with the affairs of any religious or denominational institution or any member of the governing body thereof to belong to a particular religion or denomination.

OTHER MISCELLANEOUS AMENDMENTS

Beyond the foregoing, a common and alarming pattern emerges across several impugned amendments, which is a clear centralising drift that consolidates excessive power in the hands of the Central Government, and as such, violates the spirit of federalism, which has been recognised as a basic feature of the Indian Constitution by this Hon'ble Court in ***SR Bommai & Ors.* v. *Union of India*, (1994) 3 SCC 1**. The co-equal status of the Union and States within India's federal structure has been reaffirmed by this Hon'ble Court in a catena of judgments, including ***Jindal Stainless Ltd.* v. *State of Haryana*, (2017) 12 SCC 1**.

Simultaneously, the autonomy, transparency, and democratic functioning of State Waqf Boards have been significantly eroded as a result of the impugned amendments and excessive power has been consolidated in the hands of the executive, with crucial responsibilities transferred to the District Collector, an agent of the Government, and a sea change made to the process of constitution of the Waqf Boards and the representative character thereof.

These changes have considerably weakened the independent regulatory framework for waqfs, granting undue control to State authorities, which, it is pertinent to note, have vested interests in what is declared as 'Government property'. Not only this, but the amended provisions also create a glaring conflict of interest by allowing the Government to act as a judge in its own cause when adjudicating disputes over waqf properties it claims. Furthermore, the Amendment Act introduces several alarming provisions that, among other things, erode the authority of the Ld. Waqf Tribunal

and expose the waqf system to external encroachments and arbitrary State control. As a result, the entire scheme introduced by the Amendment Act is constitutionally suspect. Crucially, the impugned amendments strike at the heart of secularism, which is not merely a guiding principle but a fundamental pillar of our democratic framework. In ***SR Bommai* (*supra*)**, this Hon'ble Court affirmed that secularism is a part of the Constitution's basic structure and its very soul.

Further, it is imperative to specifically advert to the two impugned amendments – Sections 3D and 3E – which were introduced by way of amendments to Clause 4 of the Amendment Act on the floor of the Lok Sabha and subsequently incorporated into the 1995 Act.

Section 3D is *ex facie* unconstitutional as it retrospectively renders void any declaration or notification previously issued under any extant law of waqfs if the property to which the notification relates is a 'protected monument' or a 'protected area' within quotes the Ancient Monuments Preservation Act, 1904, and the Ancient Monuments and Archaeological Sites and Remains Act, 1958. This places a question mark on hundreds of properties which are places of worship and have been continuously in use for Islamic worship for centuries. This has the potential to create conflict and vitiate the communal atmosphere in the country, particularly in relation to mosques, dargahs and other places of Islamic worship where mischievous claims have been made by divisive elements for political gain. As such, this is contrary to the principle of secularism which is recognised as a basic feature of the

Constitution by this Hon'ble Court in ***SR Bommai* (*supra*)**. This also has the potential of reopening wounds of the past, and undermining the objectives of the 1991 Act, which has been elevated to the status of a constitutional principle by this Hon'ble Court in ***M Siddiq* (*supra*)**.

Section 3E is *ex facie* unconstitutional as it deprives members of Scheduled Tribes of the right to dedicate property by way of waqf. Unlike Scheduled Castes, members of Scheduled Tribes do not lose their status as such upon conversion to another religion. Therefore, members of Scheduled Tribes who convert to Islam retain their tribal status but at the same time, take on the identity of Muslims. The impugned amendment deprives such persons of their right to freely practise their religion under Article 25 and 26 of the Constitution by disallowing them from practising an essential element of their faith. It also unjustly interferes with their right to property rendering Article 300A nugatory. This amendment is also in violation of Articles 14 and 15 as it amounts to hostile discrimination between members of Scheduled Tribes on the grounds of religion and between Muslims on the grounds of their tribe. As such, this amendment is manifestly arbitrary and unconstitutional, and deserves to be struck down.

For the protection of these fundamental rights and the preservation of the aforementioned constitutional principles, the Petitioner has approached this Hon'ble Court, challenging the impugned amendments that seek to undermine them in a sweeping and indiscriminate manner.

The need for urgent intervention by this Hon'ble Court becomes more pronounced when seen in the broader context of a concerted assault on the rights of Muslims, including the systematic and mischievous attempts by divisive elements at altering the religious character of places of Muslim religious worship, including historic mosques and dargahs, as they stood on August 15, 1947. By weakening the waqf framework while simultaneously strengthening other stakeholders, the Amendment Act not only strips away crucial protections guaranteed under the 1995 Act but also leaves the Muslim community increasingly vulnerable in its efforts to safeguard its religious and cultural heritage.

The nomenclature of this Amendment Act which systematically dilutes the protections given to waqfs as an Act for the 'management, empowerment, efficiency and development' of waqfs couples with the reasons given by the Joint Working Committee of the Parliament (**"JPC"**) on the Waqf (Amendment) Bill and the speeches given on the floor of the House by the Hon'ble Ministers of Minority Affairs, Home Affairs, and other members of the Treasury Bench at the time of the passage of the Bill show that the amendments have no nexus to the stated object sought to be achieved and are, therefore, manifestly arbitrary.

Hence the present Petition.

LIST OF DATES AND EVENTS

DATES	**PARTICULARS**

Early 19th Century	In the early nineteenth century, the superintendence of certain endowments, including Islamic endowments, in the presidencies of Bengal, Madras, and Bombay was vested in the Government, acting in its executive capacity through authorities like the Board of Revenue or the Collector, pursuant to regulations issued in the said presidencies in 1810, 1817, and 1827, respectively.
1863	The Religious Endowments Act, 1863 was enacted in response to a growing demand in England for the colonial government in India to adopt a strict policy of non-intervention in religious matters. This Act divested the Government of direct control over religious endowments in the presidencies of Bengal, Madras and Bombay, transferring the powers previously exercised by it to district or division-level Local Committees.
1890	Enacted during British rule in India, the Charitable Endowments Act, 1890 provided a legal framework for the management and administration of charitable endowments. It applied to both religious and non-religious charitable institutions, aiming to ensure that funds and properties dedicated to charitable purposes were properly managed, safeguarded, and

	utilised in accordance with the donor's intentions or the trust deed.
1891	The Hon'ble Privy Council in ***Abdul Fata Mohammad Ishak* v. *Russomoy Dhur Choudhary*, [1894] 22 IA 76**, declared as invalid, a waqf created for the benefit of the family, though coupled with a gift to charity on the failure of the line of descendants, holding that the dedicators had never truly relinquished their proprietary rights. The Hon'ble Privy Council held that the dedicators had never genuinely relinquished their proprietary rights. It emphasised that the 'ostensible and principal object' of a waqf must be religious or charitable, even if there is a temporary intermediate benefit to the appropriator's family, and that such dedication cannot be contingent on an uncertain event, such as the potential extinction of the family.
1913	The earliest legislation concerning waqfs was the Mussalman Waqf Validating Act, 1913 (Act VI of 1913), which affirmed the right of Muslims to settle property through waqf in favour of their families, children, and descendants. The Act expressly provided that a waqf would not be deemed invalid merely because the religious and charitable benefits stipulated therein were postponed until the extinction

	of the founder's family. This legislation was enacted to nullify the effect of the ruling of the Hon'ble Privy Council in ***Abdul Fata Mohammad Ishak* (*supra*)**, which had declared a waqf invalid if it primarily benefited the founder's family, even if it included a religious or charitable endowment contingent on the failure of the family line. The Mussalman Waqf Validating Act, 1913 was later given retrospective effect through the Mussalman Wakf Validating Act, 1930 (Act XXXII of 1930).
1923	The Mussalman Waqf Act, 1923 (Act XLII of 1923) was enacted, marking a significant step in waqf legislation, laying the groundwork for the regulation of the creation, maintenance, and administration of waqfs and waqf properties. The 1923 Act accorded a pivotal role to Civil Courts in matters concerning the recognition and registration of waqfs, the protection of waqf properties, and the oversight of waqf management. This Act imposed a duty on the mutawalli of every waqf to submit a statement of particulars to the Court within whose jurisdiction the waqf property was situated. Additionally, it required the mutawalli to furnish a full and accurate statement of accounts, duly audited, to the Court. The 1923 Act also mandated the creation

	of a Register of Waqfs, with the Court empowered to record entries therein. Further, the jurisdictional Court was conferred with the authority to, *inter alia*, conduct inquiries to determine: (i) the existence of a waqf, (ii) whether a particular property qualifies as waqf property, and (iii) the identity of the mutawalli administering the waqf. This Hon'ble Court in ***Rashid Wali Beg* v. *Farid Pindari*, (2022) 4 SCC 414**, noted that by virtue of the 1923 Act, the Courts were vested with 'enormous powers', including the power to order a special audit. The Provincial Governments of Bombay, Bengal, and the United Provinces had introduced amendments to the 1923 Act in 1934, 1935, and 1936, respectively. In these provinces, the British Government had enacted separate laws, *viz.* the Bengal Waqf Act, 1934, the Mussalman Waqf (Bombay Amendment) Act, 1935, the United Provinces Muslim Waqfs Act, 1936. Similar other State-specific laws regulating waqf administration have also existed in India's history.
1954	Following India's Independence, the Parliament enacted the Muslim Wakfs Act, 1954, with the stated objective of ensuring better administration and

	supervision of waqfs. The Statement of Objects and Reasons of the 1954 Act noted that the Mussalman Waqf Act, 1923, had proven to be of limited practical utility. The necessity for a more streamlined and centralised approach to waqf administration became increasingly evident, especially in addressing the complexities arising from evacuee properties left behind in the wake of Partition. To address these complexities and establish a uniform framework for waqf management, the 1954 Act, was enacted. This legislation marked a significant shift from the fragmented oversight of earlier laws by creating State Waqf Boards with extensive powers to regulate and supervise waqf properties. The Act repealed several prior enactments, including the Mussalman Waqf Act, 1923, and introduced a centralised and standardised administrative structure. The Act was stated to come into effect in any State where it applies on a date specified by the Central Government through a notification in the Official Gazette, except in the States of Bihar, Delhi, Uttar Pradesh, and West Bengal, where such notification could only be issued upon the recommendation of the respective State Government. This exception arose because States like Uttar Pradesh, Bihar, and West

	Bengal had their own legislation governing the administration of waqf.
1984	The 1954 Act underwent amendments in 1959, 1964, and 1969. However, to further improve and streamline waqf administration, the Central Government constituted the Waqf Inquiry Committee, which conducted a comprehensive review and made extensive recommendations. Following consultations with stakeholders, these recommendations culminated in the enactment of the Waqf (Amendment) Act, 1984 (**"1984 Amendment Act"**), which introduced significant reforms. One of the most notable amendments was the replacement of Section 55 of the principal Act with a new provision. The newly substituted Section 55(1) provided for the establishment of special tribunals to adjudicate disputes, questions, or other matters concerning waqfs and waqf properties. However, due to strong opposition to the 1984 Amendment Act, only the following two provisions were enforced: The period of limitation for filing suits for the recovery of waqf property in cases of adverse possession was extended to 30 years, instead of 12 years, and evacuee waqf property was deemed to have always been vested with the Waqf Board.

1995	The Waqf Act, 1995 (Act XLIII of 1995) was introduced as a comprehensive overhaul of waqf administration, which incorporated elements of the 1954 Act and select provisions from the 1984 Amendment Act that had gained consensus. The Act brought about significant reforms to streamline waqf management and strengthen the powers of State Waqf Boards. It introduced stringent measures for maintaining property records and digitising waqf data, marking a key step toward modernisation. The Act aimed to improve transparency and accountability, incorporating recommendations from various committees that had identified systemic issues in waqf administration. Additionally, specialised waqf tribunals were established to adjudicate disputes related to waqf matters, further enhancing the efficiency of the system. Unlike the Waqf Act of 1954, which was not applicable to certain States, the 1995 Act extended its reach to the whole of India, excluding Jammu and Kashmir. In Jammu and Kashmir, the State Legislature had enacted the Jammu and Kashmir Wakafs Act, 2001, and the Jammu and Kashmir Muslim Specified Wakafs and Specified Wakaf

	Properties (Management and Regulation) Act, 2004. These Acts were repealed following the abrogation of Article 370 of the Constitution, and the subsequent reorganisation of the erstwhile State of Jammu and Kashmir into the Union Territories of Jammu and Kashmir, and Ladakh. As a result, the 1995 Act now applies uniformly across India.
2006	Under the leadership of Justice (Retired) Rajinder Sachar, the Prime Minister's High-Level Committee for the preparation of the Report on the Social, Economic, and Educational Status of the Muslim Community of India submitted its report (**"Sachar Committee Report"**), which highlighted significant inefficiencies in waqf management. Among other things, the Sachar Committee Report noted that State governments and its agencies are one of the largest encroachers on waqf land. The Report illustratively mentioned 584 properties that were under encroachment in just six States, namely, Delhi (316), Rajasthan (60), Karnataka (42), Madhya Pradesh (53), Uttar Pradesh (60) and Odisha (53). The Report also clarified that these numbers were not exhaustive of the properties encroached upon by the State government in even these six States.

	The Sachar Committee also emphasised the need for proper implementation of existing waqf laws so that waqf properties could be better utilised by the community to overcome its stark social and educational backwardness.
2008	The Joint Parliamentary Committee on Waqf, in its third report, reiterated the Sachar Committee's concerns over the extent of encroachment on waqf properties, even suggesting extension of the summary procedure for the eviction of encroachers under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, to waqf properties. This recommendation had culminated in the introduction of the Waqf Properties (Eviction of Unauthorized Occupants) Bill in the Rajya Sabha, aimed at establishing a streamlined mechanism for addressing the encroachment of waqf properties. However, this Bill was subsequently withdrawn just prior to the introduction of the Waqf Amendment Bill, 2024.
2010	The Waqf Asset Management System of India (**"WAMSI"**) was launched to enhance digitization and transparency in waqf administration and asset management.

2013	The Waqf (Amendment) Act, 2013 was notified in the Official Gazette of the Government of India. The amendments, stemming from the recommendations of the aforementioned committees, introduced crucial reforms to address longstanding challenges, including the problem of encroachment.
August 8, 2024	The Waqf (Amendment) Bill, 2024, was introduced in the Lok Sabha on August 8, 2024, proposing the repeal of the Mussalman Wakf Act, 1923, and introducing a series of far-reaching amendments to the Waqf Act, 1995, amidst strong opposition. A motion to refer the Waqf (Amendment) Bill, 2024 to a Joint Working Committee of both Houses of Parliament (**"JPC"**) was moved in the Lok Sabha by Kiren Rijiju, the Hon'ble Minister of Minority Affairs. On the same day, the Bill was referred to the Joint Committee of Parliament for examination and report, under the chairpersonship of Member of Parliament Jagdambika Pal. As per the motion moved in the House, the JPC was initially mandated to submit its report by the last day of the first week of the Winter Session, 2024. However, an extension for the presentation of the report was subsequently granted until the last day of

	the Budget Session, pursuant to a motion for extension moved in the Lok Sabha. **The Petitioner herein was a member of the JPC.**
January 28, 2025	A draft report was circulated to members on the evening of January 28, 2025, with deliberations scheduled on the following day, i.e., January 29, 2025.
January 29, 2025	In its 38th sitting held on January 29, 2025, the JPC considered and adopted the 655-page draft report by majority vote, despite strong objections from the Opposition members. As many as eight dissenting notes spanning hundreds of pages were submitted by twelve members of the Committee, reflecting strong objections to the findings and recommendations of the report. The Petitioner also filed a dissent note which became part of the JPC Report.
February 13, 2025	The JPC report on the Waqf (Amendment) Bill, 2024 was tabled in Parliament.
April 2-3, 2025	The Hon'ble Minister of Minority Affairs introduced the updated Waqf (Amendment) Bill, 2025 in the Lok Sabha for consideration and the Bill was passed. Certain amendments included Sections 3D and 3E were moved by the Treasury Benches and came to be incorporated in the Bill.

April 3-4, 2025	The Waqf (Amendment) Bill, 2025 was introduced for consideration in the Rajya Sabha and was passed.
	Hence the present Petition.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
(Petition under Article 32 of the Constitution of India read with Order XXXVIII of the Supreme Court Rules, 2013)
WRIT PETITION (CIVIL) NO. _____OF 2025

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

ASADUDDIN OWAISI
[redacted]
…Petitioner

VERSUS

UNION OF INDIA,
THROUGH ITS SECRETARY
MINISTRY OF MINORITY AFFAIRS,
Eleventh Floor, Pandit Deendayal
Antyodaya Bhawan, CGO Complex,
Lodhi Road, New Delhi – 110 003. …Respondent

A WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA READ WITH ORDER XXXVIII OF THE SUPREME COURT RULES, 2013

To,

The Hon'ble Chief Justice of India and

His Companion Justices of the Hon'ble Supreme Court of India

The Humble Petition of the
Petitioner above-named

MOST RESPECTFULLY SHOWETH:

1. The present Petition under Article 32 of the Constitution of India, read with Order XXXVIII of the Supreme Court Rules, 2013, seeks to challenge the constitutional validity of Clauses 2A, 3(v), 3(vii), 3(ix), 4, 5(a), 5(b), 5(c), 5(d), 5(f), 6(a), 6(c), 6(d), 7(a)(ii), 7(a)(iii), 7(a)(iv), 7(b), 8(ii), 8(iii), 8(iv), 9, 11, 12(i), 14, 15, 16, 17(a), 17(b), 18, 19, 20, 21(b), 22, 23, 25, 26, 27, 28(a), 28(b), 29, 31, 32, 33, 34, 35, 38, 39(a), 40, 40A, 41, 42, 43(a), 43(b), and 44 of the Waqf (Amendment) Act, 2025 (**"Amendment Act"**).

2. That this Petition arises in response to the enactment of the Amendment Act, which was passed by the Lok Sabha on April 2-3, 2025, and the Rajya Sabha on April 3-4, 2025. A critical examination of the Amendment Act reveals that the impugned amendments are *ex facie* violative of Articles 14, 15, 21, 25, 26, 29, 30, and 300A of the Constitution of India and are manifestly arbitrary. Accordingly, the impugned amendments, being in direct contravention of fundamental rights guaranteed under Part III of the Constitution, are *void ab initio* and liable to be struck down under Article 32 of the Constitution read with Article 13. Besides this, the impugned amendments also irreversibly dilute the statutory protections afforded to waqfs and their regulatory framework while conferring undue advantage upon other stakeholders and

interest groups, undermining years of progress and setting back waqf management by several decades. Consequently, the impugned amendments are not only unconstitutional being violative of the aforementioned fundamental rights and principles but are also repugnant to the doctrine of non-retrogression of rights, thereby necessitating urgent intervention by this Hon'ble Court.

3. That the Petitioner herein, Asaduddin Owaisi, is a prominent public figure and a Member of Parliament representing the Hyderabad constituency in the 18th Lok Sabha. He is also the leader of the All India Majlis-e-Ittehad-ul-Muslimeen (**"AIMIM"**). The Petitioner has always been an advocate of the rights and welfare of minority and marginalised communities, for the preservation of communal harmony, and for the pluralistic ethos of our nation. The amendments to the 1995 Act fundamentally undermine the constitutional rights of Muslims, both individually and as a community, by eroding their autonomy to dedicate, manage, and administer properties in accordance with their faith and practices, and by unjustly interfering with their religious freedoms, thereby compelling the Petitioner to approach this Hon'ble Court. The details of the Petitioner are provided hereunder:

Name: ***Asaduddin Owaisi***

Age: 55 years

[redacted]

Annual Income: [redacted]

PAN No.: [redacted]

Aadhaar No.: [redacted]

4. That the Petitioner respectfully submits that this Public Interest Litigation is brought purely in the interest of justice and the public good, with no intention of deriving personal benefit, advancing any private or oblique interests, or pursuing any ulterior motive. This Petition has been filed purely in the public interest, with the sole objective of protecting the constitutional and religious freedoms of the Muslim community – of which the Petitioner is a part – while preserving the secular values and communal harmony that form the bedrock of our nation. Furthermore, it is submitted that the reliefs sought herein bear no connection to any criminal, civil, or revenue litigation involving the Petitioner.

5. That the Petitioner is constrained to approach this Hon'ble Court to safeguard and uphold cherished constitutional rights and foundational principles that form the bedrock of our secular nation. The following conspectus of the concept of waqf, along with a chronology of events tracing the legislative and procedural developments that culminated in the enactment of the impugned amendments, is set forth hereinbelow to provide the necessary context for the present dispute.

6. That Islam is a religion which is unique in that charity is not merely a prescription but a foundational pillar of the faith.

The concept of waqf can be traced back to a system evolved in the earliest days of Islam by the Prophet (PBUH) to form a means for Muslims to give away their property for use of the larger Muslim community. It is universally acknowledged across sects that have now developed within Islam that the first waqf was created by Umar bin Al-Khattab on the instructions of the Prophet (PBUH) when Umar expressed the desire that he wished to give away some valuable immovable property he held for benefit of the Muslim community. The Prophet (PBUH) advised him to tie up the property in the form of waqf, where the ownership would be of the Almighty and the usufruct would be distributed among the poor and the needy.

7. That in the early nineteenth century in India, the superintendence of certain endowments, including Islamic endowments, in the presidencies of Bengal, Madras, and Bombay was vested in the Government, acting in its executive capacity through authorities like the Board of Revenue or the Collector, pursuant to regulations issued in the said presidencies in 1810, 1817, and 1827, respectively.

8. That in 1863, the Religious Endowments Act, 1863 was enacted in response to a growing demand in England for the colonial government in India to adopt a strict policy of non-intervention in religious matters. This Act divested the Government of direct control over religious endowments in the presidencies of Bengal, Madras and Bombay, transferring

the powers previously exercised by it to district or division-level Local Committees.

9. That meanwhile, enacted during British rule in India, the Charitable Endowments Act, 1890 provided a legal framework for the management and administration of charitable endowments. It applied to both religious and non-religious charitable institutions, aiming to ensure that funds and properties dedicated to charitable purposes were properly managed, safeguarded, and utilised in accordance with the donor's intentions or the trust deed.

10. That one of the first notable judicial developments with respect to waqf was the ruling in ***Abdul Fata Mohammad Ishak* v. *Russomoy Dhur Choudhary*, [1894] 22 IA 76**, whereby the Hon'ble Privy Council declared as invalid, a waqf created for the benefit of the family, though coupled with a gift to charity on the failure of the line of descendants, holding that the dedicators had never truly relinquished their proprietary rights. The Hon'ble Privy Council held that the dedicators had never genuinely relinquished their proprietary rights. It emphasised that the 'ostensible and principal object' of a waqf must be religious or charitable, even if there is a temporary intermediate benefit to the appropriator's family, and that such dedication cannot be contingent on an uncertain event, such as the potential extinction of the family.

11. That the earliest legislation concerning waqfs was the Mussalman Waqf Validating Act, 1913 (Act VI of 1913), which affirmed the right of Muslims to settle property through waqf in favour of their families, children, and descendants. The Act expressly provided that a waqf would not be deemed invalid merely because the religious and charitable benefits stipulated therein were postponed until the extinction of the founder's family. This legislation was enacted to nullify the effect of the ruling of the Hon'ble Privy Council in ***Abdul Fata Mohammad Ishak* (*supra*)**, which had declared a waqf invalid if it primarily benefited the founder's family, even if it included a religious or charitable endowment contingent on the failure of the family line. The Mussalman Waqf Validating Act, 1913 was later given retrospective effect through the Mussalman Wakf Validating Act, 1930 (Act XXXII of 1930).

12. That following this, the Mussalman Waqf Act, 1923 (Act XLII of 1923) was enacted, marking a significant step in waqf legislation, laying the groundwork for the regulation of the creation, maintenance, and administration of waqfs and waqf properties. The 1923 Act accorded a pivotal role to Civil Courts in matters concerning the recognition and registration of waqfs, the protection of waqf properties, and the oversight of waqf management. This Act imposed a duty on the mutawalli of every waqf to submit a statement of particulars to the Court within whose jurisdiction the waqf property was situated. Additionally, it required the mutawalli to furnish a

full and accurate statement of accounts, duly audited, to the Court. The 1923 Act also mandated the creation of a Register of Waqfs, with the Court empowered to record entries therein. Further, the jurisdictional Court was conferred with the authority to, inter alia, conduct inquiries to determine: (i) the existence of a waqf, (ii) whether a particular property qualifies as waqf property, and (iii) the identity of the mutawalli administering the waqf. This Hon'ble Court in ***Rashid Wali Beg* v. *Farid Pindari*, (2022) 4 SCC 414**, noted that by virtue of the 1923 Act, the Courts were vested with 'enormous powers', including the power to order a special audit.

13. That the Provincial Governments of Bombay, Bengal, and the United Provinces had introduced amendments to the 1923 Act in 1934, 1935, and 1936, respectively. In these provinces, the British Government had enacted separate laws, *viz.* the Bengal Waqf Act, 1934, the Mussalman Waqf (Bombay Amendment) Act, 1935, the United Provinces Muslim Waqfs Act, 1936. Similar other State-specific laws regulating waqf administration has also existed in India's history.

14. That following India's Independence, the Parliament enacted the Muslim Wakfs Act, 1954 (**"1954 Act"**), with the stated objective of ensuring better administration and supervision of waqfs. The Statement of Objects and Reasons of the 1954 Act noted that the Mussalman Waqf Act, 1923, had proven to be of limited practical utility. The necessity for a more

streamlined and centralised approach to waqf administration became increasingly evident, especially in addressing the complexities arising from evacuee properties left behind in the wake of Partition. To address these complexities and establish a uniform framework for waqf management, the 1954 Act, was enacted. This legislation marked a significant shift from the fragmented oversight of earlier laws by creating State Waqf Boards with extensive powers to regulate and supervise waqf properties. The Act repealed several prior enactments, including the Mussalman Waqf Act, 1923, and introduced a centralised and standardised administrative structure.

15. That the 1954 Act was stated to come into effect in any State where it applies on a date specified by the Central Government through a notification in the Official Gazette, except in the States of Bihar, Delhi, Uttar Pradesh, and West Bengal, where such notification could only be issued upon the recommendation of the respective State Government. This exception arose because States like Uttar Pradesh, Bihar, and West Bengal had their own legislation governing the administration of waqf. The 1954 Act underwent amendments in 1959, 1964, and 1969.

16. However, to further improve and streamline waqf administration, the Central Government constituted the Waqf Inquiry Committee, which conducted a comprehensive review and made extensive recommendations. Following

consultations with stakeholders, these recommendations culminated in the enactment of the Waqf (Amendment) Act, 1984 (**"1984 Amendment Act"**), which introduced significant reforms. One of the most notable amendments sought to be introduced was the replacement of Section 55 of the principal Act with a new provision providing for the establishment of special tribunals to adjudicate disputes, questions, or other matters concerning waqfs and waqf properties. However, due to strong opposition to the 1984 Amendment Act, only the following two provisions were enforced, namely, the period of limitation for filing suits for the recovery of waqf property in cases of adverse possession was extended to 30 years, instead of 12 years, and evacuee waqf property was deemed to have always been vested with the Waqf Board.

17. That the Waqf Act, 1995 (Act XLIII of 1995) was introduced as a comprehensive overhaul of waqf administration, which incorporated elements of the 1954 Act and select provisions from the 1984 Amendment Act that had gained consensus. The Act brought about significant reforms to streamline waqf management and strengthen the powers of State Waqf Boards. It introduced stringent measures for maintaining property records and digitising waqf data, marking a key step toward modernisation. The Act aimed to improve transparency and accountability, incorporating recommendations from various committees that had identified systemic issues in waqf administration. Additionally, specialised waqf tribunals were established to

adjudicate disputes related to waqf matters, further enhancing the efficiency of the system.

18. That unlike the Waqf Act of 1954, which was not applicable to certain states like Uttar Pradesh, West Bengal, Gujarat, Maharashtra, and parts of the North-East, the 1995 Act extended its reach to the whole of India, excluding Jammu and Kashmir. In Jammu and Kashmir, the State Legislature had enacted the Jammu and Kashmir Wakafs Act, 2001, and the Jammu and Kashmir Muslim Specified Wakafs and Specified Wakaf Properties (Management and Regulation) Act, 2004. These Acts were repealed following the abrogation of Article 370 of the Constitution, and the subsequent reorganisation of the erstwhile State of Jammu and Kashmir into the Union Territories of Jammu and Kashmir, and Ladakh. As a result, the 1995 Act now applies uniformly across India.

19. That under the leadership of Justice (Retired) Rajinder Sachar, the Prime Minister's High-Level Committee for the preparation of the Report on the Social, Economic, and Educational Status of the Muslim Community of India submitted its report (**"Sachar Committee Report"**), which highlighted significant inefficiencies in waqf management. Among other things, the Sachar Committee Report noted that State governments and its agencies are one of the largest encroachers on waqf land. The Report illustratively mentioned 584 properties that were under encroachment in

just six States, namely, Delhi (316), Rajasthan (60), Karnataka (42), Madhya Pradesh (53), Uttar Pradesh (60) and Odisha (53). The Report also clarified that these numbers were not exhaustive of the properties encroached upon by the State government in even these six States.

20. That the Joint Parliamentary Committee on Waqf, in its third report, reiterated the Sachar Committee's concerns over the extent of encroachment on waqf properties, even suggesting extension of the summary procedure for the eviction of encroachers under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, to waqf properties. This had also culminated in the introduction of the Waqf Properties (Eviction of Unauthorized Occupants) Bill in the Rajya Sabha, aimed at establishing a streamlined mechanism for addressing the encroachment of waqf properties. However, this Bill was subsequently withdrawn just prior to the introduction of the Waqf Amendment Bill, 2024.

21. That in 2010, a Waqf Asset Management System of India (**"WAMSI"**) was launched to enhance digitisation and transparency in waqf administration and asset management.

22. That the most significant set of reforms to the waqf administration was carried out in 2013 through the Waqf (Amendment) Act, 2013. These amendments, stemming from the recommendations of the Joint Parliamentary Committee on Waqf, introduced crucial reforms to address longstanding challenges, including the problem of encroachment.

Therefore, it becomes evident from the foregoing that the administration of waqf in India has undergone significant evolution, shaped by the country's socio-political landscape and legislative reforms aimed at addressing challenges in waqf management. The 1995 Act, as amended in 2013, embodies the culmination of these efforts and reforms, reflecting watershed moments in the progressive march to fortify the legal framework governing waqfs.

23. That the present dispute arises from the sweeping overhaul of the Act, which effectively rolls back several key reforms and progressive developments that had been incorporated over the years. This was first proposed in the form of the Waqf (Amendment) Bill, 2024, which was introduced in the Lok Sabha on August 8, 2024. This Bill proposed the repeal of the Mussalman Wakf Act, 1923, and sought to bring about a series of far-reaching amendments to the Waqf Act, 1995. However, following a motion to refer the Waqf (Amendment) Bill, 2024 to a Joint Committee of both Houses of Parliament (**"JPC"**) moved in the Lok Sabha by Kiren Rijiju, the Hon'ble Minister of Minority Affairs, the Bill was referred to the Joint Committee of Parliament for examination and report, under the chairpersonship of Member of Parliament Jagdambika Pal.

24. That as per the motion moved in the House, the JPC was initially mandated to submit its report by the last day of the first week of the Winter Session, 2024. However, an extension

for the presentation of the report was subsequently granted until the last day of the Budget Session, pursuant to a motion for extension moved in the Lok Sabha. It is apposite to mention here that the Petitioner herein was a member of the JPC.

25. At the end of the proceedings of the JPC, a draft report was circulated to members on January 28, 2025. Finally, in its 38th sitting held on January 29, 2025, the JPC considered and adopted the 655-page draft report by majority vote. As many as eight dissenting notes spanning hundreds of pages were submitted by twelve members of the Committee, including the Petitioner, reflecting strong objections to the findings and recommendations of the report. The JPC report on the Waqf (Amendment) Bill, 2024 was tabled in Parliament on February 13, 2025.

26. That on April 2-3, 2025, the Hon'ble Minister of Minority Affairs introduced the updated Waqf (Amendment) Bill, 2025 in the Lok Sabha for consideration and passed it. The Waqf (Amendment) Bill, 2025 was then introduced for consideration in the Rajya Sabha and it was passed on April 3-4, 2025.

A true copy of the Waqf (Amendment) Bill, 2025 as available on the website of the Hon'ble Ministry of Minority Affairs is marked as **ANNEXURE P-1 (Pg Nos. 66 to 80)**.

27. However, the impugned amendments to the 1995 Act are patently unconstitutional as they directly infringe upon the religious rights and freedoms of Muslims and the Muslim community by, *inter alia*, diluting the statutory protections afforded to waqfs – an integral aspect of the practice of Islam – and curtailing the community's autonomy in the establishment, management, and administration thereof. The present Writ Petition has, therefore, been necessitated to challenge these unconstitutional encroachments, invoking the jurisdiction of this Hon'ble Court in its role as the sentinel on the *qui vive* to safeguard the rights of Muslims and the Muslim community.

28. That the need for urgent intervention by this Hon'ble Court becomes more pronounced when seen in the broader context of a concerted assault on the rights of Muslims, including the systematic and mischievous attempts by divisive elements at altering the religious character of places of Muslim religious worship, including historic mosques and dargahs, as they stood on August 15, 1947. By weakening the waqf framework while simultaneously strengthening other stakeholders, the Amendment Act not only strips away crucial protections guaranteed under the 1995 Act but also leaves the Muslim community increasingly vulnerable in its efforts to safeguard its religious and cultural heritage.

29. That the nomenclature of this Amendment Act which systematically dilutes the protections given to waqfs as an

Act for the 'management, empowerment, efficiency and development' of waqfs couples with the reasons given by the JPC on the Waqf (Amendment) Bill and the speeches given on the floor of the House by the Hon'ble Ministers of Minority Affairs, Home Affairs, and other members of the Treasury Bench at the time of the passage of the Bill show that the amendments have no nexus to the stated object sought to be achieved and are, therefore, manifestly arbitrary.

30. That the Petitioner has no other alternate, effective and efficacious remedy other than to approach this Hon'ble Court through the present writ petition preferred under Article 32 of the Constitution of India on the following among other grounds, which are being taken without prejudice to each other.

GROUNDS

A. **BECAUSE** the impugned amendments are *ex facie* violative of Articles 14, 15, 21, 25, 26, 29, 30, and 300A of the Constitution of India, and are manifestly arbitrary. It is from this lens of Articles 14, 15, 21, 25, 26, 29, 30, and 300A that this Hon'ble Court must view the Amendment Act and strike down the impugned provisions of the Act wherever it finds them to constitute an unjustifiable inroad into these rights, in the exercise of its powers under Article 32 of the Constitution read with Article 13.

B. **BECAUSE** the 1995 Act, as it stood prior to the impugned amendments, represented an organic process of evolution whereby Islamic law came to be recognised and protected – first by common law, and thereafter by the Constitution of India. Over time, greater and wider protections have been accorded to waqfs with every iteration and amendment of waqf law. The Amendment Act, 2025 marks a departure from this consistent progression towards affording greater protections to the rights of the Muslim community under Articles 25 and 26 of the Constitution and charts a new course of diluting the protections to waqfs undermining the rights of the minority communities in its properties and expanding the interference of the State over waqf administration.

C. **BECAUSE** the impugned amendments irreversibly dilute the statutory protections afforded to waqfs and their regulatory framework while conferring undue advantage upon other stakeholders and interest groups, undermining years of progress and setting back waqf management by several decades. Consequently, the impugned amendments are not only unconstitutional being violative of the aforementioned fundamental rights and principles, but are also repugnant to the doctrine of non-retrogression of rights, which is firmly entrenched in our constitutional jurisprudence, and which has been affirmed by this Hon'ble Court in a catena of judgments, including ***Navtej***

***Singh Johar & Ors.* v. *Union of India*, (2018) 10 SCC 1**. The relevant portion of the judgment in ***Navtej Johar* (*supra*)** has been excerpted hereinbelow for ready reference:

> *"Here, it is also apposite to refer to the words of Lord Roskill in his presidential address to the Bentham Club at University College of London on 29-2-1984 on the subject "Law Lords, Reactionaries or Reformers" [Lord Roskill, "Law Lords, Reactionaries or Reformers" Current Legal Problems (1984).] which read as follows:*
>
> > *"Legal policy now stands enthroned and will I hope remain one of the foremost considerations governing the development by the House of Lords of the common law. What direction should this development now take? I can think of several occasions upon which we have all said to ourselves:*
> >
> > *"this case requires a policy decision what is the right policy decision?" The answer is, and I hope will hereafter be, to follow that route which is most consonant with the current needs of the society, and which will be seen to be sensible and will pragmatically thereafter be easy to apply. No doubt the Law Lords will continue to be the targets for those academic lawyers who will seek intellectual perfection rather than imperfect pragmatism. But much of the common law and virtually all criminal law, distasteful as it may be to some to have to acknowledge, it is a blunt instrument by means of which human beings, whether they like it or not, are governed and subject to which they are required to live, and blunt instruments are rarely perfect intellectually or otherwise. By definition they operate bluntly and not sharply."*
>
> *What the words of Lord Roskill suggest is that it is not only the interpretation of the Constitution which needs to be pragmatic, due to the dynamic nature of a Constitution, but also the legal policy of a particular epoch must be in consonance with the current and the present needs of the society, which are sensible in the prevalent times and at the same time easy to apply.*
>
> ***This also gives birth to an equally important role of the State to implement the constitutional rights effectively. And of course, when we say State, it includes all the three organs, that***

> ***is, the legislature, the executive as well as the judiciary. The State has to show concerned commitment which would result in concrete action. The State has an obligation to take appropriate measures for the progressive realisation of economic, social and cultural rights.***
>
> ***The doctrine of progressive realisation of rights, as a natural corollary, gives birth to the doctrine of non-retrogression. As per this doctrine, there must not be any regression of rights. In a progressive and an ever-improving society, there is no place for retreat. The society has to march ahead.***
>
> ***The doctrine of non-retrogression sets forth that the State should not take measures or steps that deliberately lead to retrogression on the enjoyment of rights either under the Constitution or otherwise.***"

(Emphasis supplied)

D. BECAUSE in our constitutional scheme, the right (i) to establish and maintain institutions for religious and charitable purposes, (ii) to manage its own affairs in matters of religion, (iii) to own and acquire movable and immovable property, and (iv) to administer such property in accordance with law is recognised as an independent right given to religious groups and denominations. Under Article 26 of the Constitution, only the right to administer in Article 26(iv) is qualified by the expression "*in accordance with law*". It is this expression that must circumscribe the degree of interference permitted to the State in our constitutional scheme with the right of a religious group or denomination granted under Article 26.

E. **BECAUSE** the Amendment Act also takes away from waqfs various protections which were accorded to waqfs and Hindu, Jain, and Sikh religious and charitable endowments alike. This diminishing of the protection given to waqfs while retaining them for religious and charitable endowments of other religions constitutes hostile discrimination against Muslims and is violative of Articles 14 and 15 of the Constitution, which prohibit discrimination on the grounds of religion.

F. **BECAUSE** while Parliament represents the will of the people, in today's era of majoritarian politics, this Hon'ble Court has to discharge its constitutional duty as a sentinel on the *qui vive* to protect the minority from the tyranny of the majority. It was for this very purpose that Article 32 was introduced into the Constitution by the Constitution-makers to make this Hon'ble Court the final arbiter of the constitutional validity of laws made by Parliament when it makes unjustifiable inroads into the protections granted by Part III of the Constitution to minorities.

G. **BECAUSE** the 1995 Act must also be seen as a law governing the private properties of a section of the citizens of the country. If the degree of interference by the State in the freedoms available to a citizen or a section of citizens in dealing with their private properties exceeds the constitutionally permissible threshold, the same constitutes a violation of Article 300A of the Constitution.

H. **BECAUSE** Muslims, as a minority having their own distinct culture, also enjoy protection under Article 29 of the Constitution, and educational institutions established by them are protected under Article 30 of the Constitution. Constant and unjustifiable interference by the majority community into the life of the minority and various constitutionally protected forms of expression of their identity also interferes with their right under Article 21 of the Constitution to lead a life of dignity without unjustifiable interference by the State.

I. **BECAUSE** the constitutional validity of the impugned provisions of the Amendment Act must be examined through the prism of Articles 14, 15, 21, 25, 26, 29, 30, and 300A, and this Hon'ble Court, in the exercise of its powers under Article 32 read with Article 13 of the Constitution, is duty-bound to strike down any provision that constitutes an unjustifiable encroachment upon these fundamental rights.

J. **BECAUSE** Clause 2A of the Amendment Act has the effect of overruling the judgment of this Hon'ble Court in ***Maharashtra State Board of Wakfs* v. *Shaikh Yusuf Bhai Chawala & Ors.*, 2022 SCC OnLine SC 1653**, which is impermissible. It is well-settled that Parliament can alter the statutory basis upon which a judgment of this Hon'ble Court was rendered; however, it cannot by a legislative act simply overrule a judgment of this Hon'ble Court. Section

2A states that notwithstanding any judgment, decree, or order of any Court, a trust established or regulated under any statute pertaining to public charities created by a Muslim for purposes similar to a waqf will not be governed by the 1995 Act. This is directly contrary to the ruling in the abovementioned judgment which held that mere constitution as a charity in the form of a trust would not be sufficient and the intent of the waqif, the manner of dedication of property, and the rights available with the trustees would have to be examined to ascertain whether a charity created as a trust is, in fact, a waqf, to which the 1995 Act applies. This position has now been reversed to say that mere establishment in the form of a trust is sufficient to take a charitable endowment out of the purview of the 1995 Act.

K. **BECAUSE** Clauses 3(ix)(a) and 3(ix)(d) of the Amendment Act have introduced a manifestly arbitrary, vague, and unconstitutional restriction on who can create a waqf by amending the definition of 'waqf' and 'waqif' under Section 3(r) of the 1995 Act. Requiring the waqif to show or demonstrate that they have practised Islam for at least five years undermines constitutional protections under Articles 14, 15, and 300A of the Constitution, as it discriminates against recent converts by selectively preventing them from seeking religious merit immediately upon conversion by disposing of their property in a manner they deem fit.

This has to be seen in juxtaposition with endowment laws of other religions where no similar restrictions are imposed and this constitutes discrimination on the grounds of religion as individuals of other religions are free to dedicate property notwithstanding the period for which they have professed their religion. This amendment also violates Article 25 of the Constitution, which only allows restrictions on grounds of public order, morality, or health. Further, Islamic law has historically permitted even non-Muslims to dedicate property as waqf, which was recognised in a limited sense as early as 1964, by the introduction of Section 66-C to the 1954 Act. This provision was carried forward in the Waqf Act, 1995, as Section 104, and in 2013, an amendment was introduced in the 1995 Act by which the words "by a person professing Islam" were replaced with the words "by any person" in the definition of waqf, permitting non-Muslims to create valid waqfs, beyond what had already been allowed by virtue of Section 104. Therefore, Clauses 3(ix)(a) and 3(ix)(d) of the Amendment Act, especially when read in conjunction with Clause 40 of the said Act, by which Section 104 of the 1995 Act has been omitted, is not only unconstitutional but also effectively reverses years of progress and evolution of the waqf legislation. Further, the impugned amendment imposes an additional requirement of the waqif 'demonstrating' that he has been practising Islam for at least five years, placing a third-party authority in a position

to judge the practice and adherence of a citizen's faith, which makes a mockery of Article 25. The amendment also imposes a requirement of demonstrating that there is no 'contrivance' involved in the dedication of the property. This also gives another vague and entirely subjective ground for the authority to invalidate a dedication of property on a ground that does not exist in any other law relating to any other endowments of any other religion. This is again violative of Articles 14 and 15 of the Constitution.

L. **BECAUSE** this restriction on who can create a waqf, as introduced by the Amendment Act, is in direct conflict with Sections 3 and 4 of the Muslim Personal Law (Shariat) Application Act, 1937 (**"1937 Act"**), which guarantees the right of a Muslim meeting the criteria prescribed therein to have Muslim personal law applied to them. The only conditions set out in the 1937 Act are that such a person must be Muslim, competent to contract within the meaning of Section 11 of the Indian Contract Act, 1872, and a resident of the territories to which the 1937 Act extends. This Hon'ble Court in ***Shayara Bano* v. *Union of India & Ors.*, (2017) 9 SCC 1**, reaffirmed that the objective of the 1937 Act was to preserve Muslim personal law, or *Shariat*, as it existed from time immemorial, and recognise the same as the 'rule of decision' in the same manner as Article 25 recognises the supremacy and enforceability of personal

law of all religions. Therefore, Muslim personal law as a body of law, was made binding by the 1937 Act, and by imposing a restriction that is entirely foreign to Muslim personal law, the Amendment Act undermines the legislative intent of the 1937 Act, besides being patently unconstitutional.

M. BECAUSE the principle of 'waqf by user' is a well-established rule of evidence under Islamic jurisprudence and has been consistently upheld by judicial precedent as a facet of Muslim personal law, and as such, its exclusion through the deletion of Sub-Clause (i) of Section 3(r) (by virtue of Clause 3(ix)(b) of the Amendment Act) is arbitrary, unreasonable, and violative of constitutional principles, in particular, Article 25 of the Constitution. This Hon'ble Court in ***M Siddiq* v. *Mahant Suresh Das*, (2020) 1 SCC 1** affirmed that Muslim law recognises oral dedication and that the existence of a waqf can be legally recognised in situations where property has been the subject of public religious use since time immemorial, even in the absence of an express dedication. Therefore, the derecognition of this principle would not only jeopardise the status of numerous ancient waqf properties that rely on this principle to establish their existence but also run contrary to established legal precedent, including the judgment by a Constitution Bench of this Hon'ble Court. By exposing historic waqfs, including mosques and dargahs, to

encroachment and legal challenges, Section 3(ix)(b) of the Amendment Act undermines the State's constitutional duty under Article 25 and the Places of Worship (Special Provisions) Act, 1991 (**"1991 Act"**), which contains the legislative manifestation of the doctrine of non-retrogression that this Hon'ble Court in ***M Siddiq* (*supra*)** has recognised as being an essential facet of secularism, which forms a core element of the basic structure of the Constitution of India. The proviso introduced to Section 3(r) of the 1995 Act, which states that "*Provided that existing waqf by user properties registered on or before the commencement of the Waqf (Amendment) Act, 2025 as waqf by use will remain as waqf properties except that the property, wholly or in part, is in dispute or is a government property*" does not address the problem at all insofar as it excludes reliance on waqf by user in all cases where there is a dispute or the property is claimed to be government property. Therefore, effectively, in all cases where mischievous disputes are filed against ancient waqfs to vitiate the communal atmosphere, as well as cases of disputes with the Government, the Muslim side will not have resort to the concept of waqf by user. This is in blatant violation of Articles 25 and 26 of the Constitution.

N. BECAUSE a similar rule of evidence is also well-recognised in the law relating to Hindu endowments, allowing properties used as religious endowments from

time immemorial to be recognised as such, even in the absence of formal documentation. In ***Commissioner for Hindu Religious and Charitable Endowments*** **v.** ***Ratnavarma Heggade*****, (1977) 1 SCC 525**, this Hon'ble Court held that the dedication of property for religious or public purposes does not always require a written instrument; rather, it may be inferred from immemorial or long-standing usage, the conduct of the parties, and other relevant circumstances. In this judgment, this Hon'ble Court clearly stated:

> *"The origin and process of dedication is not always found embodied in document. Where the dedication itself is evidenced by a document, its objects, such as they may be, can be determined by interpreting the document.* ***There are, however, many cases in which dedication or endowment of property for a particular purposes has to be inferred from immemorial or long user of a property in a particular manner or from the conduct of a party. Neither a document nor express words are essential for a dedication for a religious or public purpose in our country.****"*
>
> (Emphasis supplied)

Therefore, the derecognition of 'waqf by user' is also in the teeth of Articles 14 and 15 of the Constitution inasmuch as it unfairly singles out Muslim endowments for differential treatment, creating arbitrary and unjustified discrimination on the grounds of religion without any rational basis.

O. BECAUSE similarly, the omission of the words *"either verbally or"* from the definition of mutawalli in Section 3(i)

of the 1995 Act (through Clause 3(v) of the Amendment Act) is inconsistent not only with Islamic law – which has long recognised the validity of verbal contracts, oral testaments, and gifts, including the creation of waqfs through verbal declarations – but also with established legal precedents and analogous religious endowment laws of other faiths. This change, combined with the insertion of Sub-Section (1A) in Section 36 of the 1995 Act (through Clause 18(a) of the Amendment Act) mandating the execution of a waqf deed for the creation of a waqf, the deletion in Sub-Section (4) of Section 36 of the 1995 Act (through Clause 18(c) of the Amendment Act) allowing for a situation where no waqf deed exists, and the exclusion of 'waqf by user' from the definition of 'waqf' in Section 3(r) of the 1995 Act (through Clause 3(ix)(b) of the Amendment Act), effectively takes away the legal basis for the recognition of oral waqfs, disregarding a principle of Islamic law of recognition of oral contracts and testimonies, which has been duly affirmed by this Hon'ble Court in ***M Siddiq*** **(*supra*)**, and which forms an essential element of Muslim personal law.

P. **BECAUSE** simultaneously, the introduction of Sub-Section (10) to Section 36 of the 1995 Act (through Clause 18(f) of the Amendment Act), which categorically states that no suit, appeal, or legal proceeding to enforce rights on behalf of an unregistered waqf shall not only be instituted or

commenced, but also not be heard, tried, or decided by any Court after six months from the commencement of the Amendment Act, creates an untenable situation where older, unregistered waqfs, lacking registration due to the absence of deeds or because they had been orally dedicated, will be unable to register themselves and, after the six-month period, will also lose the ability to seek judicial protection for their rights, effectively leaving them in a lurch – defenceless and deprived of access to justice. Although a proviso was added after consultations by the JPC, allowing Courts to entertain such proceedings beyond the six-month period if 'sufficient cause' is shown, it provides little relief, as it vests Courts with excessive discretion without offering clear guidelines. Furthermore, this amendment creates an arbitrary and unreasonable classification between unregistered waqfs that possess written deeds and those that do not, by prohibiting the latter from registering themselves. Such a classification is impermissible under Article 14 of the Constitution, having no just and reasonable nexus to the stated legislative objective of the 1995 Act of "*effective management, empowerment, and development of waqf properties.*"

Q. BECAUSE Section 3A(2), which is introduced by virtue of Clause 4 of the Amendment Act, effectively destroys the concept of waqf-alal-aulad, which allows a Muslim property owner to dedicate property for the benefit of their

descendants and, after them, for charitable purposes. By subordinating the waqif's intentions to inheritance claims under personal law, the provision undermines the essence of waqf-alal-aulad, rendering it ineffective as an alternative to the rules of inheritance. This is contrary to the Hon'ble Supreme Court's recognition of personal law as a facet of religious freedom under Article 25 of the Constitution in ***Shayara Bano*** **(*supra*)**, wherein the majority opinion on this point is formed by the opinions of Justices Jagdish Singh Khehar and Abdul Nazeer, with Justice Kurian Joseph concurring with their analysis of Article 25. Additionally, imposing such a restriction solely on Muslim property owners violates Articles 14 and 300A of the Constitution, as no similar constraints exist on testamentary rights under the personal laws of other religions. To take an example, a Hindu is free to will away his/her self-acquired property to any unrelated third party, thereby completely defeating the rights of heirs. However, the right of a Muslim to reserve property for the benefit for only his/her children and after them, for religious and charitable purposes, is sought to be taken away on the pretext of protecting rights of other heirs. This constitutes hostile discrimination and is violative of Articles 14 and 15 of the Constitution. By curtailing waqf-alal-aulad, this amendment also unreasonably limits the right of Muslims under Articles 26 and 300A of the Constitution to dispose of their property in a manner

consistent with their religion. This issue is further exacerbated by subjecting waqf-alal-aulad to *"any other rights of persons with lawful claims,"* thereby introducing an additional layer of uncertainty, vagueness, and potential conflict.

R. **BECAUSE** Section 3B – introduced through Clause 4 of the Amendment Act – which mandates the filing by all registered waqfs of all relevant particulars enumerated in the proposed section to be completed within six months, is highly unrealistic and sets the process up for inevitable failure. This must also be read in conjunction with the newly introduced Section 36(10) (through Clause 18(f) of the Amendment Act), which states that no legal proceedings may be instituted for enforcement of any rights on behalf of a waqf not registered in accordance with the provisions of the 1995 Act after the expiry of this period of six months from the commencement of the Amendment Act. This is completely arbitrary and unreasonable and has no nexus sought to be achieved. It is also manifestly arbitrary, a now well-recognised doctrine on the basis of which legislation can be struck down.

S. **BECAUSE** the newly-introduced Section 3C (by virtue of Clause 4 of the Amendment Act) explicitly exempts any movable or immovable property from the extant framework of waqf administration through a categorical and retrospective carve-out if any Government

Organisation makes a claim on it, effectively prioritising Government claims over waqf property without any independent adjudication. By granting any officer above the rank of Collector as designated by State Governments wide and uncanalised powers to decide the status of such properties, the amendment undermines the principle of natural justice, as it makes the Government both a litigant and the judge in its own cause. Additionally, the proviso to sub-Section (2) of Section 3C, which prevents the property from being treated as waqf until the designated officer submits a report, alters the *status quo* pending the adjudication, and can be exploited to dispossess waqf boards and beneficiaries of their rights as an interim measure, with no timeline prescribed for completion of the process of adjudication. In essence, this framework enables the Government, through its administrative apparatus, to lay claim upon waqf properties, bypassing the procedural safeguards that traditionally protect waqf lands. In this context, it is important to keep in mind that Sachar Committee Report noted that State governments and their agencies are among the largest encroachers on waqf land. Further, the introduction of the term 'designated officer' without defining the necessary expertise renders the provision excessively vague, creating scope for arbitrary appointments and potential misuse by the State Government. All in all, Section 3C jeopardises the rights of the State Waqf Boards while disproportionately

empowering the State machinery, and as such, is violative of the principle of natural justice as well as the autonomy guaranteed to religious denominations under Article 26 of the Constitution.

T. **BECAUSE** the impugned amendments are unconstitutional inasmuch as they have conferred unfettered and uncanalised powers on the executive, without any rational guideline for the exercise of such power. This undermines the impartiality of the waqf administration, particularly in cases where government property is in dispute. Additionally, the introduction of Section 36(7A) empowers the Collector to determine whether a property qualifies as government land under Clause (fb) of Section 3, effectively allowing the executive to pre-emptively block waqf registrations. By barring the registration of waqfs linked to disputed or government properties unless a competent Court resolves the dispute, the amendment creates an arbitrary classification that unfairly burdens waqfs while permitting the prolonged stagnation of their management. This violates Article 14 of the Constitution by conferring excessive discretion on the executive, enabling potential conflicts of interest, and depriving waqfs of a fair and independent registration process.

U. **BECAUSE** the transfer, by amending Section 4 of the 1995 Act through Clause 5 of the Amendment Act, of the

responsibility of conducting survey of waqf properties from the Survey Commissioner to the Collector forms part of a scheme that overhauls the existing framework and replaces it with a system that grants overbroad, uncanalised powers to the Collector, an agent of the Government, and creates conflicts of interest on several levels: first, the District Collector, as a revenue officer, ordinarily has no adjudicatory powers over title disputes, which are the exclusive domain of the Civil Courts, and is solely responsible for maintaining revenue records and overseeing the mutation of property. Post-amendment, however, the Collector will simultaneously serve as a surveyor with the authority to pass orders that directly affect the title of properties. In their capacity as a revenue officer, the Collector will also be empowered to alter the mutation of property based on the findings from the survey conducted, removing one level of check and balance. When considered in light of the findings of the Sachar Committee Report, which highlighted that a very significant number of disputes concerning waqf properties are between the State and the Central Government, along with institutions controlled by them, on the one hand, and the Waqf Boards on the other, the conflict of interest becomes even more apparent. This unjustifiably weakens the State Waqf Board while expanding executive control over the waqf administration. This amendment, therefore, violates the basic principle of natural justice that no one can

be a judge in their own cause, dilutes the safeguards embedded in the existing process against arbitrary State action, and erodes the autonomy of State Waqf Boards. Ultimately, this results in the impartial identification and management of waqf properties being adversely impacted, thereby infringing the fundamental rights of the Muslim community under Article 26 of the Constitution.

V. **BECAUSE** the deletion, through Clause 5(f) of the Amendment Act, of Section 4(6) of the 1995 Act, which previously empowered State Waqf Boards to direct a second survey of waqf properties omitted in the initial survey or subsequently identified, is unconstitutional as it arbitrarily curtails the State Waqf Boards' authority and undermines the statutory protection of waqf properties. By removing the State Waqf Board's ability to initiate such additional surveys, the amendment leaves potential omissions in the survey unaddressed, meaning that waqfs omitted to be identified and documented within the unreasonable timeline of six months will be lost forever. This is contrary to Articles 14 of the Constitution as it is manifestly arbitrary and also undermines the right of Muslims to manage their properties under Article 26.

W. **BECAUSE** the amendment to Sub-Section (3) of Section 5 of the 1995 Act (through Clause 6(d) of the Amendment Act), empowering revenue authorities to hear objections and decide on mutations involving waqf properties,

effectively transfers a judicial function to an executive body, allowing objections at multiple levels – before the Collector, during the registration process, during the mutation process, and before the Ld. Waqf Tribunal after registration – subjecting waqf properties to prolonged and arbitrary disputes. This scheme violates the constitutional guarantee under Articles 14 and 15 by creating an unfair, burdensome, and discriminatory framework that disproportionately affects waqfs when compared to religious endowments of other faiths. Further, by allowing executive authorities to adjudicate religious endowments, the amendment encroaches upon the autonomy of Muslims and the community, protected under Articles 25, 26 and 300A of the Constitution, making the amendment constitutionally untenable.

X. **BECAUSE** the amendments introduced through, *inter alia*, Clauses 7(a)(ii), 8(ii), 16(b), 17(b), 23(c), 25, 27, 29(b), 31(b), 34, 35(a), 35(e), and 35(f) of the Amendment Act, which arbitrarily deprive the Ld. Waqf Tribunal of the finality accorded to similar tribunals governing other religious endowments, such as those under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, and the Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987, violate the constitutional guarantee of equality under Articles 14 and 15 of the Constitution. The erstwhile power

of revision conferred on Hon'ble High Courts under the 1995 Act, akin to the power of revision under Section 115 of the Code of Civil Procedure, 1908 (**"CPC"**), served as a safeguard to correct errors while preserving the finality of the decisions by the Ld. Waqf Tribunal, as a specialised adjudicatory body equipped to deal with the nuanced and complex field of Muslim personal law. By replacing this limited supervisory power with a full-fledged appellate jurisdiction, the amendment undermines the authority and efficiency of the Ld. Waqf Tribunal. Under Section 107 of the CPC, appellate Courts are permitted to reopen and rehear all questions of fact and law, which will allow the Hon'ble High Courts to effectively substitute its opinion for that of the Ld. Waqf Tribunal. This not only duplicates judicial effort but also erodes the role of the Ld. Waqf Tribunal as a specialised body by subjecting its decisions to a wholesale appellate process, contrary to the intent behind creating the Ld. Waqf Tribunal. This has to be read in conjunction with Section 83 of the 1995 Act, as amended by Section 35 of the Amendment Act, whereby the State Government is permitted to designate any other tribunal and empower it to hear waqf matters, further weakening the distinct adjudicatory framework that previously existed. Further, Section 8(iv) of the Amendment Act has also introduced a proviso to Section 7 of the 1995 Act, extending the limitation period for filing applications from one year to two years and incorporating a provision

permitting the Ld. Waqf Tribunal to entertain applications even beyond this extended period if the applicant demonstrates sufficient cause. This further enhances the potential for protracted litigation undermining access to justice to auqaf. Thus, at every level, the finality of a decision on the status of waqf property is taken away, and the path has been paved for endless litigation at the instance of mischievous elements. This is manifestly arbitrary and deserves to be struck down.

Y. **BECAUSE** the wholesale amendments to Sections 9 and 14 of the 1995 Act through Clauses 9 and 11 of the Amendment Act, introducing non-Muslim members into the Central Waqf Council and State Waqf Boards, undermines the autonomy of the Muslim community in managing properties dedicated for their religious and charitable purposes, in blatant contravention of Articles 14, 15, 25 and 26 of the Constitution. It is apposite to mention here that Article 26(d) balances the right of the religious group/denomination to administer its own properties and the power of the State to make law to regulate the exercise of this right. This flows from the principle that the right to administer does not include the right to maladminister. However, at the same time, the regulation cannot be such as to obliterate the right itself, as held by the Hon'ble Supreme Court in ***Ratilal Panachand Gandhi* v. *State of Bombay*, (1954) 1 SCC 487**. The creation of a statutory

board comprising exclusively of Muslims to ensure that charitable properties of the community are not maladministered and dissipated by some unscrupulous individuals is an effective mechanism created by the Waqf Act to balance these interests. Appointing non-Muslims on the Central Waqf Council and the State Waqf Boards disturbs this delicate constitutional balance and tilts it to the detriment of the right of Muslims as a religious group to remain in control of their waqf properties.

Z. BECAUSE in ***Commissioner, Hindu Religious Endowments* v. *Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, (1954) 1 SCC 412**, this Hon'ble Court established a simple test: while the institutions and properties of a religious denomination may be subject to regulatory measures, the fundamental right to administer them cannot be legislatively abrogated. By allowing the government to nominate a majority of non-Muslim members, these amendments effectively strip the Muslim community of its right to manage its own religious institutions, in direct violation of the test laid down in ***Shirur Mutt* (*supra*)** and Article 26 of the Constitution.

AA. BECAUSE the phrasing of Sections 9 and 14, as they now stand, can even lead to a scenario where non-Muslim members form a majority in the Central Waqf Council or the State Waqf Boards, disrupting the constitutional balance between State regulation and religious autonomy.

Unlike Hindu and Sikh religious endowment laws, which restrict membership to adherents of the respective faiths, these amendments represent a stark departure, selectively targeting Muslim waqfs, thereby making it arbitrary and discriminatory. It is also pertinent to mention that restricting membership of the Central Waqf Council or State Waqf Boards to Muslims is also envisioned by our constitutional framework, having been explicitly saved by Article 16(5) of the Constitution, which permits laws requiring officeholders in connection with the affairs of any religious or denominational institution or any member of the governing body thereof to belong to a particular religion or denomination.

BB. BECAUSE the 1995 Act insofar as it mandates that members of Waqf Boards must profess Islam is not a unique model and similar provisions exist in other statutes. Some instances of provisions in religious endowment laws of other religions, where the managing board, body or officer-in-charge must necessarily comprise of person(s) professing the concerned religion, are illustratively mentioned hereinbelow to highlight the blatant violation of Articles 14 and 15 of the Constitution, and to demonstrate that this amendment is a stark example of hostile discrimination on the ground of religion.

a. The Bihar Hindu Religious Trusts Act, 1950 stipulates that the President, members of the Bihar Board of

Religious Trusts, and Superintendents of Hindu trusts must be Hindus. (*see* Sections 8, 9, 24.)

b. Similarly, the Odisha Hindu Religious Endowments Act, 1951 limits the eligibility for appointments as Commissioner of Endowments, trustees, and officers to persons professing Hinduism. In fact, only Hindu officers have the power to enter the premises of any religious institution or place of worship for the purpose of exercising powers or discharging duties under the Act. (*see* Sections 4, 5, 12, 29, 35.)

c. Under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, the Commissioner, Additional Commissioner, Joint, Deputy, and Assistant Commissioners, other officers and servants, members of the Advisory Committee under the Act, as well as the trustees of religious institutions, must be Hindus. (*see* Sections 7, 10, 25A, 74.)

d. Under the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997, the Commissioner, Deputy Commissioner, Assistant Commissioner, other officers, and members of the Dharmika Parishats and the Committees of Management of each religious institution must be Hindus. (*see* Sections 7, 21B, 25.)

e. In a similar vein is the Sikh Gurdwaras Act, 1925 where members of the Shiromani Gurudwara

Prabandhak Committees and Judicial Commission are required under the statute to be persons professing the Sikh religion. (*see* Sections 45, 46, 70, and 90.)

As such, it is clear that singling out Muslim waqfs for diluting the exclusive control of a religious group over its properties is arbitrary and reeks of political *mala fides* and bias.

CC. BECAUSE by virtue of Clause 11 of the Amendment Act, Section 14 of the 1995 Act has undergone a sea change which includes the removal of electoral components in State Waqf Boards and replacement thereof with nominations by the State Government, as well as the deletion of the provision which required the election of a chairperson from among the Board members during its constitution or reconstitution. These amendments diminish community representation and increase susceptibility to external and executive interference, further eroding the democratic functioning of these Boards and undermining the self-governing rights of Muslims over their waqf properties. This must be read in conjunction with Clause 14 of the Amendment Act, which repeals Section 20A – introduced in 2013 – eliminating the no-confidence vote mechanism for removing the Chairperson of a State Waqf Board and consolidating appointment and removal powers with the State Government, thereby eroding the State Waqf Board's

autonomy, weakening democratic oversight, and reversing years of progress in enhancing transparency and accountability in waqf administration. This is clearly a digressive step and offends the principle of non-retrogression of rights laid down by this Hon'ble Court.

DD. BECAUSE the amendment to Section 23 of the 1995 Act by way of Clause 15 of the Amendment Act – to remove the requirement that the Chief Executive Officer (**"CEO"**) of a Waqf Board must be a Muslim – is part of the broader attempt to shift control of waqf properties away from the Muslim community, violating their constitutional rights under Articles 25 and 26 and undermining the principles of secularism enshrined in the Constitution. Additionally, while the erstwhile framework ensured the State Waqf Board's involvement in appointing the CEO by selecting from a panel of two names, the amendment grants unilateral appointment power to the State Government, further eroding the State Waqf Board's autonomy and weakening the participatory and democratic structure of waqf administration. This is also violative of Articles 14 and 15 of the Constitution, as analogous legislation governing religious and charitable endowments of other faiths mandates that supervisory positions be held by members of the concerned religion.

a. As already stated above, for instance, under the Bihar Hindu Religious Trusts Act, 1950, to qualify for the

position of Superintendent of Religious Trusts, a person must also be a Hindu (*see* Section 24).

b. Similar provisions also exist in other endowment acts, such as –

i. The Odisha Hindu Religious Endowments Act, 1951,

ii. The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959,

iii. The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987,

iv. The Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987,

v. The Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997.

EE. BECAUSE while the Amendment Act introduces multiple opportunities for third parties to object to the designation of properties as waqf, it simultaneously eliminates the proviso to Section 32(2)(e)(iii) of the 1995 Act (through Clause 16(a) of the Amendment Act), which granted affected persons a hearing when the Board determined that a waqf's purpose had ceased to exist, exposing the agenda behind the entire amendment exercise, which is not so

much to implement the rules of natural justice as it is to deplete waqf properties and deprive the Muslim community of the benefit of their community resources. Furthermore, the deletion of the Explanation to Section 32(2)(e)(iii) removes the requirement that decisions on the liquidation of a waqf must be made only by Board members from the relevant sect, instead shifting control to a State Government-controlled body potentially dominated by non-Muslim members. These amendments violate the rights of Muslims and denominations within Islam under Article 26 to manage their religious affairs and properties, effectively reducing their fundamental rights under the said Article in this respect to a dead letter.

FF. BECAUSE similarly, the removal of Section 40 of the 1995 Act (through Clause 20 of the Amendment Act), which gave State Waqf Boards the authority to conduct an inquiry and decide whether a property qualified as waqf property when it had reason to believe that such property constituted a waqf, is violative of Article 26 of the Constitution. Removing Section 40 weakens the framework designed to protect waqf properties, as it takes away the Boards' ability to *suo motu* identify and address omissions in the initial property survey or initiate inquiries into suspected waqf properties. Along with the deletion of Section 4(6) of the 1995 Act, which allowed State Waqf Boards to direct a second survey for waqf properties that

may have been left out of the initial survey, this change significantly reduces the State Waqf Boards' ability to protect assets meant for religious or charitable purposes. This is also violative of Articles 14 and 15 of the Constitution being an instance of hostile discrimination as similar *suo motu* powers exist under religious endowment laws of other religions, such as –

a. The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959,

b. The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, and

c. The Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987.

GG. BECAUSE the deletion of the erstwhile Section 107 of the 1995 Act, which exempted waqf properties from the Limitation Act, 1963 (**"1963 Act"**) through Clause 41 of the Amendment Act, and the introduction of the section in a new form – by virtue of Clause 40A of the Amendment Act – making the 1963 Act applicable *"on and from the commencement of the Waqf (Amendment) Act, 2025"* is unconstitutional as it fails to achieve the object claimed to be achieved by it. The reasoning given for this amendment in the JPC Report was that the amendment is being made prospectively applicable to address concerns of the rights of encroachers becoming vested upon the coming into force of the Amendment Act. However, this amendment fails to realise the object sought to be achieved as it is settled law that

statutes of limitations are by their very nature retrospective in that they apply to all legal proceedings brought after their operation for enforcing a cause of action accrued earlier and are prospective only in the sense that they do not revive a cause of action that is already time-barred on the date of their coming into operation. For instance, this Hon'ble Court, in ***Thirumalai Chemicals Ltd.* v. *Union of India*, (2011) 6 SCC 739**, has held as follows:

> *"Law of limitation is generally regarded as procedural and its object is not to create any right but to prescribe periods within which legal proceedings be instituted for enforcement of rights which exist under substantive law. On expiry of the period of limitation, the right to sue comes to an end and if a particular right of action had become time-barred under the earlier statute of limitation the right is not revived by the provision of the latest statute. Statutes of limitation are thus retrospective insofar as they apply to all legal proceedings brought after their operation for enforcing cause of action accrued earlier, but they are prospective in the sense that they neither have the effect of reviving the right of action which is already barred on the date of their coming into operation, nor do they have the effect of extinguishing a right of action subsisting on that date. Bennion on Statutory Interpretation, 5th Edn. (2008), p. 321 while dealing with retrospective operation of procedural provisions has stated that provisions laying down limitation periods fall into a special category and opined that although prima facie procedural, they are capable of effectively depriving persons of accrued rights and therefore they need be approached with caution."*

This legislative shift undermines the State's constitutional duty to protect religious endowments under Article 26 of the Constitution. Further, provisions excluding the applicability of limitation law on religious and charitable endowments in the laws governing such endowments for other religions, such as Section 109 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, and selectively applying this law to

waqfs constitutes hostile discrimination, which is violative of Articles 14 and 15 of the Constitution.

HH. BECAUSE the amendment to Section 107 of the 1995 Act violates the fundamental right to religious freedom under Articles 25 and 26 of the Constitution and undermines the protection of waqf properties as religious or charitable endowments meant for the community's benefit. The removal of this exemption exposes waqf properties to adverse possession claims, contrary to the legislative intent behind the 1995 Act. The carve-out in Section 107 of the 1995 Act, as evidenced by parliamentary debates, was consciously introduced to safeguard properties comprised of waqfs being lost to adverse possession, acknowledging the failure of various Governments to protect and restore waqf properties that had been encroached upon. The Sachar Committee had recommended extending the limitation period for waqf properties to 2035 with retrospective effect, recognising the pervasive encroachment on waqf properties and the ineffectiveness of Waqf Boards in recovering them. Therefore, the amendment marks a departure from the consistent and conscious efforts of Parliament so far to prevent the dissipation of waqf properties through encroachment. By allowing encroachers to establish ownership through adverse possession while denying waqf institutions the ability to claim properties through long-standing religious use, this amendment is manifestly arbitrary and represents a regressive step in the protection of waqfs, and is thus contrary to the principle of the non-retrogression of rights laid down by this Hon'ble Court.

II. **BECAUSE** the omission – through Clause 41 of the Amendment Act – of Section 108 of the 1995 Act makes evacuee waqf properties, originally dedicated for religious or charitable purposes, subject to the regulatory control of the Custodian of Evacuee Property, taking them outside the jurisdiction of the 1995 Act and Waqf Boards. This risks these properties losing their character as waqf properties, undermines the dedication made by waqifs who migrated during Partition and falls foul of the legal principle '*once a waqf, always a waqf*', which is part of Muslim personal law and forms a facet of Article 25. This deletion disrupts the continuity of waqf administration and compromises the rights of the Muslim community to administer its own properties in the exercise of their rights under Article 26 of the Constitution.

JJ. **BECAUSE** the deletion – through Clause 41 of the Amendment Act – of Section 108A of the 1995 Act, which gave overriding effect to the provisions of the 1995 Act over conflicting laws, such as the Transfer of Property Act, Registration Act, and Land Reforms Acts, is unconstitutional as it undermines the distinct identity of waqf properties and makes their administration more complex and burdensome, defeating the object and purpose of the 1995 Act, and dilutes the right under Articles 25 and 26 of the Constitution. The erstwhile provision recognised the unique nature of waqf properties, which do not require written instruments, registration, or stamp duty for dedication. It also shielded waqf properties from state-imposed landholding thresholds under land reform laws. These exemptions were well-recognised as facets of Muslim personal law, protected by Article

25 of the Constitution. The deletion of Section 108A will now subject waqf dedications to these laws, creating significant legal and procedural hurdles for individuals seeking to dedicate property to waqf and making the exercise of religious freedom more burdensome. The absence of an overriding provision will expose waqf properties to legal disputes and dilute their protection under the 1995 Act. This amendment also constitutes another instance of hostile discrimination, violating Articles 14 and 15 of the Constitution, as similar overriding provisions continue to exist in statutes governing religious and charitable endowments of other religions, such as –

a. Section 79 of the Bihar Hindu Religious Trusts Act, 1950,

b. Section 160 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987,

c. Section 160 of the Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987.

KK. BECAUSE the amendments to the 1995 Act introduce an unconstitutional centralisation of power by significantly expanding the rule-making authority of the Central Government under the newly proposed Section 108B of the 1995 Act (through Clause 42 of the Amendment Act) while simultaneously curtailing the rule-making powers of State Governments under Section 109 (through Clause 43 of the Amendment Act). Previously, the Central Government was only empowered to frame rules with respect to the provisions contained in Chapter III of the 1995 Act, dealing with the constitution, powers,

functions, and other aspects of the Central Waqf Council. However, now, the Central Government has been vested with the power to frame rules on key aspects of waqf governance, including the prescription of registration details, maintenance of the register of auqaf, submission of accounts by mutawallis and audit procedures, representing an alarming centralising tendency, even though the 1995 Act derives its legislative mandate from entries such as 'trust and trustees' (Entry 10) and 'charities and charitable institutions, charitable and religious endowments, and religious institutions' (Entry 28) in the Concurrent List of the Seventh Schedule of the Constitution. By virtue of Clause 44 of the Amendment Act, the Waqf Board has also been stripped of the power to frame regulations concerning the particulars required for the registration of auqaf under Sub-section (3) of Section 36 of the 1995 Act and the details to be maintained in the register of auqaf under Section 37. These powers have now been transferred to the Central Government, thereby centralising control and diminishing the autonomy of the Waqf Board. Similarly, Clause 19(a) of the Amendment Act transfers the State Waqf Board's authority to prescribe the particulars to be recorded in the register of auqaf under Section 37 of the 1995 Act to the Central Government. A similar shift in regulatory power is evident in Clause 21, which replaces the phrase *"in such form and containing such particulars as may be provided by regulations by the Board of all moneys received"* with *"in such form and manner and containing such particulars as may be prescribed by the Central Government, of all moneys received from any source."*

LL. BECAUSE this centralising shift is not limited to the aforementioned provisions but extends across multiple clauses of the Amendment Act. For instance, Clause 3(vii) redefines the term 'prescribed' under Section 3(l) of the 1995 Act to consolidate regulatory control in the hands of the Central Government. Clause 3(ix)(c) confers upon the Central Government the power to prescribe the manner in which the income of a waqf-alal-aulad – upon the failure of the line of succession – is to be applied towards education, development, welfare, or maintenance of widows, divorced women, and orphans, if so intended by the waqif. Clause 4 confers exclusive authority on the Central Government under Section 3B(2)(j) to prescribe the particulars to be furnished. Clause 6(c) introduces Section 5(2B), mandating that the details of each waqf shall include particulars in a manner prescribed by the Central Government. Clause 18(b)(ii) amends Section 36(3)(f), vesting the Central Government with the power to prescribe particulars for waqf registration applications. Clause 19(a) similarly mandates that the register of auqaf under Section 37 shall contain the particulars outlined therein in the manner prescribed by the Central Government. Clause 22(a)(iii) inserts a proviso to Section 47(1)(c), allowing the Central Government to direct the audit of any waqf, while Clause 22(b) introduces Sub-section (2A) to Section 47, requiring that audit reports directed by the State Government be published in a manner prescribed by the Central Government. Clause 23(a) further centralises control by empowering the Central Government to determine the manner in which the Board's proceedings and orders concerning the

auditor's report are to be published. Additionally, Clause 33(a) alters the financial obligations of mutawallis, reducing the annual contribution payable to the Board from seven percent to five percent of the waqf's net annual income (for incomes above five thousand rupees), while capping the maximum contribution at a limit to be prescribed by the Central Government. These provisions collectively strip State Waqf Boards and even the State Government of critical regulatory powers, consolidating unprecedented control over waqf administration within the Central Government. By elevating the Central Government to a position of supervision and oversight over State Governments, these amendments directly contravene the spirit of cooperative federalism, as reaffirmed by a series of Supreme Court judgments, including ***Jindal Stainless Ltd.* v. *State of Haryana*, (2017) 12 SCC 1**, wherein the co-equal status of the Union and States within India's unique federal structure has been reaffirmed.

MM. BECAUSE Section 3D, which came to be included in the 1995 Act by way of an amendment moved on the floor of the Lok Sabha, is *ex facie* unconstitutional as it retrospectively renders void any declaration or notification previously issued under any extant law of waqfs if the property to which the notification relates is a 'protected monument' or a 'protected area' within quotes the Ancient Monuments Preservation Act, 1904, and the Ancient Monuments and Archaeological Sites and Remains Act, 1958. This places a question mark on hundreds of properties which are places of worship and have been continuously in use for Islamic worship for centuries. This has the potential to create

conflict and vitiate the communal atmosphere in the country, particularly in relation to mosques, dargahs and other places of Islamic worship where mischievous claims have been made by divisive elements for political gain. As such, this is contrary to the principle of secularism which is recognised as a basic feature of the Constitution by this Hon'ble Court in ***SR Bommai* (*supra*)**. This also has the potential of reopening wounds of the past, and undermining the objectives of the 1991 Act, which has been elevated to the status of a constitutional principle by this Hon'ble Court in ***M Siddiq* (*supra*)**.

NN. BECAUSE Section 3E, which came to be included in the 1995 Act by way of an amendment moved on the floor of the Lok Sabha, is *ex facie* unconstitutional as it deprives members of Scheduled Tribes of the right to dedicate property by way of waqf. Unlike Scheduled Castes, members of Scheduled Tribes do not lose their status as such upon conversion to another religion. Therefore, members of Scheduled Tribes who convert to Islam retain their tribal status but at the same time, take on the identity of Muslims. The impugned amendment deprives such persons of their right to freely practise their religion under Article 25 and 26 of the Constitution by disallowing them from practising an essential element of their faith. It also unjustly interferes with their right to property rendering Article 300A nugatory. This amendment is also in violation of Articles 14 and 15 as it amounts to hostile discrimination between members of Scheduled Tribes on the grounds of religion and between Muslims on the grounds of their tribe. As such, this amendment is manifestly arbitrary and unconstitutional, and deserves to be struck down.

31. That the Petitioner respectfully seeks leave to supplement, amend, or modify the foregoing grounds, as may be necessary, and to raise additional grounds at the time of hearing, with the kind permission of this Hon'ble Court.

32. That the present Petition raises a substantial question of law, including, but not limited to, whether the impugned amendments to the 1995 Act, whether they constitute hostile discrimination, whether they are manifestly arbitrary, whether they unreasonably dilute the statutory protections afforded to waqf properties, whether they violate the doctrine of non-retrogression by curtailing existing rights, and whether they impermissibly vest unchecked powers in the State, creating a conflict of interest in matters concerning waqf administration. These questions must be considered in light of the fundamental rights guaranteed under the Constitution, particularly Articles 14, 15, 21, 25, 26, 29, 30 and 300A, as well as the constitutional principles of secularism, fraternity, and federalism. These substantial questions of law necessitate authoritative determination to ensure compliance with the constitutional mandate safeguarding the religious and secular fabric of the nation.

33. That the Petitioner has not filed any other petition seeking the same relief before this Hon'ble Court or any other Court.

PRAYER

In the facts and circumstances of the case, as mentioned above, it is, therefore, most humbly prayed that this Hon'ble Court may graciously be pleased to:

a. Issue an appropriate writ, order, or direction, declaring that Clauses 2A, 3(v), 3(vii), 3(ix), 4, 5(a), 5(b), 5(c), 5(d), 5(f), 6(a), 6(c), 6(d), 7(a)(ii), 7(a)(iii), 7(a)(iv), 7(b), 8(ii), 8(iii), 8(iv), 9, 11, 12(i), 14, 15, 16, 17(a), 17(b), 18, 19, 20, 21(b), 22, 23, 25, 26, 27, 28(a), 28(b), 29, 31, 32, 33, 34, 35, 38, 39(a), 40, 40A, 41, 42, 43(a), 43(b), and 44 of the Waqf (Amendment) Act, 2025, amending the Waqf Act, 1995, are unconstitutional, null and void and *ultra vires* Articles 14, 15, 21, 25, 26, 29, 30 and 300A of the Constitution of India, and hence void *ab initio*;

b. Pass such other orders as this Hon'ble Court may deem fit and proper in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY

(LZAFEER AHMAD B F)
CC No.: 2941
AOR for the Petitioner
Address: 5, LGF, Jaipur Estate,
Nizamuddin East, New Delhi – 110013
Mob: +91 95822 96522
Email: filing@lzafeer.in

Drawn on: 03.04.2025
Filed on: 04.04.2025
Place: New Delhi

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. _____OF 2025

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

ASADUDDIN OWAISI ...PETITIONER

VERSUS

UNION OF INDIA ...RESPONDENT

AFFIDAVIT

I, Asaduddin Owaisi, [redacted]

do hereby solemnly affirm and declare as under:

1. That I am the Petitioner in the captioned Writ Petition, and I am well conversant with the facts and circumstances of the case, and as such I am fully competent to swear this affidavit.

2. That the accompanying Writ Petition has been drafted by my counsel under my instructions and I have read and understood the contents of the Synopsis, List of Dates and the Writ Petition and I state that the contents thereof are true to my knowledge and belief, no part of it is false, and nothing material has been concealed therefrom.

3. That the present Writ Petition has been filed purely in the interest of the public at large and to address issues of significant

NOTARY M. RAMCHANDER RAO NR.K. Bazar, HYD-24. Comm No. 457/11 GOVT. OF T.S.

public importance that require urgent intervention by this Hon'ble Court.

4. That I do not have any personal or private interest, motive, or oblique reason in filing the present petition. The litigation has been initiated solely to uphold the rule of law, protect public welfare, and address the grievances of the affected sections of society.

5. That I am not acting at the behest of any third party, organisation, or group, nor have I received any monetary or other consideration for filing this petition.

6. That to the best of my knowledge and belief, the issues raised in the present Writ Petition have not been previously adjudicated or decided by this Hon'ble Court or any other Court.

7. That I am filing this affidavit to affirm my *bona fides* and to assure this Hon'ble Court of my sincerity in pursuing the matter solely in the interest of public welfare.

8. That the contents of the accompanying Application(s), if any, are true and correct to the best of my knowledge and belief.

9. That the copies of the documents, if any, filed along with the accompanying Writ Petition or Application(s) are true copies of their respective originals.

NOTARY
M. RAMCHANDER RAO
NR.X. Bazar, HYD-24.
Goms No. 457/11.
GOVT. OF T.S.

[redacted]

DEPONENT

VERIFICATION

I, the abovenamed deponent, do hereby solemnly verify that the contents of the aforesaid affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Verified at Hyderabad on this 4th day of April 2025.

[redacted]

DEPONENT

NOTARY
TEN RUPEES
NOTARIAL

04 APR 2025

ATTESTED

NOTARY
M. RAMCHANDER RAO
ADVOCATE
H. No. 22-2-849/3, Noor Khan Bazar,
HYD-24. T.S. India. Goms No. 457/11

APPENDIX-I

I. Relevant Constitutional Provisions –

13. Laws inconsistent with or in derogation of the fundamental rights. —
(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires, —

(*a*) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

(*b*) "laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

(4) Nothing in this article shall apply to any amendment of this Constitution made under Article 368.

14. Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.—(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(*a*) access to shops, public restaurants, hotels and places of public entertainment; or

(*b*) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in sub-clause (*g*) of clause (1) of Article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes insofar as

such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30.

(6) Nothing in this article or sub-clause (*g*) of clause (1) of Article 19 or clause (2) of Article 29 shall prevent the State from making,—

(*a*) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

(*b*) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) insofar as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of Article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent of the total seats in each category.

Explanation.—For the purposes of this article and Article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.

21. Protection of life and personal liberty.—No person shall be deprived of his life or personal liberty except according to procedure established by law.

25. Freedom of conscience and free profession, practice and propagation of religion.—(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(*a*) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(*b*) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.—The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

Explanation II.—In sub-clause (*b*) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

26. Freedom to manage religious affairs.—Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(*a*) to establish and maintain institutions for religious and charitable purposes;

(*b*) to manage its own affairs in matters of religion;

(*c*) to own and acquire movable and immovable property; and

(*d*) to administer such property in accordance with law.

29. Protection of interests of minorities.—(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

30. Right of minorities to establish and administer educational institutions.—(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(1-A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is

under the management of a minority, whether based on religion or language.

300-A. Persons not to be deprived of property save by authority of law.—No person shall be deprived of his property save by authority of law.

ANNEXURE P-1

THE WAQF (AMENDMENT) BILL, 2024
AS REPORTED BY THE JOINT COMMITTEE

[*Words and figures in bold and underlined indicate the amendments, and asterisks (***) indicate omission suggested by the Joint Committee*]

THE WAQF (AMENDMENT) BILL, **2025**

A

BILL

further to amend the Waqf Act, 1995.

BE it enacted by Parliament in the Seventy-**sixth** Year of the Republic of India as follows:—

Short title and commencement.

1.(*1*) This Act may be called the Waqf (Amendment) Act, **2025**.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 1.

2. In section 1 of the Waqf Act, 1995 (hereinafter referred to as the principal Act), in sub-section (*1*), for the word "Waqf", the words "Unified Waqf Management, Empowerment, Efficiency and Development" shall be substituted.

43 of 1995.

Amendment of section 2.

2A. In section 2 of the principal Act, after the proviso, the following proviso shall be inserted, namely:—

"Provided further that nothing in this Act shall, notwithstanding any judgement, decree or order of any court, apply to a trust (by whatever name called) established before or after the commencement of this Act or statutorily regulated by any statutory provision pertaining to public charities, by a Muslim for purpose similar to a waqf under any

law for the time being in force.".

Amendment of section 3.

3. In section 3 of the principal Act,—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) "Aghakhani waqf" means a waqf dedicated by an Aghakhani waqif;';

(*ii*) after clause (*c*), the following clause shall be inserted, namely:—

'(*ca*) "Bohra waqf" means a waqf dedicated by a Bohra waqif;';

(*iii*) after clause (*d*), the following clause shall be inserted, namely:—

'(*da*) "Collector" includes the Collector of land-revenue of a district, or the Deputy Commissioner, or any officer not below the rank of Deputy Collector authorised in writing by the Collector;';

(*iv*) after clause (*f*), the following clauses shall be inserted, namely:—

'(*fa*) "Government Organisation" includes the Central Government, State Governments, Municipalities, Panchayats, attached and subordinate offices and autonomous bodies of the Central Government or State Government, or any organisation or Institution owned and controlled by the Central Government or State Government;

(*fb*) "Government property" means movable or immovable property or any part thereof, belonging to a Government Organisation;';

(*v*) in clause (*i*), the words ", either verbally or" shall be omitted;

(*vi*) after clause (*k*), the following clause shall be inserted, namely:—

'(*ka*) "portal and database" means the waqf asset management system or any other system set up by the Central Government for the registration, accounts, audit and any other detail of waqf and the Board, as may be prescribed by the Central Government;';

(*vii*) for clause (*l*), the following clause shall be substituted, namely:—

'(*l*) "prescribed", means prescribed by rules made under this Act;';

(*viii*) clause (*p*) shall be omitted;

(*ix*) in clause (*r*),—

(*a*) in the opening portion, for the words "any person, of any movable or immovable property", the words "any person**showing or demonstrating that he is**practising Islam for at least five years, of any movable or immovable property, having ownership of such property**and that there is no contrivance involved in the dedication of such property,**" shall be substituted;

(*b*) sub-clause (*i*) shall be omitted;

(*c*) in sub-clause (*iv*), after the word "welfare", the words ", **or**maintenance of widow, divorced woman and orphan,**if waqif so intends,** in such manner, as may be prescribed by the Central Government," shall be inserted;

(*d*) in the long line, for the words "any person", the words "any

such person" shall be substituted.

(*e*) the following proviso shall be inserted at the end,namely:—

"Provided that the existing waqf by user properties registered on or before the commencement of the Waqf (Amendment) Act, 2025 as waqf by user will remain as waqf properties except that the property, wholly or in part, is in dispute or is a government property;".

4. After section 3 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 3A, 3B and 3C.

"3A.(*1*) No person shall create a waqf unless he is the lawful owner of the property and competent to transfer or dedicate such property. Certain conditions of waqf.

(*2*) The creation of a waqf-alal-aulad shall not result in denial of inheritance rights of heirs, including women heirs, of the waqif**or any other rights of persons with lawful claims**.

3B.(*1*) Every waqf registered under this Act, prior to the commencement of the Waqf (Amendment) Act, **2025**, shall file the details of the waqf and the property dedicated to the waqf on the portal and database, within a period of six months from such commencement: Filing of details of waqf on portal and database.

Provided that the Tribunal may, on an application made to it by the Mutawalli, extend the period of six months under this section for such period as it may consider appropriate, if he satisfies the Tribunal that he had sufficient cause for not filing the details of the waqf on the portal within such period.

(*2*) The details of the waqf under sub-section (*1*), amongst other information, shall include the following, namely:—

(*a*) the identification and boundaries of waqf properties, their use and occupier;

(*b*) the name and address of the creator of the waqf, mode and date of such creation;

(*c*) the deed of waqf, if available;

(*d*) the present mutawalli and its management;

(*e*) the gross annual income from such waqf properties;

(*f*) the amount of landrevenue, cesses, rates and taxes annually payable in respect of the waqf properties;

(*g*) an estimate of the expenses annually incurred in the realisation of the income of the waqf properties;

(*h*) the amount set apart under the waqf for—

(*i*) the salary of the mutawalli and allowances to the individuals;

(*ii*) purely religious purposes;

(*iii*) charitable purposes; and

(*iv*) any other purposes;

(*i*) details of court cases, if any, involving such waqf property;

(*j*) any other particular as may be prescribed by the Central Government.

3C.(*1*) Any Government property identified or declared as waqf property, before or after the commencement of this Act, shall not be Wrongful declaration of

deemed to be a waqf property. waqf.

(*2*) If any question arises as to whether any such property is a Government property,**the State Government may, by notification, designate an officer above the rank of Collector (hereinafter referred to as the designated officer), who shall conduct an inquiry as per law,** and determine whether such property is a Government property or not and submit his report to the State Government:

Provided that such property shall not be treated as waqf property till the **designated officer** submits his report.

(*3*) In case the **designated officer** determines the property to be a Government property, he shall make necessary corrections in revenue records and submit a report in this regard to the State Government.

(*4*) The State Government shall, on receipt of the report of the **designated officer,** direct the Board to make appropriate correction in the records.".

Amendment of section 4.

5. In section 4 of the principal Act,—

(*a*) for the marginal heading, the marginal heading "Survey of auqaf." shall be substituted;

(*b*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Any survey of auqaf pending before the Survey Commissioner, on, the commencement of the Waqf (Amendment)Act, **2025,** shall be transferred to the Collector having jurisdiction and the Collector shall make the survey in accordance with the procedure in the revenue laws of the State, from the stage such survey is transferred to the Collector, and submit his report to the State Government.";

(*c*) sub-sections (*1A*), (*2*) and (*3*) shall be omitted;

(*d*) in sub-section (*4*), in the opening portion, for the words "Survey Commissioner", the word "Collector" shall be substituted;

(*e*) in sub-section (*5*), after the words "Sunni waqf", the words "or Aghakhani waqf or Bohra waqf" shall be inserted;

(*f*) sub-section (*6*) shall be omitted.

Amendment of section 5.

6. In section 5 of the principal Act,—

(*a*) in sub-section (*1*), for the word, brackets and figure "sub-section (*3*)", the word, brackets and figure "sub-section (*1*)" shall be substituted;

(*b*) in sub-section (*2*), after the words "Shia auqaf", the words "or Aghakhaniauqaf or Bohra auqaf" shall be inserted;

(*c*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*2A*) The State Government shall upload the notified list of auqaf on the portal and database within **ninety** days from the date of its publication in the Official Gazette under sub-section (*2*).

(*2B*) The details of each waqf shall contain the identification, boundaries of waqf properties, their use and occupier, details of the creator, mode and date of such creation, purpose of waqf, their present mutawallis and management in such manner as may be prescribed by the Central Government.";

(*d*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The revenue authorities, before deciding mutation in the land records, in accordance with revenue laws in force, shall give a public notice of ninety days, in two daily newspapers circulating in the localities of such area of which one shall be in the regional language and give the affected persons an opportunity of being heard.";

(*e*) in sub-section (*4*), after the words "time to time", the words "on the portal and database" shall be inserted.

Amendment of section 6.

7. In section 6 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) after the words "Sunni waqf", the words "or Aghakhani waqf or Bohra waqf" shall be inserted;

(*ii*) the words "and the decision of the Tribunal in respect of such matter shall be final" shall be omitted;

(*iii*) in the first proviso, for the words "one year", the words "two years" shall be substituted;

(*iv*)for the second proviso, the following proviso shall be substituted,namely:—

"Provided further that an application may be entertained by the Tribunal after the period of two years specified in the first proviso, if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period:";

(*b*) in sub-section (*3*), for the words "Survey Commissioner", the word "Collector" shall be substituted.

Amendment of section 7.

8. In section 7 of the principal Act, in sub-section (*1*),—

(*i*) after the words "Sunni waqf", the words "or Aghakhani waqf or Bohra waqf" shall be inserted;

(*ii*) the words "and the decision of the Tribunal thereon shall be final" shall be omitted;

(*iii*) in the first proviso, for the words "one year" wherever they occur, the words "two years" shall be substituted;

(*iv*) in the second proviso, for the words "Provided further that", the following shall be substituted, namely:—

"Provided further that an application may be entertained by the Tribunal after the period of two years specified in the first proviso, if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period:

Provided also that".

Amendment of section 9.

9. In section 9 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The Council shall consist of—

(*a*) the Union Minister in charge of waqf—Chairperson, *ex officio*;

(*b*)three Members of Parliament of whom two shall be from the House of the People and one from the Council of States;

(*c*) the following members to be appointed by the Central Government from amongst Muslims, namely:—

(*i*) three persons to represent Muslim organisations having all India character and national importance;

(*ii*) Chairpersons of three Boards by rotation;

(*iii*)one person to represent the mutawallis of the waqf having a gross annual income of five lakh rupees and above;

(*iv*)three persons who are eminent scholars in Muslim law;

(*d*) two persons who have been Judges of the Supreme Court or a High Court;

(*e*) one Advocate of national eminence;

(*f*) four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine;

(*g*) Additional Secretary or Joint Secretary to the Government of India dealing with waqf matters in the Union Ministry or department—member, *ex officio*:

Provided that two of the members appointed under clause (*c*) shall be women:

Provided further that two members appointed under this sub-section,**excluding*ex officio* members,** shall be non-Muslim.".

Amendment of section 13.

10. In section 13 of the principal Act, for sub-section (*2A*), the following sub-section shall be substituted, namely:—

"(*2A*) The State Government may, if it deems necessary, by notification in the Official Gazette, establish a separate Board of Auqaf for Bohras and Aghakhanis.".

Amendment of section 14.

11. In section 14 of the principal Act,—

(*a*) for sub-sections (*1*), (*1A*), (*2*), (*3*) and (*4*), the following sub-sections shall be substituted, namely:—

"(*1*) The Board for a State and the National Capital Territory of Delhi shall consist of, not more than eleven members, to be nominated by the State Government,—

(*a*) a Chairperson;

(*b*) (*i*) one Member of Parliament from the State or, as the case may be, the National Capital Territory of Delhi;

(*ii*) one Member of the State Legislature;

(*c*)the following members belonging to Muslim community, namely:—

(*i*) one mutawalli of the waqf having an annual income of one lakh rupees and above;

(*ii*) one eminent scholar of Islamic theology;

(*iii*) two or more elected members from the Municipalities or Panchayats:

Provided that in case there is no Muslim member available from any of the categories in sub-clauses (*i*) to (*iii*), additional members from category in sub-clause (*iii*) may be nominated;

(*d*) two persons who have professional experience in business management, social work, finance or revenue, agriculture and development activities;

(*e*)Joint Secretary to the State Government dealing with the waqf matters, *ex officio*;

(*f*) one Member of the Bar Council of the concerned State or Union territory:

Provided that two members of the Board appointed under clause (*c*) shall be women:

Provided further that two of total members of the Board appointed under this sub-section,**excluding *ex officio* members,**shall be non-Muslim:

Provided also that the Board shall have at least one member each from Shia, Sunni and other backward classes among Muslim Communities:

Provided also that one member each from Bohra and Aghakhani communities shall be nominated in the Board in case they have functional auqaf in the State or Union territory:

Provided also that the elected members of Board holding office on the commencement of the Waqf (Amendment) Act, **2025** shall continue to hold office as such until the expiry of their term of office.

(*2*) No Minister of the Central Government or, as the case may be, a State Government, shall be nominated as a member of the Board.

(*3*) In case of a Union territory, the Board shall consist of not less than five and not more than seven members to be nominated by the Central Government under sub-section (*1*).";

(*b*) for sub-section (*6*), the following sub-section shall be substituted, namely:—

"(*6*) In determining the number of members belonging to Shia, Sunni, Bohra, Aghakhani or other backward classes among Muslim communities, the State Government or, as the case may be, the Central Government in case of a Union territory shall have regard to the number and value of Shia, Sunni, Bohra, Aghakhani and other backward classes among Muslim auqaf to be administered by the Board and appointment of the members shall be made, so far as may be, in accordance with such determination.";

(*c*) sub-section (*8*) shall be omitted.

Amendment of section 16.

12. In section 16 of the principal Act,—

(*i*) for clause (*a*), the following clauses shall be substituted, namely:—

"(*a*) he is less than twenty-one years of age;

(*aa*) in case of a member under clause (*c*) of sub-section (*1*) of section 14, he is not a Muslim;";

(*ii*)for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) he has been convicted of any offence and sentenced to imprisonment for not less than two years;".

Amendment of section 17.

13. In section 17 of the principal Act, in sub-section (*1*), after the words "shall meet", the words "at least once in every month" shall be inserted.

Omission of section 20A.

14. Section 20A of the principal Act shall be omitted.

Amendment of section 23.

15. In section 23 of the principal Act, for sub-section (*1*), the following

sub-section shall be substituted, namely:—

"(*1*) There shall be a full-time Chief Executive Officer of the Board to be appointed by the State Government and who shall be not below the rank of Joint Secretary to the State Government.".

Amendment of section 30.

15A. In section 30 of the principal Act, in sub-section (*2*), for the words and figures "section 76 of the Indian Evidence Act, 1872", the words and figures "section 75 of the BharatiyaSakshyaAdhiniyam, 2023" shall be substituted.

1 of 1872.

47 of 2023.

Amendment of section 32.

16. In section 32 of the principal Act,—

(*a*) in sub-section (*2*), in clause (*e*), the *Explanation* and the proviso shall be omitted;

(*b*) in sub-section (*3*), the words "and the decision of the Tribunal thereon shall be final" shall be omitted.

Amendment of section 33.

17. In section 33 of the principal Act,—

(*a*) in sub-section (*4*), in the proviso, the words, brackets and figure "and the Tribunal shall have no power to make any order staying pending the disposal of the appeal, the operation of the order made by the Chief Executive Officer under sub-section (*3*)" shall be omitted;

(*b*) sub-section (*6*) shall be omitted.

Amendment of section 36.

18. In section 36 of the principal Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) On and from the commencement of the Waqf (Amendment) Act, **2025**, no waqf shall be created without execution of a waqf deed.";

(*b*) in sub-section (*3*),—

(*i*) in the opening portion, for the words "in such form and manner and at such place as the Board may by regulation provide", the words "to the Board through the portal and database" shall be substituted;

(*ii*) for clause (*f*), the following clause shall be substituted, namely:—

"(*f*) any other particulars as may be prescribed by the Central Government.";

(*c*) in sub-section (*4*), the words "or if no such deed has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as they are known to the applicant, of the origin, nature and objects of the waqf" shall be omitted;

(*d*) for sub-section (*7*), the following sub-sections shall be substituted, namely:—

"(*7*) On receipt of an application for registration, the Board shall forward the application to the Collector having jurisdiction to inquire the genuineness and validity of the application and correctness of any particulars therein and submit a report to the Board:

Provided that if the application is made by any person other than the person administering the waqf, the Board shall, before registering the waqf, give notice of the application to the person administering the waqf and shall hear him if he desires to be heard.

(*7A*) Where the Collector in his report mentions that the

property, wholly or in part, is in dispute or is a Government property, the waqf in relation to such part of property shall not be registered, unless the dispute is decided by a competent court.";

(*e*) in sub-section (*8*), the proviso shall be omitted;

(*f*) after sub-section (*8*), the following sub-sections shall be inserted, namely:—

"(*9*) The Board, on registering a waqf, shall issue the certificate of registration to the waqf through the portal and database.

(*10*) No suit, appeal or other legal proceeding for the enforcement of any right on behalf of any waqf which have not been registered in accordance with the provisions of this Act, shall be instituted or commenced or heard, tried or decided by any court after expiry of a period of six months from the commencement of the Waqf (Amendment) Act, **2025**:

Provided that an application may be entertained by the court in respect of such suit, appeal or other legal proceedings after the period of six months specified under this sub-section, if the applicant satisfies the court that he had sufficient cause for not making the application within such period.".

Amendment of section 37.

19. In section 37 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) in the opening portion, after the word "particulars", the words "in such manner as prescribed by the Central Government" shall be inserted;

(*ii*) in clause (*f*), for the words "provided by regulations", the words "prescribed by the Central Government" shall be substituted;

(*b*) in sub-section (*3*), after the words "land record office shall", the words "before deciding mutation in the land records, in accordance with revenue laws in force, shall give a public notice of ninety days, in two daily newspapers circulating in the localities of such area of which one shall be in the regional language and give the affected persons an opportunity of being heard, then" shall be substituted.

Omission of section 40.

20. Section 40 of the principal Act shall be omitted.

Amendment of section 46.

21. In section 46 of the principal Act, in sub-section (*2*),—

(*a*) for the word "July", at both the places where it occurs, the word "October" shall be substituted;

(*b*) for the words "in such form and containing such particulars as may be provided by regulations by the Board of all moneys received", the words "in such form and manner and containing such particulars as may be prescribed by the Central Government, of all moneys received from any source" shall be substituted.

Amendment of section 47.

22. In section 47 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*a*),—

(*A*) for the words "fifty thousand rupees", the words "one lakh rupees" shall be substituted;

(*B*) after the words "appointed by the Board", the following shall be inserted, namely:—

"from out of the panel of auditors prepared by the State Government:

Provided that the State Government shall, while

preparing such panel of auditors, specify the remuneration to be paid to such auditors;";

(*ii*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) the accounts of the waqf having net annual income exceeding one lakh rupees shall be audited annually, by an auditor appointed by the Board from out of the panel of auditors as specified in clause (*a*);";

(*iii*) in clause (*c*), the following proviso shall be inserted, namely:—

"Provided that the Central Government may, by order, direct the audit of any waqf at any time by an auditor appointed by the Comptroller and Auditor-General of India, or by any officer designated by the Central Government for that purpose.";

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) On receipt of the report under sub-section (*2*), the Board shall publish the audit report in such manner as may be prescribed by the Central Government.";

Amendment of section 48.

(*c*) in sub-section (*3*), both the provisos shall be omitted.

23. In section 48 of the principal Act,—

(*a*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) The proceedings and orders of the Board under sub-section (*1*) shall be published in such manner as may be prescribed by the Central Government.";

(*b*) in sub-section (*3*), the words, brackets and figure "and the Tribunal shall not have any power to stay the operation of the order made by the Board under sub-section (*1*)" shall be omitted;

Insertion of new section 50A.

(*c*) sub-section (*4*) shall be omitted.

24. After section 50 of the principal Act, the following section shall be inserted, namely:—

Disqualification of mutawalli.

"50A. A person shall not be qualified for being appointed, or for continuing as, a mutawalli, if he—

(*a*) is less than twenty-one years of age;

(*b*) is found to be a person of unsound mind;

(*c*) is an undischarged insolvent;

(*d*) has been convicted of any offence and sentenced to imprisonment for not less than two years;

(*e*) has been held guilty of encroachment on any waqf property;

(*f*) has been on a previous occasion—

(*i*) removed as a mutawalli; or

(*ii*) removed by an order of a competent court or Tribunal from any position of trust either for mismanagement or for corruption.".

Amendment of section 51.

24A. In section 51 the principal Act, in sub-section (*1A*), in the second proviso, for the words and figures "the Land Acquisition Act, 1894", the words and figures "the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" shall be

1 of 1894.

30 of 2013.

substituted.

Amendment of section 52.

25. In section 52 of the principal Act, in sub-section (*4*), the words "and the decision of the Tribunal on such appeal shall be final" shall be omitted.

Amendment of section 52A.

26. In section 52A of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "rigorous imprisonment", the word "imprisonment" shall be substituted;

(*ii*) in the **proviso** for the words "be vested in the Board", the words "be reverted back to the waqf" shall be substituted;

(*b*) sub-section (*2*) shall be omitted;

(*c*) sub-section (*4*) shall be omitted.

Amendment of section 55A.

27. In section 55A of the principal Act, in sub-section (*2*), in the proviso, the words "and the decision of the Tribunal thereon shall be final" shall be omitted.

Amendment of section 61.

28. In section 61 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) clauses (*e*) and (*f*) shall be omitted;

(*ii*) for the long line, the following shall be substituted, namely:—

"he shall, unless he satisfies the court or the Tribunal that there was reasonable cause for his failure, be punishable with a fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees.";

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) If a mutawalli fails to—

(*i*) deliver possession of any waqf property, if ordered by the Board or the Tribunal;

(*ii*) carry out the directions of the Collector or the Board;

(*iii*) do any other act which he is lawfully required to do by or under this Act;

(*iv*) provide statement of accounts under section 46;

(*v*) upload the details of waqf under section 3B,

he shall be punishable with imprisonment for a term which may extend to six months and also with a fine which shall not be less than twenty thousand rupees but which may extend to one lakh rupees.";

2 of 1974.

46 of 2023.

(*c*) in sub-section (*5*), for the words and figures "the Code of Criminal Procedure, 1973", the words and figures "the BharatiyaNagarik Suraksha Sanhita, 2023" shall be substituted.

Amendment of section 64.

29. In section 64 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for clause (*g*), the following clause shall be substituted, namely:—

"(*g*) has failed, without reasonable excuse, to maintain regular accounts for one year or has failed to submit, within

one year, the yearly statement of accounts, as required by section 46; or";

(*ii*) after clause (*k*), the following clause shall be inserted, namely:—

"(*l*) is a member of any association which has been declared unlawful under the Unlawful Activities (Prevention) Act, 1967.";

37 of 1967.

(*b*) in sub-section (*4*), the words "and the decision of the Tribunal on such appeal shall be final" shall be omitted.

Amendment of section 65.

30. In section 65 of the principal Act, in sub-section (*3*), for the words "As soon as possible", the words "Within six months" shall be substituted.

Amendment of section 67.

31. In section 67 of the principal Act,—

(*a*) for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(*4*) Any person aggrieved by the order made under sub-section (*2*) may, within **ninety** days from the date of the order, appeal to the Tribunal.";

(*b*) in sub-section (*6*), in the second proviso, the words "and the order made by the Tribunal in such appeal shall be final" shall be omitted.

Amendment of section 69.

32. In section 69 of the principal Act,—

(*a*) in sub-section (*3*), the second proviso shall be omitted;

(*b*) in sub-section (*4*), the following proviso shall be inserted, namely:—

"Provided that no such order shall be made under this sub-section unless a written notice inviting objections from the person likely to be affected and general public, in such manner as may be prescribed by the State Government.".

Amendment of section 72.

33. In section 72 of the principal Act,—

(*a*) in sub-section (*1*), for the words "seven per cent.", the words "five per cent.**subject to a maximum amount as may be prescribed by the Central Government**" shall be substituted;

(*b*) in sub-section (*7*), the words "and the decision of the Board thereon shall be final" shall be omitted.

Amendment of section 73.

34. In section 73 of the principal Act, in sub-section (*3*), the words "and the decision of the Tribunal on such appeal shall be final" shall be omitted.

Amendment of section 83.

35. In section 83 of the principal Act,—

(*a*) in sub-section (*1*), the following proviso shall be inserted, namely:—

"Provided that any other Tribunal may, by notification, be declared as the Tribunal for the purposes of this Act.";

(*b*) in sub-section (*2*), the following proviso shall be inserted, namely:—

"Provided that if there is no Tribunal or the Tribunal is not functioning, any aggrieved person may appeal to the High Court directly.";

(*c*) for sub-section (*4*), the following shall be substituted, namely:—

"(*4*) Every Tribunal shall consist of **three**members—

(*a*) one person, who is or has been a District Judge, who shall be the Chairman;

(*b*) one person, who is or has been an officer equivalent in the rank of Joint Secretary to the State Government— member;

(*c*) one person having knowledge of Muslim law and jurisprudence—member:

(***)

Provided (***) that a Tribunal established under this Act, prior to the commencement of the Waqf (Amendment) Act, **2025**, shall continue to function as such until the expiry of the term of office of the Chairman and the members thereof under this Act.";

(*d*) in sub-section (*4A*), the following proviso shall be inserted, namely:—

"Provided that tenure of the Chairman and the member shall be five years from the date of appointment or until they attain the age of sixty-five years, whichever is earlier.";

(*e*) in sub-section (*7*), the words "final and" shall be omitted;

(*f*) for sub-section (*9*), the following sub-section shall be substituted, namely:—

"(*9*) Any person aggrieved by the order of the Tribunal, may appeal to the High Court within a period of ninety days from the date of receipt of the order of the Tribunal.".

36.(***)

Amendment of section 91.

37. In section 91 of the principal Act,—

(*a*) in sub-section (*1*),—

1 of 1894.

(*i*) for the words and figures "the Land Acquisition Act, 1894", the words and figures "the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" shall be substituted;

30 of 2013.

(*ii*)(***)

(*b*) in sub-section (*3*), for the words and figures "under section 31 or section 32 of the Land Acquisition Act, 1894", the words and figures "under section 77 or section 78 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" shall be substituted;

1 of 1894.

30 of 2013.

(*c*) in sub-section (*4*),—

(*i*) for the words and figures "under section 31 or section 32 of the Land Acquisition Act, 1894", the words and figures "under section 77 or section 78 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" shall be substituted;

1 of 1894.

30 of 2013.

(*ii*) for the words "shall be declared void if the Board", the words "shall be kept in abeyance relating to portion of the property claimed by the Board, if the Board" shall be substituted;

(*iii*) the following proviso shall be inserted, namely:—

"Provided that the Collector after hearing the parties concerned shall make the order within one month of the

application of the Board.".

Amendment of section 100.

38. In section 100 of the principal Act, for the words "Survey Commissioner", the word "Collector" shall be substituted.

Amendment of section 101.

39. In section 101 of the principal Act,—

(*a*)in the marginal heading and insub-section (*1*), for the words "Survey Commissioner" occurring at both the places, the word "Collector" shall be substituted;

(*b*) in sub-sections (*1*) and (*2*), for the words and figures "section 21 of the Indian Penal Code", at both the places where they occur, the words, brackets and figures "clause (*28*) of section 2 of the Bharatiya Nyaya Sanhita, 2023" shall be substituted.

45 of 1860.

45 of 2023.

Omission of section 104.

40. Section 104 of the principal Act shall be omitted.

Substitution of new section for section 107.

40A. For section 107 of the principal Act, the following section shall be substituted, namely:—

Application of Act 36 of 1963.

"107. On and from the commencement of the Waqf (Amendment) Act, 2025, the Limitation Act, 1963 shall apply to any proceedings in relation to any claim or interest pertaining to immovable property comprised in a waqf.".

Omission of sections 108 and 108A.

41. Sections (***) 108 and 108A of the principal Act shall be omitted.

Insertion of new section 108B.

42. After section 108A as so omitted of the principal Act, the following section shall be inserted, namely:—

Power of Central Government to make rules.

"108B. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing powers, the Central Government may make rules for all or any of the following matters, namely:—

(*a*) the waqf asset management system for the registration, accounts, audit and other details of waqf and Board under clause (*ka*), and the manner of payments for maintenance of widow, divorced woman and orphan under sub-clause (*iv*) of clause (*r*), of section 3;

(*b*) any other particulars under clause (*j*) of sub-section (*2*) of section 3B;

(*c*) the manner in which details of waqf to be uploaded under sub-section (*2B*) of section 5;

(*d*) any other particulars under clause (*f*) of sub-section (*3*) of section 36;

(*e*) the manner in which the Board shall maintain the register of auqaf under sub-section (*1*) of section 37;

(*f*) such other particulars to be contained in the register of auqaf under clause (*f*) of sub-section (*1*) of section 37;

(*g*) form and manner and particulars of the statement of accounts under sub-section (*2*) of section 46;

(*h*) the manner for publishing audit report under sub-section (*2A*) of section 47;

(*i*) the manner of publication of proceedings and orders of Board under sub-section (*2A*) of section 48;

(*j*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Amendment of section 109.

43. In section 109 of the principal Act, in sub-section (*2*),—

(*a*) clause (*ia*) shall be omitted;

(*b*) clause (*iv*) shall be omitted;

(*c*) in clauses (*via*) and (*vib*), for the word and figures "section 31" at both the places where they occur, the word and figures "section 29" shall be substituted;

(*d*) after clause (*xviii*), the following clause shall be inserted, namely:—

"(*xviiia*) the manner of giving notice inviting objections under proviso to sub-section (*4*) of section 69;".

Amendment of section 110.

44. In section 110 of the principal Act, in sub-section (*2*), clauses (*f*) and (*g*) shall be omitted.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
IA NO. _____OF 2025
IN
WRIT PETITION (CIVIL) NO. _____OF 2025

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

ASADUDDIN OWAISI …PETITIONER

VERSUS

UNION OF INDIA …RESPONDENT

APPLICATION FOR STAY

To,
The Hon'ble Chief Justice of India and
His Companion Justices of the Hon'ble Supreme Court of India

The Humble Petition of the
Petitioner above-named

MOST RESPECTFULLY SHOWETH:

1. The present Petition under Article 32 of the Constitution of India, read with Order XXXVIII of the Supreme Court Rules, 2013, seeks to challenge the constitutional validity of Clauses 2A, 3(v), 3(vii), 3(ix), 4, 5(a), 5(b), 5(c), 5(d), 5(f), 6(a), 6(c), 6(d), 7(a)(ii), 7(a)(iii), 7(a)(iv), 7(b), 8(ii), 8(iii), 8(iv), 9, 11, 12(i), 14,

15, 16, 17(a), 17(b), 18, 19, 20, 21(b), 22, 23, 25, 26, 27, 28(a), 28(b), 29, 31, 32, 33, 34, 35, 38, 39(a), 40, 40A, 41, 42, 43(a), 43(b), and 44 of the Waqf (Amendment) Act, 2025 (**"Amendment Act"**). This Petition arises in response to the enactment of the Amendment Act, which was passed by the Lok Sabha on April 2-3, 2025, and the Rajya Sabha on April 3-4, 2025. A critical examination of the Amendment Act reveals that the impugned amendments are *ex facie* violative of Articles 14, 15, 21, 25, 26, 29, 30, and 300A of the Constitution of India, are manifestly arbitrary, and irreversibly dilute the statutory protections afforded to waqfs and their regulatory framework while conferring undue advantage upon other stakeholders and interest groups, undermining years of progress and setting back waqf management by several decades. Consequently, the impugned amendments are not only unconstitutional being violative of the aforementioned fundamental rights and principles but are also repugnant to the doctrine of non-retrogression of rights, thereby necessitating urgent intervention by this Hon'ble Court.

2. That the detailed facts and circumstances leading to the filing of the instant Petition as well as the averments made on behalf of the Petitioner have already been mentioned at great length in the accompanying Petition, and for the sake of brevity and to avoid prolixity, the facts and circumstances stated therein and the averments made are not being repeated. However, the Petitioner seeks liberty to refer to and

rely upon the averments, submissions, contentions, etc., made in the accompanying Writ Petition as part and parcel of the present Application.

3. That by way of the present Application, the Petitioner seeks an *ad-interim ex parte* stay of the impugned amendments to the 1995 Act on the following among other grounds which are being taken without prejudice to one another:

A. **BECAUSE** the Amendment Act introduces sweeping and wide-ranging changes to every aspect of waqf creation and management which, if not stayed, would result in irreversible alterations to waqfs and the creation of third-party rights. Such changes would be impossible to unscramble if the impugned amendments are subsequently struck down by this Hon'ble Court since they would result in the disruption of the *status quo* that has existed over decades or centuries with respect to waqf properties.

B. **BECAUSE** the impugned amendments, if not stayed, would leave scores of waqf properties vulnerable to irreversible dispossession and encroachment, thereby causing irreparable injury to mosques, graveyards, and other religious institutions that have been historically recognised and protected as waqf. Simultaneously, these institutions – which are either in dispute or claimed as government property – would have no resort to the concept of waqf by user which has been derecognised by

virtue of the Amendment Act, leaving them defenceless, and undermining the sanctity and inalienability of waqf properties, despite the principle *'once a waqf, always a waqf'*, which has been affirmed by this Hon'ble Supreme Court.

C. **BECAUSE** if no interim stay is granted, there exists an imminent risk that the *status quo* with respect to such waqf properties will be altered irreversibly, frustrating the very object and purpose of waqf and violating the religious and fundamental rights of the Muslim community under Articles 14, 15, 21, 25, 26, 29, 30, and 300A of the Constitution of India.

D. **BECAUSE** the impugned amendments jeopardise the legal status of waqf properties which are in dispute or claimed to be government properties. By explicitly exempting any movable or immovable property from the extant framework of waqf administration through a categorical and retrospective carve-out if any 'government organisation' makes a claim on it, government claims over waqf property are effectively prioritised without any independent adjudication. The situation is further exacerbated by the vesting of broad, unilateral, and unregulated adjudicatory powers in a State Government officer to determine the status of such properties, in a complete and blatant violation of the principles of natural justice. Pending such determination, the properties will be stripped of all statutory protections under the 1995 Act,

rendering them vulnerable to encroachment, alteration, or dispossession, and placing them in a precarious position.

E. **BECAUSE** the need for urgent intervention by this Hon'ble Court becomes more pronounced when seen in the broader context of a concerted assault on the rights of Muslims, including the systematic and mischievous attempts by divisive elements at altering the religious character of places of Muslim religious worship, including historic mosques and dargahs, as they stood on August 15, 1947. By weakening the waqf framework while simultaneously strengthening other stakeholders, the Amendment Act not only strips away crucial protections guaranteed under the 1995 Act but also leaves the Muslim community increasingly vulnerable in its efforts to safeguard its religious and cultural heritage.

F. **BECAUSE** such a sweeping alteration of the legal landscape as has been introduced through the impugned amendments, if not stayed, will permanently and irreversibly alter the *status quo* with respect to scores of waqf properties, besides giving impetus to the filing of mischievous claims not only over historic mosques and dargahs – long recognised as Muslim places of worship – but also over lesser-known waqf properties, despite their uninterrupted enjoyment as such, thereby imperilling the religious and cultural rights of Muslims and the Muslim community, as well as their right to a life with dignity.

G. **BECAUSE** the impugned amendments, if not stayed, will vitiate the communal atmosphere, striking at the heart of secularism, which is not merely a guiding principle but a fundamental pillar of our democratic framework. This Hon'ble Court, in , has affirmed that secularism is a part of the Constitution's basic structure and its very soul. For the protection of these fundamental rights and the preservation of the aforementioned constitutional principles, the Petitioner has approached this Hon'ble Court, challenging the impugned amendments that seek to undermine them in a sweeping and indiscriminate manner. However, given the irreparable harm that may be inflicted upon numerous waqf properties and the ongoing erosion of the constitutional rights of Muslims and the Muslim community during the pendency of the present litigation, it is imperative that this Hon'ble Court exercises its powers to grant interim relief by staying the operation of the impugned amendments, so as to prevent further prejudice and ensure the protection of the aforementioned rights.

H. **BECAUSE** the Petitioner has established a strong *prima facie* case in its favour by way of the accompanying Petition. The impugned amendments arbitrarily dismantle protections afforded to waqfs, strip the community of its autonomy of crucial powers in managing its religious endowments, and enable unchecked interference by the State, while unjustifiably

expanding the role of the Central Governemnt and elevating it to the position of supervision and oversight over State Governments – all without any reasonable justification or nexus to the stated objective. These impugned amendments single out Muslims and disproportionately interfere with their religious and cultural beliefs and practices. When viewed against the the rights and protections granted under endowment laws of other religions, this blatant disparity becomes starker. This disparity undermines the principles of equality and non-discrimination, striking at the core of constitutional protections guaranteed to minorities. Therefore, the impugned amendments are *ex facie* violative of Articles 14, 15, 21, 25, 26, 29, 30, and 300A of the Constitution. It is through the prism of these Articles that this Hon'ble Court must view the Amendment Act and strike down the impugned provisions of the Act wherever it finds them to constitute an unjustifiable inroad into these rights, in the exercise of its powers under Article 32 of the Constitution read with Article 13. Further, by rolling back critical reforms that have been systematically and organically incorporated into waqf legislation over the years, the impugned amendments violate the doctrine of non-retrogression, effectively undoing decades of progress in ensuring transparency, accountability, and fairness in waqf administration, and forming yet another pillar upon which the Petitioner establishes a strong *prima facie* case,

necessitating the grant of interim relief by this Hon'ble Court to prevent irreversible harm pending final adjudication.

I. **BECAUSE** the balance of convenience lies heavily in favour of the Petitioner. The impugned amendments threaten to upend the long-standing *status quo* with respect to waqf properties, some of which have existed for decades or centuries, being protected first, under the common law, and thereafter, under the Constitution of India and various statutory enactments made in post-Independence India. The impugned amendments, if not stayed, would leave the properties vulnerable to dispossession and encroachment, and would also result in the creation of third-party rights in waqf properties. Once these changes take effect, the damage will be irreversible, making it nearly impossible to restore waqfs to their original state even if the impugned amendments are eventually struck down. Given the serious and imminent risk of irreparable harm, it is imperative that this Hon'ble Court intervenes at this stage to prevent chaos and protect what has been built and safeguarded over generations.

J. **BECAUSE** public interest necessitates an immediate stay on the operation of the impugned provisions, since the alternative would disrupt the long-standing *status quo* with respect to waqf properties and their dissipation through encroachment, State takeover, or creation of

third-party interests, leading to uncertainty, mismanagement, and chaos. The adverse impact would extend beyond the Muslim community, affecting countless beneficiaries who have historically relied on waqf endowments for essential services such as education, healthcare, and social welfare. If this Hon'ble Court declines to grant interim relief by staying the operation of the impugned provisions, it is evident that the said provisions would provide a fertile ground for vested interests to institute *mala fide* and frivolous claims over waqf properties, including mosques, dargahs, and other places of Muslim religious worship, further vitiating the communal atmosphere and striking at the heart of secularism. Given the sensitivity of the matter, such disputes also have the potential to inflame communal tensions and disrupt social harmony. It is, therefore, in the larger public interest to stay the operation of the impugned provisions.

K. **BECAUSE** this Hon'ble Court has, in the past, granted interim relief by staying the operation of parliamentary legislation in cases where the impugned provisions were found to be *ex facie* unconstitutional and where the balance of convenience, irreparable harm, and public interest warranted such intervention. It is no longer *res integra* that while this Hon'ble Court ordinarily exercises restraint in issuing an interim stay on parliamentary legislation, there is no absolute bar on this Hon'ble Court's exercise of this

power where this Hon'ble Court is satisfied that the statute under question is *ex facie* unconstitutional and the factors like balance of convenience, irreparable injury and public interest are in favour of passing an interim order. For instance, in ***Jaishri Laxmanrao Patil* v. *State of Maharashtra*, (2021) 2 SCC 785**, this Hon'ble Court held as follows:

> *"It is no doubt true that the Act providing reservations has been upheld by the High Court and the interim relief sought by the appellants would be contrary to the provisions of the Act. This Court in Health for Millions v. Union of India [Health for Millions v. Union of India, (2014) 14 SCC 496 : (2015) 1 SCC (Cri) 422] held that courts should be extremely loath to pass interim orders in matters involving challenge to the constitutionality of a legislation.* ***However, if the Court is convinced that the statute is ex facie unconstitutional and the factors like balance of convenience, irreparable injury and public interest are in favour of passing an interim order, the Court can grant interim relief****. There is always a presumption in favour of the constitutional validity of a legislation****. Unless the provision is manifestly unjust or glaringly unconstitutional, the courts do show judicial restraint in staying the applicability of the same*** *[See Bhavesh D. Parish v. Union of India, (2000) 5 SCC 471]. It is evident from a perusal of the above judgment that normally an interim order is not passed to stultify statutory provisions. However, there is no absolute rule to restrain interim orders being passed when an enactment is ex facie unconstitutional or contrary to the law laid down by this Court."*

(Emphasis supplied)

In the present case, the test prescribed by this Hon'ble Court for granting interim relief is fully met, as the impugned amendments are *ex facie* unconstitutional, thereby establishing a strong *prima facie* case. Furthermore, the balance of convenience lies squarely in favour of the

Petitioner, given the imminent and irreversible disruption to the long-standing legal framework governing waqfs and scores of waqf properties, if the impugned amendments are not stayed. Most critically, overriding considerations of public interest necessitate urgent judicial intervention to prevent irreparable harm and ensure that the *status quo* is not unsettled to the detriment of waqfs and the communities they serve.

L. **BECAUSE** the Petitioner stands to suffer an irreparable loss and prejudice if the present Application is not allowed, and no prejudice shall be caused to any of the Respondent if the same is allowed.

4. That this application is *bona fide* and made in the interest of justice.

PRAYER

In the facts and circumstances of the case, as mentioned above, it is, therefore, most humbly prayed that this Hon'ble Court may graciously be pleased to:

a. Grant an *ad interim ex parte* stay on the operation of Clauses 2A, 3(v), 3(vii), 3(ix), 4, 5(a), 5(b), 5(c), 5(d), 5(f), 6(a), 6(c), 6(d), 7(a)(ii), 7(a)(iii), 7(a)(iv), 7(b), 8(ii), 8(iii), 8(iv), 9, 11, 12(i), 14, 15, 16, 17(a), 17(b), 18, 19, 20, 21(b), 22, 23, 25, 26, 27, 28(a), 28(b), 29, 31, 32, 33, 34, 35, 38, 39(a), 40, 40A, 41, 42, 43(a), 43(b), and 44 of the Waqf (Amendment)

Act, 2025 (**"Amendment Act"**), through which the Waqf Act, 1995 was amended; and

b. Pass such other orders as this Hon'ble Court may deem fit and proper in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY

(LZAFEER AHMAD B F)
CC No.: 2941
AOR for the Petitioner
Address: 5, LGF, Jaipur Estate,
Nizamuddin East, New Delhi – 110013
Mob: +91 95822 96522
Email: filing@lzafeer.in

Drawn on: 03.04.2025
Filed on: 04.04.2025
Place: New Delhi

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
IA NO. _____OF 2025
IN
WRIT PETITION (CIVIL) NO. _____OF 2025

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

ASADUDDIN OWAISI …PETITIONER

VERSUS

UNION OF INDIA …RESPONDENT

AN APPLICATION SEEKING PERMISSION TO FILE LENGTHY SYNOPSIS AND LIST OF DATES

To,

The Hon'ble Chief Justice of India and

His Companion Justices of the Hon'ble Supreme Court of India

The Humble Petition of the
Petitioner above-named

MOST RESPECTFULLY SHOWETH:

1. The present Petition under Article 32 of the Constitution of India, read with Order XXXVIII of the Supreme Court Rules, 2013, seeks to challenge the constitutional validity of Clauses 2A, 3(v), 3(vii), 3(ix), 4, 5(a), 5(b), 5(c), 5(d), 5(f), 6(a), 6(c), 6(d),

7(a)(ii), 7(a)(iii), 7(a)(iv), 7(b), 8(ii), 8(iii), 8(iv), 9, 11, 12(i), 14, 15, 16, 17(a), 17(b), 18, 19, 20, 21(b), 22, 23, 25, 26, 27, 28(a), 28(b), 29, 31, 32, 33, 34, 35, 38, 39(a), 40, 40A, 41, 42, 43(a), 43(b), and 44 of the Waqf (Amendment) Act, 2025 (**"Amendment Act"**). This Petition arises in response to the enactment of the Amendment Act, which was passed by the Lok Sabha on April 2-3, 2025, and the Rajya Sabha on April 3-4, 2025. A critical examination of the Amendment Act reveals that the impugned amendments are *ex facie* violative of Articles 14, 15, 21, 25, 26, 29, 30, and 300A of the Constitution of India, are manifestly arbitrary, and irreversibly dilute the statutory protections afforded to waqfs and their regulatory framework while conferring undue advantage upon other stakeholders and interest groups, undermining years of progress and setting back waqf management by several decades. Consequently, the impugned amendments are not only unconstitutional being violative of the aforementioned fundamental rights and principles but are also repugnant to the doctrine of non-retrogression of rights, thereby necessitating urgent intervention by this Hon'ble Court.

2. That the detailed facts and circumstances leading to the filing of the instant Petition as well as the averments made on behalf of the Petitioner have already been mentioned at great length in the accompanying Petition, and for the sake of brevity and to avoid prolixity, the facts and circumstances stated therein and the averments made are not being repeated and should be considered as forming part of this Application.

3. That the detailed facts and circumstances leading to the filing of the instant Petition as well as the averments made on behalf of the Petitioner have already been mentioned at great length in the accompanying Petition, and for the sake of brevity and to avoid prolixity, the facts and circumstances stated therein and the averments made are not being repeated. However, the Petitioner seeks liberty to refer to and rely upon the averments, submissions, contentions, etc., made in the accompanying Writ Petition as part and parcel of the present Application.

4. That to present a thorough and accurate account of the historical background and factual matrix relevant to the issues raised in the Petition, it is essential to trace and contextualise the pertinent events and developments in detail. This necessitates the submission of a comprehensive Synopsis and List of Dates to enable this Hon'ble Court to fully appreciate the complexities and nuances of the case, thereby facilitating a fair and just adjudication of the issues involved. Accordingly, the Petitioner has moved the present Application, seeking leave of this Hon'ble Court to file a detailed Synopsis and List of Dates, and humbly prays that the same be allowed in the interest of ensuring a thorough and comprehensive adjudication of the present Petition.

5. That this application is *bona fide* and made in the interest of justice, and no prejudice shall be caused to any of the Respondent if the same is allowed.

PRAYER

In the facts and circumstances of the case, as mentioned above, it is, therefore, most humbly prayed that this Hon'ble Court may graciously be pleased to:

a. Allow the present application seeking permission to file a lengthy Synopsis and List of Dates; and

b. Pass such other orders as this Hon'ble Court may deem fit and proper in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY

(LZAFEER AHMAD B F)
CC No.: 2941
AOR for the Petitioner
Address: 5, LGF, Jaipur Estate,
Nizamuddin East, New Delhi – 110013
Mob: +91 95822 96522
Email: filing@lzafeer.in

Drawn on: 03.04.2025
Filed on: 04.04.2025
Place: New Delhi

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
(Petition under Article 32 of the Constitution of India read with Order XXXVIII of the Supreme Court Rules, 2013)
WRIT PETITION (CIVIL) NO. _____OF 2025

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

ASADUDDIN OWAISI ...PETITIONER

VERSUS

UNION OF INDIA …RESPONDENTS

FILING INDEX

Sr. No.	Particulars	Court Fees
1.	Listing Performa	----
2.	Synopsis & List of Dates	----
3.	NA	----
4.	SLP along with Affidavit	00
5.	Annexure P1	----
6.	Stay	00
7.	Application for List Of Date	
8.		
9.	Vakalatnama & Memo of Appearance	00
TOTAL		**Rs.510**

Place New Delhi
Date 03.04.2025

(LZAFEER AHMAD B F) AOR
FOR THE PETITIONER

IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. _____ OF 2025

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

ASADUDDIN OWAISI ...PETITIONER

VERSUS

UNION OF INDIA ...RESPONDENT

VAKALATNAMA

I, **ASADUDDIN OWAISI**, the Petitioner in the above Petition/Appeal/Reference/Suit do hereby appoint and retain **Mr. LZAFEER AHMAD B F**, Advocate-on-Record, Advocate of the Supreme Court of India, to act and appear for me/us in the above Petition/Appeal/Suit/Reference and on my/our behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings, in taxation and application for review, to file and obtain return of documents, and to deposit and receive money on my/our behalf in the said Petition/Appeal/Reference Suit and in application for Review, and represent me/us and to take all necessary steps on my/our behalf in the above matter. I/We agree to ratify all acts done by the aforesaid Advocate in pursuance of this authority.

Dated the 4th day of April, 2025.

Accepted and Identified and Certified

LZAFEER AHMAD B F
Code No.: 2941
Advocate-on-Record

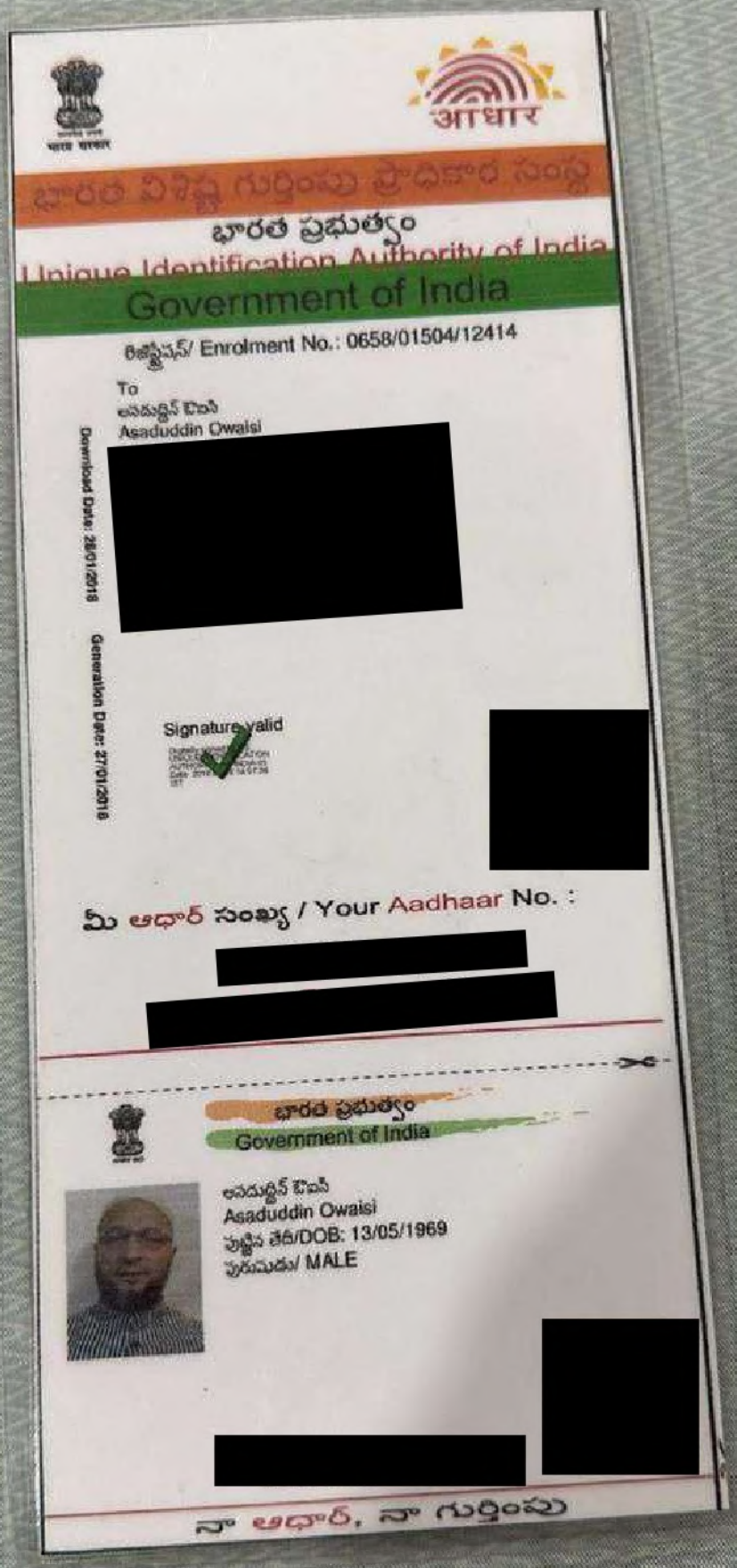
(Petitioner [redacted]

MEMO OF APPEARANCE

Please enter my appearance on behalf of the Petitioner(s), Appellants, Respondent(s) in the abovesaid matter.

Dated the 4th day of April, 2025.

(LZAFEER AHMAD B F)
CC No.: 2941
Advocate-on-Record,
Address: 5, LGF, Jaipur Estate, Nizamuddin East,
New Delhi – 110 013.
Mob: +91 95822 96522
Email: ahmadlzafeer@gmail.com


आधार
భారత ప్రభుత్వం
Unique Identification Authority of India
Government of India
Enrolment No.: 0658/01504/12414
To
Asaduddin Owaisi
[redacted]
Download Date: 28/01/2018
Generation Date: 27/01/2016
Signature Valid
[redacted]
మీ ఆధార్ సంఖ్య / Your Aadhaar No. :
[redacted]
భారత ప్రభుత్వం
Government of India
Asaduddin Owaisi
పుట్టిన తేది/DOB: 13/05/1969
పురుషుడు/ MALE
[redacted]
[redacted]
నా ఆధార్, నా గుర్తింపు

स्थाई लेखा संख्या /PERMANENT ACCOUNT NUMBER

[redacted]

नाम /NAME
ASADUDDIN OWAISI

पिता का नाम /FATHER'S NAME
SULTAN SALAHUDDIN OWAISI

जन्म तिथि /DATE OF BIRTH
01-03-1969

हस्ताक्षर /SIGNATURE

मुख्य आयकर आयुक्त, आंध्र प्रदेश
Chief Commissioner of Income-tax,Andhra Pradesh

इस कार्ड के खो / गिर जाने पर कृपया जारी करने
वाले प्राधिकारी को सूचित / वापस कर दें
मुख्य आयकर आयुक्त,
आयकर भवन,
बशीर बाग,
हैदराबाद - 500 004.

In case this card is lost/found,kindly inform/return to
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Aayakar Bhavan,
Basheerbagh,
Hyderabad - 500 004.