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PROFORMA FOR FIRST LISTING**The case pertains to** (Please Tick/ Check the correct box)

- Central Act: (Title) Waqf (Amendment) Act, 2025
- Section NA
- Central Rule: (Title) 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 ☐ Criminal

2. (a) Petitioner/Appellant No. 1: Maulana Arshad Madani

(b) e-mail ID NA

(c) Mobile Phone Number: NA

3. (a) Respondent No. 1: Union of India

(b) email ID: NA

(c) Mobile Phone Number: NA

4. (a) Main category classification: 08

(b) Sub-classification: 0812

5. Not to be listed before: NA

6a. Similar disposed of matter with citation, if any, & case details: No similar matter disposed.

6b. Similar matter pending, with case details:

7. Criminal Matters: NA

- (a) Whether accused/ convict has surrendered: ☐ Yes ☐ No
(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 is filed: No.
(g) Particulars of the FIR and Case: N/A
(h) Whether any bail application was preferred earlier and decision thereupon: No

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):**

- ☐ 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, details thereof : NA

Date: 06.04.2025

FILED BY:

(FUZAIL AHMAD AYYUBI)

Advocate for the Petitioner

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**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) No. _____ OF 2025**

IN THE MATTER OF:

MAULANA ARSHAD MADANI

...PETITIONER

VERSUS

UNION OF INDIA

...RESPONDENT

WITH

I.A. No _____ OF 2025
AN APPLICATION SEEKING AD-INTERIM EX-PARTE DIRECTIONS

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PAPER-BOOK

ADVOCATE FOR PETITIONER: FUZAIL AHMAD AYYUBI

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SYNOPSIS

The present petition challenges the constitutional validity of the Waqf (Amendment) Act, 2025, which fundamentally alters the very character and the constitutional protections accorded to waqf law and administration in India. The impugned amendments override the denominational and representative foundation of the Waqf Act, 1995 and impose a regime of executive control and are *ultra vires* the Constitution being in violation of Articles 14, 15, 16, 25, 26 and 300A of the Constitution.

While the newly inserted Sections 3D and 3E, brought into the Waqf Act by way of ministerial amendments during the Lok Sabha debates—despite not forming part of the Joint Parliamentary Committee’s report—are patently unconstitutional. Section 3D declares that any property notified as an ancient monument under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 shall cease to be waqf, thereby retrospectively extinguishing the waqf character of centuries-old religious sites such as mosques, dargahs, and khanqahs that have functioned as places of worship and religious congregation for generations. This provision directly violates Articles 25 and 26 by stripping the Muslim community of its right to manage religious affairs and maintain endowments. It creates an irrational and arbitrary distinction

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by targeting Muslim religious monuments alone, while similarly protected Hindu temples such as the Jagannath Temple in Puri and the Virupaksha Temple in Hampi, also under ASI protection, amongst others continue to operate under their respective religious endowment laws. This selective and discriminatory exclusion violates the right to equality and equal protection of law guaranteed under Article 14 and the principle of non-discrimination enshrined under Article 15.

Further, Section 3E bars Scheduled Tribe members from making a waqf, thus excluding an entire class of citizens—many of whom are Muslim—from exercising their fundamental right to religious charity, dedication, and institution-building. This is a clear denial of their rights under Articles 25 and 26 and amounts to a blanket disqualification based solely on social classification. Both provisions are antithetical to secularism, lack any rational nexus to a legitimate state aim, and are liable to be struck down as unconstitutional.

Further, the impugned legislation seeks to alter the very definition of *waqfs* by recasting the definition of the waqf itself by removing the concept of a *waqf by user* - a judicially developed doctrine used as an evidentiary tool affirmed by a five-judge bench of this Hon'ble Court in

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*M. Siddiq*¹ - preventing Muslims from proving before any authority a *waqf* to be as such in absence of a deed of dedication or other documents. The express removal of this recognition from the statute effectively extinguishes a large class of *waqfs* — including historic mosques, graveyards, and dargahs — that may never have had written deeds but have existed and been used continuously by the public as *waqf* for centuries. This omission nullifies a settled evidentiary principle and directly impairs the ability of older Muslim *waqfs* to protect and preserve its religious endowments. The result is a serious and disproportionate infringement of Articles 25 and 26.

This assault on the evidentiary and historical continuity of *waqfs* is compounded by Clause 21(a), which mandates that no *waqf* shall be created without execution of a *waqf* deed. This amendment unreasonably excludes oral dedications which have always been a recognised mode of *waqf* creation. By disqualifying dedications without documentation, the amendment denies individuals the right to effect religious charity through property in accordance with their conscience and faith. Even cases where a person on their deathbed desires to make a religious dedication would now be statutorily invalidated in absence of a deed, regardless of acceptance by the heirs and being permissible under the Islamic faith. The

¹ (2019) 18 SCC 692.

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provision, therefore, severely restricts the exercise of the right under Article 25.

The Act further dismantles the democratic and representative structure of Waqf Boards by eliminating elections altogether. Previously, the inclusion of elected members from mutawallis, Members of Parliament and State Legislatures, and the Bar, ensured that Waqf Boards reflected the voice of the community. The amended regime replaces this with nominated members, even allowing non-Muslims to be appointed. This is a direct abridgement of the Muslim community's right to self-governance under Article 26. The Boards, rather than functioning as denominationally representative bodies, are now rendered into administrative appendages of the government — a complete departure from the constitutional protection accorded to religious denominations to manage their own affairs in matters of religion.

Adding to this, the amendment removes the requirement for the CEO of the Board to be a Muslim, and also deletes the provision that the appointment be made from a panel recommended by the Board. This is in stark contrast to laws governing Hindu religious institutions across various States, which mandate that key functionaries profess the Hindu faith. The omission is not only discriminatory but violates the equality

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guarantee under Article 14 and the non-discrimination mandate under Article 15.

Sectarian autonomy is similarly compromised. By removing the proviso to Section 32, the Act does away with the rule that Sunni waqfs must be managed by Sunni members and Shia waqfs by Shia members. This violates the internal autonomy of sects and denominations within the Muslim community and amounts to a direct infringement of the right to manage religious affairs guaranteed under Article 26.

Moreover, the Board's power to decide whether a property is waqf under Section 40 is also deleted. In its place, unilateral power is conferred on the Designated Officer and Collector, with no requirement of religious or community input. This removes the ability of the community to assert, defend, or even define its own religious properties and places the future of *waqf* lands at the mercy of executive authorities. What remains is a bureaucratically-controlled structure that strips the waqf institution of its religious essence.

The repeated dilution of the finality of Tribunal decisions across multiple clauses introduces legal uncertainty and opens the door to interference and reversal by executive authorities. Simultaneously, the liberalisation of penal provisions, including omission of rigorous

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imprisonment and making offences non-cognizable and bailable, weakens deterrence against encroachments and illegal alienations. The application of the Limitation Act, 1963, from the date of commencement of the amendment, allows encroachers to raise claims of adverse possession over waqf lands — a protection which had hitherto been rightly denied.

Additionally, procedural impositions such as mandatory newspaper notices, criminalisation for non-uploading of certain details, and vague public objection mechanisms, are excessive, discriminatory, and serve no legitimate purpose. They do not exist for any other religious institutions and stand in violation of Articles 14 and 15.

Lastly, the conferment of overbroad and unguided rule-making powers to the Central Government, along with the repeal of the overriding clause in Section 108A, introduces legal conflict, ambiguity, and unchecked executive control.

The provisions of the Waqf (Amendment) Act, 2025, therefore, fundamentally alter the character of waqf in India. It destroys evidentiary foundations by eliminating *waqf by user*, imposes irrational requirements for documentation, extinguishes community control, removes democratic representation, and enables executive encroachment. Far from being

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regulatory, the amendments are destructive, and amount to an unconstitutional dismantling of the religious, representative, and denominational structure of waqfs. The legislation on the face of it is violative of Articles 14, 15, 16, 25, 26, and 300A and liable to be struck down in its entirety.

CHRONOLOGICAL LIST OF EVENTS:

- 08.08.2024: Bill No. 109 of 2024 was introduced in the Lok Sabha as a Bill to further amend the provisions of the Waqf Act, 1995.
- 08.08.2024: On the same day, the Waqf (Amendment) Bill, 2024 was referred to the Joint Parliamentary Committee.
- 30.01.2025: The Joint Parliamentary Committee submitted its Report and along with it the updated Bill No. 109-B of 2024.
- 02.04.2025: Bill No. 109-B, as reported by the JPC, was introduced in the Lok Sabha and was passed. The Bill as passed included amendments moved at eleventh hour by the Hon'ble Minister for Minority Affairs, and

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therefore, after renumbering the Clauses, the final Bill No. 109-C of 2024 was then sent to Rajya Sabha.

- 03.04.2025: Bill No. 109-C was passed by the Rajya Sabha.
- 05.04.2025: Bill No. 109-C received the assent of the Hon'ble President and was notified in the Gazette of India vide notification number CG-DL-E-05042025-262316.
- 07.04.2025: Hence this present Writ Petition.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) No. _____ OF 2025
*[UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA READ WITH ORDER XXXVIII
OF THE SUPREME COURT RULES, 2013]*

IN THE MATTER OF:

MAULANA ARSHAD MADANI



...PETITIONERS

VERSUS

UNION OF INDIA
THROUGH SECRETARY
MINISTER OF MINORITY AFFAIRS
GOVERNMENT OF INDIA
11TH FLOOR, ROOM No.- 1141
PARYAVARAN BHAWAN, LODHI ROAD
CGO COMPLEX, PRAGATI VIHAR
NEW DELHI, DELHI 110003

...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

THE HUMBLE PETITION OF THE
PETITIONER ABOVE-NAMED:

MOST RESPECTFULLY SHOWETH:

1. That present petition seeks to challenge the Waqf (Amendment) Act, 2025 which has been notified on 05.04.2025 having been passed by

both houses of the Parliament on 02.04.2025/03.04.2025 and having received the assent of the Hon'ble President of India on 05.04.2025.

2. That the Petitioner, Maulana Arshad Madani, is a senior Islamic scholar of national eminence and currently serves as the President of Jamiat Ulama-i-Hind, a prominent organisation with a long-standing history of engagement in matters concerning civil rights, minority welfare, and the protection of religious endowments. He is also the Head of the Academic Council of Darul Uloom Deoband, one of the foremost Islamic seminaries in the country. In this capacity, he appeared before the Joint Parliamentary Committee (JPC) on the Waqf (Amendment) Bill, 2025, and placed detailed objections and submissions with respect to various provisions of the proposed legislation. He has devoted his life to religious education, social service, and safeguarding the constitutional and religious rights of the Muslim community in India. In his representative capacity, he brings this petition challenging the constitutionality of the Waqf (Amendment) Act, 2025, which adversely impacts the fundamental rights guaranteed to religious denominations under Articles 14, 15, 25 and 26 of the Constitution. As a respected religious and community leader, the Petitioner seeks to uphold the sanctity of waqf as a legally recognised religious dedication, protect

institutional autonomy, and resist arbitrary state interference in religious affairs.

Meaning and Importance of Waqf under Islamic Faith

3. That waqfs in Islam are fundamentally connected to Quranic and Hadith invocations on charity and are therefore a purely religious affair. The Holy Qur'aan in Verse 3:92, Al-Imran, mentions that *“You will never achieve righteousness until you donate some of what you cherish. And whatever you give is certainly well known to Allah.”* Further, *Sahih Muslim* reports the *Hadith*, with the Prophet Muhammad (PBUH) as saying that *“When a man dies, his acts come to an end, but three, recurring charity, or knowledge (by which people) benefit, or a pious son, who prays for him (for the deceased).”*² Waqfs therefore are in form of recurring charity from which people benefit.

4. That a waqf by its nature is a dedication made to the Almighty. As per Mulla's Principles of Mahomedan Law³ the terms *waqf* literally means *detention*. According to Abu Hanifa, as reported in Mulla's Principles of Mahomedan Law, the legal meaning of *waqf* is *“the detention of a specific thing in the ownership of the waqif or*

² Sahih Muslim 1631: Book 25, Hadith 20.

³ Mulla's Principles of Mahomedan Law. (2021), p. 228 (23rd ed.), Lexis Nexis.

appropriator, and the devoting or appropriating of its profits or usufruct “in charity on the poor or other good objects.” In simpler terms, as the Privy Council observed in Vidyavaruthi v. Balusami, [48 IA 302 : AIR 1922 PC 123], “the Mahomedan Law relating to trusts differs fundamentally from the English law. It owes its origin to a rule laid down by the Prophet of Islam; and means ‘the tying up of property in the ownership of God the Almighty and the devotion of the profits for the benefit of human beings’. When once it is declared that a particular property is waqf, or any such expression is used as implies waqf, or the tenor of the document shows, as in the case of Jewun Doss v Shah Kubeer-ood-deed⁴, that a dedication to a pious or charitable purpose is meant, the right of the waqif is extinguished and the ownership is transferred to the Almighty.”

5. That explaining the importance of *waqfs* in the Islamic faith, noted author Ameer Ali , terms the law of waqf as the most important branch of Muslim law for it is *‘interwoven with the entire religious life and social economy’* of Muslims. In the Outlines of Muhammadan Law, Asaf A.A. Fyzee further elaborates that *waqf* is

⁴ (1840) 2 Moo Ind App 390.

a “*pious endowment which is inalienable and therefore supposed to be perpetual* .

Brief Legislative History

6. That India, as a great nation of multicultural, multiethnic and multireligious identities, has had a rich and diverse history of such *waqfs* made by not only Muslims but also by persons of other faiths.

7. That while under the Mughal rule and prior to the independence of the nation, waqfs were governed under the State or local rulers being its patron, in the colonial era the British initially attempted to regulate and control Waqfs and other religious endowments in India through Bengal Regulation XIX of 1810, Madras Regulation VII of 1817, and Bombay Regulation XXIX of 1827. These laws empowered the colonial administration to oversee mosques, temples, and charitable endowments, appoint managers, and collect revenues, leading to widespread discontent among religious communities. However, due to strong opposition and administrative challenges, the British changed their approach with the Religious Endowments Act, 1863, which formally withdrew government control over religious endowments and transferred their management to local

committees of community members. It is notable that the 1863 Act, encapsulated as an Act *to enable the Government to divest itself of the management of Religious Endowments*, stated the following in its Preamble:

“Whereas it is expedient to relieve the Boards of Revenue, and the local Agents, in the Presidency of Fort William in Bengal, and the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX, 1810 (Ben. Regn. 19 of 1810), of the Bengal Code (for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindu Temples, Colleges and other purposes; for the maintenance and repair of Bridges, Sarais, Kattras and other public buildings; and for the custody and disposal of Nazul Property or Escheats), and Regulation VII, 1817 (Mad. Regn. 7 of 1817), of the Madras Code (for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindu Temples and Colleges or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chattrams, and other public buildings; and for the custody and disposal of Escheats), so far as those duties embrace the superintendence of lands granted for the support of mosques or Hindu temples and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of trustees or managers thereof; or involve any connexion with the management of such religious establishments; It is enacted as follows:”

8. That although the government stepped back, the courts continued to shape *Waqf* law, particularly after the Privy Council’s 1894 decision

in *Abdul Fata Mohammad Ishak v. Russomoy Dhur Chowdhury*⁷, which ruled that family Waqfs (Waqf-alal-aulad) were invalid unless they served a purely charitable purpose. To counter this, the British passed the *Mussalman Waqf Validating Act of 1913*, which restored the legality of family Waqfs, allowing property to be endowed for descendants while maintaining a religious or charitable aspect. This was further reinforced by the *Mussalman Waqf Validating Act of 1930*, which provided additional legal clarity. Thus, the British legal approach evolved from direct intervention and control to withdrawal and limited judicial oversight, shaping the foundation for post-independence Waqf legislation in India. It is pertinent to note that the Statement of Objects and Reasons of the 1913 Act, explicitly provided that “*The Bill does not purport to codify the law relating to wakfs generally but is confined to removing the doubts which have arisen as to the validity of wakfs created for the benefit of the settlor’s family, children, and descendants, while including a provision for ultimate religious, pious, or charitable purposes.*”

9. That post-independence, the legal framework governing *Waqfs* underwent significant reforms to ensure better management and protection of Waqf properties. The first major legislation was the

⁷ (1894) ILR 22 Cal 619 (PC).

Waqf Act, 1954, enacted to regulate and administer Waqf properties across the country. It provided for the establishment of State Waqf Boards to oversee and manage Waqf estates. Notably, while prior to the 1954 Act some States had their own Waqf enactments such as Bengal Act of 1934 and the United Provinces' 1936 legislation, amongst others.

10. That while the 1954 Act was enacted to provide efficiency in waqf administration, its implementation faced certain difficulties and recognising the same, the government set up the *Waqf Inquiry Committee in the 1970s* to assess the status of Waqf properties and their management. The Committee's report, submitted in 1976, highlighted widespread encroachments on Waqf lands, inadequate financial resources for Waqf Boards, and poor administration. It recommended better surveys, and stronger legal protection. In response, though the Waqf (Amendment) Bill, 1984, was introduced in Parliament to address these issues, the same could not be brought into force. The 1984 Bill, however, aimed to strengthen the powers of the Waqf Boards, improve financial accountability, and provide stricter penalties for encroachments. It is notable to mention that the Inquiry Committee in its report had observed, *inter alia*, the following (p. 96):

“[...] we find that the Shariat also does not prohibit creation of wakfs by non-Muslims. As we are dealing with the question of creation of wakf by non-Muslims in extenso, we feel it is necessary to quote in full the erudite elucidation of this issue by Justice Amir Ali in his treatise on Mohamadan Law (Vol. I):

“Islam is not a necessary condition of the constitution of wakf. Any person of what-ever creed may create a wakf, but the law requires that the object for which the dedication is made should be lawful according to the creed of the dedicator as well as the Islamic doctrines. Divine approbation being the essential element in the constitution of a wakf if the object for which a dedication is made is sinful either according to laws of Islam or to the creed or the dedicator, it would not be valid. [...]”

It had thus proposed to make the definition of *Waqf* in a manner that any person is able to make a dedication as long as the purposes for which it is made is considered religious or pious as per the tenets of Islam.

11. That this legislative gap persisted until the *Waqf Act, 1995*, which replaced the 1954 Act, incorporating many of the Inquiry Committee’s recommendations. The 1995 Act introduced a Central Waqf Council, mandated regular surveys of Waqf properties, and enhanced penal provisions against encroachments.

12. That the Waqf (Amendment) Act, 2013 was enacted to strengthen the provisions of the Waqf Act, 1995, addressing concerns related to encroachments, mismanagement, and transparency in the administration of Waqf properties. The amendment empowered Waqf Boards by making encroachment on Waqf properties a cognizable and non-bailable offense, imposing stringent penalties, including imprisonment of up to two years. It also introduced mandatory surveys of Waqf properties every ten years to ensure proper documentation and prevent illegal occupations. Additionally, the Act aimed to improve representation of Muslims in Waqf Boards by ensuring a more inclusive structure with members from diverse backgrounds such as Islamic scholars, legal experts, and community leaders. The amendment also brought greater financial transparency by making it compulsory for Waqf Boards to maintain proper accounts and submit audit reports regularly. The 2013 amendment also followed the 1976 Inquiry Committee Report's recommendation and provided that any person could create a waqf reflecting the true Islamic position on the same.

13. That while a detailed analysis of the 1995 Act and its amendment in 2013 is not being resorted to for the present purpose, reserving liberty to submit such a detailed analysis at a later stage, the above

narration of the legislative history of waqf legislations indicates that consistently the legislations, and amendments thereto, were enacted to strengthen the waqf administration, to reflect the closest possible position in Islam and at the same time to ensure autonomy for the Muslims in managing the affairs related to *Waqf* administration. What can be culled out from these enactments is that while the Government was taking efforts to legislate on the issue, it was evidently ensuring that religious freedoms are not jeopardised under the guise of legislation and that the interests of *Waqfs* are given primacy. The provisions for strengthening the Boards, addressing encroachments, providing exemption from applicability of Limitation Act, 1963, Muslim representation in the Boards and CWC all reflect this approach which was thoroughly secular and constitutional.

Impugned Waqf (Amendment) Act, 2025

14. That while comprehensive amendments were carried out in the Waqf Act, 1995 by way of the Waqf (Amendment) Act, 2013, after a through consultation with stakeholders, on 08.08.2024, the Hon'ble Minister of Minority Affairs introduced the Waqf (Amendment) Bill, 2024 in the Lok Sabha which was referred to the Joint Parliamentary Committee (JPC) the same day. A copy of the Waqf

(Amendment) Bill, 2024 as introduced in the Lok Sabha is annexed herewith and marked as **Annexure P-1 (Pg. 47-86)**.

15. That the Bill, 2024 had contained provisions not only undoing several key changes in the legislative framework concerning waqfs but had also sought to denude the *Waqfs* of their true character, shattered the protections granted to *Waqfs*, tinkered with the religious tenets concerning *Waqfs* and completely taken away the autonomy and democratic character of and Muslim representation in, the Waqf Boards and Central Waqf Council.

16. That while the Bill, 2024 was referred to the JPC it was widely objected to by the Muslim community including the present Petitioner who himself appeared before the JPC in the capacity of the head of the Academic Council of Darul Uloom Deoband, one of the oldest Islamic seminaries in the country having a crucial role in the freedom struggle.

17. That despite the objections from almost every quarter of the Muslim community in the nation, the JPC, in its report given on 30.01.2025, proposed minimal changes and has largely approved the Bill, 2024, which was then placed before, and passed by, the Lok Sabha on

02.03.2025, followed by the Rajya Sabha on 03.04.2025. Notably, while the Bill No. 109-B as reported by the Joint Committee was being deliberated in the Lok Sabha, the Hon'ble Minister of Minority Affairs moved a resolution seeking to suspend Rule 80(i) of the Lok Sabha Rules and moved further amendments including Sections 3D and 3E, which was accepted by the Hon'ble Speaker. The present petition, therefore, refers to Clauses of Bill No. 109-C as passed by the Lok Sabha and further notified on 05.04.2025. A copy of the Waqf (Amendment) Bill, 2024, as reported by the Joint Committee is annexed herewith and marked as **Annexure P-2 (Pg. 87-101)**. A copy of the motion moved under Rule 388 by the Minister is annexed herewith and marked as **Annexure P-3 (Pg. 102)**. Further, a copy of the Bill No. 109-C, as passed by the Lok Sabha is annexed herewith and marked as **Annexure P-4 (Pg. 103-118)**.

18. That the Bill No. 109-C as passed by both the Houses of Parliament received the assent of the Hon'ble President on 05.04.2025 and came to be notified in the Gazette of India as The Waqf (Amendment) Act, 2025 on the same date vide gazette notification dated CG-DL-E-05042025-262316. A copy of the The Waqf

(Amendment) Act, 2025 as notified in the gazette on 05.04.2025 is annexed herewith and marked as **Annexure P-5 (Pg. 119-133)**.

19. That it is in view of the aforesaid facts and circumstances and unconstitutional amendments, as detailed in the grounds set out herein below, the Petitioner herein has no other alternative but to approach this Hon'ble Court.

20. That the Petitioner herein has preferred the present petition on the following, amongst other, grounds:-

GROUND

A. **BECAUSE** Clause 4(v) of the Act omits from the definition of a *Mutawalli* the words “, either verbally, or” restricting the appointment of a *Mutawalli* to be only by way of a deed or instrument by which a waqf has been created. The aforesaid omission is contrary to recognised Islamic tenets and would result in an absurd position where a verbally appointed *Mutawalli* of a pre-existing waqf, created verbally (oral waqf and appointment of *Mutawalli* being permissible under Islam) would suddenly stand to be disqualified from his/her office as the amended law derecognises verbal appointment of a

Mutawalli and the resultant Section 3(i) would require the appointment to have been made as per the deed or instrument by which the waqf was created. The same suffers from manifest arbitrariness, lack of reasoning, and violates Articles 14 and 25 of the Constitution.

B. **BECAUSE** Clauses 4(ix)(a) and 4(ix)(d) of the Act, unnecessarily prescribes a novel definition for waqf by requiring waqf to mean permanent dedication by *any person showing or demonstrating that he is practicing Islam for at least five years*. This inclusion in the definition is firstly violative of Article 25 as the amended provision seeks to take away the exercise of religious freedom for five years from any new entrant to Islam who would want to make a dedication. Moreover, the definition suffers from absolute absurdity as it would become impossible to prescribe a test for the practice of Islam and would, therefore, result in unnecessary claims and litigations against waqfs by terming the waqif to not have been a practicing Muslim at the time of dedication. Further, as stated above in the Waqf Inquiry Committee's report of 1976 Islamic itself is not a precondition for the dedicator even though the purposes for which the dedication is made has to be as recognised to be pious and religious by Islam. The amendment to the definition therefore, violates Article 25 and Article

14. It is also submitted that while persons practicing any other faith are not required under any law to prove their faith before dedicating or endowing a property, by including this vague requirement the impugned amendment also falls foul of Article 15 of the Constitution.

C. **BECAUSE** Clause 4(ix)(b) completely omits from the definition the recognition of a *waqf by user*, with only a proviso (introduced by the JPC) stating that 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. It is submitted that *waqf by user* is a judicially developed doctrine which is used as an evidentiary tool by courts which rely on long and continuous use of a property as a waqf to recognise the same as such.

D. **BECAUSE** Muslim law does not require an express declaration of a waqf in every case. The dedication resulting in a waqf may also be reasonably inferred from the facts and circumstances of a case or from the conduct of the wakif. A five-judge bench of this Hon'ble Court, in *M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das*, reported in (2020) 1 SCC 1, recognised, after a thorough analysis, the judicial doctrine of *waqf by user*. The following paragraphs from this Hon'ble

Court's unanimous opinion are being reproduced for the present purposes:

“1124. A waqf is a dedication of movable or immovable property for a religious or charitable purpose recognised by Muslim law. Ordinarily, a waqf is brought into existence by an express act of dedication in the form of a declaration. Upon pronouncing the declaration, the property sought to be dedicated is divested from the wakif as the person making the dedication and vests in the Almighty, Allah. A waqf is a permanent and irrevocable dedication of property and once the waqf is created, the dedication cannot be rescinded at a later date. **The property of a validly created waqf is inalienable and cannot be sold or leased for private gain.**

1125. Muslim law does not require an express declaration of a waqf in every case. The dedication resulting in a waqf may also be reasonably inferred from the facts and circumstances of a case or from the conduct of the wakif. In the absence of an express dedication, the existence of a waqf can be legally recognised in situations where property has been the subject of public religious use since time immemorial. This concept of a waqf by user has also found statutory recognition in Section 3(r) of the Waqf Act, 1995 which defines a “waqf” as:

“3. (r) “waqf” means the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes—

(i) a waqf by user but such waqf shall not cease to be a waqf by reason only of the user having ceased irrespective of the period of such cesser;

(ii) a Shamlat Patti, Shamlat Deh, Jumla Malkkan or by any other name entered into a revenue record;

(iii) “grants”, including mashrat-ul-khidmat for any purpose recognised by the Muslim law as pious, religious or charitable; and

(iv) a waqf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable, provided when the line of succession fails, the income of the waqf shall be spent for education, development, welfare and such other purposes as recognised by Muslim law,

and “waqif” means any person making such dedication;”

(Emphasis supplied)

1126. The statutory definition of a waqf recognises the validity of a waqf established by use and not by dedication. Similarly, Mulla in his book on *Mahomedan Law* states:

“... if land has been used from time immemorial for a religious purpose, e.g., for a mosque, or a burial ground or for the maintenance as a mosque, then the land is by user wakf although there is no evidence of an express dedication.” [*Mulla's Mahomedan Law*, 14th Edn. at p. 173.]

$$\left[\begin{array}{ccc} \dots & \dots & \dots \end{array} \right]$$

1128. The doctrine of waqf by user received judicial recognition in the decision of the Privy Council in *Court of Wards for the Property of Makhdum Hassan Bakhsh v. Ilahi Bakhsh* [Court of Wards for the Property of

Makhdum Hassan Bakhsh v. Ilahi Bakhsh, 1912 SCC OnLine PC 45 : (1912-13) 40 IA 18 : ILR (1913) 40 Cal 297]. The case concerned a public graveyard in Multan where a prominent Muslim saint was buried. The Court of Wards, acting for the property of Makhdum Bakhsh, proposed to sell certain property within the area of the graveyard on which no graves existed. The Muslim residents of Multan sought an injunction restraining the proposed sale on the ground that the entire graveyard was inalienable waqf property due to its long use as a public graveyard of the Muslim community. Lord Macnaghten held : (SCC OnLine PC)

“Their Lordships agree with the Chief Court in thinking that the land in suit forms part of a graveyard set apart for the Mussalman community, **and that by user, if not by dedication, the land is waqf.**

The Privy Council recognised that absent an express deed or act of dedication, a waqf can be recognised by long use.

1129. The above decision was followed by the Oudh Chief Court in *Abdul Ghafoor v. Rahmat Ali* [*Abdul Ghafoor v. Rahmat Ali*, 1930 SCC OnLine Oudh CC 102 : AIR 1930 Oudh 245]. The plaintiffs sought a declaration that the suit property was a public graveyard and the defendant was not entitled to construct any structure on it. The graveyard in question had been closed to the public by the Municipal Board for forty years. The defendant argued that the plaintiffs had not established the use of the graveyard till the suit in question, and that by non-use for forty years, it had lost its characteristic as a waqf. In holding that the graveyard continued to be a public waqf, Srivastava, J. speaking for the Oudh Chief Court held : (SCC OnLine Oudh para 4)

“4. ... It is well settled that a wakf may, in the absence of direct evidence of dedication, be established by evidence of user. The land in suit was recorded at the time of the first regular settlement as a qaburistan but there is no direct evidence to establish the dedication. ... in the light of the evidence of a number of witnesses examined on behalf of the plaintiffs, whose evidence he [the Subordinate Judge] has believed has come to the conclusion that the Mahomedan public used the land as their burial ground until the Municipal Board prohibited further interments in that land about 40 years ago. Thus in the present case the finding about the land in suit being a public graveyard is based upon the evidence of long user. ... The rule which allows evidence of user to take the place of dedication is a rule of necessity. In the case of old wakf it is not possible to secure direct evidence of dedication and also it has been ruled that even in the absence of such direct evidence, a court can hold a wakf to be established on evidence, of long user.”

(emphasis supplied)

1130. In some cases, courts were faced with a situation where property was used as waqf property since time immemorial and it was not practical to seek formal proof in the form of a deed of declaration. A specific document of dedication may be unavailable after a long lapse of time but the use of the property for public religious or charitable purpose may have continued since time immemorial. Hence, despite the absence of an express deed of dedication, where the long use of the property as a site for public religious purpose is established by oral or documentary evidence, a court can recognise the existence of a waqf by user. The evidence of long use is

treated as sufficient though there is no evidence of an express deed of dedication.

1131. In *Miru v. Ram Gopal* [*Miru v. Ram Gopal*, 1935 SCC OnLine All 205 : AIR 1935 All 891] the plaintiff was a zamindar of the property. One Rahim Baksh had occupied the property and built a makeshift or “*katcha*” platform for offering prayers. As of 1904, prayers were being offered by local Muslim residents at this “*katcha*” mosque. The Muslim residents, who were the defendants, sought to build a permanent structure of a mosque at the site. This was resisted by the plaintiff, who sought an injunction for restraining construction of the new mosque.

1131.1. The Court observed that the khasra for the plot stated, “*masjid*”. Bennet, J. speaking on a Division Bench of the Allahabad High Court, stated : (SCC OnLine All)

“[In] the present case there is a finding that *the plot has long been used for a mosque and that the use has been by the Muhammadan inhabitants of the locality* and not merely by a particular tenant who allowed other people to come there for the purpose of prayer. ... It has also been held by their Lordships of the Privy Council in *Court of Wards for the Property of Makhdum Hassan Bakhsh v. Ilahi Bakhsh* [*Court of Wards for the Property of Makhdum Hassan Bakhsh v. Ilahi Bakhsh*, 1912 SCC OnLine PC 45 : (1912-13) 40 IA 18 : ILR (1913) 40 Cal 297] that a graveyard by user became wakf. We do not think that the provisions of the Easement Act or of any part of Chapter IV in regard to licence apply where a zamindar allows the Muhammadan population to use a building as a mosque. ... *In such a case we consider that where there is a finding that a mosque exists, this necessarily implies that there is no longer any question of easement or use of licence. Under the Muhammadan law the mosque is the property of God*

and not the property of the zamindar. The learned counsel for the plaintiff objected that there was no case of a transfer as is necessary for transfer of property, but we consider that the consent of the zamindar to the use of a building as a mosque is sufficient.”

(Emphasis supplied)

1131.2. The long use of the “*katcha*” mosque led the Court to recognise the existence of a public waqf. This was not a case involving a few isolated instances of worship, but the persistent use of the mosque by the resident Muslim community prior to 1904. This was demonstrated by documentary evidence showing the existence of a mosque at the plot. Significantly, public worship at the mosque was permitted by the zamindar himself. In these circumstances, the Allahabad High Court held that the land was not the private property of the zamindar, but a public waqf by user.

1131.3. There are prescient words in the concurring opinion of Sulaiman, C.J. in the case : (SCC OnLine All)

“But where a building has stood on a piece of land for a long time and the worship has been performed in that building, then it would be a matter of inference for the court which is the judge of facts, as to whether the right has been exercised in that building for such a sufficiently long time as to justify the presumption that the building itself has been allowed to be consecrated for the purpose of such rights being performed.”

1132. The question whether the use of a building or property for public religious worship has satisfied the legal requirements to be recognised as a public waqf is a matter of evidence. It is a “matter of inference” for the court, having examined the evidence on record, to determine whether the use of the property has been for sufficiently long and

consistent with the purported use to justify the recognition of a public waqf absent an express dedication. Given the irrevocable, permanent and inalienable nature of a waqf, the evidentiary threshold for establishing a waqf by user is high, as it results in a radical change in the characteristics of ownership over the property.

$$\left[\begin{array}{ccc} \dots & & \dots \end{array} \right]$$

1134. **Our jurisprudence recognises the principle of waqf by user even absent an express deed of dedication or declaration.** Whether or not properties are waqf property by long use is a matter of evidence. **The test is whether the property has been used for public religious worship by those professing the Islamic faith. The evidentiary threshold is high, in most cases requiring evidence of public worship at the property in question since time immemorial.** In *Faqir Mohamad Shah* [*Faqir Mohamad Shah v. Qazi Fasihuddin Ansari*, AIR 1956 SC 713], it was admitted that the old mosque was waqf property. The Court subsequently examined the evidence on record to determine whether the structures forming the “new mosque” built on property adjoining the “old mosque” had also been used for public religious worship. It is on this basis that this Court held portions of the “new mosque”, in conjunction with the “old mosque”, to be a composite waqf property.”

(Emphasis added)

E. **BECAUSE** the effect of the amended provision recognising only *waqf by user* registered prior to the commencement of the impugned legislation, is therefore not only violative of Article 25 of the Constitution as it divorces the definition of a waqf from the Islamic principles but is also suffering from the vice of manifest arbitrariness

by excluding the power of courts to examine a claim of *waqf by user* based on evidence. It is submitted, for an instance, that while a 100 year old mosque registered as a *waqf by user* may remain protected, a 600 year old Mosque which may not be registered as such, would face difficulty proving its dedication if a fresh challenge is laid or a question arises.

F. **BECAUSE** judicial review and rule of law being basic structures of the Constitution, an evidentiary tool such as the doctrine of *waqf by user* which has stood the test of time, cannot be denuded by a legislative enactment and falls foul of Article 13.

G. **BECAUSE** coupled with the vague definition of Government Organisation and Government Property in Clause 4(iv) and the newly introduced Section 3C in Clause 5 of the Act, even registered *waqf by user* properties stand threatened by arbitrary action and thus the provisions suffer from manifest arbitrariness.

H. **BECAUSE** Clause 5 of the Act introduced new provisions in the form of Sections 3A, 3B, 3C, 3D and 3E and suffers from manifest arbitrariness. Of these while Sections 3A-3C were part of the initial Bill as introduced and of the Bill as reported by the JPC, Sections 3D

and 3E were inserted in the eleventh hour by an amendment moved by the Hon'ble Minister of Minority Affairs. While Section 3A requires that creation of a *waqf alal aulad* will not result in denial of inheritance rights of heirs of the waqif, the same is contrary to recognised Islamic principles on inheritance. It is submitted that under Islamic Jurisprudence, unlike other religions, inheritance accrues only at the moment of the death of the person and there can not be a partition suit prior to the death of the person who remains free in his lifetime to settle his property as per Islamic principles. This would include a waqif making a *waqf alal aulad* and specifically addressing specific heirs or other persons and their progeny. The newly introduced Section 3A(2), therefore, prevents the waqif from making any dedication in a manner that an heir would now claim *in futuro* rights in the Waqif's property being dedicated when even Islam does not envisage such a situation. Such a provision is an absolute violation of Article 25 as it restricts the exercise of religious freedom and of Article 300A as it prevents the waqif from using his own property as per his wishes.

- I. **BECAUSE** Section 3B further unreasonably requires details of registration and completely obviates the possibility of any waqf by user being registered, including those already registered, which are

purported to be protected under Clause 4(ix)(e) as the registration would require under Section 3B(2)(b) the name and address of the creator of the waqf, mode and date of such creation, making the requirement not only *ultra vires* the Constitution but also completely contrary to the proviso introduced by Clause 4(ix)(e) of the Act itself. This reflects a complete non application of mind and a combined reading of the two provisions would mean that all *waqf by user* properties, registered and unregistered, are being obliterated.

- J. **BECAUSE** Section 3C, as introduced by Clause 5 of the Act, is thoroughly unconstitutional and completely opposed to recognised Islamic principles of waqfs. While it is well settled that after a dedication a waqf becomes irrevocable and its ownership vests in the Almighty, Section 3C(1) provides that any Government Property identified or declared as waqf, before or after the commencement of this Act, shall not be deemed to be a waqf. Section 3C(2) thereafter provides for a Designated Officer to be appointed by the State Government itself to cause an inquiry and further that till he submits his report the property would not be treated as a waqf. It is submitted that the provision as drafted is absurd and unreasonable and tantamounts to granting final relief at the interim stage. If a property is a waqf property, there cannot be a fetter placed on its treatment as a

waqf while the inquiry takes place. The entire Section contains nothing with regard to any opportunity of hearing being provided or evidence being placed by and before the Designated Officer in this regard nor provides any remedies therefrom. It is submitted that entrusting this enquiry to the Designated Officer is in itself causing the State Government to be a judge in its own cause. Further the express vagueness in the provision makes it manifestly arbitrary. The pause in the interregnum placed on the property's treatment as a waqf is further foul of the religious nature and definition of waqfs. The provisions are therefore in violation of Articles 14, 15, 25 and 300A of the Constitution.

K. **BECAUSE** Section 3D, added after the Bill was reported by JPC without these provisions, by way of an amendment moved by the Hon'ble Minister of Minority Affairs during the debates in Lok Sabha are wholly unconstitutional and fall foul of Article 25 and violate the principles of secularism. It is submitted that a great number of ancient monuments which are in the form of Mosques, Dargahs, Mausoleum, Khanqahs etc. would be deprived of being a waqf and managing their affairs through duly recognised Mutawalli. This provision also gives rise to mischief and incentivises disputes being raised at ancient monuments seeking stoppage of religious worship and functions. For

an example, in a great number of ancient monuments namaz is offered either on regular basis or on Fridays. These include the Taj Mahal as well as Afsarwala Mosque in Humayun's Tomb. These mosques have been functioning with ASI protection and waqf nature of the properties going hand in hand. There is absolutely no rationale behind obliterating their waqf character.

- L. **BECAUSE** Section 3D also violates the equality clause under Article 14 and discriminate Muslim waqfs on the basis of religion solely thereby violating Article 15. It is submitted, for instance, that Shri Jagannath Temple at Puri and its subordinate shrines, Odisha figures in at S. No. 2140 in the List of Centrally Protected ASI Monuments and yet is governed by Shri Jagannath Temple Act, 1955. Similarly, the Virupaksha Temple in Hampi, Karnataka, which is also a UNESCO World Heritage Site, figures in at S. No. 1340 in the List of Centrally Protected ASI Monuments and yet is governed under the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997. While there are other examples of various ancient monuments, protected by ASI, which continue to be endowed as per the tenets of particular religions, Section 3D discriminates against Muslim monuments only by declaring their status as waqf to be void.

This is an egregious violation of not only Article 25 and 26 but also of Articles 14 and 15.

M. **BECAUSE** Section 3E prohibits members of Scheduled Tribes from making waqfs. It is highlighted that there exists a large population of Muslims who belong to Scheduled Tribes and Section 3E prohibits them from making any declaration of waqf for their own properties. Thus the two provisions are an utter and absolute abridgment of the religious freedoms guaranteed to the citizens under Articles 25 and 26 of the Constitution.

N. **BECAUSE** Clause 6 of the Act seeks to remove the availability of a Survey Commissioner and grants the power of a survey being conducted to the Collector who would make a survey as per the revenue laws of the State. The Collector, being the head of the revenue district, is in most cases a claimant on behalf of the Government. Therefore, bestowing the powers of survey to the same authority removing it from the specialised officer in the form of Survey Commissioner is a violation of the principles of natural justice in view of the settled position reflected in the maxim *nemo judex in causa sua* i.e., no one should be a judge in their own cause. Moreover, the same vice of arbitrariness and violation of the principles of natural justice is

then carried over to Clause 7 which amends Section 5 of the Waqf Act, 1995 and provides for not only uploading of list of Auqafs on the Portal and Database but also mandates revenue authorities, before making any mutation in the land records, to give a public notice in two daily newspapers circulating in the localities of such area and an opportunity of hearing to be provided to affected persons. The impugned legislation does not provide any clarity on who would be considered an affected person. Moreover, the requirement for a public notice creates only opportunities for encroachers and persons with vested interests and is discriminatory. It is submitted that the provision as it stood before, required revenue authorities to take into consideration the list of auqafs which is now removed. The local revenue laws in most states do not contain any such requirement for a newspaper publication and merely require affected parties to be notified. The impugned legislation, therefore, by adopting a different yardstick as regards waqfs violates the equality clause enshrined in Article 14 and discriminates on the basis solely of religion thereby violating Article 15.

O. **BECAUSE** Clause 8 of the Act further amends Section 6 of the Waqf Act, 1995 and does away with finality of the decision of the Waqf Tribunal with respect to any question as to whether a particular

property specified as *waqf* property in the list of *auqaf* is *waqf* property or not. It further adds a proviso to Section 6(1) virtually extending the time limit for raising a dispute with regard to a notified *waqf* under the list of *auqaf* in a vague and open ended manner by specifying that the application may be entertained even beyond 2 years (which was earlier 1 year) by showing sufficient cause by the applicant. It is submitted that the purpose for the bar contained in Section 6(1) was to ensure finality to the notification of *auqaf* in the list published after due survey and the amending provision seeks to disturb the finality by an open ended and vague clause. The provision is, therefore, suffering from manifest arbitrariness and is discriminatory and violative of Articles 14 and 15 of the Constitution.

P. **BECAUSE** Clause 9 of the impugned legislation further amends Section 7 and employs similar language as in Clause 8 of the impugned legislation by providing an extension of raising dispute beyond the period of two years and including an open ended proviso.

Q. **BECAUSE** Clause 10 amends Section 9 of the Waqf Act, 1995 and completely replaces the composition of the Central Waqf Council. It is notable that while prior to its amendment Section 9 envisaged a CWC comprising of 21 Members out of which 20 members were

mandatorily required to be Muslims, after its amendment the mandatory Muslim representation has been reduced to merely 8 members with the provision being open ended as to appointment of the remaining members from Non-Muslim communities. While the provision prior to its amendment required appointment of Muslim Members of Parliament, former Muslim Judges of the Supreme Court or a High Court, a Muslim Advocate of national eminence and Muslim members of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine, these members are not required to be Muslims under the amended provision. While the provision expressly provides two members, excluding the *ex officio* members (i.e., Union Minister in charge of waqf and Additional Secretary or Joint Secretary to the Government of India dealing with waqf matters) to be non-Muslims, by removal of the precondition for Muslim members under the amended sub-section (2) the Clause enables appointment of a majority of non-Muslim members in the Council depriving Muslims from managing their properties. The Clause, therefore, is in violation of Articles 14 and 26 of the Constitution.

R. **BECAUSE** similarly, under Clause 12, the impugned legislation recomposes the Waqf Boards and removes requirement of being a

Muslim from majority members enabling appointment of 7 non-Muslim members in the 11 member Board. Under this clause as well, while it is expressly provided that two members, excluding the *ex officio* members (i.e., Joint Secretary to the State Government dealing with waqf matters) to be non-Muslims, by removal of the precondition for Muslim members under the amended sub-section (1) the Clause enables appointment of a majority of non-Muslim members in the Council depriving Muslims from managing their properties. It is submitted that prior to its amendment Section 14 envisaged a Board with Muslim Members of Parliament from the State or, as the case may be, the National Capital Territory of Delhi; Muslim Members of the State Legislature; Muslim members of the Bar Council of the concerned State or Union territory; Muslim member with professional experience in town planning or business management, social work, finance or revenue, agriculture and development activities, to be nominated by the State Government; and a Muslim member, to be nominated by the State Government from amongst the officers of the State Government not below the rank of Joint Secretary to the State Government; none of these members are now required to be Muslims under the amended provision. The Clause, therefore, is in violation of Articles 14 and 26 of the Constitution.

S. **BECAUSE** the requirement for members of the CWC and Waqf Boards is also protected by Article 16(5) which provides that nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

T. **BECAUSE** the amended Section 14, under Clause 12, also does away with elections to the Boards diluting the democratic nature of such Boards and further limiting the right of Muslims to manage their own affairs by way of electing members to the Waqf Boards.

U. **BECAUSE** Clause 13(ii), amending the disqualifications for appointment as Member of the Board(s) changes the disqualification of a member from being *convicted of an offence involving moral turpitude* to any conviction for not less than two years. This would also include a conviction for defamation and for a number of other offences which may not involve moral turpitude. It is submitted that while disqualification based on conviction of an offence involving moral turpitude was reasonable and had a reasonable nexus with the object of morally upright individuals to be appointed to the Boards,

the amended disqualification is irrational and fails to address the issue.

It is notable that as per the amended definition, a person convicted and sentenced for one year would not be disqualified even if the offence involved moral turpitude. Examples of such offences, *inter alia*, include Assault or use of criminal force to woman with intent to outrage her modesty (Section 74, Bharatiya Nyay Sanhita, 2023); sexual harassment (Section 75, Bharatiya Nyay Sanhita, 2023); Voyeurism (Section 77, Bharatiya Nyay Sanhita, 2023); Bribery (Section 173, Bharatiya Nyay Sanhita, 2023).

V. **BECAUSE** Clause 15 further violates the autonomy of the Board by omitting Section 20A from the Act which provided for removal of the Chairperson of the Board by a vote of no confidence.

W. **BECAUSE** Clause 16, by replacing Section 23(1) of the Waqf Act, 1995, as it stood prior to its appointment removes the requirement of appointing a Muslim Chief Executive Officer to the Board. The amendment to Section 23 also does away with the requirement of the CEO being appointed from a panel of two names suggested by the Board, which was a reasonable and rational consultative process. It is submitted that exclusion of the condition for the CEO being a Muslim is violative of Article 26. It is highlighted that in several religious acts,

such as the Uttar Pradesh Kashi Vishwanath Temple Act, 1983 (Section 3); Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Section 10); Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Section 3(2)); and the Orissa Hindu Religious Endowments Act, 1951 (Section 6), it is mandated that key positions like Chief Executive Officer or equivalent roles must be held by individuals professing the Hindu religion. The provision, therefore, being discriminatory also falls foul of Articles 14 and 15 of the Constitution.

X. **BECAUSE** Clause 19 omits the explanation and proviso from Section 32 which required the powers of the Board to be exercised in the case of a Sunni waqf, by the Sunni members of the Board only; and in the case of a Shia waqf, by the Shia members of the Board only diluting the autonomy of both Shia and Sunni sects and is therefore violative of Article 26. The Clause further dilutes the finality of the Tribunal's decision which is unreasonable and manifestly arbitrary.

Y. **BECAUSE** Clause 20 omits from Section 33(4) proviso the bar on the Tribunal granting a stay upon an order of the CEO directing a person to make payment of the amount misappropriated or restoration of retained waqf property, which indirectly dilutes the requirement of

making a pre-deposit before filing an Appeal from such order. The bar on a stay without the misappropriated amount having been deposited is not in any manner a restriction on judicial scrutiny. Section 33(4), in fact, provides a right of appeal to the Mutawalli or other person aggrieved by the order of the CEO. Since the appeal is subject to the deposit of the aforesaid amount, the Act includes the proviso to ensure that any misappropriated amount is secured pending the disposal of the appeal and no undue advantage is taken due to a stay order having been passed. The provision contained in this proviso, which is now omitted, is akin to Rule 5(5) of Order XLI of Code of Civil Procedure, which contains a similar bar on grant of stay absent a prior deposit. Similar provisions are contained in other statutes as well and cannot be said to be a hurdle to judicial scrutiny. Clause 33(6) further dilutes the finality of the Tribunal's decision.

Z. **BECAUSE** Clause 21 (a), by addition of sub-section (1A) to Section 36, introduces the unreasonable requirement of a waqf being dedicated only by way of execution of a waqf deed. As stated above, as per the Islamic Jurisprudence, oral dedication is permitted and any question as to the validity of such dedication can be examined by way of judicial review, and on the basis of evidence produced by the parties. The onerous condition that “no Waqf shall be created without a Waqf

Deed”, therefore, prevents the exercise of the religious right by Muslims. For an instance, a person on his deathbed may want to dedicate some property towards religious or charitable purposes. He may also be the lawful owner and the title-holder of such property. His heirs may also not have any objection to such dedication. Even though he may have a right to practice his religion guaranteed under Article 25, such a person would be deprived from exercising such right due to this condition. This is only one example and a number of different situations can be possible, where the requirement of executing a Waqf Deed would render the constitutional right completely futile.

AA. **BECAUSE** Clause 21(c) further does away with the requirement where on non-availability of waqf deed an application could contain full particulars, as far as known to the applicant, of the waqf. It is submitted that Section 36(1) has not been amended. Therefore, a registration of a Waqf created before the commencement of this Act is still a possibility. The amendments in Section 36(4) would now require even older Waqfs to produce a Waqf Deed, whereas, in Section 3B the requirement of a Waqf Deed is not mandatory. It is submitted that there exist several mosques, particularly with three bays, which are not registered with the Waqf Board and may not also have a copy of a Waqf Deed with them, either due to efflux of time or by reason of

the dedication having been made orally. Now these old structures would be deprived from registering themselves with the Waqf Board even if they wanted to.

BB. **BECAUSE** Clause 21(d) further provides an unbridled power to the Collector to mark any waqf property as Government Property and obstruct its registration.

CC. **BECAUSE** Clause 22 further provides for an irrational and arbitrary requirement for a public notice to be given in local newspapers. The impugned legislation does not provide any clarity on who would be considered an affected person. Moreover, the requirement for a public notice creates only opportunities for encroachers and persons with vested interests and is discriminatory. It is submitted that the provision as it stood before, required revenue authorities to take into consideration the list of auqafs which is now removed. The local revenue laws in most states do not contain any such requirement for a newspaper publication and merely require affected parties to be notified. The impugned legislation, therefore, by adopting a different yardstick as regards waqfs violates the equality clause enshrined in Article 14 and discriminates on the basis solely of religion thereby violating Article 15.

DD. **BECAUSE** Clause 23 further takes away from the Board the power to determine if a property is a waqf property which is a violation of the Muslim community's right to manage its own affairs and to acquire and manage its properties. The omission of the Board's power to decide whether a property is a Waqf property, it is submitted, is a complete disempowerment of the Waqf Boards. Unlike the unbridled power given to the Designated Officer under Section 3C, Section 40 had inbuilt checks and balances where the decision of the Board can be questioned before the Tribunal.

EE. **BECAUSE** Clause 24, by amending Section 46 introduces an unnecessary vague power with the Central Government to provide for the nature of particulars of the moneys received to be submitted by the Mutawalli which suffers from vagueness and is manifestly arbitrary. Clause 25 similarly also provides a vague power to the Central Government to provide for publication of the audit report. There is no purpose it is submitted in publishing the audit reports of the waqfs. Clause 26 also includes this unusual requirement to publish the proceedings and orders of the Board and gives a vague power to Central Government to prescribe the form thereof.

FF. **BECAUSE** while Clause 29 also dilutes the finality of the Tribunal's decision, Clause 30 dilutes the deterrence as existing in the Waqf Act, 1995 by omitting the rigorous nature of imprisonment and cognizable and non-bailable nature of the offence under Section 52A. The same, it is submitted, is ultra vires the intent of the Act and liberalises the offence of alienation of waqf property.

GG. **BECAUSE** Clause 31 further dilutes the finality of Tribunal's decision thereby affecting legal certainty and stability in adjudication of waqf-related disputes.

HH. **BECAUSE** Clause 32(b) suffers from manifest arbitrariness and makes a failure to upload details as per Section 3B an offence punishable with six months' imprisonment. Given the nature of requirements under Section 3B, as stated above, a number of waqfs may not have an express date of dedication or the name of dedicator and would fall prey to this provision.

II. **BECAUSE** while Clause 33 also dilutes the finality to Tribunal's decision it further makes an accusation under the Unlawful Activities (Prevention) Act, 1967 to be a disqualification for a Mutawalli. Coupled with the rampant use of UAPA, this provision is

prone to misuse where in addition to being jailed and prior to availing judicial remedies, a person would be removed as a Mutawalli.

JJ. **BECAUSE** Clause 36 adds a proviso requiring a notice inviting objections from the general public, when the Board is canceling or modifying such scheme, although while framing a scheme for administration of Waqf, the Board is not required to give a notice to the general public.

KK. **BECAUSE** Clause 44 makes the Limitation Act, 1963 applicable from the commencement of the impugned legislation, which was earlier not made applicable to ensure that encroachers cannot claim adverse possession of waqf properties. The use of the phrase “*shall apply to any proceedings in relation to any claim or interest touching upon immovable property comprised in a waqf*” leaves room for ambiguity as to the applicability of Limitation Act, 1963 to pending proceedings as well after the commencement. The provision as it now stands after amendment would make it open for encroachers to continue in illegal possession and claim adverse possession in any suit for recovery of possession of waqf property.

LL. **BECAUSE** removal of Section 108A by Clause 45 providing overriding effect to the Act is wholly arbitrary and results in overlap between laws and ultimately threatens the interests of waqfs.

MM. **BECAUSE** Clause 46 gives overbroad powers to the Central Government to make rules and is vague and arbitrary inasmuch as it provides a residuary power to make rules on any other matter which may be prescribed.

NN. **BECAUSE** various clauses of the impugned legislation dilute the finality of the Tribunal's decision and are at selective variance from legislations concerning other religious endowments and institutions such as the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987; The Karnataka Hindu Religious Institutions and Endowments Act, 1997; the Sikh Gurdwaras Act, 1925; Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959; amongst others. These clauses which dilute the finality of the decisions of the Waqf Tribunal include Clauses 8(a)(ii), 9(ii), 19(b), 17(b), 29, 31, 33(b), 35(b), 37(b), 38. Moreover, while the explanation provided on the floor of the parliament for diluting the finality of the Tribunal has been the provisioning of an appeal under Section 83 from the decisions of the Tribunal, the same

cannot be a reason sufficient for diluting the finality of the Tribunal's decision. It is notable that while Section 254 clause 4 of the Income Tax Act provides finality to the decisions of the Income Tax Appellate Tribunal, when Section 260A was added to the Income Tax Act, 1961 there was no requirement to dilute the finality of the Appellate Tribunal's decision. Thus both the provisions could exist simultaneously and provisioning of an appeal nowhere requires a complete dilution of the finality accorded to the decision of the Wakf Tribunal.

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 a Writ in the nature of declaration declaration or any other writ order or direction declaring Clauses 4(v), 4(ix)(a), 4(ix)(d), 4(ix)(b), 4(iv), 5, 6, 7, 8, 9, 10, 12, 13(ii), 15, 16, 17(b), 19, 20, 21(a), 21(c), 21(d), 22, Clause 23, 24, 25, 26, 29, 30, 31, 32(b) 33, 35(b), 36, 37(b), 38, 44, 45, & 46 of the Waqf (Amendment) Act, 2025 to be ultra vires the Constitution being violative of Articles 14, 15, 16, 25, 26 and 300A;
- b. Issue rule *nisi* in terms of prayers (a) above ;

c. Pass any order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present appeal.

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

Drawn By:

Ibad Mushtaq, Akanksha Rai
and Gurneet Kaur
Advocates

FILED BY:


FUZAIL AHMAD AYYUBI

Advocate for the Petitioner

New Delhi

Drawn On: 05.04.2025

Filed on: 06.04.2025

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) No. _____ OF 2025

IN THE MATTER OF:

Maulana Arshad Madani

...Petitioner

versus

Union of India & Ors.

...Respondents

AFFIDAVIT

I, Maulana Arshad Madani

do hereby
solemnly affirm and state on oath as under:-

- 1) That I am the Petitioner in the aforesaid petition and as such being well conversant with the facts and circumstances of the case, I am duly competent and authorized to swear the instant affidavit.
- 2) That the contents of the present Writ Petition from Pages _____ to _____, Paras _____ Synopsis & List of dates from pages _____ and accompanying IAs have been read over and explained to me in my vernacular language and having understood the same I state that the same are drafted to my instructions and are true and correct to the best of my knowledge and belief.

- 3) That the Annexures P-1 to P-_____ annexed to the present writ petition are true and correct copies of their respective originals.

DEPONENT

VERIFICATION:

Verified at Delhi on this 05 day of April 2025, that the contents of Para 01 to 03 of the aforesaid affidavit are true and correct to the best of my knowledge and belief and no part of it is false and nothing material has been concealed there from.

DEPONENT



05 APR 2025
ATTESTED
NOTARY PUBLIC

Bill No. 109 of 2024**THE WAQF (AMENDMENT) BILL, 2024**

A

BILL

further to amend the Waqf Act, 1995.

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

1. (1) This Act may be called the Waqf (Amendment) Act, 2024.

Short title and
commencement.

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

43 of 1995.

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.

Amendment of
section 1.

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:— 5

‘(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;’; 10

(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 15 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;’; 20

(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 25 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;’; 30

(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 practising Islam for at least five years, of any movable or immovable property, having ownership of such property,” shall be substituted; 35

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

(c) in sub-clause (iv), after the word “welfare”, the words “, maintenance of widow, divorced woman and orphan in such manner, as may be prescribed by the Central Government,” shall be inserted; 40

(d) in the long line, for the words “any person”, the words “any such person” shall be substituted.

Insertion of new
sections 3A, 3B
and 3C.

4. After section 3 of the principal Act, the following sections shall be inserted, namely:—

“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 waqf.

5 3B. (1) Every waqf registered under this Act, prior to the commencement of the Waqf (Amendment) Act, 2024, 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.

10 (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;

15 (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 land revenue, cesses, rates and taxes annually payable in respect of the waqf properties;

20 (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;

25 (ii) purely religious purposes;

(iii) charitable purposes; and

(iv) any other purposes;

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

30 (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 deemed to be a waqf property.

Wrongful declaration of waqf.

35 (2) If any question arises as to whether any such property is a Government property, the same shall be referred to the Collector having jurisdiction who shall make such inquiry as he deems fit, and determine whether such property is a Government property or not and submit his report to the State Government:

40 Provided that such property shall not be treated as waqf property till the Collector submits his report.

(3) In case the Collector 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.

45 (4) The State Government shall, on receipt of the report of the Collector, 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, 5
namely:—

“(1) Any survey of auqaf pending before the Survey Commissioner, on the commencement of the Waqf (Amendment) Act, 2024, 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 10
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 15
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; 20

(b) in sub-section (2), after the words “Shia auqaf”, the words “or Aghakhani auqaf 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 25
auqaf on the portal and database within fifteen 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 30
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 35
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 40
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 45
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) the second proviso shall be omitted;

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

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

Amendment of section 7.

(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”.

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

Amendment of section 9.

“(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 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) one officer of the State Government, not below the rank of Joint Secretary to that State Government;

(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 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, 2024 shall continue to hold office as such until the expiry of their term of office.

5 (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).”;

10 (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.

20 **12.** In section 16 of the principal Act, for clause (d), the following clause shall be substituted, namely:—

Amendment of section 16.

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

25 **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.

Amendment of section 17.

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

Omission of section 20A.

15. In section 23 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 23.

30 “(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.”.

16. In section 32 of the principal Act,—

Amendment of section 32.

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

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

17. In section 33 of the principal Act,—

Amendment of section 33.

40 (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.

18. In section 36 of the principal Act,—

Amendment of section 36.

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

“(1A) On and from the commencement of the Waqf (Amendment) Act, 2024, 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, 5
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 10
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 15
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 20
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, 25
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 30
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 35
expiry of a period of six months from the commencement of the Waqf (Amendment) Act, 2024.”.

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 40
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 45
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.

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

Omission of
section 40.

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

Amendment of
section 46.

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

5 (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.

10 **22.** In section 47 of the principal Act,—

Amendment of
section 47.

(a) in sub-section (1),—

(i) in clause (a),—

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

15 (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:

20 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:—

25 “(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:—

30 “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.”;

35 (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.”;

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

40 **23.** In section 48 of the principal Act,—

Amendment of
section 48.

(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;

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

Insertion of new section 50A.

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 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.”;

5 (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;

10 (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,

15 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.”.

29. In section 64 of the principal Act,—

Amendment of section 64.

(a) in sub-section (1),—

20 (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”;

25 (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.

30

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

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 65.

35 **31.** In section 67 of the principal Act,—

Amendment of section 67.

(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 sixty days from the date of the order, appeal to the Tribunal.”;

40 (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.

32. In section 69 of the principal Act,—

Amendment of section 69.

(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.” 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 two members—

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

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

Provided that in case of absence of a member, Chairman of the bench may exercise the jurisdiction, powers and authority of the Tribunal:

Provided further that a Tribunal established under this Act, prior to the commencement of the Waqf (Amendment) Act, 2024, 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. In section 84 of the principal Act,—

Amendment of
section 84.

(a) after the words “decision in writing”, the words “within six months from the date of application” shall be inserted;

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

5 “Provided that if the matter is not decided within six months, the Tribunal may decide the matter within a further period of six months for the reasons to be recorded in writing as to why the matter was not decided within the said period of six months.”.

37. In section 91 of the principal Act,—

Amendment of
section 91.

10 (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
30 of 2013. Transparency in Land Acquisition, Rehabilitation and Resettlement
Act, 2013” shall be substituted;

15 (ii) for the words “three months”, the words “one month” shall
be substituted;

1 of 1894. (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
30 of 2013. in Land Acquisition, Rehabilitation and Resettlement Act, 2013” shall be
substituted;

(c) in sub-section (4),—

1 of 1894. (i) for the words and figures “under section 31 or section 32 of
the Land Acquisition Act, 1894”, the words and figures “under section
25 77 or section 78 of the Right to Fair Compensation and Transparency
in Land Acquisition, Rehabilitation and Resettlement Act, 2013” shall
be substituted;

30 (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.”.

35 **38.** In section 100 of the principal Act, for the words “Survey
Commissioner”, the word “Collector” shall be substituted.

Amendment of
section 100.

39. In section 101 of the principal Act, in the marginal heading and in
sub-section (1), for the words “Survey Commissioner” occurring at both the
places, the word “Collector” shall be substituted.

Amendment of
section 101.

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

Omission of
section 104.

41. Sections 107, 108 and 108A of the principal Act shall be omitted.

Omission of
sections 107,
108 and 108A.

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

Insertion of new
section 108B.

45 “108B. (1) The Central Government may, by notification in the
Official Gazette, make rules to carry out the provisions of this Act.

Power of Central
Government to
make rules.

(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), 5 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 10 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 (I) of section 37; 15

(f) such other particulars to be contained in the register of auqaf under clause (f) of sub-section (I) 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) 20 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 25 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 30 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 35 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 40 substituted;

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

“(xviiiia) 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) 45 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Waqf Act, 1995, was enacted to provide for the better administration of Auqaf and for matters connected therewith or incidental thereto. However, during the course of implementation of the Act, it is felt that the Act has not proved effective in improving the administration of auqaf.

2. Based on the recommendations of the High-Level Committee under the chairmanship of Justice (Retired) Rajinder Sachar and the Report of the Joint Parliamentary Committee on Waqf and Central Waqf Council and after having detailed consultation with other stakeholders, comprehensive amendments were made in the Act in the year 2013. Despite the amendments, it has been observed that the Act still requires further improvement to effectively address issues related to the powers of the State Waqf Boards, registration and survey of waqf properties, removal of encroachments, including the definition of the “waqf” itself.

3. In view of the above, it has been felt necessary to amend the said Act with the aim to overcome the shortcomings and to enhance the efficiency of the administration and management of the waqf properties. Therefore, it is proposed to introduce in Parliament a Bill which seeks to address these issues comprehensively and achieve the intended objectives for effective management, empowerment, and development of waqf properties. The Bill, *inter alia*, provides for the followings, namely:—

(a) renaming of the Waqf Act, 1995 as the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995;

(b) clearly define “waqf” as waqf by any person practicing Islam for at least five years and having ownership of such property;

(c) ensuring that the creation of waqf-alal-aulad does not lead to the denial of inheritance rights to women;

(d) omitting the provisions relating to the “waqf by user”;

(e) providing the functions of the Survey Commissioner to the Collector or any other officer not below the rank of Deputy Collector duly nominated by the Collector for the survey of waqf properties;

(f) providing for a broad based composition of the Central Waqf Council and the State Waqf Boards and ensuring the representation of Muslim women and non-Muslims;

(g) providing for establishment of separate Board of Auqaf for Boharas and Aghakhani;

(h) providing for representation of Shia, Sunni, Bohra, Agakhani and other backward classes among Muslim communities;

(i) streamlining the manner of registration of waqfs through a central portal and database;

(j) providing for a detailed procedure for mutation as per revenue laws with due notice to all concerned before recording any property as waqf property;

(k) omitting section 40 relating to the powers of Board to decide if a property is waqf property;

(l) decreasing the annual contribution from seven per cent. to five per cent. payable to the Board by mutawalli of every waqf having the net annual income of not less than five thousand rupees;

(m) providing for filing of accounts of waqf by mutawallis to the Board through a central portal for better control over their activities;

(n) reforming the Tribunal structure with two members and providing for appeals against the orders of the Tribunal to the High Court within a specified period of ninety days;

(o) omission of section 107 so as to make the Limitation Act, 1963 applicable to any action under the Act; and omission of sections 108 and 108A relating to special provision as to evacuee waqf properties and Act to have overriding effect.

4. The notes on clauses explain the various provisions of the Bill.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;

The 6th August, 2024.

KIREN RIJIJU.

Notes on Clauses

Clause 1 of the Bill seeks to provide for short title and commencement of the proposed legislation.

Clause 2 of the Bill seeks to amend section 1 relating to short title and commencement so as to amend the short title of the Act from “the Waqf Act, 1995”, to “the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995”.

Clause 3 of the Bill seeks to amend section 3 relating to definition so as to amend and substitute some definitions and provide new definitions in section 3, such as Aghakhani waqf, Bohra waqf, Collector, Government Organisation, Government property, etc.

Clause 4 of the Bill seeks to insert new sections 3A, 3B and 3C relating to certain conditions of waqf, filing of details of waqf on portal and database; and wrongful declaration of waqf. It provides for certain conditions of waqf, filing of details of waqf on portal and database and prevention of wrongful declaration of waqf.

Clause 5 of the Bill seeks to substitute section 4 relating to preliminary survey of waqf to replace the Collector in place of the Survey Officers, so as to confer powers upon the Collector to make the survey in accordance with the procedure in revenue laws of the State.

Clause 6 of the Bill seeks to amend section 5 relating to publication of list of auqaf so as to insert new sub-sections (2A) and (2B) to provide uploading of the notified list of auqaf on the portal and database within fifteen days. It further substitutes sub-section (3) which provides for making public notice of ninety days before deciding mutation of land records.

Clause 7 of the Bill seeks to amend section 6 relating to disputes regarding auqaf so as to insert the words “Aghakhani waqf or Bohra waqf” after the words “Sunni waqf”; and to omit that the expression “and the decision of the Tribunal in respect of such matter shall be final”.

Clause 8 of the Bill seeks to amend section 7 relating to power of Tribunal to determine disputes regarding auqaf so as to include therein Aghakhani waqf or Bohra waqf; and to omit that the expression “and the decision of the Tribunal in respect of such matter shall be final”.

Clause 9 of the Bill seeks to amend section 9 relating to establishment and constitution of Central Waqf Council so as to provide the composition broad-based by making provision for including two members from non-Muslim community.

Clause 10 of the Bill seeks to amend section 13 relating to incorporation so as to provide the establishment of a separate Board of Auqaf for Bohras and Aghakhanis if deemed necessary.

Clause 11 of the Bill seeks to amend section 14 relating to composition of Board so as to make the composition of the State Waqf Board broad-based *inter alia* making provisions for two members from non-Muslim community.

Clause 12 of the Bill seeks to amend section 16 relating to disqualification for being appointed, or for continuing as, member of the Board so as to include the conviction of two years imprisonment and more for any offence as a ground for disqualification.

Clause 13 of the Bill seeks to amend section 17 relating to meeting of Board so as to provide that the meeting of the Board to be held at least once in every month.

Clause 14 of the Bill seeks to omit section 20A relating to removal of Chairperson by vote of no confidence.

Clause 15 of the Bill seeks to amend section 23 relating to appointment of Chief Executive Officer and his term of office and other conditions of service so as to provide the Chief Executive Officer is to be not below the rank of Joint Secretary to the State Government and omit the requirement of him being a Muslim.

Clause 16 of the Bill seeks to amend section 32 relating to powers and function of the Board to omit *Explanation* and proviso to clause (e) in sub-section (2) to provide for giving of opportunity of being heard to the party affected; and to omit in sub-section (3) the expression “and the decision of the Tribunal in respect of such matter shall be final”.

Clause 17 of the Bill seeks to amend section 33 relating to powers of inspection by Chief Executive Officer or person authorised by him so as to omit in the words in the proviso in sub-section (4) of section 33 related to “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)”; and to omit sub-section (6).

Clause 18 of the Bill seeks to amend section 36 relating to registration to provide that after the commencement of the proposed legislation, no waqf shall be created without execution of a waqf deed.

Clause 19 of the Bill seeks to amend section 37 relating to register of auqaf providing for the maintenance of register of auqaf by the Board in the prescribed manner.

Clause 20 of the Bill seeks to omit section 40 related to “Decision if a property is waqf property”.

Clause 21 of the Bill seeks to amend section 46 relating to submission of account of auqaf.

Clause 22 of the Bill seeks to amend section 47 relating to audit of account of auqaf so as to substitute the expression “one lakh rupees” in place of “fifty thousand rupees”.

Clause 23 of the Bill seeks to amend section 48 relating to Board to pass orders on auditors report to provide that the proceedings and orders of the Board shall be published in such manner as may be prescribed by the Central Government.

Clause 24 of the Bill seeks to insert new section 50A relating to “Disqualification of Mutawalli”.

Clause 25 of the Bill seeks to amend section 52 relating to recovery of waqf property transferred in contravention of section 51 so as to omit the words in sub-section (4) related to decision of Tribunal on such appeal shall be final.

Clause 26 of the Bill seeks to amend section 52A relating to penalty for alienation of waqf property without sanction of Board provide for imprisonment instead of rigorous imprisonment; and to omit sub-sections (2) and (4) related to offence being cognizable and non-bailable .

Clause 27 of the Bill seeks to amend section 55A relating to disposal of property left on waqf property by unauthorised occupants.

Clause 28 of the Bill seeks to amend section 61 related to penalties *inter alia* to provide penalty to be twenty thousand rupees which may extend to one lakh rupees for certain failure by the mutawallis.

Clause 29 of the Bill seeks to amend section 64 relating to removal of Mutawalli as so to provide that if without reasonable cause fails to maintain regular accounts for one year instead of two years or fail to submit within one year instead of in consecutive two years; and to provide further that the Mutawalli shall be removed if is a member of any association which has been declared unlawful under the Unlawful Activities (Prevention) Act, 1967; and also to omit the words that the decision of the Tribunal on such appeal shall be final.

Clause 30 of the Bill seeks to amend section 65 relating to assumption of direct management of certain auqaf by the Board for submitting report by the Board within a period of six months.

Clause 31 of the Bill seeks to amend section 67 relating to supervision and supersession of committee of management to provide that aggrieved person may within sixty days of the order of the Board appeal to the Tribunal; and to omit the words relating of the finality of order made by the Tribunal.

Clause 32 of the Bill seeks to amend section 69 related to power of Board to frame scheme for administration of waqf so as to omit sub-section (3) and insert a proviso in sub-section (4) 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.

Clause 33 of the Bill seeks to section 72 relating to annual contribution payable to Board replacing the contribution to five per cent. in place of seven per cent.

Clause 34 of the Bill seeks to amend section 73 related to power of Chief Executive Officer to direct banks or other person to make payments and to omit the expression “and the decision of the Tribunal on such appeal shall be final”.

Clause 35 of the Bill seeks to amend section 83 relating to constitution of Tribunals, etc., so as to modify the composition of the Tribunal; and provide that if there is no Tribunal or the Tribunal is not functioning, any aggrieved person may appeal to the High Court directly; and to further provide that in absence of one member, the Chairman of the bench may exercise the jurisdiction, powers and authority of the Tribunal. It also provides that the Tribunals already existing prior to the commencement of proposed legislation shall continue to function till the expiry of the term of office. It also provides that the tenure of the Chairman and member to be for five years from the date of appointment or until the age of sixty-five years, whichever is earlier. It also provides the appeal to High Court within ninety days from the date of order of Tribunal.

Clause 36 of the bill seeks to amend section 84 relating to Tribunal to hold proceedings expeditiously and to furnish to the parties copies of its decision. It provide that if the matter is not decided within six months, the Tribunal may decide the matter within a further period of six months for the reasons to be recorded in writing as to why the matter was not decided within the said period of six months.

Clause 37 of the Bill seeks to amend section 91 relating to proceedings under Land Acquisition Act 1 of 1894 so as to substitute the reference of the Land Acquisition Act with the reference of “the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013”; and to substitute the period of “three months” with the period of “one month”.

Clause 38 of the Bill seeks to amend section 100 relating to protection of action taken in good faith so as to include within its scope the Collector in place of Survey Commissioner.

Clause 39 of the Bill seeks to amend section 101 relating to Survey Commission, members and officers of the Board deemed to be public servant so as to include within its scope the Collector in place of Survey Commissioner.

Clause 40 of the Bill seeks to omit section 104 related to application of Act to properties given or donated by persons not professing Islam.

Clause 41 of the Bill seeks to omit sections 107, 108 and 108A relating to Act 36 of 1963 not to apply for recovery of waqf properties; special provision as to evacuee properties; Act to have overriding effect.

Clause 42 of the Bill seeks to insert new section 108B relating to power of Central Government to make rules.

Clause 43 of the Bill seeks to amend section 109 relating to power to make rules.

Clause 44 of the Bill seeks to amend section 110 relating to powers to make regulations by the Board.

FINANCIAL MEMORANDUM

The Bill, if enacted, would not involve any financial expenditure either recurring or non-recurring from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 41 of the Bill seeks to insert a new section 108A which confers power upon the Central Government to make rules. The matters on which rules may be made, *inter alia*, relate to—(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 (2A) 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; and (j) any other matter which is required to be, or may be, prescribed.

2. The rules made by the Central Government under section 108A of the Act, shall be laid as soon as they are made, before each House of Parliament.

3. The matters in respect of which rules may be made are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE
EXTRACTS FROM THE WAQF ACT, 1995
(43 OF 1995)

* * * *

CHAPTER I

PRELIMINARY

1. (I) This Act may be called the Waqf Act, 1995.

* * * *

3. In this Act, unless the context otherwise requires,—

* * * *

Short title,
extent and
commencement.

Definitions.

(i) “mutawalli” means any person appointed, either verbally or under any deed or instrument by which a waqf has been created, or by a competent authority, to be the mutawalli of a waqf and includes any person who is a mutawalli of a waqf by virtue of any custom or who is a naib-mutawalli, khandim, mujawar, sajjadanashin, amin or other person appointed by a mutawalli to perform the duties of a mutawalli and save as otherwise provided in this Act, any person, committee or corporation for the time being, managing or administering any waqf or waqf property:

Provided that no member of a committee or corporation shall be deemed to be a mutawalli unless such member is an office-bearer of such committee or corporation:

Provided further that the mutawalli shall be a citizen of India and shall fulfil such other qualifications as may be prescribed:

Provided also that in case a waqf has specified any qualifications, such qualifications may be provided in the rules as may be made by the State Government;

* * * *

(I) “prescribed”, except in Chapter III, means prescribed by rules made by the State Governments;

* * * *

(p) “Survey Commissioner” means the Survey Commissioner of Waqf appointed under sub-section (I) of section 4 and includes any Additional or Assistant Survey Commissioners of Auqaf under sub-section (2) of section 4;

* * * *

(r) “waqf” means the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes—

(i) a waqf by user but such waqf shall not cease to be a waqf by reason only of the user having ceased irrespective of the period of such cesser;

* * * *

(iv) a waqf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable, provided when the line of succession fails, the income of the waqf shall be spent for education, development, welfare and such other purposes as recognised by Muslim law,

and “waqif” means any person making such dedication;

* * * *

CHAPTER II

SURVEY OF AUQAF

Preliminary
survey of auqaf.

4. (1) The State Government may, by notification in the Official Gazette, appoint for the State a Survey Commissioner of Auqaf and as many Additional or Assistant Survey Commissioners of Auqaf as may be necessary for the purpose of making a survey of auqaf in the State.

(1A) Every State Government shall maintain a list of auqaf referred to in sub-section (1) and the survey of auqaf shall be completed within a period of one year from the date of commencement of the Wakf (Amendment) Act, 2013, in case such survey was not done before the commencement of the Wakf (Amendment) Act, 2013:

27 of 2013.

Provided that where no Survey Commissioner of Waqf has been appointed, a Survey Commissioner for auqaf shall be appointed within three months from the date of such commencement.

(2) All Additional and Assistant Survey Commissioner of Auqaf shall perform their functions under this Act under the general supervision and control of the Survey Commissioner of Auqaf.

(3) The Survey Commissioner shall, after making such inquiry as he may consider necessary, submit his report, in respect of auqaf existing at the date of the commencement of this Act in the State or any part thereof, to the State Government containing the following particulars, namely:—

(a) the number of auqaf in the State showing the Shia auqaf and Sunni auqaf separately;

(b) the nature and objects of each waqf;

(c) the gross income of the property comprised in each waqf;

(d) the amount of land revenue, cesses, rates and taxes payable in respect of each waqf;

(e) the expenses incurred in the realisation of the income and the pay or other remuneration of the mutawalli of each waqf; and

(f) such other particulars relating to each waqf as may be prescribed.

(4) The Survey Commissioner shall, while making any inquiry, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

5 of 1908.

(a) summoning and examining any witness;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record from any court or office;

(d) issuing commissions for the examination of any witness or accounts;

(e) making any local inspection or local investigation;

(f) such other matters as may be prescribed.

(5) If, during any such inquiry, any dispute arises as to whether a particular waqf is a Shia waqf or Sunni waqf and there are clear indications in the deed of waqf as to its nature, the dispute shall be decided on the basis of such deed.

(6) The State Government may, by notification in the Official Gazette, direct the Survey Commissioner to make a second or subsequent survey of waqf properties in the State and the provisions of sub-sections (2), (3), (4) and (5) shall apply to such survey as they apply to a survey directed under sub-section (1):

Provided that no such second or subsequent survey shall be made until the expiry of a period of ten years from the date on which the report in relation to the immediately previous survey was submitted under sub-section (3):

Provided further that the waqf properties already notified shall not be reviewed again in subsequent survey except where the status of such property has been changed in accordance with the provisions of any law.

5. (1) On receipt of a report under sub-section (3) of section 4, the State Government shall forward a copy of the same to the Board.

Publication of
list of auqaf.

(2) The Board shall examine the report forwarded to it under sub-section (1) and forward it back to the Government within a period of six months for publication in the Official Gazette a list of Sunni auqaf or Shia auqaf in the State, whether in existence at the commencement of this Act or coming into existence thereafter, to which the report relates, and containing such other particulars as may be prescribed.

(3) The revenue authorities shall—

(i) include the list of auqaf referred to in sub-section (2), while updating the land records; and

(ii) take into consideration the list of auqaf referred to in sub-section (2), while deciding mutation in the land records.

(4) The State Government shall maintain a record of the lists published under sub-section (2) from time to time.

6. (1) If any question arises whether a particular property specified as waqf property in the list of auqaf is waqf property or not or whether a waqf specified in such list is a Shia waqf or Sunni waqf, the Board or the mutawalli of the waqf or any person aggrieved may institute a suit in a Tribunal for the decision of the question and the decision of the Tribunal in respect of such matter shall be final:

Disputes
regarding auqaf.

Provided that no such suit shall be entertained by the Tribunal after the expiry of one year from the date of the publication of the list of auqaf:

Provided further that no suit shall be instituted before the Tribunal in respect of such properties notified in a second or subsequent survey pursuant to the provisions contained in sub-section (6) of section 4.

* * * * *

(3) The Survey Commissioner shall not be made a party to any suit under sub-section (1) and no suit, prosecution or other legal proceeding shall lie against him in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

* * * * *

7. (1) If, after the commencement of this Act, any question or dispute arises, whether a particular property specified as waqf property in a list of auqaf is waqf property or not, or whether a waqf specified in such list is a Shia waqf or a Sunni waqf, the Board or the mutawalli of the waqf, or any person aggrieved by the publication of the list of auqaf under section 5 therein, may apply to the Tribunal having jurisdiction in relation to such property, for the decision of the question and the decision of the Tribunal thereon shall be final:

Power of
Tribunal to
determine
disputes
regarding auqaf.

Provided that—

(a) in the case of the list of auqaf relating to any part of the State and published after the commencement of this Act no such application shall be entertained after the expiry of one year from the date of publication of the list of auqaf; and

(b) in the case of the list of auqaf relating to any part of the State and published at any time within a period of one year immediately preceding the commencement of this Act, such an application may be entertained by Tribunal within the period of one year from such commencement:

Provided further that where any such question has been heard and finally decided by a civil court in a suit instituted before such commencement, the Tribunal shall not re-open such question.

* * * * *

CHAPTER III

CENTRAL WAQF COUNCIL

Establishment
and constitution
of Central Waqf
Council.

9. (1) * * * * *

(2) The Council shall consist of—

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

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

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

(iv) Chairpersons of three Boards by rotation;

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

(vi) one Advocate of national eminence;

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

(viii) three persons who are eminent scholars in Muslim Law:

Provided that at least two of the members appointed under sub-clauses (i) to (viii) shall be women.

* * * * *

CHAPTER IV

ESTABLISHMENT OF BOARDS AND THEIR FUNCTIONS

Incorporation.

13. (1) * * * * *

(2A) Where a Board of Waqf is established under sub-section (2) of section 13, in the case of Shia waqf, the Members shall belong to the Shia Muslim and in the case of Sunni waqf, the Members shall belong to the Sunni Muslim.

* * * * *

Composition of
Board.

14. (1) The Board for a State and the National Capital Territory of Delhi shall consist of—

(a) a Chairperson;

(b) one and not more than two members, as the State Government may think fit, to be elected from each of the electoral colleges consisting of—

(i) Muslim Members of Parliament from the State or, as the case may be, the National Capital Territory of Delhi;

(ii) Muslim Members of the State Legislature;

(iii) Muslim members of the Bar Council of the concerned State or Union territory:

Provided that in case there is no Muslim member of the Bar Council of a State or a Union territory, the State Government or the Union territory administration, as the case may be, may nominate any senior Muslim advocate from that State or the Union territory, and

(iv) mutawallis of the auqaf having an annual income of rupees one lakh and above.

Explanation I.—For the removal of doubts, it is hereby declared that the members from categories mentioned in sub-clauses (i) to (iv), shall be elected from the electoral college constituted for each category.

Explanation II.—For the removal of doubts it is hereby declared that in case a Muslim member ceases to be a Member of Parliament from the State or National Capital Territory of Delhi as referred to in sub-clause (i) of clause (b) or ceases to be a Member of the State Legislative Assembly as required under sub-clause (ii) of clause (b), such member shall be deemed to have vacated the office of the member of the Board for the State or National Capital Territory of Delhi, as the case may be, from the date from which such member ceased to be a Member of Parliament from the State or National Capital Territory of Delhi, or a Member of the State Legislative Assembly, as the case may be;

(c) one person from amongst Muslims, who has professional experience in town planning or business management, social work, finance or revenue, agriculture and development activities, to be nominated by the State Government;

(d) one person each from amongst Muslims, to be nominated by the State Government from recognised scholars in Shia and Sunni Islamic Theology;

(e) one person from amongst Muslims, to be nominated by the State Government from amongst the officers of the State Government not below the rank of Joint Secretary to the State Government;

(1A) No Minister of the Central Government or, as the case may be, a State Government, shall be elected or nominated as a member of the Board:

Provided that in case of a Union territory, the Board shall consist of not less than five and not more than seven members to be appointed by the Central Government from categories specified under sub-clauses (i) to (iv) of clause (b) or clauses (c) to (e) in sub-section (1):

Provided further that at least two Members appointed on the Board shall be women:

Provided also that in every case where the system of mutawalli exists, there shall be one mutawalli as the member of the Board.

(2) Election of the members specified in clause (b) of sub-section (1) shall be held in accordance with the system of proportional representation by means of a single transferable vote, in such manner as may be prescribed:

Provided that where the number of Muslim Members of Parliament, the State Legislature or the State Bar Council, as the case may be, is only one, such Muslim Member shall be declared to have been elected on the Board:

Provided further that where there are no Muslim Members in any of the categories mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (1), the ex-Muslim Members of Parliament, the State Legislature or ex-member of the State Bar Council, as the case may be, shall constitute the electoral college.

(3) Notwithstanding anything contained in this section, where the State Government is satisfied, for reasons to be recorded in writing, that it is not reasonably practicable to constitute an electoral college for any of the categories mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (1), the State Government may nominate such persons as the members of the Board as it deems fit.

(4) The number of elected members of the Board shall, at all times, be more than the nominated members of the Board except as provided under sub-section (3).

* * * * *

(6) In determining the number of Shia members or Sunni members of the Board, the State Government shall have regard to the number and value of Shia auqaf and Sunni 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.

* * * * *

(8) Whenever the Board is constituted or reconstituted, the members of the Board present at a meeting convened for the purpose shall elect one from amongst themselves as the Chairperson of the Board.

* * * * *

Disqualification
for being
appointed, or for
continuing as, a
member of the
Board.

16. A person shall be disqualified for being appointed, or for continuing as, a member of the Board if—

* * * * *

(d) he has been convicted of an offence involving moral turpitude and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

* * * * *

Meetings of the
Board.

17. (1) The Board shall meet for the transaction of business at such time and places as may be provided by regulations.

* * * * *

Removal of
Chairperson by
vote of no
confidence.

20A. Without prejudice to the provisions of section 20, the Chairperson of a Board may be removed by vote of no confidence in the following manner, namely:—

(a) no resolution expressing a vote of confidence or no confidence in any person elected as Chairperson of a Board shall be moved except in the manner prescribed and twelve months have not elapsed after the date of his election as a Chairperson and be removed except with the prior permission of the State Government;

(b) notice for no confidence shall be addressed to the State Government stating clearly the grounds on which such motion is proposed to be moved and shall be signed by at least half the total members of the Board;

(c) at least three members of the Board signing the notice of no confidence shall personally present to the State Government, the notice together with an affidavit signed by them to the effect that the signatures on no confidence motion are genuine and have been made by the signatories after hearing or reading the contents of the notice;

(d) on receipt of the notice of no confidence, as provided hereinabove, the State Government shall fix such time, date and place as may be considered suitable for holding a meeting for the purpose of the proposed no confidence motion:

Provided that at least fifteen days notice shall be given for such a meeting;

(e) notice for meeting under clause (d) shall also provide that in the event of no confidence motion being duly carried on or, election of the new Chairperson, as the case may be, shall also be held in the same meeting;

(f) the State Government shall also nominate a Gazetted Officer (other than an officer of the department which is concerned with the supervision and administration of the Board) to act as presiding officer of the meeting in which the resolution for no confidence shall be considered;

(g) the quorum for such a meeting of the Board shall be one-half of the total number of members of the Board;

(h) the resolution for no confidence shall be deemed to be carried out, if passed by a simple majority of the members present;

(i) if a resolution for no confidence is carried out, the Chairperson shall cease to hold office forthwith and shall be succeeded by his successor who shall be elected by another resolution in the same meeting;

(j) election of the new Chairperson shall be conducted under clause (i), in the meeting under the chairmanship of the said presiding officer referred to in clause (f), in the following manner, namely:—

(A) Chairperson shall be elected from amongst the elected members of the Board;

(B) nomination of candidates shall be proposed and seconded in the meeting itself and election after withdrawal, if any, shall be held by method of secret ballot;

(C) election shall be held by simple majority of the members present in the meeting and in case of equality of votes, the matter shall be decided by drawing of lots; and

(D) proceedings of the meeting shall be signed by the presiding officer;

(k) new Chairperson elected under clause (h) shall hold the office only up to the remainder of the term of the Chairperson removed by the resolution of no confidence; and

(l) if the motion for passing the resolution of no confidence fails for want of quorum or lack of requisite majority at the meeting, no subsequent meeting for considering the motion of no confidence shall be held within six months of the date of the previous meeting.

* * * * *

23. (1) There shall be a full-time Chief Executive Officer of the Board who shall be a Muslim and shall be appointed by the State Government, by notification in the Official Gazette, from a panel of two names suggested by the Board and who shall not be below the rank of Deputy Secretary to the State Government, and in case of non-availability of a Muslim officer of that rank, a Muslim officer of equivalent rank may be appointed on deputation.

Appointment of Chief Executive Officer and his term of office and other conditions of service.

* * * * *

Powers and
function of the
Board.

32. (1) *

(2) Without prejudice to the generality of the foregoing power, the functions of the Board shall be—

* * * *

(e) to direct—

(i) the utilisation of the surplus income of a waqf consistent with the objects of waqf;

(ii) in what manner the income of a waqf, the objects of which are not evident from any written instrument, shall be utilised;

(iii) in any case where any object of waqf has ceased to exist or has become incapable of achievement, that so much of the income of the waqf as was previously applied to that object shall be applied to any other object, which shall be similar, or nearly similar or to the original object or for the benefit of the poor or for the purpose of promotion of knowledge and learning in the Muslim community:

Provided that no direction shall be given under this clause without giving the parties affected, an opportunity of being heard.

Explanation.—For the purposes of this clause, the powers of the Board shall be exercised—

(i) in the case of a Sunni waqf, by the Sunni members of the Board only; and

(ii) in the case of a Shia waqf, by the Shia members of the Board only:

Provided that where having regard to the number of the Sunni or Shia members in the board and other circumstances, it appears to the Board that the power should not be exercised by such members only, it may co-opt such other Muslims being Sunnis or Shias, as the case may be, as it thinks fit, to be temporary members of the Board for exercising its powers under this clause;

* * * *

(3) Where the Board has settled any scheme of management under clause (d) or given any direction under clause (e) of sub-section (2), any person interested in the waqf or affected by such settlement or direction may institute a suit in a Tribunal for setting aside such settlement or directions and the decision of the Tribunal thereon shall be final.

* * * *

Powers of
inspection by
Chief Executive
Officer or
persons
authorised by
him.

33. (1) *

(4) A mutawalli or other person aggrieved by such order may, within thirty days of the receipt by him of the order, appeal to the Tribunal:

Provided that no such appeal shall be entertained by the Tribunal unless the appellant first deposits with the Chief Executive Officer the amount which has been determined under sub-section (3) as being payable by the appellant 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).

* * * *

(6) The order made by the Tribunal under sub-section (5) shall be final.

* * * *

CHAPTER V

REGISTRATION OF AUQAF

36. (1) * * * * * Registration.

(3) An application for registration shall be made in such form and manner and at such place as the Board may by regulation provide and shall contain the following particulars:—

* * * * *

(f) any other particulars provided by the Board by regulations.

(4) Every such application shall be accompanied by a copy of the waqf deed or if no such deed has been executed or a copy thereof can not be obtained, shall contain full particulars, as far as they are known to the applicant, of the origin, nature and objects of the waqf.

* * * * *

(7) On receipt of an application for registration, the Board may, before the registration of the waqf make such inquiries as it thinks fit in respect of the genuineness and validity of the application and correctness of any particulars therein and when the application is made by any person other than the person administering the waqf property, the Board shall, before registering the waqf, give notice of the application to the person administering the waqf property and shall hear him if he desires to be heard.

(8) In the case of auqaf created before the commencement of this Act, every application for registration shall be made, within three months from such commencement and in the case of auqaf created after such commencement, within three months from the date of the creation of the waqf:

Provided that where there is no Board at the time of creation of a waqf, such application will be made within three months from the date of establishment of the Board.

37. (1) The Board shall maintain a register of auqaf which shall contain in respect of each waqf copies of the waqf deeds, when available and the following particulars, namely:— Register of auqaf.

* * * * *

(f) such other particulars as may be provided by regulations.

* * * * *

(3) On receipt of the details as mentioned in sub-section (2), the land record office shall, according to established procedure, either make necessary entries in the land record or communicate, within a period of six months from the date of registration of waqf property under section 36, its objections to the Board.

* * * * *

40 (1) The Board may itself collect information regarding any property which it has reason to believe to be waqf property and if any question arises whether a particular property is waqf property or not or whether a waqf is a Sunni waqf or a Shia waqf it may, after making such inquiry as it may deem fit, decide the question. Decision if a property is waqf property.

(2) The decision of the Board on a question under sub-section (1) shall, unless revoked or modified by the Tribunal, be final.

(3) Where the Board has any reason to believe that any property of any trust or society registered in pursuance of the Indian Trusts Act, 1882 or under the Societies Registration Act, 1860 or under any other Act, is waqt property, the Board may notwithstanding anything contained in such Act, hold an inquiry in regard to such property and if after such inquiry the Board is satisfied that such property is waqt property, call upon the trust or society, as the case may be, either to register such property under this Act as waqt property or show cause why such property should not be so registered:

2 of 1882.

21 of 1860.

Provided that in all such cases, notice of the action proposed to be taken under this sub-section shall be given to the authority by whom the trust or society had been registered.

(4) The Board shall, after duly considering such cause as may be shown in pursuance of notice issued under sub-section (3), pass such orders as it may think fit and the order so made by the Board, shall be final, unless it is revoked or modified by a Tribunal.

Submission of
accounts of
auqaf.

46. (1) * * * *

(2) Before the 1st day of July next, following the date on which the application referred to in section 36 has been made and thereafter before the 1st day of July in every year, every mutawalli of a waqf shall prepare and furnish to the Board a full and true statement of accounts, in such form and containing such particulars as may be provided by regulations by the Board, of all moneys received or expended by the mutawalli on behalf of the waqf during the period of twelve months ending on the 31st day of March, or, as the case may be, during that portion of the said period during which the provisions of this Act, have been applicable to the waqf:

Provided that the date on which the annual accounts are to be closed may be varied at the discretion of the Board.

Audit of
accounts of
auqaf.

47. (1) The accounts of auqaf submitted to the Board under section 46 shall be audited and examined in the following manner, namely:—

(a) in the case of a waqf having no income or a net annual income not exceeding fifty thousand rupees, the submission of a statement of accounts shall be a sufficient compliance with the provisions of section 46 and the accounts of two per cent. of such auqaf shall be audited annually by an auditor appointed by the Board;

(b) the accounts of the waqf having net annual income exceeding fifty thousand rupees shall be audited annually, or at such other intervals as may be prescribed, by an auditor appointed by the Board from out of the panel of auditors prepared by the State Government and while drawing up such panel of auditors, the State Government shall specify the scale of remuneration of auditors;

(c) the State Government may, under intimation to the Board, at any time cause the account of any waqf audited by the State Examiner of Local Funds or by any other officer designated for that purpose by that State Government.

* * * *

(3) The cost of the audit of the accounts of a waqf shall be met from the funds of that waqf:

Provided that the remuneration of the auditors appointed from out of the panel drawn by the State Government in relation to auqaf having a net annual income of more than fifty thousand rupees shall be paid in accordance with the scale of remuneration specified by the State Government under clause (c) of sub-section (1):

Provided further that where the audit of the accounts of any waqf is made by the State Examiner of Local Funds or any other officer designated by the State Government in this behalf, the cost of such audit shall not exceed one and a half per cent. of the net annual income of such waqf and such costs shall be met from the funds of the auqaf concerned.

48. (1) * * * *

Board to pass orders on auditor's report.

(3) No application made under sub-section (2) shall be entertained by the Tribunal unless the amount certified by the auditor under sub-section (2) of section 47 has first been deposited in the Tribunal and the Tribunal shall not have any power to stay the operation of the order made by the Board under sub-section (1).

(4) The order made by the Tribunal under sub-section (2) shall be final.

* * * *

52. (1) * * * *

Recovery of waqf property transferred in contravention of section 51.

(4) Any person aggrieved by the order of the Collector under sub-section (2) may, within a period of thirty days from the date of the service of the order, prefer an appeal to the Tribunal within whose jurisdiction the property is situate and the decision of the Tribunal on such appeal shall be final.

* * * *

52A. (1) Whoever alienates or purchases or takes possession of, in any manner whatsoever, either permanently or temporarily, any movable or immovable property being a waqf property, without prior sanction of the Board, shall be punishable with rigorous imprisonment for a term which may extend to two years:

Penalty for alienation of waqf property without sanction of Board.

Provided that the waqf property so alienated shall without prejudice to the provisions of any law for the time being in force, be vested in the Board without any compensation therefor.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 any offence punishable under this section shall be cognizable and non-bailable.

* * * *

(4) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this section.

* * * *

55A. (1) * * * *

Disposal of property left on waqf property by unauthorised occupants.

(2) Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses relating to removal, sale and such other expenses, the amount, if any, due to the State Government or a local authority or a corporate authority on account of arrears of rent, damages or costs, be paid to such person, as may appear to the Chief Executive Officer to be entitled to the same:

Provided that where the Chief Executive Officer is unable to decide as to the person to whom the balance of the amount is payable or as to the appointment of the same, he may refer such dispute to the Tribunal and the decision of the Tribunal thereon shall be final.

* * * *

61. (1) If a mutawalli fails to—

Penalties.

* * * *

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

(f) carry out the directions of the Board;

* * * *

he shall, unless he satisfies the court or the Tribunal that there was reasonable cause for his failure, be punishable with fine which may extend to ten thousand rupees for non-compliance of clauses (a) to (d) and in case of non-compliance of clauses (e) to (h), he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to ten thousand rupees.

* * * * *

Removal of
mutawalli.

64. (I) Notwithstanding anything contained in any other law or the deed of wakf, the Board may remove a mutawalli from his office if such mutawalli—

* * * * *

(g) has failed, without reasonable excuse, to maintain regular accounts for two consecutive years or has failed to submit, in two consecutive years, the yearly statement of accounts, as required by sub-section (2) of section 46; or

* * * * *

(4) A mutawalli who is aggrieved by an order passed under any of the clauses (c) to (i) of sub-section (I), may, within one month from the date of the receipt by him of the order, appeal against the order to the Tribunal and the decision of the Tribunal on such appeal shall be final.

* * * * *

Assumption of
direct
management of
certain auqaf by
the Board.

65. (I) * * * * *

(3) As soon as possible after the close of every financial year, the Board shall send to the State Government a detailed report in regard to every waqf under its direct management, giving therein—

(a) the details of the income of the waqf for the year immediately preceding the year under report;

(b) the steps taken to improve the management and income of the waqf;

(c) the period during which the waqf has been under the direct management of the Board and explaining the reasons as to why it has not been possible to entrust the management of the waqf to the mutawalli or any committee of management during the year; and

(d) such other matters as may be prescribed.

* * * * *

Supervision and
supersession of
committee of
Management.

67. (I) * * * * *

(4) Any order made by the Board under sub-section (2) shall be final:

Provided that any person aggrieved by the order made under sub-section (2) may, within sixty days from the date of the order, appeal to the Tribunal:

Provided further that the Tribunal shall have no power to suspend the operation of the order made by the Board pending such appeal.

* * * * *

(6) Notwithstanding anything contained in the foregoing sub-sections, the Board may, instead of superseding any committee under sub-section (2), remove any member thereof if it is satisfied that such member has abused his position as such member or had knowingly acted in a manner prejudicial to the interests of the waqf, and every such order for the removal of any member shall be served upon him by registered post:

Provided that no order for the removal of the member shall be made unless he has been given a reasonable opportunity of showing cause against the proposed action:

Provided further that any member aggrieved by any order for his removal from the membership of the committee may, within a period of thirty days from the date of service of the order on him, prefer an appeal against such order to the

Tribunal and Tribunal may, after giving a reasonable opportunity to the appellant and the Board of being heard, confirm, modify or reverse the order made by the Board and the order made by the Tribunal in such appeal shall be final.

* * * * *

69. (1) * * * *

(3) Every order made under sub-section (2) shall be published in the prescribed manner, and, on such publication shall be final and binding on the mutawalli, and all persons interested in the waqf:

Provided that any person aggrieved by an order made under this section may, within sixty days from the date of the order, prefer an appeal to the Tribunal and after hearing such appeal, the Tribunal may confirm, reverse or modify the order:

Provided further that the Tribunal shall have no power to stay the operation of the order made under this section.

(4) The Board may, at any time by an order, whether made before or after the scheme has come into force, cancel or modify the scheme.

* * * * *

CHAPTER VII

FINANCE OF THE BOARD

72. (1) The mutawalli of every waqf, the net annual income of which is not less than five thousand rupees, shall pay annually, out of the net annual income derived by the waqf, such contributions, not exceeding seven per cent. of such annual income, as may be prescribed, to the Board for the services rendered by such Board to the waqf.

Explanation I.—For the purposes of this Act, “net annual income” shall mean the gross income of the waqf from all sources, including nazars and offerings which do not amount to contributions to the corpus of the auqaf, in a year after deducting therefrom the following, namely:—

(i) the land revenue paid by it to the Government;

(ii) the rates, cesses, taxes and licence fees, paid by it to the Government or any local authority;

(iii) expenditure incurred for all or any of the following purposes, in respect of lands directly under cultivation by the mutawalli for the benefit of the waqf, namely:—

(a) maintenance of, or repairs to, irrigation works, which shall not include the capital cost of irrigation;

(b) seeds or seedlings;

(c) manure;

(d) purchase and maintenance of agricultural implements;

(e) purchase and maintenance of cattle for cultivation;

(f) wages for ploughing, watering, sowing, transplanting, harvesting, threshing and other agricultural operations:

Provided that the total deduction in respect of an expenditure incurred under this clause shall not exceed twenty per cent. of the income derived from lands belonging to the waqf:

Provided further that no such deduction shall be permitted in respect of waqf land given on lease, by whatever name called, whether *batai* or share cropping or any other name;

Power of Board to frame scheme for administration of waqf.

Annual contribution payable to Board.

(iv) expenditure on sundry repairs to rented buildings, not exceeding five per cent. of the annual rent derived therefrom, or the actual expenditure, whichever is less;

(v) sale proceeds of immovable properties or rights relating to, or arising out of immovable properties, if such proceeds are reinvested to earn income for the waqf:

Provided that the following items of receipts shall not be deemed to be income for the purposes of this section, namely:—

(a) advances and deposits recovered and loans taken or recovered;

(b) deposits made as security by employees, lessees or contractors and other deposits, if any;

(c) withdrawals from banks or of investments;

(d) amounts recovered towards costs awarded by courts;

(e) sale proceeds of religious books and publications where such sales are undertaken as an un-remunerative enterprise with a view to propagating religion;

(f) donations in cash or kind or offerings made by the donors as contribution to the corpus of the waqf:

Provided that interest on income, if any, accruing from such donations or offerings shall be taken into account in calculating the gross annual income;

(g) voluntary contributions received in cash or kind for a specific service to be performed by the waqf and expended on such service;

(h) audit recoveries;

Explanation II.—In determining the net annual income for the purposes of this section, only the net profit derived by any waqf from its remunerative undertakings, if any, shall be taken as income, and in respect of its non-remunerative undertakings, such as, schools, colleges, hospitals, poor homes, orphanages or any other similar institutions, the grants given by the Government or any local authority or donations received from the public or fees collected from the pupils of educational institutions shall not be taken as income.

* * * * *

(7) Any mutawalli who is aggrieved by the assessment or revision made by the Chief Executive Officer, under sub-section (6), may prefer an appeal to the Board within thirty days from the date of the receipt of the assessment or revision of return and the Board may, after giving the appellant a reasonable opportunity of being heard, confirm, reverse or modify the assessment or revision or the return and the decision of the Board thereon shall be final.

* * * * *

Power of Chief Executive Officer to direct banks or other person to make payments.

73. (1) * * * * *

(3) Any bank or other person who is ordered under sub-section (1) to make any payment may, within thirty days from the date of the order, prefer an appeal against such order to the Tribunal and the decision of the Tribunal on such appeal shall be final.

* * * * *

CHAPTER VIII

JUDICIAL PROCEEDINGS

Constitution of Tribunals, etc.

83. (1) The State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit, for the determination of any dispute, question or other matter relating to a waqf or waqf property, eviction of a tenant

or determination of rights and obligations of the lessor and the lessee of such property, under this Act and define the local limits and jurisdiction of such Tribunals.

(2) Any mutawalli or person interested in a waqf or any other person aggrieved by an order made under this Act, or rules made thereunder, may make an application within the time specified in this Act or where no such time has been specified, within such time as may be prescribed, to the Tribunal for the determination of any dispute, question or other matter relating to the waqf.

* * * * *

(4) Every Tribunal shall consist of—

(a) one person, who shall be a member of the State Judicial Service holding a rank, not below that of a District, Sessions or Civil Judge, Class I, who shall be the Chairman;

(b) one person, who shall be an officer from the State Civil Services equivalent in rank to that of the Additional District Magistrate, Member;

(c) one person having knowledge of Muslim law and jurisprudence, Member;

and the appointment of every such person shall be made either by name or by designation.

(4A) The terms and conditions of appointment including the salaries and allowances payable to the Chairman and other members other than persons appointed as *ex officio* members shall be such as may be prescribed.

* * * * *

(7) The decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by a civil court.

* * * * *

(9) No appeal shall lie against any decision or order whether interim or otherwise, given or made by the Tribunal:

Provided that a High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination or pass such other order as it may think fit.

84. Whenever an application is made to a Tribunal for the determination of any dispute, question or other matter relating to a waqf or waqf property it shall hold its proceedings as expeditiously as possible and shall as soon as practicable, on the conclusion of the hearing of such matter give its decision in writing and furnish a copy of such decision to each of the parties to the dispute.

* * * * *

91. (1) If, in the course of proceedings under the Land Acquisition Act, 1894 or under any law for the time being in force relating to the acquisition of land or other property, and before an award is made, in case the property under acquisition is waqf property, a notice of such acquisition shall be served by Collector on the Board and further proceedings shall be stayed to enable the Board to appear and plead as a party to the proceeding at any time within three months from the date of the receipt of such notice.

Explanation.—The reference to the Collector in the foregoing provisions of this sub-section shall, in relation to any other law referred to therein, be construed, if the Collector is not the competent authority under such other law to make an award of the compensation or other amount payable for acquisition of

Tribunal to hold proceedings expeditiously and to furnish to the parties copies of its decision.

Proceedings under Act 1 of 1894.

land or other property thereunder, as a reference to the authority under such other law competent to make such award.

* * * * *

(3) When the Board has appeared under the provisions of sub-section (1) or sub-section (2), no order shall be passed under section 31 or section 32 of the Land Acquisition Act, 1894 or under the corresponding provisions of the other law referred to in sub-section (1) without giving an opportunity to the Board to be heard.

1 of 1894.

(4) Any order passed under section 31 or section 32 of the Land Acquisition Act, 1894 or under the corresponding provisions of the other law referred to in sub-section (1) without giving an opportunity to the Board to be heard, shall be declared void if the Board, within one month of its coming to know of the order, applies in this behalf to the authority which made the order.

1 of 1894.

* * * * *

Protection of action taken in good faith.

100. No suit or other legal proceeding shall lie against the board or Chief Executive Officer or Survey Commissioner or any other person duly appointed under this Act in respect of anything which is in good faith done or intended to be done under this Act.

Survey Commissioner, members and officers of the Board, deemed to be public servants.

101. (1) The Survey Commissioner, members of the Board, every officer, every auditor of the Board and every other person duly appointed to discharge any duties imposed on him by this Act or any rule or order made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

* * * * *

Application of Act to properties given or donated by persons not professing Islam for support of certain waqf.

104. Notwithstanding anything contained in this Act where any movable or immovable property has been given or donated by any person not professing Islam for the support of a waqf being—

(a) a mosque, idgah, imambara, dargah, khangah or a maqbara;

(b) a Muslim graveyard;

(c) a choultry or a musafarkhana,

then such property shall be deemed to be comprised in that waqf and be dealt in the same manner as the waqf in which it is so comprised.

* * * * *

Act 36 of 1963 not to apply for recovery of waqf properties.

107. Nothing contained in the Limitation Act, 1963 shall apply to any suit for possession of immovable property comprised in any waqf or for possession of any interest in such property.

Special provision as to evacuee waqf properties.

108. The provisions of this Act shall apply, and shall be deemed always to have applied, in relation to any evacuee property within the meaning of clause (f) of section 2 of the Administration of Evacuee Property Act, 1950 which immediately before it became such evacuee property within the said meaning was property comprised in any waqf and, in particular any entrustment (whether by transfer of any documents or in any other manner and whether generally or for specified purpose) of any such property to a Board made before the commencement of this Act in pursuance of the instructions of the Custodian under the Administration of Evacuee Property Act, 1950 shall have, and shall be deemed always to have had, notwithstanding anything contained in any other provision of this Act, effect as if such entrustment had operated to—

31 of 1950.

(a) vest such property in such Board in the same manner and with the same effect as in a trustee of such property for the purposes of sub-section (1) of section 11 of the Administration of Evacuee of Property Act, 1950, with effect from the date of such entrustment, and

31 of 1950.

(b) authorise such Board to assume direct management of the waqf concerned for so long as it might deem necessary.

108A. The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have overriding effect.

109. (1) * * * *

Power to make rules.

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

* * * *

(ia) other particulars which the report of the Survey Commissioner may contain under clause (f) of sub-section (3) of section 4;

* * * *

(iv) the manner of election of members of the Board by means of a single transferable vote, under of sub-section (2) of section 14;

* * * *

(via) the period within which the mutawalli or any other person may produce documents related to waqf properties under sub-section (2) of section 31;

(vib) the conditions under which an agency of the Government or any other organisation may supply copies of records, registers and other documents under sub-section (3) of section 31;

* * * *

110. (1) * * * *

Powers to make regulations by the Board.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely—

* * * *

(f) the forms of application for registration of Auqaf further particulars to be contained therein and the manner and place of registration of Auqaf under sub-section (3) of section 36;

(g) further particulars to be contained in the register of Auqaf under Section 37;

* * * *

LOK SABHA

A
BILL
further to amend the Waqf Act, 1995.

(Shri Kiren Rijiju, Minister of Minority Affairs)

ANNEXURE P-2

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:—

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

Short title and
commencement.

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

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.

Amendment of
section 1.

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

**Amendment of
section 2.**

“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

43 of 1995.

Amendment of
section 3.

law for the time being in force.”.

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 persons **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:—

“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.

(2) The creation of a waqf-alal-aulad shall not result in denial of inheritance rights of heirs, including women heirs, of the waqf **for 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:

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

Insertion of new sections 3A, 3B and 3C.

Certain conditions of waqf.

Filing of details of waqf on portal and database.

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 Aghakhani.”.

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.

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;”.

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.

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

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

Amendment of
section 16.

Amendment of
section 17.

Omission of
section 20A.

Amendment of
section 23.

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 Bharatiya Sakshya Adhiniyam, 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.”.

19. In section 37 of the principal Act,—

Amendment of section 37.

(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.

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

Omission of section 40.

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

Amendment of section 46.

(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.

22. In section 47 of the principal Act,—

Amendment of section 47.

(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.”;

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

Amendment of section 48.

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;

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

Insertion of new section 50A.

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

“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.”.

Disqualification of mutawalli.

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.

Amendment of
section 52.

Amendment of
section 52A.

substituted.

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.

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.

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 55A.

28. In section 61 of the principal Act,—

Amendment of
section 61.

(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.”;

(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.

2 of 1974.

46 of 2023.

29. In section 64 of the principal Act,—

Amendment of
section 64.

(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.(***)

37. In section 91 of the principal Act,—

Amendment of
section 91.

(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)(***)

1 of 1894.

(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;

30 of 2013.

(c) in sub-section (4),—

1 of 1894.

(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;

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.”.

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

Amendment of section 100.

39. In section 101 of the principal Act,—

Amendment of section 101.

(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:—

“(xviiiia) 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.

WAQF (AMENDMENT) BILL, 2025

[As Reported by Joint Committee]

Notice of Motions under Rule 388

S.No.	Name of Member and text of Motion	Clause No.
SHRI KIREN RIJIJU:		
113.	“That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 110* to the Waqf (Amendment) Bill, 2025 and that this amendment may be allowed to be moved.”	4A (New)
114.	“That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No. 111* to the Waqf (Amendment) Bill, 2025 and that this amendment may be allowed to be moved.”	15A (New)

***Vide Amendments List No. 11 circulated on 2.4.2025.**

NEW DELHI;

April 2, 2025

Chaitra 12, 1947 (Saka)

UTPAL KUMAR SINGH
Secretary General

AS PASSED BY LOK SABHA ON 3.4.2025

Bill No. 109-C of 2024**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:—

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

Short title and
commencement.

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

43 of 1995.

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.

Amendment of
section 1.

Amendment of
section 2.

3. 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.

4. In section 3 of the principal Act,—

(i) after clause (a), the following clause shall be inserted, namely:— 10

‘(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:— 15

‘(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; 20

‘(fb) “Government property” means movable or immovable property or any part thereof, belonging to a Government Organisation;’; 25

(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;’; 30

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

‘(l) “prescribed” means prescribed by rules made under this Act;’; 35

(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; 40

(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; 45

(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:—

5 “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;”.

10 **5.** After section 3 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 3A, 3B, 3C, 3D and 3E.

“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.

15 (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.

20 Provided that the Tribunal may, on an application made to it by the mutawalli, extend such period of six months under this section for a further period not exceeding six months 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.

25 (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;

30 (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;

35 (f) the amount of land-revenue, 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—

40 (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;

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

Wrongful
declaration of
waqf.

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

(2) If any question arises as to whether any such property is a Government property, the State Government may, by notification, designate on 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.

Declaration of
protected
monument or
protected area as
waqf to be void.

3D. Any declaration or notification issued under this Act or under any previous Act in respect of waqf properties shall be void, if such property was a protected monument or protected area under the Ancient Monuments Preservation Act, 1904 or the Ancient Monuments and Archaeological Sites and Remains Act, 1958, at the time of such declaration or notification.

Bar of
declaration of
any land in
Scheduled or
Tribal area as
waqf.

3E. Notwithstanding anything contained in this Act or any other law for the time being in force, no land belonging to members of Scheduled Tribes under the provisions of the Fifth Schedule or the Sixth Schedule to the Constitution shall be declared or deemed to be waqf property.”

Amendment of
section 4.

6. 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.

7. 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 Aghakhani auqaf or Bohra auqaf” shall be inserted;

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

5 “(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).

10 “(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:—

15 “(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.

20 **8. In section 6 of the principal Act,—**

Amendment of section 6.

(a) in sub-section (1),—

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

25 (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:—

30 “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 has sufficient cause for not making the application within such period.”;

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

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

Amendment of section 7.

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

40 (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:—

45 “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.

10. 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; 5

(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; 10

(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; 15

(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; 20

(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: 25

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

Amendment of
section 13.

11. 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 Aghakhans.”. 30

Amendment of
section 14.

12. 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:— 35

“(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; 40

(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; 45

(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.

13. 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 16.

Amendment of
section 17.

14. 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.

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

Amendment of
section 23.

16. In section 23 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

5

“(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 28.

17. In section 28 of the principal Act, for the words “be responsible for implementation of the decisions of the Board which may be”, the words “implement the decision of the Board within forty-five days from the date it is” shall be substituted.

10

Amendment of
section 30.

18. 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 Bharatiya Sakshya Adhiniyam, 2023” shall be substituted.

1 of 1872.

15 47 of 2023.

Amendment of
section 32.

19. 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.

20

Amendment of
section 33.

20. 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;

25

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

Amendment of
section 36.

21. 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.”;

30

(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;

35

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

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

40

(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:—

45

“(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:

50

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.

5 (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;

10 (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.

15 (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:

20 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 has sufficient cause for not making the application within such period.”.

25 **22.** In section 37 of the principal Act,—

Amendment of section 37.

(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;

30 (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.

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

Omission of section 40.

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

Amendment of section 46.

40 (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.

25. In section 47 of the principal Act,—

Amendment of section 47.

(a) in sub-section (1),—

(i) in clause (a),—

50 (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.”;

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

Amendment of section 48.

26. 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;

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

Insertion of new section 50A.

27. 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.

1 of 1894.
30 of 2013.

28. In section 51 of 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 substituted.

29. 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 52.

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

Amendment of section 52A.

(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.

31. 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 55A.

32. In section 61 of the principal Act,—

Amendment of section 61.

(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.”;

(c) in sub-section (5), for the words and figures “the Code of Criminal Procedure, 1973”, the words and figures “the Bharatiya Nagarik Suraksha Sanhita, 2023” shall be substituted.

2 of 1974.
46 of 2023.

45

33. In section 64 of the principal Act,—

Amendment of section 64.

(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”; 5

(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. 10

Amendment of section 65.

34. 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.

35. In section 67 of the principal Act,—

(a) for sub-section (4), the following sub-section shall be substituted, namely:— 15

“(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. 20

Amendment of section 69.

36. 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:— 25

“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.

37. In section 72 of the principal Act,— 30

(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. 35

Amendment of section 73.

38. 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.

39. In section 83 of the principal Act,—

(a) in sub-section (1), the following proviso shall be inserted, namely:— 40

“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.”; 45

(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;

5 (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:

10 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:—

15 “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;

20 (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.”.

40. In section 91 of the principal Act,—

Amendment of
section 91.

25 (a) in sub-section (1), 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 (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;

(c) in sub-section (4),—

35 (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;

40 (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:—

45 “Provided that the Collector after hearing the parties concerned shall make the order within one month of the application of the Board.”.

41. In section 100 of the principal Act, for the words “Survey Commissioner”, the word “Collector” shall be substituted.

Amendment of
section 100.

Amendment of
section 101.

42. In section 101 of the principal Act,—

(a) in the marginal heading and in sub-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. 5 45 of 1860. 45 of 2023.

Omission of
section 104.

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

Substitution of
new section for
section 107.

44. For section 107 of the principal Act, the following section shall be substituted, namely:— 10

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.

45. Sections 108 and 108A of the principal Act shall be omitted. 15

Insertion of new
section 108B.

46. 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:— 20

(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; 25

(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; 30

(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; 35

(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; 40

(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,
 5 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
 10 annulment shall be without prejudice to the validity of anything previously done under that rule.”.

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

Amendment of
section 109.

(a) clause (ia) shall be omitted;

(b) clause (iv) shall be omitted;

15 (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:—

20 “(xviiiia) the manner of giving notice inviting objections under proviso to sub-section (4) of section 69;”.

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

Amendment of
section 110.

LOK SABHA

A
BILL
further to amend the Waqf Act, 1995.

(As passed by Lok Sabha)



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 5th April, 2025/Chaitra 15, 1947 (Saka)

The following Act of Parliament received the assent of the President on the 5th April, 2025 and is hereby published for general information:—

THE WAQF (AMENDMENT) ACT, 2025

No. 14 OF 2025

[5th April, 2025.]

An Act further to amend the Waqf Act, 1995.

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

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

Short title and
commencement.

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

43 of 1995.

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.

Amendment of
section 1.

Amendment of
section 2.

3. 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.

4. 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;”.

5. After section 3 of the principal Act, the following sections shall be inserted, namely:—

“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.

(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:

Provided that the Tribunal may, on an application made to it by the mutawalli, extend such period of six months under this section for a further period not exceeding six months 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 land-revenue, 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.

Insertion of new sections 3A, 3B, 3C, 3D and 3E.

Certain conditions of waqf.

Filing of details of waqf on portal and database.

Wrongful
declaration of
waqf.

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

(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.

Declaration of
protected
monument or
protected area as
waqf to be void.

3D. Any declaration or notification issued under this Act or under any previous Act in respect of waqf properties shall be void, if such property was a protected monument or protected area under the Ancient Monuments Preservation Act, 1904 or the Ancient Monuments and Archaeological Sites and Remains Act, 1958, at the time of such declaration or notification.

7 of 1904.
24 of 1958.

Bar of
declaration of
any land in
Scheduled or
Tribal area as
waqf.

3E. Notwithstanding anything contained in this Act or any other law for the time being in force, no land belonging to members of Scheduled Tribes under the provisions of the Fifth Schedule or the Sixth Schedule to the Constitution shall be declared or deemed to be waqf property.”

Amendment of
section 4.

6. 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.

7. 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 Aghakhani auqaf 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.

8. In section 6 of the principal Act,—

Amendment of
section 6.

(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 has 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.

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

Amendment of
section 7.

(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.

10. 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.

11. 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 Aghakhans.”.

Amendment of
section 14.

12. 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.

13. 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 16.

Amendment of section 17.

14. 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.

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

Amendment of section 23.

16. 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 28.

17. In section 28 of the principal Act, for the words “be responsible for implementation of the decisions of the Board which may be”, the words “implement the decision of the Board within forty-five days from the date it is” shall be substituted.

Amendment of section 30.

18. 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 Bharatiya Sakshya Adhiniyam, 2023” shall be substituted.

1 of 1872.
47 of 2023.

Amendment of section 32.

19. 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.

20. 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.

21. 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 has sufficient cause for not making the application within such period.”.

22. In section 37 of the principal Act,—

Amendment of section 37.

(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.

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

Omission of section 40.

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

Amendment of section 46.

(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.

25. In section 47 of the principal Act,—

Amendment of section 47.

(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.”;

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

Amendment of
section 48.

26. 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;

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

Insertion of new
section 50A.

27. 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.”.

1 of 1894.
30 of 2013.

28. In section 51 of 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 substituted.

Amendment of section 51.

29. 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 52.

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

Amendment of section 52A.

(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.

31. 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 55A.

32. In section 61 of the principal Act,—

Amendment of section 61.

(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.”;

(c) in sub-section (5), for the words and figures “the Code of Criminal Procedure, 1973”, the words and figures “the Bharatiya Nagarik Suraksha Sanhita, 2023” shall be substituted.

2 of 1974.
46 of 2023.

33. In section 64 of the principal Act,—

Amendment of section 64.

(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.

34. 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.

35. 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.

36. 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.

37. 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.

38. 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.

39. 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.”.

40. In section 91 of the principal Act,—

Amendment of section 91.

1 of 1894.

30 of 2013.

(a) in sub-section (1), 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;

1 of 1894.

30 of 2013.

(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;

(c) in sub-section (4),—

1 of 1894.

30 of 2013.

(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;

(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.”.

41. In section 100 of the principal Act, for the words “Survey Commissioner”, the word “Collector” shall be substituted.

Amendment of section 100.

Amendment of
section 101.

42. In section 101 of the principal Act,—

(a) in the marginal heading and in sub-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.

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

Substitution of
new section for
section 107.

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

“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.”.

Application of
Act 36 of 1963.

Omission of
sections 108 and
108A.

45. Sections 108 and 108A of the principal Act shall be omitted.

Insertion of new
section 108B.

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

“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:—

Power of Central
Government to
make rules.

(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.”.

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

Amendment of
section 109.

(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:—

“(xviiiia) the manner of giving notice inviting objections under proviso to sub-section (4) of section 69;”.

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

Amendment of
section 110.

DR. RAJIV MANI,
Secretary to the Govt. of India.

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) No. _____ OF 2025**

IN THE MATTER OF:

MAULANA ARSHAD MADANI

...PETITIONER

VERSUS

UNION OF INDIA

...RESPONDENT

**AN APPLICATION SEEKING AD -INTERIM EX-PARTE
DIRECTIONS**

To,

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT

THE HUMBLE PETITION OF THE
PETITIONER ABOVE-NAMED:

MOST RESPECTFULLY SHOWETH:

1. That present petition seeks to challenge the Waqf (Amendment) Act, 2025 which has been notified on 05.04.2025 having been passed by both houses of the Parliament on 02.04.2025/03.04.2025 and having received the assent of the Hon'ble President of India on 05.04.2025.
2. That, for the sake of brevity, detailed facts leading to filing of the captioned writ petition are not being repeated herein, however, the

contents of the accompanying writ may be read as part and parcel to the present application.

3. That the provisions of the impugned legislation, as detailed in the accompanying petition, are *ex facie* arbitrary and unconstitutional with several provisions prescribing unreasonable timelines for registration and uploading details on the Portal and Database.
4. That while the impugned legislation has received the assent of the Hon'ble President and has been notified in the Gazette in late night of 05.04.2025, a notification under Section 1(2) of the impugned provision is yet to be issued notifying the date for commencement of provisions of the Act.
5. That as stated in the accompanying petition, the registration and upload requirements would render a large number of waqfs, more specifically unregistered waqf by user properties, outside the ambit of the Act and given the stipulated timelines for registration would require details to be uploaded in an unreasonable timeframe from the commencement of the Act.

6. That it is in the interest of justice and equity that the commencement of the provisions of the impugned legislation be deferred until the constitutional challenge to the law is considered by this Hon'ble Court.
7. That while the law has been enacted, a deferment qua its provisions coming into force till the finality of the present petition and other similar petitions challenging the law would not cause any irreparable harm whereas the provisions coming into force would present the petitioner with a *fait accompli*. There are numerous waqf properties that remain unregistered with the Waqf Board and may also lack a formal waqf deed, either because the original documents have been lost over time or because the waqf was created through an oral dedication which is now being diluted.
8. That commencement of the impugned legislation would trigger the arbitrary and unreasonable six-month deadline outlined in the Amendment Act, 2025, which would significantly undermine the rights of those affected.
9. That it is in the light of the aforesaid circumstances that the applicant herein is preferring the captioned application seeking

directions to the Respondent- Union of India - to defer from issuing the notification of commencement of the impugned legislation i.e., The Waqf (Amendment) Act, 2025 under Section 1(2) of the aforesaid Act.

10. That the present application has been preferred in *bonafide* interest of justice.

PRAYER

In the circumstances, it is, therefore, most humbly and respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a) Direct, as an *ad interim ex parte* measure, the Respondent to defer issuance of notification under sub-section (2) of Section 1 of the Waqf (Amendment) Act, 2025 during the pendency of the accompanying petition; and
- b) Pass such other orders as this Hon'ble Court may deem fit and proper in the interest of justice.

FILED BY:

FUZAIL AHMAD AYYUBI
Advocate for the Petitioner

Filed on: 06.04.2023
New Delhi

IN THE SUPREME COURT OF INDIA

CIVIL/CRIMINAL/APPELLATE/ORIGINAL JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO.....OF 2025
 CRIMINAL MISC. PETITION NO. / I.A. NO.....OF 2025
 WRIT PETITION (CIVIL/CRIMINAL) NO.....OF 2025
 REVIEW PETITION (CIVIL/CRIMINAL) NO.....OF 2025
 TRANSFER PETITION (CIVIL/CRIMINAL) NO.....OF 2025
 CIVIL/CRIMINAL/APPEAL NO.....OF 2025

IN THE MATTER OF

MAULANA ARSHAD MADANI

PETITIONER(S)
APPELLANT(S)

VERSUS

UNION OF INDIA

RESPONDENT(S)

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Date : 06.04.2025

Filed by :

FUZAIL AHMAD AYYUBI

Code No. 2016

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Clerk : Mohammad Nazim
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IN THE SUPREME COURT OF INDIA
CIVIL/CRIMINAL/APPELLATE/ORIGINAL JURISDICTION
T.P./W.P./CIVIL APPEAL/CRIMINAL APPEAL NO. _____ OF 2025
SPECIAL LEAVE PETITION (CIVIL/CRIMINAL) NO. _____ OF 2025

MAULANA ARSHAD MADANI PETITIONER(S)/APPELLANT(S)/
APPLICANT(S)

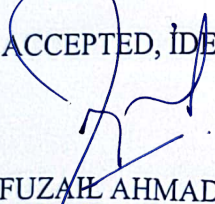
VERSUS


UNION OF INDIA RESPONDENT(S)/DEFENDANT(S)

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

Dated this 3rd day of April 2025.

ACCEPTED, IDENTIFIED & CERTIFIED


FUZAIL AHMAD AYYUBI
Advocate-on-Record


Maulana Arshad Madani
Petitioner
Petitioner(s)/Appellant(s)/
Respondent(s)/Applicant(s)

MEMO OF APPEARANCE

To,
The Registrar
Supreme Court of India
New Delhi – 110001

Sir,

Please enter my appearance on behalf of the Petitioner(s)/Respondent(s)/Applicant(s)/
Appellant(s) in the above-mentioned matter(s).


Yours Faithfully,

FUZAIL AHMAD AYYUBI
Advocate for the Petitioner(s)/Respondent(s)
Supreme Court of India
New Delhi-110001
Mob:+91-9811430201
CC:2016

Dated: 06.04.2025

