

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

[Petition under Article 32 of the Constitution of India
read with Order XXXVIII of the Supreme Court Rules, 2013]

IN THE MATTER OF:

Mohammad Jawed

...PETITIONER

VERSUS

Union of India

...RESPONDENT

PAPER-BOOK

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ADVOCATE FOR THE PETITIONERS: ANAS TANWIR

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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CRIMINAL) NO. _____ OF 2024

IN THE MATTER OF:

Mohammad Jawed

...Petitioner

Versus

Union of India

...Respondents

OFFICE REPORT ON LIMITATION

1. The Petition is within time.
2. The Petition is barred by time and there is a delay of _____ days in filing the same against the impugned final judgment and order dated _____ and a petition for condonation of delay of _____ days, has been filed.
3. There is a delay of _____ days in re-filing of the Petition and the petition for condonation of _____ days delay in re-filing has been filed.

(BRANCH OFFICER)

DATE:

PROFORMA FOR FIRST LISTING
IN THE SUPREME COURT OF INDIA

SECTION: _____

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

<input type="checkbox"/> Central Act: (Title)	Waqf (Amendment) Bill, 2025 Waqf Act, 1995
<input type="checkbox"/> Section:	-
<input type="checkbox"/> Central Rule: (Title)	-
<input type="checkbox"/> Rule No(s):	-
<input type="checkbox"/> State Act: (Title)	-
<input type="checkbox"/> Section:	-
<input type="checkbox"/> State Rule: (Title)	-
<input type="checkbox"/> Rule No(s):	-
<input type="checkbox"/> Impugned Interim Order: (Date)	-
<input type="checkbox"/> Impugned Final Order/Decree: (Date)	-
<input type="checkbox"/> High Court: (Name)	-
<input type="checkbox"/> Name(s) of Judge(s):	-
<input type="checkbox"/> Tribunal/Authority: (Name)	-

1.	Nature of Matter: <input checked="" type="checkbox"/> Civil <input type="checkbox"/> Criminal		
2.	(a)	Petitioner/Appellant No. 1:	Mohammad Jawed
	(b)	Email ID:	N/A -
	(c)	Mobile Phone Number	N/A -

3.	(a)	Respondent No. 1:	Union of India
	(b)	Email ID:	N/A -
	(c)	Mobile Phone Number	N/A -
4.	(a)	Main Category classification:	18
	(b)	Sub Classification:	1800
5.	Not to be listed before:		N/A -
6.	(a)	Similar disposed of matter with citation, if any, & case details:	No similar matter disposed of
	(b)	Similar pending matter with case details:	No similar matter pending
7.	Criminal Matters: No		
	(a)	Whether accused/convict has surrendered: NA	
	(b)	FIR No.: NA	Date: NA
	(c)	Police Station: NA	
	(d)	Sentence Awarded: NA	
	(e)	Period of sentence undergone including period of detention/custody undergone: NA	
	(f)	Whether any earlier case between the same parties is filed: NA	
	(g)	Particulars of the FIR and Case: NA	
	(h)	Whether any bail application was preferred earlier and decision thereupon: NA	
8.	Land Acquisition Matters:		

	(a)	Date of Section 4 notification:	-
	(b)	Date of Section 6 notification:	-
	(c)	Date of Section 17 notification:	-
9.	Tax Matters: NA		
	State the Tax effect:		-
10.	Special Category (first petitioner/appellant only):		
	<input type="checkbox"/> Senior Citizen > 65 years <input type="checkbox"/> SC/ST <input type="checkbox"/> Woman/Child <input type="checkbox"/> Disabled <input type="checkbox"/> Legal Aid Case <input type="checkbox"/> In Custody		
11.	Vehicle Number (in case of Motor Accident Claim matters):		-
12.	Whether there was / is litigation on the same point of law, if yes, details thereof:		-

Date: 04.04.2025

AOR for the Petitioner(s)/Appellant(s)

Name: Anas Tanwir

Registration No.: 2963

SYNOPSIS

This present petition is being preferred against the Waqf (Amendment) Bill, 2025 (“**Bill**”), on the grounds that it violates rights enshrined under Articles 14, 15, 25, 26, 29, and 300A of the Constitution. The Petitioner is Mohammad Jawed. He is a Doctor by profession having completed his M.B.B.S. from Government Medical College, Srinagar, Jammu and Kashmir, and has been elected to the 18th Lok Sabha from the Kishanganj Lok Sabha Constituency in Bihar. The Petitioner was also a member of the Joint Parliamentary Committee on the Waqf (Amendment) Bill, 2024. The Petitioner has been actively involved in various forms of social work and public interest activities striving for equality, fraternity, unity and national integration. It is submitted that the Act imposes arbitrary restrictions on Waqf properties and their management, thereby undermining the religious autonomy of the Muslim community.

It is humbly submitted that the Bill discriminates against the Muslim community by imposing restrictions that are not present in the governance of other religious endowments. For instance, while Hindu and Sikh religious trusts continue to enjoy a degree of self-regulation, the amendments to the Wakf Act, 1995 (“**Wakf Act**”), disproportionately increases state intervention in Waqf affairs. Such differential treatment amounts to a violation of Article 14 in addition to introduction of arbitrary classifications that lack a reasonable nexus to the objectives sought to be achieved, making it impermissible under the doctrine of manifest arbitrariness, as held in ***State of W.B. v. Anwar Ali Sarkar, (1952) 1 SCC 1.***

It is submitted that the Bill introduces restrictions on the creation of Waqfs based on the duration of one’s religious practice. Such a limitation is unfounded in Islamic law, custom or precedent and infringes upon the fundamental right to profess and practice religion under Article 25. Additionally, the restriction discriminates against individuals who have recently converted to Islam and wish to dedicate property for religious or charitable purposes, thereby violating Article 15.

It is further submitted that the Bill omits the concept of *Waqf-by-User*. The doctrine of *Waqf-by-User*, has been duly affirmed in ***M. Siddiq v. Suresh Das, (2019) 4 SCC 641***, wherein it was held that a property may attain status of Waqf through long-standing religious use. By removing this provision, the Act disregards established legal principles and limits the

ability of the Waqf Tribunal to recognize properties as Waqf based on historical usage, thereby violating Article 26, which guarantees religious denominations the right to manage their own affairs.

Further, amendment to the composition of the Waqf Board and the Central Waqf Council mandates inclusion of non-Muslim members in Waqf administrative bodies, which is an unwarranted interference in religious governance unlike Hindu religious endowments, which remain exclusively managed by Hindus under various state enactments. This selective intervention, without imposing similar conditions on other religious institutions, is an arbitrary classification and violates Articles 14 and 15.

The enhanced role of State authorities in Waqf administration impinges on the right of the Muslim community to manage its institutions. The Act shifts key administrative functions, such as the power to determine the nature of Waqf properties, from the Waqf Board to the District Collector. This transfer of control from religious institutions to government officials dilutes the autonomy of Waqf management and contravenes Article 26(d). Such an amendment is also against settled law as held in ***Commr., Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, (1954) 1 SCC 412.***

The Act also modifies the process of dispute resolution by altering the composition and powers of Waqf Tribunals. It reduces representation of individuals with expertise in Islamic law, influencing the adjudication of Waqf-related disputes. It is submitted that this change disproportionately affects willingness to resort to legal recourse through specialized tribunals, in contrast to the robust protections provided to other religious institutions under their respective endowment laws.

These amendments undermine property rights protected under Article 300A. By expanding State control over Waqf assets, limiting the ability of individuals to dedicate property for religious purposes, and subjecting Waqf properties to heightened scrutiny, the Act goes against this Hon'ble Court's decision in ***Ratilal Panachand Gandhi v. State of Bombay, (1954) 1 SCC 487*** wherein it was held that transferring control of religious property to secular authorities is an infringement of religious and property rights.

LIST OF DATES

DATE	EVENTS
07.03.1913	Mussalman Wakf Validating Act, 1913, received assent of the Governor General of India.
25.07.1930	Mussalman Wakf Validating Act, 1930, was introduced for validation of Wakfs prior to enforcement of Mussalman Wakf Validating Act, 1913.
21.05.1954	Wakf Act, 1954, received assent of the President. It was made applicable to Wakfs created before or after its commencement and established State Wakf Boards for management of Wakf properties.
1964	The Central Waqf Council was established under the administrative control of the Ministry of Minority Affairs with the Union Minister of Minority Affairs as its Chairperson to supervise and oversee the State Wakf Boards.
10.10.1984	Wakf (Amendment) Act, 1984, was introduced. It increased oversight over Wakf property records, required submission of annual financial reports and granted additional legal authority to evict unauthorized occupants of Wakf properties.
22.11.1995	Wakf Act, 1995, received assent of the President thereby repealing the Wakf Act, 1954. It introduced Wakf Tribunals for resolution of disputes over Wakf properties and mandated surveys of Wakf properties across India to prevent encroachment.
20.09.2013	Wakf (Amendment) Act, 2013, received assent of the President thereby amending the Wakf Act, 1995. It enhanced protections against encroachment and mandated computerization of Wakf records.
29.10.2013	Notification identified as S.O. 3292(E) released by the Ministry of Minority Affairs states that the provisions of Wakf (Amendment) Act, 2013, shall come into force on 01.11.2013.
08.08.2024	Waqf (Amendment) Bill, 2024, was introduced by Shri Kiren Rijju, Union Minister of Minority Affairs, Government of India, as Bill No. 109 of 2024 in the 18 th Lok Sabha. It seeks to amend the Wakf Act, 1995.
09.08.2024	Motion for reference of the Waqf (Amendment) Bill, 2024,

	to a Joint Committee of both the Houses of Parliament was moved in the Lok Sabha by Shri Kiren Rijiju, Union Minister of Minority Affairs, Government of India, and concurred by the Rajya Sabha on the same day.
13.08.2024	The composition of the Joint Committee on the Waqf (Amendment) Bill, 2024, was published in Bulletin Part-II No. 794 and the Hon'ble Speaker appointed Shri. Jagdambika Pal, MP, Lok Sabha, as its Chairperson.
29.08.2024	Press Communiqué of the Joint Committee on Waqf (Amendment) Bill, 2024, inviting suggestions on the Waqf (Amendment) Bill, 2024.
26.09.2024 to 01.10.2024	Study visit of the Joint Committee on Waqf (Amendment) Bill, 2024, to Mumbai, Ahmedabad, Hyderabad, Chennai and Bengaluru.
09.11.2024 to 11.11.2024	Study visit of the Joint Committee on Waqf (Amendment) Bill, 2024, to Guwahati and Bhubaneswar.
28.11.2024	A Motion of Extension of the Joint Committee on Waqf (Amendment) Bill, 2024, was moved and adopted in the Lok Sabha.
18.01.2025 to 21.01.2025	Study visit of the Joint Committee on Waqf (Amendment) Bill, 2024, to Patna, Kolkata and Lucknow.
30.01.2025	Report of the Joint Committee on Waqf (Amendment) Bill, 2024, was presented to the Hon'ble Speaker.
13.02.2025	Report of the Joint Committee on Waqf (Amendment) Bill, 2024, was presented in the Lok Sabha and laid in the Rajya Sabha.
03.04.2025	Waqf (Amendment) Bill, 2025, was passed by the Lok Sabha by a majority of 288:232.
04.04.2025	Waqf (Amendment) Bill, 2025, was passed by the Rajya Sabha by a majority of 128:95.
	Hence, this Writ Petition before this Hon'ble Court.

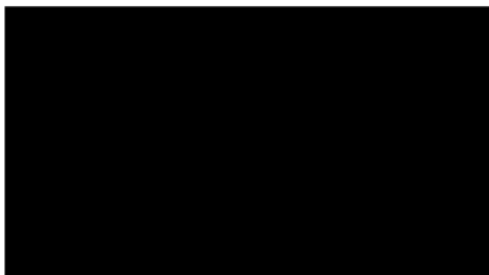
**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL WRIT JURISDICTION**

WRIT PETITION (CIVIL) NO. OF 2025

IN THE MATTER OF:

MOHAMMAD JAWED

...PETITIONER



VERSUS

UNION OF INDIA

...RESPONDENT

Through the Secretary,
Ministry of Minority Affairs.

Address: 11th Floor,
Pandit Deendayal Antyodaya Bhawan,
CGO Complex,
Lodhi Road, New Delhi - 110 003.

**WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA,
1950, SEEKING TO CHALLENGE THE VALIDITY OF THE WAQF
(AMENDMENT) BILL, 2025.**

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

The Writ Petition on behalf of
The Petitioner above named;

MOST RESPECTFULLY SHOWETH:

1. The present Writ Petition under Article 32 of the Constitution of India seeks to challenge the validity of the Waqf (Amendment) Bill, 2025, which amends the Wakf Act, 1995, amounting to state interference in religious affairs thereby violating the autonomy of religious institutions, and infringing upon the fundamental rights of the Muslim community as protected under Articles 14, 15, 25, 26, and the constitutional right under 300A.
2. The Petitioner herein has not filed a similar petition prior to this instant petition before this Hon'ble Court or any other Court.
3. The Petitioner, through the present Writ Petition, has, thus, been constrained to invoke the civil original writ jurisdiction of this Hon'ble Court to seek issuance of a writ, order or direction against the Respondent.

THE PETITIONER

4. The Petitioner is Mohammad Jawed. He is a Doctor by profession having completed his M.B.B.S. from Government Medical College, Srinagar, Jammu and Kashmir, and has been elected to the 18th Lok Sabha from the Kishanganj Lok Sabha Constituency in Bihar. The Petitioner was also a member of the Joint Parliamentary Committee on the Waqf (Amendment) Bill, 2024. The Petitioner has been actively involved in various forms of social work and public interest activities striving for equality, fraternity, unity and national integration. The Permanent Account Number of the Petitioner is [REDACTED] his mobile number is [REDACTED] and email address is [REDACTED]

THE RESPONDENTS

5. The Respondent No. 1 is the Union of India through the Ministry of Minority Affairs. The Ministry of Minority Affairs was created from the Ministry of Social Justice & Empowerment, to provide a more focused and dedicated approach to issues concerning notified minority communities—Muslims, Christians, Buddhists, Sikhs, Parsis, and Jains. It is responsible for policy formulation, strategic planning, coordination, and evaluation of regulatory frameworks and development programs aimed at the socio-economic and educational advancement of minority communities. It also oversees the implementation and review of welfare schemes, ensuring equitable opportunities and inclusion in national development. Further, it aims to improve the socio-economic conditions of the minority communities through affirmative action and inclusive development so that every citizen has equal opportunity to participate actively in building a vibrant nation and to facilitate an equitable share for minority communities in education, employment, economic activities thereby ensuring their upliftment.

6. The Ministry of Minority Affairs is responsible for management of Waqf properties in the territory of India. The Central Waqf Council was established under the administrative control of the Ministry of Minority Affairs with the Union Minister of Minority Affairs as its Chairperson.

BRIEF FACTS

7. The Petitioner humbly submits that Islam permits various modes of dedicating one's worldly gains for the benefit of humanity and to please Allah. Among the various forms of Islamic charity, such as Zakat and Sadaqah, Waqf stands out as a distinct method rooted in Islamic principles. It involves an individual dedicating their

self-acquired or inherited movable or immovable property to Allah, ensuring that the benefits derived from it are used for charitable purposes aligned with Islamic teachings.

8. The Petitioner submits that the legal framework governing Waqf aligns with those found in various statutes regulating religious and charitable endowments. While some laws are tailored to specific religious communities, others have a broader, more general application. These legislative frameworks exist at both central and state levels, reflecting a structured approach to managing religious trusts. For instance, the Charitable Endowments Act, 1890, operates at the central level, whereas state laws such as the Bihar Hindu Religious Trusts Act, 1950, the Madras Hindu Religious and Charitable Endowments Act, 1951, and the Andhra Pradesh Hindu Religious and Charitable Endowments Act, 1987, provide for similar regulation at the state level. This demonstrates a clear legislative pattern recognizing and overseeing religious endowments, including Waqf, within the Indian legal system.
9. The regulation of Waqf properties in India has evolved considerably over the last century. The first major statute recognizing Waqfs directly was the Mussalman Wakf Validating Act, 1913, which was introduced in British India to legitimise Waqfs, thereby ensuring their recognition in the region. In order to extend this validation of Waqfs created prior to 1913, the Mussalman Wakf Validating Act, 1930, was introduced, strengthening the legal status of such religious endowments.
10. After independence, a structured approach to Waqf governance was initiated with the enactment of the Wakf Act, 1954. It applied to both existing and future Waqfs and introduced State Waqf Boards to oversee and manage Waqf properties effectively. A decade later, in 1964, the Central Waqf Council (CWC) was established under the

Ministry of Minority Affairs to supervise the State Waqf Boards and ensure compliance with regulatory norms.

11. The Wakf Act, 1954, was further amended through the Wakf (Amendment) Act, 1984, introducing stricter regulations, requiring the compulsory submission of property records and financial reports, while also empowering authorities to evict unauthorized occupants of Waqf properties.
12. Thereafter, the Wakf Act, 1995, was enacted by repealing the Wakf Act, 1954. The Wakf Act, 1995, introduced Waqf Tribunals for dispute resolution and mandated regular surveys of Waqf properties to prevent encroachment and unauthorized use. This legislation was further amended by the Wakf (Amendment) Act, 2013. It strengthened protections against encroachment and introduced mandatory computerization of Waqf records to enhance transparency and efficiency.
13. On 08.08.2024, Shri Kiren Rijiju, Union Minister of Minority Affairs, Government of India, introduced the Waqf (Amendment) Bill, 2024, as Bill No. 109 of 2024 in the 18th Lok Sabha, seeking to amend the Wakf Act, 1995. A true copy of the Waqf (Amendment) Bill, 2024, as introduced in the Lok Sabha is attached herewith and annexed hereto as **ANNEXURE P-1. [Page Nos. 18-57]**
14. On 09.08.2024, he moved a Motion for reference of the Waqf (Amendment) Bill, 2024, to a Joint Committee of both the Houses of Parliament in the Lok Sabha and it was concurred by the Rajya Sabha on the same day. A true copy of the Motion is attached herewith and annexed hereto as **ANNEXURE P-2. [Page Nos. 58-59]**
15. On 13.08.2024 vide Bulletin-Part II No. 794, the Joint Committee's composition was announced with Shri Jagdambika Pal appointed as

the Chairperson. In accordance with the procedure and to ensure thorough examination and stakeholder consultation, the Committee issued a Press Communiqué on 29.08.2024, inviting public suggestions on the Waqf (Amendment) Bill, 2024. A true copy of the Bulletin-Part II No. 794 dated 13.08.2024 and Press Communiqué dated 29.08.2024 are attached herewith and annexed hereto as **ANNEXURE P-3** and **ANNEXURE P-4** respectively.

[Page Nos. 60-61]

[Page No. 62]

16. The Joint Committee conducted study visits across various cities of the country. As deliberations progressed, a motion for extending the Committee's tenure was moved and adopted in the Lok Sabha on 28.11.2024. A true copy of the Motion is attached herewith and annexed hereto as **ANNEXURE P-5**. [Page No. 63]
17. On 30.01.2025, the Joint Committee submitted its Report to the Hon'ble Speaker. It was subsequently presented in the Lok Sabha and laid in the Rajya Sabha on 13.02.2025.
18. Further, on 03.04.2025, the Waqf (Amendment) Bill, 2025, was passed by the Lok Sabha by a majority of 288:232. A true copy of the Waqf (Amendment) Bill, 2024, as passed by the Lok Sabha is attached herewith and annexed hereto as **ANNEXURE P-6**. [Page Nos. 64-79]
19. The Petitioner submitted his Dissent Note to the Draft Report of the Joint Parliamentary Committee Waqf (Amendment) Bill, 2024. A true copy of the same is attached herewith and annexed hereto as **ANNEXURE P-7**. [Page Nos. 80-111]
20. The Petitioner appealed to the Hon'ble Speaker for restoration of the Expunged Portions of the Dissent Note. A true copy of the same is attached herewith and annexed hereto as **ANNEXURE P-8**. [Page No. 112]
21. The Petitioner also submitted a Clause Note against the Waqf

(Amendment) Bill, 2024. A true copy of the same is attached herewith and annexed hereto as **ANNEXURE P-9**. [Page Nos. 113-117]

22. Subsequently, on 04.04.2025, the Waqf (Amendment) Bill, 2025, was passed by the Rajya Sabha.

GROUND

23. Therefore, in light of the above mentioned facts, the Petitioner seeks relief from this Hon'ble Court on the following amongst other grounds, which are being taken without prejudice to each other:

- I. BECAUSE, the Waqf (Amendment) Bill, 2025, violates the rights under Articles 14, 15, 25, 26, 29 and 300A of the Constitution of India.
- II. BECAUSE, the provisions of Waqf (Amendment) Bill, 2025, suffers from the vice of manifest arbitrariness and fails to provide a reasonable nexus for the objectives it seeks to achieve.
- III. BECAUSE, the Waqf (Amendment) Bill, 2025, violates Articles 14 and 15 by discriminating with the religious minority and individuals who may enter its fold based on their religiosity and duration of upholding the community's practices.
- IV. BECAUSE, the Waqf (Amendment) Bill, 2025, promulgates arbitrary classification without a rational basis thereby violating Article 14 as held by this Hon'ble Court in ***State of W.B. v. Anwar Ali Sarkar, (1952) 1 SCC 1.***
- V. BECAUSE, the Waqf (Amendment) Bill, 2025, violates Article 25 by constricting the right to profess and practice religion by imposing unreasonable restrictions on the duration of practice

for creation of an endowment by an individual whereas the concept of Waqf does not mandate the same. Hence, the Waqf (Amendment) Bill, 2025, creates a criteria without any legal or historical basis for the same.

- VI. BECAUSE, the Waqf (Amendment) Bill, 2025, infringes Article 26 as it impinges on the right of a religious denomination to manage its religious affairs by establishing and managing institutions for religious and charitable purposes, and the administration of property in its own domain.
- VII. BECAUSE, this Hon'ble Court in ***T.M.A. Pai Foundation and Ors. v. State of Karnataka and Ors., 2002 (8) SCC 481*** affirmed the right of a religious denomination to establish and maintain institutions for religious and charitable purposes.
- VIII. BECAUSE, the provisions of Waqf (Amendment) Bill, 2025, violate Article 29(1) by undermining rights of minorities, i.e. the Muslim community by interfering in the protection afforded to cultural and religious institutions of minorities.
- IX. BECAUSE, Section 2 of the Waqf (Amendment) Bill, 2025, replaces the term "*Wakf*" in the Wakf Act, 1995, to "*Unified Waqf Management, Empowerment, Efficiency and Development*" which undermines the religious and cultural significance of the term. The term "*Waqf*" is deeply rooted in Islamic tradition, signifying the permanent dedication of property for pious, charitable, and religious purposes whereas the proposed name focuses on administrative and developmental aspects, diluting its religious character thereby violating Article 25 of the Constitution.
- X. BECAUSE, Section 3(ix)(a) of the Waqf (Amendment) Bill, 2025, is an antithesis to the rule of law as it preconditions the practice

of Islam for a minimum period of five (5) years in order to create a Waqf and as a result compels an individual to practice their own religion subject to which they can be debarred from giving away their own property for any charitable purpose whether one's own or any other. Further, it creates an unnecessary barrier for individuals who may have recently embraced Islam or who are motivated by immediate piety to dedicate property for religious or charitable purposes. Hence, Section 4(ix) of the Waqf (Amendment) Bill, 2025, discriminates against individuals based on the duration of their religious practice and impinges on one's right to freely profess and practice religion thereby violating Articles 14 and 25 of the Constitution.

- XI. BECAUSE, Section 3(ix)(a) of the Waqf (Amendment) Bill, 2025, infringes Article 15 by contradicting the inclusivity affirmed in the Wakf (Amendment) Act, 2013, and is inconsistent with various other Religious Endowment Acts, which impose no such restrictions. The Waqf Enquiry Committee Report, 1976, explicitly clarified that a "Waqif" need not even be a Muslim, provided the purpose of the Waqf is pious and charitable in accordance with Islamic principles. The only essential requirement for creation of Waqf is that the donor must be the rightful owner of the property.
- XII. BECAUSE, the concept of *Waqf-by User* as enshrined in Section 3(r)(i) of the Wakf Act, 1995, and deleted by Section 3(ix)(b) of the Waqf (Amendment) Bill, 2025, has been recognized by this Hon'ble Court in ***M. Siddiq v. Suresh Das, (2019) 4 SCC 641*** wherein it was affirmed that Islamic law permits verbal declaration of a Waqf and that the same may be reasonably inferred from the facts and circumstances of a case or from the conduct of the Waqif. The legal recognition of a Waqf can also be gauged in circumstances where a property has been in public

religious use since time immemorial. The deletion by Section 3(ix)(b) of the concept of *Waqf-by User* in the Waqf (Amendment) Bill, 2025, weakens the authority of the Waqf Tribunal, obliterates the freedom to establish, manage, own and administer properties by a particular religious denomination, i.e. the Muslim community and is a violation of the guarantee under Article 26 of the Constitution.

- XIII. BECAUSE, the concept of verbal declaration and appointments is amongst the characteristics of Waqf, and is practiced extensively. The registration of such a declaration is not mandated in Islamic traditions and omission of the same by requiring written deeds as propounded by the Waqf (Amendment) Bill, 2025, violates the guarantee to freely practice rituals, observances and ceremonies which form part and parcel of one's religion under Articles 25 and 26 of the Constitution.
- XIV. BECAUSE, this Hon'ble Court in ***Faqir Mohd. Shah v. Qazi Fasihuddin Ansari, 1956 SCC OnLine SC 81*** held that Waqf properties can be confirmed by analyzing evidence of religious use, thereby upholding the principle of *Waqf-by User*. The retention of this custom is essential to upholding constitutional values and preserving religious heritage.
- XV. BECAUSE, Section 20 of the Waqf (Amendment) Bill, 2025, deletes Section 40 of the Wakf Act, 1995, whereby it divests the authority of the Waqf Board to decide the nature of a property, diminishes the role of Waqf Tribunals and transfers administrative control from a religious denomination to a secular authority, and by that means dilutes control of the Muslim community of the right to manage their own properties which violates Article 26(d) of the Constitution. It is submitted that the dilution of Waqf Tribunals as a specialised body with

respect to disputes and in matters related to the utilization of the surplus income of Waqf properties, hampers the effective management of Auqaf while eroding the trust placed in the Tribunal as an expert body for adjudicating Waqf matters.

- XVI. BECAUSE, the Waqf (Amendment) Bill, 2025, violates Article 14 as it alters the composition of Waqf Tribunals to remove expertise in Islamic law, diminishing the fairness of adjudication in Waqf disputes while curtailing the authority of the Waqf Board in resolving disputes by concentrating power in the hands of executive authorities.
- XVII. BECAUSE, the Waqf (Amendment) Bill, 2025, undermines the authority of Waqf Tribunals by permitting an application to be entertained by the Tribunal after the specified two-year period upon satisfaction that there was sufficient cause for not making the application within the stipulated time. In comparison, Section 85(3) of the Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987, and Section 79A(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, provide that decisions of their respective Tribunals are final and cannot be questioned in any Court. Hence, the amendment on adjudication of Auqaf impinges upon the right guaranteed under Article 15 of the Constitution.
- XVIII. BECAUSE, the Waqf (Amendment) Bill, 2025, infringes Article 26(d) by enhancing the participation of non-Muslim members and reducing the Muslim community to a minority within Central Waqf Council and Waqf Board(s) whereas such entities were meant to be controlled by members of the religious denomination for the management of their own properties.
- XIX. BECAUSE, this Hon'ble Court in **Commr., Hindu Religious**

Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, (1954) 1 SCC 412 held that the management of religious properties is integral to religious practice. However, the Waqf (Amendment) Bill, 2025, disproportionately interferes with Waqf administration by transferring core management functions to the District Collector, a secular state authority, while leaving other religious endowments largely untouched.

XX. BECAUSE, the Waqf (Amendment) Bill, 2025, imposes non-Muslim representation in Waqf administration, a requirement absent in the Bihar Hindu Religious Trusts Act, 1950, Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987, and Sikh Gurdwaras Act, 1925, indicating selective intervention amounting to an arbitrary classification that does not withstand constitutional scrutiny. The Waqf (Amendment) Bill, 2025, infringes Articles 14 and 15 by creating an irrational classification between Waqf properties and other religious endowments by subjecting Waqf properties to stringent state oversight while allowing other religious endowments to function in an autonomous manner.

XXI. BECAUSE, the Waqf (Amendment) Bill, 2025, violates Articles 14 and 15 as it provides for appointment of a Chief Executive Officer by the State Government who shall not be below the rank of a Joint Secretary which is in contradistinction to other religious endowment laws such as Section 3 of the Uttar Pradesh Kashi Vishwanath Temple Act, 1983, Section 10 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, Section 3(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, and Section

6 of the Orissa Hindu Religious Endowments Act, 1951, wherein such roles are to be held solely by individuals professing the Hindu faith. It is submitted that the role of a Chief Executive Officer of a Waqf Board is non-secular owing to the religious essence of Waqf and infringes upon the autonomy guaranteed to religious institutions.

- XXII. BECAUSE, this Hon'ble Court in ***Ratilal Panachand Gandhi v. State of Bombay, (1954) 1 SCC 487*** held that transferring administrative control from a religious denomination to a secular authority would amount to violation of the right guaranteed under Article 26(d) of the Constitution.
- XXIII. BECAUSE, the Waqf (Amendment) Bill, 2025, omits the removal of the Chairperson of the Waqf Board which was permitted under Section 20A of the Wakf Act, 1995, through a vote of no confidence. The removal of this democratic element undermines representative governance, transparency, and trust in the administration of Waqf properties. Such a change subverts the principles of accountability, which are critical to the effective functioning of Waqf Boards.
- XXIV. BECAUSE, Section 21 of the Waqf (Amendment) Bill, 2025, introduces mandatory registration of Waqf properties by execution of a Waqf Deed which is in violation of Islamic law wherein oral gifts (hiba) and oral wills (wasiyat) are recognized provided their execution is in the presence of competent witnesses. The prerequisite for registration disregards established customs of Islamic law and restricts the creation of Auqaf thereby undermining the religious freedoms and practices guaranteed under the Constitution.
- XXV. BECAUSE, the Waqf (Amendment) Bill, 2025, impinges on the

right guaranteed under Article 14 by introducing unnecessary delays and administrative hurdles by requiring a public notice of ninety (90) days to be issued in two (02) daily newspapers, one of which must be in the regional language, before recording entries in the Register of Auqaf. Such a condition is discriminatory as it is not provided in any other religious endowment legislation.

- XXVI. BECAUSE, the Waqf (Amendment) Bill, 2025, omits Section 40 of the Wakf Act, 1995, which empowered the Waqf Board to declare any property as Waqf property based on information gathered, thereby enabling effective management and oversight of Waqf properties, and eliminating this provision undermines the authority and functionality of the Waqf Boards, leaving them disempowered and unable to fulfill their statutory role of safeguarding Waqf properties.
- XXVII. BECAUSE, Section 25(a)(iii) of the Waqf (Amendment) Bill, 2025, authorizes the Central Government to direct the audit of any Waqf by an auditor appointed by the Comptroller and Auditor General of India (CAG) or any officer designated by the Central Government is an overreach and a dilution of the autonomy of Waqf Board(s).
- XXVIII. BECAUSE, the Waqf (Amendment) Bill, 2025, permits application of the Limitation Act, 1963, as a result of which Waqf properties become prone to adverse possession by occupiers who have remained in possession without timely action from the Waqf Board or Mutawalli to claim ownership. The earlier non-applicability of the Limitation Act to the Waqf property aligned with the safeguards provided under the laws applicable to several other religious endowments such as Madras Hindu Religious and Charitable Endowments Act, 1951.

The removal of this protection therefore violates the principles of equality enshrined under Article 14 and discriminates against the Muslim community solely on the basis of religion which is prohibited under Article 15 of the constitution and impinging on their right to manage properties, which is protected under Article 26.

XXIX. BECAUSE, the Waqf (Amendment) Bill, 2025, provides the Board with an authority to invite objections from the common public when framing a scheme for administration which is against the nature of Waqf being a private religious endowment governed by specific religious and legal principles.

XXX. BECAUSE, Section 41 of the Waqf (Amendment) Bill, 2025, grants legal immunity to the Collector, for actions taken under the Wakf Act, 1995, whereby he is shielded against accountability, impartiality, and fair administration of Waqf properties.

INTERIM RELIEF

It is most respectfully prayed that this Hon'ble Court may be pleased to:

- A. Stay the operation of the Waqf (Amendment) Bill, 2025, pending adjudication on its constitutional validity.

PRAYER

It is most respectfully prayed that this Hon'ble Court may be pleased to:

- A. Declare the provisions of the Waqf (Amendment) Bill, 2025, as unconstitutional.

A. Pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

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

DRAWN BY:

FILED BY:



ANAS TANWIR

Advocate-on-Record for the Petitioner

FILED ON: 04.04.2025

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

IN THE MATTER OF:

Mohammad Jawed

...PETITIONER

VERSUS

Union of India

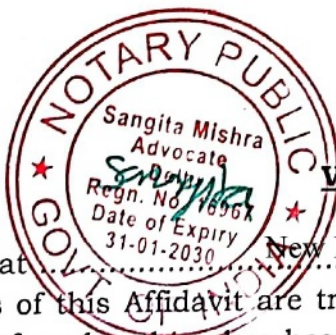
...RESPONDENTS

AFFIDAVIT

I, Mohammad Jawed, [REDACTED] do solemnly affirm and declare as under:

1. That I am the Petitioner in the above captioned Writ Petition and am fully conversant with the facts and circumstances of the present case and as such competent to swear the present Affidavit.
2. That I have understood the contents of the accompanying Writ Petition in paragraphs 01 to ...23... at pages ...01... to ...17... and the Synopsis, and the List of Dates at pages B to ...E... which has been drafted by my Counsel under my instructions and the same are true and correct to the best of my own knowledge and belief.
3. I say that the documents annexed as Annexures P-1 to P-...9... to the Writ Petition are true copies of their respective originals.
4. I say that I have not filed any other petition against the issues as raised herein in any other Court.

I identify the deponent who has signed/T.I in my presence



ATTESTE

Sangita
Notary Delhi (India)

VERIFICATION

Verified at New Delhi, dated this ...04... April, 2025, that the contents of this Affidavit are true and correct to the best of my knowledge and belief, and nothing has been concealed therefrom.

DEPONENT

DEPONENT

04 APR 2025

AS INTRODUCED IN LOK SABHA

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.

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 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.”.

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; 5

(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:— 10

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; 15

(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 20

(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. 25

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; 30

(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. 35

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:— 40

“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;

(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
30 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;

KIREN RIJIJU.

The 6th August, 2024.

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

* * * *

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

* * * *

(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;

* * * *

(1) “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 (1) 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;

* * * *

Short title,
extent and
commencement.

Definitions.

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 waqf 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 waqf property, call upon the trust or society, as the case may be, either to register such property under this Act as waqf 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. (1) 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 (1), 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. (1) * * * * *

(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. (1) * * * * *

(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:

Power of Board to frame scheme for administration of 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.

Annual contribution payable to Board.

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;

(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;

* * * *

Powers to make regulations by the Board.

110. (1) * * * *

(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

2.40 P.M.

10. Bill for Reference to Joint Committee – Motion adopted

Shri Kiren Rijiju moved the following motion:-

"That the Bill further to amend the Waqf (Amendment) Act, 1995, be referred to a Joint Committee of the Houses consisting of the following 21 Members from this House:-

The Waqf
(Amendment)
Bill, 2024.

1. Shri Jagdambika Pal
2. Dr. Nishikant Dubey
3. Shri Tejasvi Surya
4. Smt. Aparajita Sarangi
5. Dr. Sanjay Jaiswal
6. Shri Dilip Saikia
7. Shri Abhijit Gangopadhyay
8. Smt. D.K Aruna
9. Shri Gaurav Gogoi
10. Shri Imran Masood
11. Dr. Mohammad Jawed
12. Shri Mohibbullah
13. Shri Kalyan Banerjee
14. Shri A. Raja
15. Shri Lavu Sri Krishna Devarayalu
16. Shri Dileshwar Kamait
17. Shri Arvind Sawant
18. Shri Mhatre Balya Mama Suresh Gopinath
19. Shri Naresh Ganpat Mhaske
20. Shri Arun Bharti
21. Shri Asaduddin Owaisi

and 10 Members from the Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee,

that the Committee shall make a report to this House by the last day of the first week of next Session;

that in other respects, the Rules of Procedure of this House relating to Parliamentary Committee shall apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House names of the Members to be appointed by Rajya Sabha to the Joint Committee.”

The motion regarding reference was put to vote and adopted.

2.44 P.M.

11. Government Bill – Passed

The Bharatiya Vayuyan Vidheyak, 2024

Time Allotted: 3 Hrs.

Time Taken: 5 Hrs. 45 Mts.

Further discussion on the motion for consideration of the Bill moved by Shri Rammohan Naidu Kinjarapu on the 8th August, 2024 continued.

Shri Rammohan Naidu Kinjarapu replied to the debate.

The motion for consideration was adopted and the clause-by-clause consideration of the Bill was taken up.

Clause 2 was adopted.

Clause 3 was adopted.

—
BULLETIN-PART II
 (General Information relating to Parliamentary and other matters)

Annexure P-3

Nos. 794-795]

[Tuesday, August 13, 2024/ Sravana 22, 1946 (Saka)

No. 794

Committee Branch – II

MEMBERS OF THE JOINT COMMITTEE ON THE WAQF (AMENDMENT) BILL, 2024.
MEMBERS

LOK SABHA

1. Shri Jagdambika Pal
2. Dr. Nishikant Dubey
3. Shri Tejasvi Surya
4. Smt. Aparajita Sarangi
5. Shri Sanjay Jaiswal
6. Shri Dilip Saikia
7. Shri Abhijit Gangopadhyay
8. Smt. D. K. Aruna
9. Shri Gaurav Gogoi
10. Shri Imran Masood
11. Dr. Mohammad Jawed
12. Shri Mohibbullah
13. Shri Kalyan Banerjee
14. Shri A. Raja
15. Shri Lavu Sri Krishna Devarayalu
16. Shri Dileshwar Kamait
17. Shri Arvind Sawant
18. Shri Mahtre Balya Mama Suresh Gopinath
19. Shri Naresh Ganpat Mhaske
20. Shri Arun Bharti
21. Shri Asaduddin Owaisi

MEMBERS
RAJYA SABHA

22. Shri Brij Lal
23. Dr. Medha Vishram Kulkarni
24. Shri Gulam Ali
25. Dr. Radha Mohan Das Agrawal
26. Dr. Syed Naseer Hussain
27. Shri Mohammed Nadimul Haque
28. Shri V. Vijayasai Reddy
29. Shri M. Mohamed Abdulla
30. Shri Sanjay Singh
31. Dr. Dharmasthala Veerendra Heggade

2. The Hon'ble Speaker has been pleased to appoint Shri Jagdambika Pal, MP, Lok Sabha as the Chairperson of the Joint Committee on the Waqf (Amendment) Bill, 2024.

No. 795

Privileges & Ethics Branch

**THE MEMBERS OF LOK SABHA (DECLARATION OF ASSETS & LIABILITIES)
RULES, 2004**

In terms of provisions of Section 75A(1) of the Representation of the People Act, 1951 read with Rule 3 of the Members of Lok Sabha (Declaration of Assets & Liabilities) Rules, 2004, every elected member of Lok Sabha is required to furnish to the Hon'ble Speaker, Lok Sabha, information regarding his/her assets & liabilities as in 'Form I', appended to the said Rules within 90 days from the date of making and subscribing an oath or affirmation for taking his/her seat.

Members are requested to furnish information regarding their assets and liabilities as in Form – I, along with a forwarding letter addressed to the Secretary-General, Lok Sabha, in a closed cover, which may be superscribed "Assets & Liabilities Information" and may be delivered to the Secretary-General, Lok Sabha at Room No. LS 15, located in Parliament House.

Members, while furnishing the said information in Form – I have also to make a signed declaration undertaking to intimate the Speaker "*in the event of any change in the information given*" in the form.

Members can download 'Form– I' as well as the 'Members of Lok Sabha (Declaration of Assets & Liabilities) Rules, 2004' by accessing the website sansad.in/ls/download and by clicking the 'Declaration of Assets and Liabilities Form' at Page No.4. Copies of Form I are also available in Parliamentary Notice Office (Room No. G – 37) located in Parliament House.

UTPAL KUMAR SINGH
Secretary General

PARLIAMENT OF INDIA
LOK SABHA SECRETARIAT

Annexure P-4

NEW DELHI



PRESS COMMUNIQUE

**JOINT COMMITTEE ON THE WAQF (AMENDMENT) BILL, 2024 INVITES
SUGGESTIONS ON 'THE WAQF (AMENDMENT) BILL, 2024'**

The Waqf (Amendment) Bill, 2024, as introduced in Lok Sabha has been referred to the Joint Committee of Parliament for examination and report. Considering the wider implications of the proposed Bill, the Committee under the **Chairpersonship of Shri Jagdambika Pal, M.P.** have decided to invite memoranda containing views/suggestions from the public in general and NGOs/experts/stakeholders and institutions in particular.

2. Those desirous of submitting written memoranda/suggestions to the Committee may send two copies thereof either in English or in Hindi to **JOINT SECRETARY(JM), LOK SABHA SECRETARIAT, ROOM No.440, PARLIAMENT HOUSE ANNEXE, NEW DELHI- 110001**, TEL.No(s) 23034440/23035284, FAX NUMBER: 23017709 and mail the same to jpcwaqf-lss@sansad.nic.in within 15 days from the date of publication of this advertisement. Text of 'The Waqf (Amendment) Bill, 2024' is available on the Lok Sabha website (link for English version- <https://sansad.in/ls/legislation/bills> and link for Hindi version- <https://sansad.in/ls/hi/legislation/bills> (**Bill No. 109**))

3. The memoranda/suggestions submitted to the Committee would form part of the records of the Committee and would be treated as '**confidential**' and enjoy privileges of the Committee.

4. Those who are desirous of appearing before the Committee, besides submitting memoranda, are requested to specifically indicate so. However, the Committee's decision in this regard shall be final.

New Delhi;

Dated: 29 August, 2024

6. Statements by Minister

The Minister of State in the Ministry of Jal Shakti; and Minister of State in the Ministry of Railways (Shri V. Somanna) laid the following statements regarding (Hindi and English versions) regarding:-

- (i) the status of implementation of the recommendations contained in the 21st Report of the Standing Committee on Water Resources on Demands for Grants (2023-2024) pertaining to the Department of Drinking Water and Sanitation, Ministry of Jal Shakti.
- (ii) the status of implementation of the recommendations contained in the 28th Report of the Standing Committee on Water Resources on action taken by the Government on the recommendations/observations contained in the 21st Report of the Committee on Demands for Grants (2023-2024) pertaining to the Department of Drinking Water and Sanitation, Ministry of Jal Shakti.

7. Motion regarding the Report of the Joint Committee on the Waqf (Amendment) Bill, 2024 – Extension of time

Shri Jagdambika Pal moved the following motion:-

"That this House do extend time for the presentation of the Report of the Joint Committee on the Waqf (Amendment) Bill, 2024 upto the last day of the Budget Session, 2025".

The motion was put to vote and adopted.

12.04 P.M

8. Matters Under Rule 377

As directed by the Chair, the following members laid on the Table statements on matters sought to be raised by them under Rule 377 as indicated against each:-

- 1) Shri Ramvir Singh Bidhuri regarding deteriorating pollution condition and public transport system in Delhi.

Annexure P-6

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.

(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 5
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 20
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 25
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 30
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;’; 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 40
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 45
“, 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:—

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:—

“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.

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:

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.

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 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;
- (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 Aghakhani.”.

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:—	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 <i>Explanation</i> 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; (b) sub-section (6) shall be omitted.	25
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:	30 35 40 45 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. 5 **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.
30 of 2013.

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.

10 **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;

15 (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.
20

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;

25 (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.”;

30 (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;

35 (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,

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

2 of 1974. 45 (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.
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”; 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, 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.

LOK SABHA

A
BILL
further to amend the Waqf Act, 1995.

(As passed by Lok Sabha)

MEMBER OF PARLIAMENT
(RAJYA SABHA)



before finalizing its report. Instead, we were deeply shocked to witness that the Chairperson, rather than facilitating a structured discussion on specific clauses of the Bill, directly proceeded to voting on amendments moved by Committee members. This departure from due parliamentary process has seriously compromised the quality and fairness of the deliberations.

After careful consideration, we respectfully dissent from many provisions of the Waqf Amendment Bill, 2024, as well as certain proposed amendments adopted in the consideration of amendment clause-by-clause discussion held on 27th January 2025.

Enclosed herewith is our clause-by-clause analysis and proposed amendments, which we submit as our official "dissent note". This note highlights our reservations and disagreements with the Honorable Committee, providing our dissent on specific provisions of the Bill in a clause-by-clause manner.

We kindly request that our dissent note be included in its entirety in the report of the Joint Parliamentary Committee on Waqf, which is to be submitted to both Houses of Parliament upon formal adoption.

Regards

Dr. SYED NASEER HUSSAIN

DR. MOHAMMAD JAWED

IMRAN MASOOD

**MEMBER OF PARLIAMENT
(RAJYA SABHA)**



To,

Hon'ble Chairperson

Shri Jagdambika Pal

Joint Parliamentary Committee on the Waqf (Amendment) Bill, 2024

New Delhi

Subject: Dissent Note to the Draft Report of the Joint Parliamentary Committee on the Waqf (Amendment) Bill, 2024.

Respected Chairman Sir,

We have actively and consistently participated in the deliberations of the Joint Parliamentary Committee on Waqf, raising significant concerns regarding various clauses of the Bill to ensure a more inclusive, equitable, and effective legislation on "Waqf". However, we must place on record our deep concerns regarding the procedural lapses in the functioning of this Joint Parliamentary Committee.

As a matter of standard practice, the following crucial documents should have been provided to all JPC members:

1. Copies of depositions submitted by all witnesses;
2. Copies of the day-to-day minutes of JPC meetings;
3. All representations made by stakeholders, regardless of whether they were examined;
4. Replies to the questions posed by JPC members to stakeholders/witnesses;
5. A revised report from the Ministry of Minority Affairs incorporating recommendations after the completion of stakeholder depositions.

Despite the extensive discussions with stakeholders, this Committee failed to conduct a comprehensive clause-by-clause deliberation among JPC members

INTRODUCTORY NOTE

1. The Waqf (Amendment) Bill, 2024, appears driven by a political agenda rather than genuine concerns for the management of Auqaf. The rushed proceedings of the Joint Parliamentary Committee (JPC) confirm a premeditated approach to approve the Bill without adequately addressing serious concerns raised during discussions.
2. The inclusion of individuals and organizations with divisive agendas as stakeholders, despite their lack of expertise in Waqf matters, raises questions about the credibility and impartiality of the consultation process. Their biased views now appear reflected in the draft JPC Report.
3. Essential documents, such as stakeholder depositions, minutes of JPC meetings, and Ministry responses, were withheld from committee members. Furthermore, no clause-by-clause discussion occurred after stakeholder consultations, undermining the transparency and integrity of the legislative process.
4. The Bill undermines democratic governance by replacing elected members of Waqf Boards and the Central Waqf Council with government nominees, reducing Muslim representation and violating constitutional rights under Articles 25 and 26.
5. The shift from judicial to administrative authority, particularly empowering the Collector over Waqf Boards and Tribunals, compromises the principle of

separation of powers and introduces potential bias, as the Collector often represents the State in disputes over Waqf properties.

6. By imposing arbitrary conditions on the creation of Waqf, such as requiring the donor to have practiced Islam for five years, the Bill contradicts Islamic jurisprudence. Such conditions are discriminatory, particularly when similar religious endowment laws for other communities impose no such restrictions.
7. Omitting Sections 108 and 108A, which safeguard pre-1950 Waqf properties, could lead to disputes over long-established endowments. Removing the Single Transferable Vote system for Waqf Board elections further erodes democratic governance within Waqf institutions.

DISSENT AND COMMENTS ON THE WAQF AMENDMENT BILL,
2024

S No.	Clause No.	Proposed Amendment in 2024 Bill & Further modification in JPC	Dissent Note
1	Clause 2	Sec- 1: Title <i>Unified Waqf Management, Empowerment, Efficiency and Development Act</i>	The proposed change to the name of the Waqf is misleading, unnecessary, and serves no practical purpose. Altering the name introduces ambiguity and adds no substantive value to the administration or identity of the Waqf. The existing name “Waqf Act” already reflects the purpose and intent of the institution, and high-sounding terms only create confusion without contributing to the effective functioning or clarity of the Waqf framework. This change is unwarranted and should be reconsidered.
2.	Clause 3(i) & Clause 3(ii)	Sec 3 (aa) & (ca): “Aghakhani waqf” & “Bohra Waqf”	Since both Bohras and Aga Khanis are sub-sects within the Shia sect of Muslim community, and the Waqf Act, 1995 already explicitly recognizes Shia Waqfs, there is no justification for creating separate provisions for Agakhani and Bohra Waqfs. The recognition of specific sub-sects within the broader Shia sect sets a precedent for further fragmentation as there are several sub-sects within Shia & Sunni sects. This uneven approach that selectively identifies sub-sects creates a discriminatory framework. Hence, this particular provision is both unwarranted and redundant.

3.	Clause 3(ix)(a)	<p>Sec- 3(r): New condition imposed for waqf: <i>“any person showing or demonstrating that he/she practicing Islam for at least five years, of any movable or immovable property, having ownership of such property having ownership of such property and that there is no contrivance involved in the dedication of such property”</i></p>	<p>The five-year restriction on Muslims is contrary to Islamic tenets, which do not impose temporal qualifications for such dedications as long as they serve purposes recognized by Islam. This condition also contradicts the inclusivity affirmed in the Waqf 2013 Amendment and is inconsistent with various Other Religious Endowment Acts, which impose no such restrictions. The Waqf Enquiry Committee Report, 1976, explicitly clarified that the “Waqif” need not even be a Muslim, provided the purpose of the Waqf is pious and charitable in accordance with Islamic principles. Waqf is rooted in benevolence and is private in nature, allowing individuals to donate freely for religious, pious, or charitable purposes. Restrictive conditions such as these interfere with the fundamental freedom of choice and religious practice. The only essential requirement for Waqf creation is that the donor must be the rightful owner of the property. Thus, Clause 3(ix)(a) is redundant and infringes upon the fundamental principles of religious and individual freedom.</p>
4.	Clause 3(ix)(e)	<p>Waqf By User <i>Provided that the existing waqf by user properties registered on or before the commencement of Waqf (Amendment) Act, 2024 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</i></p>	<p>The principle of “Waqf by User” is a long-recognized doctrine under Islamic jurisprudence and judicial precedent. The Supreme Court in <i>M. Siddiq v. Mahant Suresh Das</i> [(2020) 1 SCC 1 : 2019 SCC OnLine SC 1440 at page 695 1126] upheld that Muslim law permits oral dedication and that Waqf can be inferred from circumstances or religious use over time, without requiring a formal Waqf Deed. This doctrine, rooted in Islamic law, serves as a rule of evidence to determine the dedication of a property in the absence of an express instrument.</p> <p>Mulla, in his authoritative text <i>Mahomedan Law</i>, affirms this principle, stating that if land has been used from time immemorial for religious purposes, such as a mosque or burial ground, it becomes Waqf by user, even without express evidence of dedication (<i>Mulla's Mahomedan Law</i>,</p>

			<p><i>14th Edn., p. 173).</i></p> <p>The jurisprudence acknowledges this principle, emphasizing that properties used for public religious worship by individuals of the Islamic faith can be recognized as Waqf, even when a formal deed is absent. For instance, in <i>Faqir Mohamad Shah v. Qazi Fasihuddin Ansari</i> (AIR 1956 SC 713), the Supreme Court recognized Waqf properties by analyzing evidence of religious use, thereby upholding the principle of Waqf by user.</p> <p>Hence, retaining this doctrine is essential to uphold constitutional values and preserve the religious heritage. It is welcome to note that after serious objection by the stakeholders on this proposed amendment, the MPs from the Treasury benches have partially agreed to include Waqf By User, while unnecessarily adding “except that the property, wholly or in part, is in dispute or is a government property,” is redundant and unnecessary. It merely states the obvious, as properties under dispute or claimed as government property would naturally be subject to legal adjudication. Including such language adds no substantive value and unnecessarily complicates the legislative text, hence this dissent.</p>
5.	Clause 4	<p>Sec- 3A: Certain conditions of Waqf</p> <p><i>(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</i></p>	<p>In the proposed amendment in Section 3A(2), the line “<i>or any other rights of persons with lawful claims</i>” is redundant as it merely states the obvious by referring to “rights of persons with lawful claims.” Such an inclusion is unnecessary and fails to add any substantive value to the provision. To maintain clarity and precision in the legislation, this clause should be omitted.</p>
6.	Clause 4	<p>Sec-3B: Filing of details of Waqf on Portal and Database</p> <p><i>Every waqf registered under this Act, prior to the commencement of the Waqf (Amendment) Act, 2024, shall</i></p>	<p>The proposed amendment to create a new portal and database is unnecessary and redundant. The data is already available on the WAMSI Portal. All such properties have already been registered through the respective State Waqf Boards, and this exercise has been effectively completed.</p>

		<i>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.....</i>	Creating an additional framework will not yield any meaningful results and will only add to administrative redundancy. Therefore, the proposed amendment should be deleted in its entirety.
7.	Clause 4	<p>Sec. 3C: Wrongful declaration of Waqf</p> <p><i>(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.</i></p> <p><i>(2) If any question arises as to whether any such property is a Government property, State Government may by notification designate an Officer above the rank of Collector hereinafter called 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:</i></p> <p><i>Provided that such property shall not be treated as waqf property till the Designated Officer submits his report.</i></p> <p><i>(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.</i></p> <p><i>(4) The State Government shall, on receipt of the report of the Designated Officer, direct the</i></p>	It is welcome to note that, after serious objections by stakeholders, the MPs from the Treasury benches have partially agreed to transfer the power from the Collector to the Designated Officer. However, the proposed amendment fails to address crucial aspects such as the qualifications or relevant experience required for the Designated Officer, especially in relation to the administration of Waqf properties. Merely introducing the term “Designated Officer” without specifying requisite qualifications or expertise makes the provision inadequate and ineffective. Hence, this amendment is ill-conceived and should be omitted.

		<i>Board to make appropriate corrections in the records.”....</i>	
8.	Clause 5	<p>Sec-4: “(1) <i>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 submit his report to the State Government.”;....</i></p>	<p>The proposed amendment, which authorizes the Collector and removes the powers of the Survey Commissioner, is arbitrary and inappropriate. Under the current law, Survey Commissioners are high-ranking officers from the Land and Revenue Department, specifically entrusted with surveying Waqf properties. This specialized role ensures dedicated attention to the notification and protection of Waqf properties.</p> <p>Furthermore, Collectors more than often represent the State in disputes over Waqf properties, making them an interested party. Allowing them to decide such matters contradicts the fundamental principle of natural justice that “no one can be a judge in their own cause.” Removing the powers from specialized Survey Commissioners and assigning them to overburdened District Collectors will only delay the process further. Hence should be restored to its original position as stated under the Waqf Act, 1995.</p>
9.	Clause 6	<p>Sec. 5: Publication of List of Auqaf</p> <p><i>(2A) The State Government shall upload 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)....</i></p> <p><i>(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,</i></p>	<p>The proposed creation of a new portal for the publication of the list of Auqaf raises concerns about unnecessary duplication of resources and additional expenditure, particularly when the WAMSI Portal is already operational and serving the purpose of digitizing Waqf properties. Allocating funds for an entirely new system is unwarranted and inefficient. Instead, these resources could be better utilized to enhance and upgrade the existing WAMSI Portal. Therefore, the proposed amendment to upload the notified list of auqaf in the new portal & database is redundant and should be deleted in its entirety.</p>

		<i>their present mutawallis and management in such manner as may be prescribed by the Central Government</i>	
10	Clause 7	<p>Sec-6: Disputes regarding auqaf:</p> <p><i>(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 or Bohra Waqf or Agakhani 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 is OMITTED</i></p> <p><i>Provided that no such suit shall be entertained by the Tribunal after the expiry of two years from the date of the publication of the list of auqaf;</i></p> <p><i>“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.</i></p>	<p>The proposed amendment under Clause 7 (a)(ii) states that if any question arises regarding whether a particular property is a Waqf property, the decision of the Tribunal shall not be final. Additionally, under Clause 7(a)(iv), the amendment introduces a second proviso, which provides that an application may be entertained by the Tribunal after the specified two-year period in the first proviso, if the applicant satisfies the Tribunal that there was sufficient cause for not making the application within such period.</p> <p>The proposed amendment undermines the finality of decisions by the Tribunal, which is a significant departure from the standard practice in other legislation governing religious endowments. For instance, Section 85(3) of the Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987, and Section 79A(3) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, provide that decisions of their respective Tribunals are final and cannot be questioned in any court. This principle of finality is integral to approximately 15 Tribunals in India, subject only to review by High Courts. It is unclear why such finality is not extended to Waqf Tribunals.</p> <p>Moreover, the second proviso to the amendment introduces an open-ended clause, allowing applications to be entertained beyond the two-year limitation period if the applicant provides a sufficient cause. This effectively removes the time cap, making it possible for disputes to be filed indefinitely, which is impractical and counterproductive. By removing the finality of Tribunal decisions and extending the time limit indefinitely, the proposed amendment creates unnecessary litigation, allowing cases to be filed for a lifetime, which is counterproductive for the</p>

			purpose of effective administration of Waqf properties.
11.	Clause 8	<p>Sec-7: Power of Tribunal to determine disputes regarding auqaf</p> <p><i>(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 or Bohra or Agakhani Waqf, the Board or the mutawalli of the waqf, or any person aggrieved by the publication of the list of auqaf under section therein, may apply to the Tribunal having jurisdiction in relation to such property, for the decision of the question;</i></p> <p><i>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 two year from the date of publication of the list of auqaf; and</i></p> <p><i>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.</i></p>	<p>The proposed amendment under Clause 8(i) includes provisions for recognizing Agakhani Waqfs and Bohra Waqfs. Additionally, Clause 8(ii) states that if a question arises regarding whether a particular property is specified as Waqf property in the list of auqaf, the decision of the Tribunal shall no longer be final.</p> <p>The proviso under the Waqf Act, 1995, originally specified that such applications could not be entertained after a period of one year from the date of publication of the list of auqaf. However, under the proposed amendment in Clause 8(iii), this period has been extended to “two years.” Clause 8(iv) further allows this time period to be extended indefinitely if the applicant satisfies the Tribunal that there was sufficient cause for not making the application within the stipulated period.</p> <p>This amendment is unwarranted and will lead to a plethora of cases, as already outlined in the discussion under Clause 7. For the sake of brevity and to avoid repetition, the detailed arguments made in opposition to Clause 7 are not repeated here but are equally applicable to this provision</p>
12	Clause 9 & Clause 11	Sec9-Establishment and constitution of Central Waqf	The proposed amendment in Sections 9 & Section 14 of the Waqf Act seeks to ensure that members

	<p>Council <i>(2) The Council shall consist of</i> <i>(a) the Union Minister in charge of waqf—Chairperson, ex officio;</i> <i>(b) three Members of Parliament of whom two shall be from the House of the people and one from the Council of States;</i> <i>(c) the following members to be appointed by the Central Government from amongst Muslims, namely:—</i> <i>(i) three persons to represent Muslim organisations having all India character and national importance;</i> <i>(ii) Chairpersons of three Boards by rotation;</i> <i>(iii) one person to represent the mutawallis of the waqf having a gross annual income of five lakh rupees and above;</i> <i>(iv) three persons who are eminent scholars in Muslim law;</i> <i>(d) two persons who have been Judges of the Supreme Court or a High Court;</i> <i>(e) one Advocate of national eminence;</i> <i>(f) four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine;</i> <i>(g) Additional Secretary or Joint Secretary to the Government of India dealing with waqf matters in the Union Ministry or department—member, ex officio:</i></p> <p><i>Provided that two of the members appointed under clause (c) shall be women:</i></p>	<p>of the Muslim community, within the composition of the Council & the Board become a minority.</p> <p>Furthermore, the second proviso to Section 9(2) of the Waqf Act, 1995, as amended under Clause 9 and Clause 11, mandates that "two members appointed under this sub-section shall be non-Muslim excluding ex officio members." This effort effectively enhances the capacity for non-Muslim participation in matters of Waqf.</p> <p>This provision contradicts the constitutional guarantee under Article 26(d), which secures the right of religious denominations to manage their own properties. The proposed changes undermine the autonomy of Waqf Boards, violating precedents set by the Supreme Court in Ratilal Panachand Gandhi v. The State of Bombay [AIR 1954 SC 388] and The Commissioner, Hindu Religious Endowments, Madras v. Lakshmindra Thirtha Swamiar of Shrirur Mutt [7-judge Constitution Bench] [AIR 1954 SC 282]. Both judgments emphasize that laws transferring administrative control from a religious denomination to a secular authority would amount to violation of the right guaranteed under Article 26(d) of the Constitution.</p> <p>If the principle of including non-Muslims in Waqf administration is to be adopted, it raises the question of whether similar religious endowment laws such as the Bihar Hindu Religious Trusts Act, 1950, Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, Telangana Charitable and Hindu Religious Institutions and Endowments Act, 1987, and Sikh Gurudwaras Act, 1925 should also include non-Hindus or non-Sikhs. Such a precedent would</p>
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		<p><i>Provided further that two members appointed under this sub-section excluding ex Officio members, shall be non-Muslim</i></p> <p>Sec- 14: Composition of Board <i>“(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,—</i> <i>(a) a Chairperson;</i> <i>(b) (i) one Member of Parliament from the State or, as the case may be, the National Capital Territory of Delhi;</i> <i>(ii) one Member of the State Legislature;</i> <i>(c) namely:— the following members belonging to Muslim community,</i> <i>(i) one mutawalli of the waqf having an annual income of one lakh rupees and above;</i> <i>(ii) one eminent scholar of Islamic theology;</i> <i>(iii) two or more elected members from the Municipalities or Panchayats</i></p> <p><i>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;</i> <i>(d) two persons who have professional experience in business management, social work, finance or revenue, agriculture and development activities;</i> <i>(e) Joint Secretary of the State Government dealing with waqf</i></p>	<p>open a Pandora's box, requiring similar changes across all religious laws, which is not practical or desirable.</p> <p>Additionally, the proposed amendment does not introduce any new aspect with respect to the inclusion of women members, as the 2013 Waqf Amendment Act already mandated the inclusion of women in the Central Waqf Council and State Waqf Boards under Sections 9 and 14 of the Waqf Act, 2013. The proposed amendment bill simply restates this requirement in a different form, without adding any substantive change.</p> <p>The Constitution of India, under Articles 25 and 26, protects the rights of minority communities to manage their religious affairs. By codifying a provision that indirectly dilutes the control of the Muslim community over Waqf properties, this amendment violates both the spirit and letter of the Constitution. Hence, these proposed amendments through Clause 9 & 11 under Section 9 & Section 14 of the Waqf Act, 1995 are unwarranted, redundant, and must be removed.</p>
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		<p><i>matters-member, ex officio;</i></p> <p><i>(f) territory: one Member of the Bar Council of the concerned State or Union</i></p> <p><i>Provided that two members of the Board appointed under clause (c) shall be women:</i></p> <p><i>Provided further that two members of the Board appointed under this sub-section excluding ex officio members, shall be non-Muslims:</i></p> <p><i>Provided also that the Board shall have at least one member each from Shia, Sunni and other backward classes among Muslim Communities:</i></p> <p><i>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:</i></p> <p><i>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.</i></p>	
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13	Clause 10	<p>Sec13: Incorporation <i>(2A) The State Government may, establish a separate Board of Auqaf for Bohras and Aghakhanis.</i></p>	<p>The proposed insertion of Section 2A under Clause 10, which calls for the establishment of separate Bohra and Agakhani Waqf Boards, has already been addressed in detail during the discussion on Clause 3(i) and Clause 3(ii). For the sake of brevity and to avoid redundancy, the arguments presented there are not repeated here. However, it is reiterated that such provisions are unwarranted and redundant, and therefore, this amendment is not supported.</p>
14	Clause 12	<p>Sec. 16: Disqualification for being appointed, or for continuing as a member of Board <i>Disqualification for being appointed, or for continuing as, a member of the Board.—A person shall be disqualified for being appointed, or for continuing as, a member of the Board if— (a) he is less than twenty-one years of age;”</i> <i>(aa) in case a member under clause (c) of sub-section (1) of section 14, is not a Muslim;</i> <i>(b) he is found to be a person of unsound mind;</i> <i>(c) ; he is an undischarged insolvent;</i> <i>(d) he has been convicted of any offence and sentenced to imprisonment for not less than two years;</i> <i>(da) he has been held guilty of encroachment on any waqf property;</i> <i>(e) he has been on a previous occasion—</i> <i>(i) removed from his office as a</i></p>	<p>The substitution of clause (a) with “he is less than twenty-one years of age” and the insertion of clause (aa), stating “in case a member under clause (c) of sub-section (1) of section 14, is not a Muslim,” introduces unnecessary provisions that serve no practical purpose. Such amendments are redundant and do not contribute meaningfully to the administration or objectives of the Waqf Act. The proposed amendment to Section 16 of the Principal Act, as introduced under Clause 12, is unwarranted. Therefore, this amendment should be deleted.</p>

		<i>member or 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.”</i>	
15	Clause 13	<p>Sec 17: Meetings of the Board</p> <p><i>The Board shall meet atleast once in every month at such time and places as may be provided by the regulation.</i></p>	The proposed provision mandating that the Board meet at least once every month for the transaction of business is impractical and poses operational challenges. Given the diverse composition of the Board and the professional commitments of its members, it is unlikely that all members will be available to meet every month. This rigid requirement could lead to delays in decision-making and ultimately hamper the effective administration of Waqf properties. Such a provision is both bogus and unreasonable.
16	Clause 14	<p>Sec 20A: Removal of Chairperson by vote of no confidence</p> <p><i>OMITTED</i></p>	The removal of the Chairperson of the Waqf Board under Section 20A of the Waqf Act, 1995, through a vote of no confidence, ensured a democratic process for accountability. The proposed removal of this democratic element undermines representative governance, transparency, and trust in the administration of Waqf properties. Such a change subverts the principles of accountability, which are critical to the effective functioning of Waqf Boards. This amendment is regressive and should be reconsidered.
17	Clause 15	<p>Sec-23: Appointment of Chief Executive Officer and his term of office and other conditions of service.—</p> <p><i>(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.</i></p>	In several religious endowment laws, 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 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

			<p>religion. Denying a similar provision for Waqf Boards is discriminatory and undermines the religious character and autonomy of Waqf institutions.</p> <p>In the draft report of the JPC (Para 15.3, Page 185), the justification given by the Ministry of Minority Affairs refers to Section 96 of the Waqf Act, 1995, which mentions the Central Government's power to regulate secular activities of Auqaf in relation to the functioning of the Central Waqf Council and State Waqf Boards, as justification for the appointment of a non-Muslim CEO. However, this justification is flawed. The Central Government's power to regulate secular activities by laying down general principles and policies does not extend to overriding the fundamental religious character of Waqf institutions.</p> <p>The powers granted to the CEO of Waqf Boards are not confined to merely secular activities. Instead, they include broad authority to control, maintain, and superintend Auqaf, which goes beyond what is deemed “secular”. Allowing the appointment of non-Muslims to such a role is inconsistent with the religious essence of Waqf and infringes upon the autonomy guaranteed to religious institutions. This amendment should be reconsidered to preserve the integrity and intent of the Waqf framework.</p>
18	Clause 16	<p>Sec 32: Powers and Functions of the Board</p> <p><i>(2) Without prejudice to the generality of the foregoing power, the functions of the Board shall be—</i></p> <p><i>(a) to maintain a record containing information relating to the origin, income, object and beneficiaries of every waqf; (b)</i></p>	<p>The proposed amendment in this section has omitted the finality of the orders of the Tribunal. Such lack of finality in the judgments of the Waqf Tribunal, particularly in matters related to the utilization of the surplus income of Waqf properties, negatively affects the Tribunal’s efficiency and purpose as a specialized body for resolving Waqf-related disputes. The absence of finality creates additional layers of litigation,</p>

		<p><i>to ensure that the income and other property of auqaf are applied to the objects and for the purposes for which such auqaf were intended or created;</i></p> <p><i>(c) to give directions for the administration of auqaf;</i></p> <p><i>(d) to settle schemes of management for a waqf:</i></p> <p><i>Provided that no such settlement shall be made without giving the parties affected an opportunity of being heard;</i></p> <p><i>(e) to direct—</i></p> <p><i>(i) the utilisation of the surplus income of a waqf consistent with the objects of waqf;</i></p> <p><i>(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...</i></p> <p>.</p> <p><i>(6) 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;</i></p>	<p>delays resolution, and diminishes the Tribunal's authority. This provision not only hampers the effective management of Waqf but also erodes the trust placed in the Tribunal as an expert body for adjudicating Waqf matters. The principle of finality, subject to High Court review, must be retained to ensure swift and conclusive dispute resolution. Hence, the proposed amendment in its current form is bogus and needs to be reviewed again.</p>
19	Clause 17	<p>Sec- 33: Powers of inspection by CEO or persons authorised by him</p> <p><i>(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</i></p>	<p>The proposed amendment under Clause 17(b) omits the finality of the Tribunal's order relating to instances where the Chief Executive Officer (CEO) finds a mutawalli or any officer guilty of misappropriating Waqf money or Waqf property. The removal of finality from Tribunal orders undermines its authority and creates unnecessary delays in resolving disputes. Hence, the proposed</p>

		<i>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;</i>	amendment should be deleted in it's entirety
20	Clause 18	<p>Sec 36: Registration (1A): <i>On and from the commencement of the Waqf (Amendment) Act, 2024, no waqf shall be created without execution of a waqf deed...</i></p> <p><i>(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, 2024."</i></p> <p><i>"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.</i></p>	<p>The introduction of Section 36(1A) in the Waqf Amendment Bill, 2024, mandating that no Waqf shall be created without the execution of a Waqf Deed, fundamentally violates the principles of Muslim Law. Islamic jurisprudence explicitly recognizes the validity of oral gifts (hiba) and oral wills (wasiyath), provided they are executed in the presence of competent witnesses. Insistence on documentary proof as a mandatory precondition disregards these well-established tenets of Islamic law and unjustifiably restricts the creation of waqf, undermining the religious freedoms and practices guaranteed under the Constitution. This provision should be reconsidered and omitted to preserve the integrity of Muslim Law and the rights of the community.</p> <p>Additionally, The insertion of the proviso after Section 36(10) of the Waqf Act, 1995, which states "<i>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</i>" is fundamentally flawed. This provision imposes conditions that, if not complied with, extinguish legal rights, rendering it a mere face-saving provision. Such an impractical and unreasonable amendment will only create procedural hurdles and should be dropped entirely.</p>
21	Clause 19	<p>Sec- 37: Register of Auqaf</p> <p>(3) On receipt of the details, the land record office shall, "before</p>	The proposed amendment to Section 37(3) of the Waqf Act, 1995, introduces an additional condition requiring public notice of ninety days to

		deciding mutation in the land records, in accordance with revenue laws in force, <i>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</i> and give the affected persons	be issued in two daily newspapers, one of which must be in the regional language, before recording entries in the Register of Auqaf. This imposes unnecessary delays and administrative hurdles, creating a cumbersome process that will obstruct the efficient administration of Waqf properties. Moreover, no other religious endowments legislation imposes such onerous conditions for recording entries in land records. This provision is discriminatory, and excessive, and should be deleted in its entirety to ensure parity and administrative efficiency.
22	Clause 20	Sec-40: Decision if a property is a Waqf property <i>OMITTED</i>	The omission of Section 40 of the Waqf Act, 1995, contradicts the very objective of the Act, which is aimed at ensuring the "better administration of Auqaf and for matters connected therewith or incidental thereto." Section 40 empowers the Waqf Board to declare any property as Waqf property based on information gathered, thereby enabling effective management and oversight of Waqf properties. Eliminating this provision undermines the authority and functionality of the Waqf Boards, leaving them disempowered and unable to fulfill their statutory role of safeguarding Waqf properties.
23	Clause 21	Sec 46: Submission of accounts of Auqaf <i>Before the 1st day of October next, following the date on which the application referred to in section 36 has been made and thereafter before the 1st day of October in every year, every mutawalli of a waqf shall prepare and furnish to the Board a full and true statement of</i>	The proposed amendment extending the deadline for submitting financial reports to October, despite the financial year ending on 31st March, unnecessarily delays the administrative process. Such delays subvert accountability and disrupt the efficient functioning of Waqf Boards. Hence, this provision should be reconsidered to ensure timely action and transparency in financial management. Hence, I put my dissent for this proposed amendment.

		<p><i>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</i></p>	
24	Clause 22	<p>Sec 47: Audit of accounts of Waqf <i>(1) The accounts of auqaf submitted to the Board under section 46 shall be audited and examined in the following manner, namely:—....</i> <i>(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.</i></p> <p><i>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</i></p>	<p>The proposed amendment under clause 22(a)(iii) inserts a proviso that authorizes the Central Government to direct the audit of any Waqf by an auditor appointed by the Comptroller and Auditor General of India (CAG) or any officer designated by the Central Government, is deeply concerning. Waqf properties, being private religious properties, should fall under the jurisdiction of the respective State Governments. The involvement of the CAG in auditing private religious properties is not only unnecessary but also an overreach, as it dilutes the autonomy of Waqf Boards and State Governments in managing Waqf properties. I strongly disagree with this provision and respectfully register my dissent.</p>
25	Clause 23	<p>Sec- 48: Board to pass orders on auditor's report</p> <p><i>(3) The Order made by the Tribunal shall be final;</i></p>	<p>Under Section 48 of the Waqf Act, 1995, the Board examines the Auditor's Report and passes orders as it deems fit. Any person aggrieved by such an order has the right to approach the</p>

		OMITTED	Tribunal. The proposed omission of the clause stating that the “Order of the Tribunal be final” subverts the Tribunal’s authority and effectiveness as a specialized body for resolving Waqf-related disputes. The finality of the Tribunal’s decisions is critical for swift and conclusive resolution of matters, and removing this provision creates unnecessary layers of litigation, delays justice, and complicates the Waqf administrative framework. Tribunals are constituted as specialized forums with expertise to address specific issues, and snatching away the final authority from the Tribunals, dilutes their purpose and credibility. Therefore, this proposed amendment be omitted.
26	Clause 24	Insertion of Sec- 50A: <i>50A. A person shall not be qualified for being appointed, or for continuing as, a mutawalli, if he—</i> <i>(a) is less than twenty-one years of age;</i> <i>(b) is found to be a person of unsound mind;</i> <i>(c) is an undischarged insolvent;</i> <i>(d) has been convicted of any offence and sentenced to imprisonment for not less than two years;</i> <i>(e) has been held guilty of encroachment on any waqf property;</i> <i>(f) has been on a previous occasion—</i> <i>(i) removed as a mutawalli; or</i> <i>(ii) removed by an order of a competent court or Tribunal from any position of trust either for mismanagement or for corruption.”.</i>	The proposed insertion of Section 50A, which introduces provisions for the disqualification of a Mutawalli, is entirely redundant. Section 64 of the Waqf Act, 1995 already contains comprehensive provisions for the removal of a Mutawalli. Introducing a separate section for disqualification not only duplicates the existing legal framework but also creates unnecessary confusion and complicates the administration of Waqf properties.
27	Clause 25	52. Recovery of waqf property	The proposed amendment to Section 52 omits the

		<p>transferred in contravention of section 51</p> <p><i>(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 situated;</i></p>	<p>provision stating that the “decision of the Tribunal on such appeal shall be final.” For the sake of brevity, I am not repeating the arguments I have already made regarding the importance of maintaining the finality of the Tribunal’s decisions. However, the same principle applies here. Removing the finality of the Tribunal’s orders undermines its authority as a specialized body and introduces unnecessary layers of litigation, which will delay justice and compromise the efficient resolution of disputes. I respectfully register my dissent on this proposed amendment.</p>
28	Clause 26	<p>52A. Penalty for alienation of waqf property without sanction of Board.—</p> <p><i>(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 imprisonment for a term which may extend to two years</i></p>	<p>Section 52A of the Waqf Amendment Bill, 2024 dilutes the provisions of the Waqf Act, 2013. The 2013 Act imposed “rigorous imprisonment” for alienation, purchase, or possession of Waqf property without the prior sanction of the Waqf Board. The proposed amendment replaces “rigorous imprisonment” with “imprisonment,” thereby reducing the severity of the punishment. This jeopardizes the protection of Waqf properties. Hence, the proposed amendment is bogus and needs to be reconsidered.</p>
29	Clause 27	<p>55A. Disposal of property left on waqf property by unauthorised occupants</p> <p><i>(2) Proviso: 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.</i></p>	<p>The proposed amendment to Section 55A removes the proviso that the “decision of the Tribunal shall be final.” For the sake of brevity, I reiterate my earlier arguments on the importance of upholding the finality of the Tribunal’s decisions to ensure efficiency and certainty in Waqf-related disputes. I respectfully dissent against this amendment.</p>

30	Clause 28	<p>Sec- 61: Penalties <i>(1A) If a mutawalli fails to—</i> <i>(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;</i> <i>(iii) do any other act which he is lawfully required to do by or under this Act;</i> <i>(iv) provide statement of accounts under section 46; (v) upload the details of waqf under section 3B,</i></p> <p><i>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.”</i></p>	<p>The newly inserted clause imposes imprisonment of up to six months and a fine ranging from ₹20,000 to ₹1 lakh for failures such as uploading details under Section 3B, providing statements of accounts under Section 46, or complying with directions of the Collector or the Board. Merely a delay in uploading details or failing to carry out such directions may unjustifiably lead to imprisonment, which is unreasonably harsh and draconian.</p>
31	Clause 29	<p>Sec-64: Removal of Mutawalli <i>(1) Notwithstanding anything contained in any other law or the deed of [waqf], the Board may remove a mutawalli from his office if such mutawalli—</i></p> <p><i>(1) is a member of any association which has been declared unlawful under the Unlawful Activities (Prevention) Act, 1967.</i></p>	<p>The newly inserted clause (1) states that a Mutawalli can be removed if they are a member of an association declared unlawful under UAPA. With the frequent use of UAPA, this provision can be easily misused, as it allows a person to be removed as a Mutawalli and jailed even before they have a chance to seek legal remedies. I respectfully register my dissent for this provision.</p>
32	Clause 30	<p>Sec- 65. Assumption of direct management of certain auqaf by the Board</p> <p><i>(3) Within six months 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</i></p>	<p>The proposed amendment replaces the phrase “as soon as possible” with a rigid six-month deadline for submitting reports to the State Government. The original wording under the Waqf Act, 1995, allowed for immediate submission based on the urgency of the situation, ensuring responsiveness. A fixed six-month deadline may encourage delays, deferring action until the deadline and potentially hampering the efficiency of Waqf</p>

		<i>therein...</i>	management and reporting. Thus, the proposed amendment be omitted.
33	Clause 31	<p>67. Supervision and supersession of committee of Management</p> <p><i>(6) Second Proviso: 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.</i></p>	The proposed amendment omits Section 67(6), second proviso under the Waqf Act, 1995 stating that “the order made by the Tribunal in such appeal shall be final.” For the sake of brevity and to avoid duplication, I am not reiterating my earlier arguments on the importance of maintaining the finality of Tribunal orders. The same rationale applies here.
34	Clause 32	<p>Sec 69: Power of Board to frame scheme for administration of Waqf</p> <p><i>(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</i></p> <p><i>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;</i></p>	The proposed amendment requiring a written notice inviting objections from the general public, in a manner prescribed by the Central Government, is unnecessary and creates undue interference in Waqf administration. Waqf properties are religious endowments governed by specific religious and legal principles, and their management should remain within the jurisdiction of the Waqf Board and concerned stakeholders. Involving the general public in decisions regarding Waqf administration opens the door for frivolous objections. Such an amendment disregards the community-driven nature of Waqf and imposes excessive bureaucratic oversight. Therefore, I dissent from this provision.
35	Clause 33	Sec 72: Annual contribution payable to Board	The proposed amendment requires Mutawallis of waqfs with a net annual income of not less than

		<p><i>(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 five percent, subject to a maximum amount as prescribed by the Central Government of such annual income, as may be prescribed, to the Board for the services rendered by such Board to the waqf.</i></p>	<p>₹5,000 or more to pay an annual contribution to the Waqf Board, not exceeding 5% of the net income subject to a maximum amount as prescribed by the Central Government. This last statement of subject to the maximum amount as prescribed by the Central Government creates uncertainty. This provision allows for arbitrary ceilings to be imposed by the Central Government, which could potentially spoil the financial autonomy of the Waqfs.</p>
36	Clause 34	<p>Sec. 73: Power of CEO to direct banks or other persons to make payments</p> <p><i>(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;</i></p>	<p>Clause 34 of the amendment omits the phrase “and the decision of the Board thereon shall be final”. Without finality in the decisions of the Tribunal or the Board, a mutawalli aggrieved by the CEO’s assessment may face prolonged litigation. This opens unnecessary avenues for disputes, delays in resolution, and disrupts the administrative efficiency of waqf management. I respectfully dissent against this amendment, as it will create avoidable procedural hurdles.</p>
37	Clause 35	<p>Sec 83: Constitution of Tribunals, etc.</p> <p><i>(4) Every Tribunal shall consist of—</i></p> <p><i>(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;</i></p> <p><i>(b) one person, who shall be an officer from the State Civil Services equivalent in rank to that of the Additional District Magistrate, Member;</i></p> <p><i>(c) one person having knowledge</i></p>	<p>While it is commendable that the JPC has reinstated the provision for at least one member of the Tribunal to possess knowledge of Muslim law and jurisprudence under Clause 35(c), the effectiveness of this inclusion is negated by Clause 35(e), which states that the Tribunal's orders shall not be final. On one hand, the Tribunal is being strengthened by ensuring relevant expertise for adjudicating Waqf-related disputes, but on the other hand, its authority is undermined by removing the finality of its decisions. This contradiction renders the Tribunal ineffective as a specialized body for resolving Waqf disputes and disrupts the efficiency of the</p>

		<p><i>of Muslim law and jurisprudence, Member;...</i></p> <p><i>(7) The decision of the Tribunal shall be binding upon the parties to the application and it shall have the force of a decree made by a civil court.</i></p>	<p>adjudication process. The provision for the omission of the finality of the decision of the Tribunal is baseless and should be reinstated to its original position.</p>
38	Clause 37	<p>Sec 91: Proceedings under Act 1 of 1894</p> <p><i>(4) Any order passed under Section 77 or Section 78 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 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 kept in abeyance relating to portion of the property claimed by the Board, within one month of its coming to know of the order, applies in this behalf to the authority which made the order.</i></p>	<p>Under Clause 37(c)(ii), any order under Sections 31 or 32 of the LARA Act, 2013, passed without giving the opportunity to the Board to be heard, shall be kept in abeyance for the portion of the property claimed by the Board. This dilutes the protection by merely placing the order in abeyance, leaving Waqf properties vulnerable to prolonged disputes and uncertainty, which could severely impact their administration and sanctity. Hence, I propose my dissent.</p>
39	Clause 38	<p>Sec-100: Protection of action taken in good faith</p> <p><i>No suit or other legal proceeding shall lie against the board or Chief Executive Officer or Collector or any other person duly appointed under this Act</i></p>	<p>The proposed amendment under Section 100 of the Waqf Act, 1995 grants legal immunity to the Collector, for actions taken under the Waqf Act. This raises serious concerns as the Collector, being a representative of the Government, often has a conflict of interest, given that many Waqf property disputes are mostly with the State itself. Unlike the Survey Commissioner, who is a specialized authority with expertise in Waqf laws and land administration, the Collector's decisions may be influenced by these conflicts. Providing such immunity could shield biased or questionable actions under the guise of “good faith”, thereby adversely impacting the</p>

			accountability, impartiality, and fair administration of Waqf properties. Hence, I respectfully propose my dissent.
40	Clause 39	<p>Sec- 101: Collector, Members and Officers of Board:</p> <p><i>(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</i></p>	Survey Commissioners are trained in Waqf laws and land administration, ensuring dedicated oversight and impartiality. In contrast, the Collector, as a representative of the State, may face conflicts of interest since many disputes regarding Waqf properties involve the State itself. This amendment risks bias in favor of the State and compromises the fair and effective management of Waqf properties. Hence, I respectfully dissent.
41	Clause 40	<p>Sec- 104: Application of Act to properties given or donated by persons not professing Islam for support of certain waqf</p> <p><i>OMITTED</i></p>	The Waqf Enquiry Committee Report, 1976, explicitly clarified that the “Waqif” (donor) need not be a Muslim, provided the purpose of the Waqf is pious and charitable in accordance with Islamic principles. The proposed amendment not only negates the Waqf Enquiry Committee Report, 1976 but also contradicts India’s spirit of inclusivity and pluralism. Such provisions go against the values of harmony and cooperation that are the foundation of our secular democracy. Hence, I respectfully submit my dissent for this provision.
42	Clause 40A	<p>Insertion of Clause 40 A:</p> <p><i>“On and from the commencement of the Waqf (Amendment) Act, 2025 The Limitation Act, 1963 (36 of 1963) shall apply to any proceedings in relation to any claim or interest touching upon immovable property comprised in a waqf.”</i></p>	Under Clause 40A of the proposed amendment, the Limitation Act, 1963 is made applicable to the proceedings related to waqf properties on and from the commencement of the Waqf (Amendment) Act, 2025. The purpose of excluding the application of the Limitation Act, 1963, from the Waqf Act, was to protect Waqf properties from the concept of adverse possession. The introduction of Clause 40A, would enable

			<p>occupiers who have remained in possession of Waqf properties without timely action from the Waqf Board or Mutawalli to claim ownership. This would result in Waqf properties becoming adverse to the Waqf and ultimately being lost. For the reasons mentioned herein, I believe the said proposed amendment may work against the interests of the very community it claims to serve. Hence, I dissent from this provision.</p>
43	Clause 41	<p>Sec-108: Special provision as to evacuee property Sec-108A: Act to have overriding effect <i>OMITTED</i></p>	<p>The proposal to omit Section 108, which mentions special provisions as to evacuee waqf properties. Removing these provisions would unsettle titles established before 1950, leading to disputes over long-recognized Waqf properties and causing irreparable harm to Waqf interests.</p> <p>Similarly, the proposed removal of Section 108A, which ensures the overriding effect of Waqf laws over other inconsistent laws, is arbitrary and unfounded. The elimination of this protective provision exposes Waqf properties to the risk of being adversely impacted by conflicting regulatory requirements in other laws, such as registration and stamp acts. This would create avenues for encroachment and dispossession of Waqf properties, counteracting the intended protection under Waqf legislation.</p> <p>For these reasons, I strongly oppose the proposed omissions of Sections 108 and 108A and respectfully register my dissent to these amendments.</p>
44	Clause 42	<p>Newly inserted clause Sec- 108B: Power of the Central Government to make rules</p>	<p>The proposed amendment, which imposes a centralized framework for the administration of Auqaf, disregards the unique local specificities and diverse needs of different states. Such a one-size-fits-all approach risks disrupting the effective administration of Auqaf instead of improving it.</p>

			<p>The administration of Waqf properties requires sensitivity to regional practices, cultural nuances, and state-specific challenges. By enforcing a uniform framework, the amendment snatches away the autonomy and efficiency of state-level Waqf Boards, potentially derailing the very objective of ensuring better Waqf governance. For these reasons, I believe the newly inserted Section 108B is bogus in nature. Hence, should be deleted.</p>
45	Clause 43	<p>Sec 109: Power to make rules</p> <p><i>(iv) The manner of election of members of the Board by means of a single transferable vote is OMITTED</i></p>	<p>The omission of the provision under Section 109(iv), which mandates the election of members of the Board by means of a single transferable vote, removes a crucial democratic element from the functioning of the Waqf Boards. This amendment is contradictory to the principles of accountability and representative governance, which are essential for maintaining transparency and trust in the administration of Waqf properties. The election process ensures that diverse voices and perspectives are represented on the Board, which further perpetuates inclusivity and fairness in decision-making. By removing this provision, the proposed amendment risks centralizing power and eroding the trust of stakeholders in the governance of Auqaf. For these reasons, I believe the provision should again be reconsidered.</p>
46	Clause 44	<p>Sec-110: Power to make regulations by the Board</p> <p><i>(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the matters:</i></p> <p><i>((f) the forms of application for registration of auqaf of further</i></p>	<p>The proposed omission of Section 110(f) and (g), which grants the Waqf Board the power to regulate the forms of application for the registration of auqaf and determine the particulars to be included in the register of auqaf, is concerning. Stripping the Waqf Board of these essential regulatory powers disempowers the Waqf Board and its ability to ensure proper oversight, administration, and protection of Waqf properties. These functions are fundamental to the Board's role in maintaining transparency and</p>

		<p><i>particular to be contained in...</i> <i>(g) further particulars to be contained in the register of Auqaf</i> be OMITTED</p>	<p>accountability in the management of Waqf assets. Without these powers, the Board's capacity to fulfill its statutory duties effectively is severely compromised. For these reasons, such an amendment is unwarranted, redundant, and must be removed.</p>
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CONCLUSION

1. Waqf is a religious act under Islam since inception.
2. After independence this religious act of Islam has been protected by our Constitution, particularly by Article 25 & 26 of the Constitution.
3. Due to the protection accorded by our Constitution to this religious act of Islam, no change or alteration can be introduced into the peculiar character of this religious act. Even a minor alteration to its definition is constitutionally impermissible. As the same is beyond the legislative competence of the house.

4. The amendments proposed in the Waqf (Amendment) Bill, 2024 are deeply flawed, unnecessary, and detrimental to the governance and protection of Waqf properties. Instead of improving transparency and efficiency, the Bill seeks to disempower Waqf Boards, dilute judicial safeguards, and introduce bureaucratic hurdles that serve no real purpose.

5. The JPC's failure to conduct a proper clause-by-clause discussion and its refusal to provide essential documents raise serious concerns about the legitimacy of the process. The proposed amendments, if enacted, will lead to litigation, encroachment, and loss of autonomy over Waqf institutions, ultimately violating the constitutional rights of the Muslim community.

In light of these substantive objections, I strongly dissent from the Bill in its present form and urge that it be reconsidered in its entirety.

Dr. Mohammad Jawed

Member of Parliament, Lok Sabha



Annexure P-8 112

डॉ॰ मोहम्मद जावेद

ڈاکٹر محمد جاوید

पत्रांक... MS/LS/25/08

दिनांक 04-02-2025

Respected Sir

Subject: Appeal for Restoration of Expunged Portions of Joint Dissent Note.

I am writing to bring to your kind attention a procedural lapse regarding the expunction of certain portions of the **Joint Dissent Note** submitted by me, Dr. Syed Nasir Hussain, and Janab Imran Masood in the Final Report of the **Joint Committee on Waqf (Amendment) Bill, 2024**.

As per *Practice and Procedure of Parliament* (7th Edition, 2016, p. 890), if any portion is expunged under the orders of the Chairperson, the concerned members must be informed and given an opportunity to appeal.

Given this procedural oversight, I **formally urge you to restore all expunged portions** of our dissent note. A **clear precedent exists** (*Lok Sabha Debates*, 2-8-1968, cc. 3915-23), where the Speaker reinstated expunged content through a corrigendum. Upholding this principle is essential to ensuring that dissenting views are fairly represented in the official record.

I trust in your commitment to parliamentary ethics and request your **prompt intervention** in this matter.

Shri. Om Birla Ji

Hon'ble Speaker

Lok Sabha

Thank You

Dr. Mohammad Jawed

Note on The Waqf (Amendment) Bill, 2024

Submitted by Dr. Md. Jawed

Introduction

The Waqf (Amendment) Bill, 2024, introduced in the Lok Sabha, seeks to amend the Waqf Act of 1995, ostensibly to address challenges in the regulation and management of waqf properties. However, a close examination reveals numerous flaws that jeopardize the autonomy of waqf institutions, contravene constitutional principles, and open the door to widespread litigation and encroachment. This dissent note provides a detailed analysis of the Bill, clause by clause, alongside suggestions to address its shortcomings.

General Objections

- 1. **Violation of Constitutional Principles:**
 - The Bill infringes upon Articles 14, 25, and 26 of the Constitution by introducing provisions that are discriminatory and undermine the fundamental rights of minorities.
- 2. **Erosion of Religious Autonomy:**
 - Provisions in the Bill dilute the authority of waqf boards and reduce Muslim representation in critical decision-making bodies, violating the community’s right to manage its religious affairs.
- 3. **Encroachment and Litigation:**
 - The proposed changes create avenues for government overreach and property disputes, leading to increased litigation and potential loss of waqf properties.
- 4. **Contradictions with the 2013 Amendment Act:**
 - The 2024 Bill reverses several progressive measures of the 2013 Act, undermining inclusivity, accountability, and safeguards for waqf properties.

Specific Objections

Clause	Amendment Location	Existing Provision	Proposed Amendment
3	Page 2, Lines 3-6, 19, 31-42	Definition changes restricting waqf to Muslims practicing Islam for 5+ years.	Delete newly inserted Sections 3(aa), 3(ca), and the amendments to Section 3(r).

4	Page 3, Lines 2, 5-45	New Clauses 3A, 3B, and 3C introduced.	Insert proviso exempting proof of ownership for Waqf By User. Delete Clauses 3B and 3C entirely.
5	Page 4, Lines 1-14	Amendments to Section 4.	Delete the amendments proposed in Section 4 of the Principal Act.
6	Page 4, Lines 18-4	Amendments to Section 5.	Delete the amendments proposed in Section 5 of the Principal Act.
7	Pages 4-5, Lines 42-52	Amendments to Section 6.	Delete the amendments proposed in Section 6 of the Principal Act.
8	Page 5, Lines 6-19	Amendments to Section 7.	Delete the amendments proposed in Section 7 of the Principal Act.
9	Pages 5-6, Lines 20-2	Changes to Section 9, reducing Muslim representation.	Delete all amendments to Section 9 of the Principal Act.
10	Page 6, Lines 3-7	Amendments to Section 13.	Delete all amendments to Section 13 of the Principal Act.
11	Pages 6-7, Lines 8-19	Amendments to Section 14.	Delete all amendments to Section 14 of the Principal Act.
12	Page 7, After Line 21	Convictions and eligibility for moral turpitude.	Add a detailed explanation for moral turpitude offenses and clarify the scope under updated laws.
13	Page 7, Line 25	Board meeting frequency under Section 17.	Amend Section 17 to mandate meetings once every three months.
14	Page 7, Line 26	Amendments to Section 20A.	Delete the amendments to Section 20A of the Principal Act.
15	Page 7, Lines 27-31	Amendments to Section 23, CEO appointment requirements.	Delete the amendments and reinstate the requirement for the CEO to be a Muslim.
16	Page 7, Lines 32-36	Amendments to Section 32.	Delete all amendments to Section 32 of the Principal Act.

17	Page 7, Lines 37-42	Amendments to Section 33.	Delete all amendments to Section 33 of the Principal Act.
18	Pages 7-8, Lines 43-35	Changes to Section 36.	Delete all amendments to Section 36 of the Principal Act.
19	Page 8, Lines 46-50	Mutation of land records under Section 37.	Mandate entries within six months of registration or require detailed objections to the Board.
20	Page 9, Line 1	Amendments to Section 40.	Delete all amendments to Section 40 of the Principal Act.
21	Page 9, Lines 3-4	Deadlines in Section 46.	Change deadlines from October to June for clarity and practicality.
22	Pages 9, Lines 10-39	Amendments to Section 47.	Delete all amendments to Section 47 of the Principal Act.
23	Pages 9-10, Lines 40-7	Amendments to Section 48.	Delete all amendments to Section 48 of the Principal Act.
24	Page 10, Lines 8-23	Insertion of new Clause 50A.	Delete newly inserted Clause 50A.
25	Page 10, Lines 24-25	Amendments to Section 52.	Delete all amendments to Section 52 of the Principal Act.
26	Page 10, Lines 26-33	Amendments to Section 52A.	Delete all amendments to Section 52A of the Principal Act.
27	Page 10, Lines 34-36	Amendments to Section 55A.	Delete all amendments to Section 55A of the Principal Act.
28	Pages 10-11, Lines 37-17	Amendments to Section 61.	Delete all amendments to Section 61 of the Principal Act.
29	Page 11, Lines 18-32	Amendments to Section 64.	Delete all amendments to Section 64 of the Principal Act.
30	Page 11, Lines 33-34	Amendments to Section 65.	Delete all amendments to Section 65 of the Principal Act.

31	Pages 11-12, Lines 35-6	Amendments to Section 67.	Delete all amendments to Section 67 of the Principal Act.
32	Pages 11-12, Lines 42-6	Amendments to Section 69.	Delete all amendments to Section 69 of the Principal Act.
33	Page 12, Lines 7-11	Amendments to Section 72.	Delete all amendments to Section 72 of the Principal Act.
34	Page 12, Lines 12-13	Amendments to Section 73.	Delete all amendments to Section 73 of the Principal Act.
35	Page 12, Lines 14-47	Amendments to Section 83.	Delete amendments to Sections 83(1), (2), (4), (4A), (7), and (9).
36	Page 13, Lines 1-8	Amendments to Section 84.	Delete all amendments to Section 84 of the Principal Act.
37	Page 13, Lines 9-34	Amendments to Section 91.	Delete all amendments to Section 91 of the Principal Act.
38	Page 13, Lines 35-36	Amendments to Section 100.	Delete all amendments to Section 100 of the Principal Act.
39	Page 13, Lines 38-39	Amendments to Section 101.	Delete all amendments to Section 101 of the Principal Act.
40	Page 13, Line 40	Amendments to Section 104.	Delete all amendments to Section 104 of the Principal Act.
41	Page 13, Line 41	Amendments to Sections 107, 108, and 108A.	Delete all amendments to Sections 107, 108, and 108A of the Principal Act.
42	Pages 13-14, Lines 42-35	Insertion of new Section 108B.	Delete newly inserted Section 108B.
43	Page 13, Lines 36-44	Amendments to Section 109.	Delete all amendments to Section 109 of the Principal Act.
44	Page 13, Line 45	Amendments to Section 110.	Delete all amendments to Section 110 of the Principal Act.

45	N/A	Qualification of Survey Commissioner.	Add qualifications: Law graduate, proficiency in Islamic jurisprudence, and regional language skills.
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Concluding Remarks

The Waqf (Amendment) Bill, 2024, represents a regressive step in the management and regulation of waqf properties. Its provisions undermine constitutional protections, erode the autonomy of waqf institutions, and jeopardize the community’s rights. While reforms are necessary, they must align with the principles of inclusivity, fairness, and justice.

I urge the Joint Parliamentary Committee to address the concerns raised in this note and incorporate the recommended amendments to uphold the sanctity of waqf properties and the rights of the Muslim community.

Diary No.....

Section.....

IN THE SUPREME COURT OF INDIA
ORIGINAL APPELLATE JURISDICTION

WRIT PETITION (C) NO. OF 2025

IN THE MATTER OF:

Mohammad JawedPETITIONER

VERSUS

Union of IndiaRESPONDENTS

INDEX

SL. NO.	PARTICULARS	COPIES	COURT FEE
1.	Writ with affidavit	1+3	
2.	Annexures	1+3	
3.			

FILED BY:

FILED ON: 04.04.2025



[ANAS TANWIR]
AOR FOR THE PETITIONER
AOR Code: 2963

VAKALATNAMA

In the Supreme Court of India

CIVIL / CRIMINAL / ORIGINAL / APPELLATE JURISDICTION

Special Leave Petition (Civil)/(Criminal) No. _____ of 2025

Writ Petition (Civil)/(Criminal) No. _____ of 2025

Civil/Criminal Appeal No. _____ of 2025

Mohammad Jawed

Appellant(s)/

Petitioner(s)

VERSUS

Union of India

Respondent(s)/

Defendant(s)

I/ We, **Mohammad Jawed S/o Md. Hussain Azad** Appellant
(s)/ Petitioner (s)/ Respondent (s) in the above Suit/ Appeal/ Petition/ Reference do
hereby appoint and retain

ANAS TANWIR

Advocate-On-Record

A-30, LGF, Nizamuddin East, New Delhi - 13.

to act and appear for me/ us in the above Suit/ Appeal/ Petition/ Reference and on my/ our behalf to conduct and prosecute (defined) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein including proceedings in taxation and Application for REVIEW to file and obtain of return documents and to deposit and receive money on my/ our behalf in the said Suit/ Appeal/ Petition/ Reference and in Application for 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 all acts done by the aforesaid Advocate in pursuance of this Authority.

Dated this the **04** day of **April**, 2025.

Advocate

AOR Code: 2963

**Appellant(s)/ Petitioner(s)/
Respondent(s)/ Caveator**

MEMO OF APPEARANCE

The Registrar,
Supreme Court of India
New Delhi

Please enter an appearance for the above named appellants/petitioners/respondents/ in the mentioned petition/case/ appeal/matter.

Date:

Yours Faithfully

Supreme Court of India
CC. No. **2963**