

**SHIVANGI ANAND
ADVOCATE ON RECORD**

URGENCY LETTER

Dated 14.04.2025

To,
The Registrar
Supreme Court of India,
New Delhi

***Subject: Urgency Letter in Mansoor Ali Khan v. Union of India, Writ Petition (Civil)
No. ____ / 2025***

In the captioned Writ Petition, the Petitioner has impugned the Waqf (Amendment) Act, 2025, notified on 05.04.2025, as being violative of fundamental rights under Articles 14, 15, 19, 21, 25, 26, 29, 30 and the constitutional right to property under Article 300A of the Constitution of India.

The Petitioner, Mansoor Ali Khan, is a citizen of India and a prominent educationist, politician, and social worker engaged in the administration and management of religious, social, cultural, and educational institutions established for the betterment and advancement of the Muslim community in Karnataka, as well as for other sections of society. Over the years, the Petitioner and his family have played a seminal role in the just and effective utilization of Waqf assets through several charitable, educational and religious trusts that he leads.

The urgency in this matter is demonstrable from the following:

A. The Petitioner represents a network of charitable and religious institutions that work for the betterment of the Muslim community and the community at large. The sweeping changes introduced by the Amendment Act—including the dilution of community-led governance, restriction on dedications, and presumption of non-Waqf status—threaten the viability and continuity of these institutions. These developments have immediate and adverse consequences for their functioning and long-term planning.

B. The impugned provisions empower the Executive to interfere in religious property without prior adjudication, and without safeguards ensuring transparency or community participation. In particular, they allow designated officers to unilaterally reclassify Waqf land as non-Waqf, bypassing Waqf Boards and judicial forums. This violates both procedural fairness and the rights of citizens to religious self-governance.

C. The continued operation of the Amendment Act will have a chilling effect on associational and religious freedoms. The institutions represented by the Petitioner are at risk of disempowerment, administrative encroachment, and forced restructuring, all of

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which would render the present petition infructuous and constitutional protections illusory if urgent intervention is not granted.

The above captioned writ petition is filed on urgent basis to challenge the constitutionality of the law already pending consideration in in several petitions including but not limited to *Mahua Moitra v. Union of India*, Diary No. 19079/2025 and *Amanatullah Khan v. Union of India*, WP(C) No. 283/2025, which is listed for hearing on admission of writ as well as admission and consideration of application for interim relief on 16.04.2025 before Court No. 1 as Item 13.1.

It is, therefore, in the interests of justice that the present matter be heard on an urgent basis. A delay in hearing the matter would cause irreparable harm, legal extinction of long-standing religious usage and cause a situation that cannot be reversed by subsequent orders of the Hon'ble Court.

It is, therefore, most respectfully prayed that the instant Petition be listed along with above mentioned similar matters on 16.04.2025.

Thanking you

Yours Sincerely



(Shivangi Anand)
(Advocate for the Petitioner)
(AOR Code: 4061)

Office Address: 3/44, LGF Jangpura-B, New Delhi - 110014

Advocate's Check List (To Be Certified By Advocate-On-Record)

Indicate Yes or NA

1.	SLP (C) has been filed in Form No. 28 with certificate.	Yes
2.	The Petition is as per the provisions of Order XV Rule 1.	Yes
3.	The papers of SLP have been arranged as per Order XXI, Rule (3) (1) (f).	Yes
4.	Brief list of dates/events has been filed.	Yes
5.	Paragraphs and pages of paper books have been numbered consecutively and correctly noted in Index.	Yes
6.	Proper and required number of paper books (1 + 1) have been filed.	Yes
7.	The contents of the petition, applications and accompanying documents are clear, legible and typed in double space on one side of the paper.	Yes
8.	The particulars of the impugned judgment passed by the court(s) below are uniformly written in all the documents.	Yes
9.	In case of appeal by certificate the appeal is accompanied by judgment and decree appealed from and order granting certificate	Yes
10.	If the petition is time barred, application for Condonation of delay mentioning the no. of days of delay, with affidavit and court fee has been filed.	NA
11.	The annexures referred to in the petition are true copies of the documents before the court(s) below and are filed in chronological order as per List of Dates.	Yes
12.	The annexures referred to in the petition are filed and indexed separately and not marked collectively.	Yes
13.	The relevant provisions of the Constitution, statutes, ordinances, rules, regulations, bye laws, orders etc. referred to in the impugned judgment/order has been filed as Appendix to the SLP.	Yes
14.	In SLP against the order passed in Second Appeal, copies of the orders passed by the Trial Court and First Appellate Court have been filed.	NA
15.	The complete listing proforma has been filled in, signed and included in the paper books.	Yes
16.	In a petition (PIL) filed under clause (d) of Rule 12 (1) Order XXXVIII, the petitioner has disclosed:	NA
a.	His full name, complete postal address, e-mail address, phone number, proof regarding personal identification, occupation and annual income, PAN number and National Unique	NA

	Identity Card Number, if any;	
b.	The facts constituting the cause of actions;	NA
c.	The nature of injury caused or likely to be caused to the public;	NA
d.	The nature and extent of personal interest, if any, of the petitioner(s);	NA
e.	Details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the petitioners, which has or could have a legal nexus with the issue(s) involved in the Public Interest Litigation;	NA
17.	If any identical matter is pending/disposed of by the Hon'ble Supreme Court, the complete particulars of such matters have been given.	Yes
18.	The statement in terms of the Order XIX Rule 3 (1) of the Supreme Court Rules 2013 has been given in the Petition of Appeal.	Yes
19.	Whether a Bank Draft of Rs. 50, 000/- or 50% of the amount whichever is less, has been deposited by the person intending to appeal, if required to be paid as per the order of the NCDRC, in terms of Section 23 of the Consumer Protection Act, 1986.	NA
20.	In case of appeals under Armed Forces Tribunal Act, 2007, the petitioner/appellant has moved before the Armed Forces Tribunal for granting certificate for leave to appeal to the Supreme Court.	NA
21.	All the paper-books to be filed after curing the defects shall be in order.	NA

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

New Delhi

Date : **14/04/2025**



AoR's Name: **Shivangi Anand**
AoR Code: **4061**
Contact No. **+91- 9650187200**

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

IN THE MATTER OF:

Mansoor Ali Khan

...Petitioner

Versus

Union of India

...Respondent

ALONG WITH

I.A. NO. ____ OF 2025

(An application for interim directions)

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

Filed on: 14.04.2025

ADVOCATE FOR THE PETITIONER:

SHIVANGI ANAND

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I N D E X

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	262316, dated 05.04.2025).			
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PROFORMA LISTING		
		SECTION:
The case pertains to (please tick/check the correct box)		
	Central Act: (Title)	Waqf (Amendment) Act, 2025
	Section:	
	Central Rule: (Title)	N.A.
	Rule No(s)	N.A.
	State Act: (Title)	N.A.
	Section:	N.A.
	State Rule: (Title)	N.A.
	Rule No(s)	N.A.
	Impugned Interim Order: (Date)	N.A.
	Impugned Final Order/Decree: (Date)	N.A.
	High Court: (name)	N.A.
	Names of Judges:	N.A.
	Tribunal/Authority (Name)	N.A.
1.	Nature of matter Civil/Criminal	Civil
2.(a)	Petitioner/appellant No.1:	Mansoor Ali Khan
(b)	e-mail ID:	N.A.
(c)	Mobile Phone Number:	N.A.
3.(a)	Respondent No.1:	Union of India
(b)	E mail ID:	N.A.
(c)	Mobile Phone Number:	N.A.
4.(a)	Main Category classification:	08
(b)	Sub Classification:	818
5.	Note to be listed before:	N.A.
6.(a)	Similar disposed of matter with citation, if any & case details	No similar/batch matter disposed of
(b)	Similar pending matter with case details	Amanatullah Khan v. Union of India, W.P. Civil No. 283 of 2025; Arshad Madani v. Union of India, W.P. Civil No. 286 of 2025; Mahua Moitra v. Union of India, Diary No. 19079/2025
7.	Criminal matters	NO
(a)	Whether accused/convict has surrendered	N.A.
(b)	F.I.R. No.	N.A.
(c)	Police Station:	N.A.
(d)	Sentence awarded	N.A.

(e)	Period of sentence undergone including period of detention/custody undergone	N.A.
(f)	Whether any earlier case between the same parties is filed	N.A.
(g)	Particulars of the FIR and Case	N.A.
(h)	Whether any bail application was preferred earlier and decision thereupon	N.A.
8.	Land Acquisition Matters:	N.A.
(a)	Date of Section 4 Notification:	N.A.
(b)	Date of Section 6 Notification:	N.A.
(c)	Date of Section 17 notification:	N.A.
9.	Tax Matters: State the tax effect:	N.A.
10.	Special Category (First Petitioner/appellant only) Senior Citizen, SC/ST, Woman/child, Disable, Legal Aid Case/ In-custody	N.A.
11.	Vehicle number (in case of Motor Accident Claim matters:	N.A.
12.	Whether there was/is litigation on the same point of law, if yes details thereof	NO.
PLACE: NEW DELHI DATE: 14.04.2025		AOR for Petitioner (SHIVANGI ANAND) AOR Code: 4061

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Synopsis

1. The Petitioner impugns the Waqf (Amendment) Act, 2025 which amends the Waqf Act, 1995 to the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995. The Petitioner is a citizen of India, a prominent educationist, politician and social worker engaged in the administration and management of religious, social, cultural and educational institutions established for the betterment and advancement of the Muslim community in Karnataka and other sections of society. The Petitioner and his family have been playing a seminal role in the efficient, effective and just utilisation of Waqf assets through several charitable, educational and religious trusts and institutions that he leads. Petitioner's father, Mr. K. Rahman Khan, is a veteran politician who made pivotal contributions as the Union Minister of Minority Affairs from 2012-2014 and earlier as Chairman of the Joint Parliamentary Committee on Waqf which culminated in the Waqf Amendment Act, 2013. The Petitioner brings this challenge in his representative capacity as a citizen committed to the rights of minorities and religious communities. The Waqf (Amendment) Act, 2025, by fundamentally altering the character of waqf institutions, restricting the right to religious dedication, and centralizing control over religious property, suffers from grave procedural and substantive constitutional infirmities. The Act undermines the rights of communities to administer their own religious affairs, and has a chilling effect on the associational and religious freedoms of Indian citizens.

Fundamentally, the Waqf (Amendment) Act, 2025 infringes upon fundamental rights guaranteed under Articles 14, 15(1),

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19(1)(a) read with 19(1)(c), 21, 25, 26, 29, 30 and the constitutional rights guaranteed under Article 300A of the Constitution. The Petitioner submits that the Waqf (Amendment) Act, 2025 introduces a regime of administering religious and charitable endowment of the minority Muslim community that enables a *mala fide*, unjust, prejudiced and iniquitous expropriation of property dedicated for pious and sacred ends. It encodes a baseless suspicion of the erstwhile statutory institutions, namely the Survey Commissioner, the State Waqf Board, the Chief Executive Officers, the Central Waqf Council and the Waqf Tribunal under the Waqf Act, 1995. The public dissemination of fear and concern of ‘state property takeover’ is at the root of the misconceived distrust. The presence of elected Muslim members of legislatures, the legal profession and civil society in the erstwhile statutory institution does not render these institutions worthy of distrust.

First, the Waqf (Amendment) Act, 2025 is *manifestly arbitrary and disproportionate*. The impugned Act seriously violates the principle of the rule of law, equality before the law and equal treatment by the law, forming the bedrock of the constitutional imperative of equal citizenship. In stark contrast to statutory provisions stipulating the composition of administrative Councils, Committees and Boards of non-Muslim religious and charitable endowments, the Waqf (Amendment) Act, 2025 amends Sections 9 and 14 of the Waqf Act, 1995 to mandate the inclusion of non-Muslims in the Central Waqf Council and the State Waqf Boards. The amending provisions introduce a most egregious form of graded citizenship where the State has issued a

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statutory declaration that it does not trust its Muslim officials and authorities to fairly and justly administer properties dedicated to Islamic religious and charitable institutions. The usurpation of the statutory roles of the Survey Commissioner, the land revenue authorities and the State Waqf Board in the favor of designated authority violates the basic structure and is manifestly arbitrary. The basis of such unreasonable classification is unjustified suspicion of the members of the minority Muslim community to self-administer Waqf properties in a fair and reasonable manner. The amending provisions – Sections 4, 5, 10, 12, 33 and 44 of the Waqf (Amendment) Act, 2025 postulate a **different, onerous, irrational and prejudicial yardstick** for matters pertaining to administration, maintenance and preservation of Muslim religious and charitable endowments.

- i. Section 4 of the amending Act amends Section 3(r) of the Waqf Act, 1995 to omit Section 3(r)(i) that included ‘waqf by user’ from the definition of the Waqf. This exclusion marks a stark deviation from the definition of religious and charitable endowments recognized by the law laid down by this Hon’ble Court
- ii. Section 5 of the amending Act inserts Section 3C and postulates a presumption whereby pending a state-directed report, all disputes regarding the nature of waqf property shall be prematurely ‘adjudicated.’ In other words, the provision is a legislative fiat that empowers the State Government to deem and treat disputed waqf properties as non-waqf properties.

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- iii. Sections 10 and 12 of the Amending Act amend Sections 9 and 14 of the Waqf Act, 1995 to require a minimum 8 members of the Central Waqf Council and 4 members of the State Waqf Board to be Muslims. Furthermore, it makes a provision for the inclusion of two non-Muslims excluding the two *ex-officio* members in the Central Waqf Council and the State Waqf Boards.
- iv. Furthermore, by way of Section 33 in the Amending Act, it introduces an additional ground for the removal of a Mutawalli *vide* insertion of Section 64(1) “is a member of any association which has been declared unlawful under the Unlawful Activities (Prevention) Act, 1967.”
- v. Finally, Section 44 of the Amending Act substitutes Section 107 of the Waqf Act, 1995 to apply the Limitation Act, 1963 to any proceedings in relation to any claim or interest pertaining to immovable property comprised in a waqf.

Second, the Waqf (Amendment) Act, 2025 *unreasonably restricts freedom of expression and association* guaranteed under Article 19(1)(a) read with Article 19(1)(c) in so far as it restricts:

(a) religious and pious expression without excessive state interference in the administration of Waqf properties; and

(b) the right to association of non-Muslim dedicators by omitting Section 104 of the erstwhile Waqf Act, 1995 by way of Section 43 of the Waqf Amendment Act, 2025. The erstwhile Section 104 of the Waqf Act, 1995 validated the giving and donation of any movable and immovable property by any person not professing Islam. Section 4 (ix) of the Impugned Amendment Act, by amending Section 3(r) of the Waqf Act, 1995, not only

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prevents the donation of property by non-Muslims but also imposes arbitrary criteria of demonstrating the practice of Islam for five years on any Waqif.

*Third, the Waqf (Amendment) Act, 2025 strikes at the very essence of the right to life and personal liberty enshrined in Article 21 read with Article 25 and 26 by imposing unjust, unfair and unreasonable restrictions on the exercise of the right to conscience, being a facet of the right to live with privacy and dignity, and right to access to justice by curtailing efficacious remedies. This Hon'ble Court in **K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1** had recognized that the Constitution acts as firewall against excessive state interference in so far as autonomy and privacy is essential to the exercise of freedom of conscience and the right to profess, practice and propagate religion under Article 25. Non-interference from the State – critical to self-regulation of religious matters in pursuance of the rights under Article 26 - has been seriously undermined by the several provisions of the Amending Act that on one hand broadens the scope of arbitrary and unchecked State interference and on the other hand undermines existing substantive and procedural safeguards that were enshrined in the Waqf Act, 1995 in consonance with law laid down in **Commr., Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, (1954) 1 SCC 412** and **Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan, 1963 SCC OnLine SC 52**. Furthermore, the impugned Amendment Act undermines the principle of non-retrogression in so far as it makes inroads into the right of the Islamic religious denominations to maintain institutions for*

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religious and charitable purposes, to **manage its own affairs** and to own and administer property acquired for such purposes, vide *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

Fourth, the Waqf (Amendment) Act, 2025 *infringes the fundamental right of minorities to manage their resources and institutions* towards establishing and administering educational institutions under Articles 29 and 30 of the Constitution. By severely endangering the resources available with charitable endowments and institutions engaged in establishing and administering schools and colleges for the welfare of minorities, the impugned Amending Act seriously diminishes the ‘choice’ of the minority groups to establish culturally autonomous places of learning.

Finally, the impugned Waqf (Amendment) Act, 2025 *impairs the protection extended to minority property* as it violates the constitutional right to property under Article 300A for two reasons. One, Section 3C and 3D encodes a strong presumption that a Waqf property if disputed by the State, is a State property. The omission of the Waqf Board’s power to decide whether a property is a waqf under Section 40 is replaced by unilateral power on the Designated Officer and Collector. It is fairly apprehended that these provisions seek unjust and iniquitous expropriation of property in a manner that has been found to be constitutionally invalid in a catena of cases including *Lucknow Nagar Nigam v. Kohli Brothers Colour Lab*, 2024 SCC OnLine SC 188 and *Property Owners Association v. State of Maharashtra* [2024] 11 S.C.R. 1. Second, it denies the right of a person not professing Islam to dedicate properties to a waqf although the same has had a

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long-standing legal recognition in India, *vide M.P. Wakf Board vs. Subhan Shah (Dead) By Lrs. And Ors. (2006) 10 SCC 696.*

Hence, this Writ Petition.

List of Dates & Events

DATE	EVENT
	<p>According to the Waqf Management System of India (WAMSI) portal, the Karnataka State Board of Auqaf administers 62,830 waqf properties(as of September 2024). These properties support vital institutions with far-reaching benefits for the community. Notable examples include the Al-Ameen Educational Society in Bengaluru, which runs schools and colleges aiding educational advancement; and Gousiya Engineering College and the Khaja Bandanawaz Institute of Medical Sciences, which provide professional education on waqf-supported campuses.</p> <p>The Petitioner is a Life Member of the Al Ameen Education Society, Bangalore.</p> <p>Petitioner's father, Mr. K. Rahman Khan, is a veteran politician who made pivotal contributions as the Union Minister of Minority Affairs from 2012-2014 and earlier as Chairman of the Joint Parliamentary Committee on Waqf which culminated in the Waqf Amendment Act, 2013.</p>

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1913	<p>The Mussalman Waqf Validating Act, 1913 (6 of 1913) was enacted by the colonial State. This Act recognised the right of Muslims to make settlement of properties by way of waqf in favour of their families, children and descendants.</p>
1923	<p>The Mussalman Wakf Act, 1923 was enacted to comprehensively regulate the creation, maintenance and administration of waqf and waqf property.</p> <p>2(e) defined “wakf” as “the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable, but does not include any wakf, such as is described in section 3 of the Mussalman Wakf Validating Act, 1913 (6 of 1913), under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any of his family or descendants.”</p> <p>In order to ensure accountability, the Act required the <u>mutawalli of every waqf</u> to:</p> <ol style="list-style-type: none">1. Furnish a statement of particulars to the jurisdictional court.2. Furnish a full and true statement of accounts to the court, after it is audited. <p>Furthermore, the Act provided for:</p>

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	<ol style="list-style-type: none">1. Court-led inquiry to ascertain the existence of waqf, the determination of character of waqf property and identification of the mutawalli of the waqf.2. The creation of a Register of waqfs and the power of the court to record entries in the said Register.3. Provides for a role for the civil court in the matter of recognition and registration of waqfs, protection of waqf properties and the oversight of the management of the waqfs. In particular, the court was empowered to order a special audit. <p>A true copy of the Mussalman Wakf Act, 1923 is annexed herewith and marked hereto as ANNEXURE P-1 from page 32 to page 37.</p>
26.01.1950	<p>The Constitution of India came into force, guaranteeing fundamental rights under Article 14, 15(1), 19, 21, 25, 26, 29 and 30. The subject matters of administration and management of religious and charitable endowments was included in the List III, Schedule VII under the entries '10. Trust and Trustees' and '28. Charities and charitable institutions, charitable and religious endowments and religious institutions.'</p>

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07.01.1954	<p>The Lok Sabha Select Committee considered the imperative a Central Act to streamline and coordinate the activities of management of waqf properties in several States.</p> <p>A True Copy of the Muslim Wakfs Bill, 1952: Report of the Select Committee (Delhi: Parliament Secretariat, 1954) is annexed herewith and marked hereto as Annexure P-2 (Pages <u>38</u> to <u>86</u>).</p>
21.05.1954	<p>Parliament enacted the Waqf Act, 1954, with the professed object of providing for better administration and supervision of waqfs. The legislation was strongly supported and championed by several members of the minority Muslim community to preserve and protect the integrity of the waqf properties from ‘encroachments’ and ‘manipulations’ by anti-social elements.</p> <ol style="list-style-type: none"><li data-bbox="555 1473 1343 1713">1. The Sections 6, 27, 36-A, 43, 55, 56, 57, 60 and 61 of the 1954 Act recognised the civil court as the forum for the resolution of various disputes relating to waqfs and waqf properties.<li data-bbox="555 1731 1343 1960">2. Though Section 27(1) of the Act, authorised the Waqf Board also to decide the question whether a particular property is a waqf property or not, the decision of the Board on the question, was made

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	<p>subject to jurisdiction of the civil court as seen from Section 27(2).</p> <p>3. Section 36-A(1) provided for the remedy of a requisition by the Waqf Board to the Collector, whenever any immovable property of a waqf was transferred without the previous sanction of the Board. The Collector was empowered under this provision to pass an order directing the person in possession of the said property, to deliver it to the Board. The order so passed by the Collector was appealable to the District Court under Section 36-A(4).</p> <p>4. Section 43(5) of the 1954 Act made the order of the Waqf Board removing the mutawalli and directing him to deliver possession of the waqf property, deemed to be a decree of the civil court, executable by the civil court, as if it was a decree passed by it.</p> <p>5. Section 60 imposed a bar on the rights of the parties to a suit, to enter into a compromise without the sanction of the Board. The Waqf Board was empowered by Section 61 to make an application to the court in case of failure of mutawalli to discharge his duties.</p>
1984	Seized of the grievances of the Muslim community regarding the unsatisfactory functioning of State Waqf

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	<p>Boards, the Central Government constituted the Waqf Inquiry Committee in 1976. The Committee made a large number of recommendations and its report, after consultation with all stakeholders, led to the Waqf (Amendment) Act, 1984.</p> <p>One of the important amendments made by this Amendment Act provided for the constitution of special tribunals for the determination of any dispute, question or other matter relating to a waqf or waqf property. But the right to invoke the jurisdiction of the Waqf Tribunal was made available under Section 55(2) of the Act, only to:</p> <ul style="list-style-type: none"> (i) any mutawalli of the waqf; (ii) a person interested in the waqf; or (iii) any other person aggrieved by any order made under the Act or Rules or any order made thereunder.
1995	<p>The Waqf Act, 1995 was enacted. This Act provided for the setting up of Waqf Tribunals to consider questions and disputes pertaining to waqfs. The Tribunal was stipulated to consist of—</p> <ul style="list-style-type: none"> (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

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	Additional District Magistrate, Member; (c) one person having knowledge of Muslim law and jurisprudence, Member.
1997	The State of Karnataka enacted the Hindu Religious Institutions and Charitable Endowments Act, 1997 to bring about a uniform law to provide for the regulation of all Charitable Endowments and Hindu Religious Institutions in the State.
2006	<p>Prime Minister's High Level Committee on the Social, Economic and Educational Status of the Muslim Community in India chaired by Justice Rajindar Sachar '(Sachar Committee Report') submitted its report in November 2006, wherein dedicated a chapter to '<i>Leveraging Community Initiatives: The Case of Wakfs</i>'.</p> <p>The Sachar Committee Report noted that State governments and its agencies are one of the largest encroachers on waqf land. It, <i>inter alia</i>, noted that there were at least 42 encroachments in Karnataka.</p> <p>The Sachar Committee Report, <i>inter alia</i>, recommended that:</p> <ol style="list-style-type: none"> 1. Need for imminent realization by State and Central Governments have been unable to realize the high potential of the waqfs for generating wealth and meeting the welfare requirements of the poor and needy; and

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	<p>2. The professionalization of Waqf cadre; and</p> <p>3. Extension of limitation till 2035 for protection of waqf properties against encroachment.</p> <p>A true copy of relevant excerpts of Sachar Committee Report is annexed herewith and hereto as ANNEXURE P-3 (pages <u>87</u> to <u>105</u>)</p>
04.03.2008	<p>The Third Report of the Joint Parliamentary Committee on Waqf on Amendments to the Waqf Act, 1995 was presented before the Rajya Sabha.</p> <p>The JPC, <i>inter alia</i>, recommended that the addition of definitions of ‘Encroacher’ and ‘Wakf Premises’ in the Waqf Act, 1995.</p> <p>A true copy of the Third Report of the Joint Parliamentary Committee on Waqf on Amendments to the Waqf Act, 1995 is annexed herewith and hereto as ANNEXURE P-4 (Pages <u>106</u> to <u>156</u>)</p>
2009	<p>Ninth Report of JPC on Waqf chaired by Mr. K. Rahman Khan, father of the Petitioner, recommended computerization of the records of State Waqf Boards for transparency, efficiency and modernization.</p>
2011	<p>Census exercise carried out in 2001 recorded in Karnataka 44,599 members of various Scheduled Tribes including but not limited to the Naikda, Nayaka, Cholivala Nayaka, Kapadia Nayaka, Mota Nayaka, Nana Nayaka, Naik, Nayak, Beda, Bedar and Valmiki tribes as professing the Muslim faith.</p>

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2013	<p>The Waqf (Amendment) Act, 2013 being Act 27 of 2013 was enacted. It expanded the jurisdiction of Waqf Tribunal even to cover landlord-tenant disputes and the rights and obligations of lessor and lessee. The Amendment Act enlarged the bar of jurisdiction, to cover even Revenue Courts and other authorities.</p> <p>On a conspectus reading of the legislative scheme of the pre and post-constitutional enactments on Waqf, it is evident that the primary purpose behind each of the legislations was to safeguard the rights of waqifs, ensure accountability of Mutawallis and protect auqaaf from usurpation and mismanagement.</p> <p>A true copy of the Waqf (Amendment) Act, 2013 is annexed herewith and marked hereto as ANNEXURE P-5 (pages <u>157</u> to <u>172</u>)</p>
08.08.2024	Bill No. 109 of 2024 was introduced in the Lok Sabha as a Bill to further amend the provisions of the Waqf Act, 1995. On the same day, the Waqf (Amendment) Bill, 2024 was referred to the Joint Parliamentary Committee.
08.08.2024	On the same day, the Waqf (Amendment) Bill, 2024 was referred to the Joint Parliamentary Committee(‘JPC’).
07.11.2024	JPC Chairman Mr. Jagdambika Pal visited Karnataka in his capacity as the JPC Chairman to examine the working of the 1995 Act.

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	<p>In absolute disregard of parliamentary democracy, the JPC Chairman conducted his blemished inquiry without notice to stakeholders such as the petitioner who could have informed and aided the assessment.</p> <p>Pertinently, the JPC Committee report does not record a ‘study visit’ by the JPC Chairman on the actual date of his visit to Bangalore.</p> <p>A true copy of the News Report published in The Economic Times dated 08.11.2024 is annexed herewith and marked hereto as ANNEXURE P-6 (pages <u>173</u> to <u>174</u>)</p>
27.01.2025	<p>The JPC met for a Clause-by-Clause consideration of the ‘Waqf (Amendment) Bill, 2024. The farcical and superficial consideration enjoined to a legislation of sweeping importance is evident in the culmination of clause-by-clause discussion in merely 01 hrs 15 mins.</p>
28.01.2025	<p>The draft report of the JPC was circulated to its members only on the night preceding the scheduled date for its final consideration and adoption, namely on 28.01.2025, while the meeting was fixed for 29.01.2025. This effectively deprived the Members of the Committee of any effective opportunity to peruse and meaningfully respond and deliberate upon the contents of the report.</p> <p>A true copy of the News Report published in the</p>

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	Business Standard dated 29.01.2025 is annexed herewith and marked hereto as ANNEXURE P-7 (pages <u>175</u> to <u>177</u>)
29.01.2025	The JPC approved the draft report.
30.01.2025	The JPC submitted its Report and along with it the updated Bill No. 109-B of 2024.
02.04.2025	Bill No. 109-B, as reported by the JPC, was introduced in the Lok Sabha and was passed. The Bill as passed included amendments moved at eleventh hour by the Hon'ble Minister for Minority Affairs, and therefore, after renumbering the Clauses, the final Bill No. 109-C of 2024 was then sent to Rajya Sabha.
03.04.2025	Bill No. 109-C was passed by the Rajya Sabha.
05.04.2025	<p>The impugned Waqf (Amendment) Act, 2025 secured presidential assent and was notified in the Official Gazette.</p> <p>A True Copy of the impugned Act is annexed herewith and marked hereto as ANNEXURE P-8 from page <u>178</u> to page <u>193</u>.</p>
08.04.2025	<p>The Government of India appointed 08.04.2025 as the date when the impugned Waqf Amendment Act, 2025 shall come into force.</p> <p>A True Copy of the Notification issued by the Ministry of Minority Affairs is annexed herewith and marked hereto as ANNEXURE P-9 at page <u>194</u>.</p>

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2025

A WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA SEEKING A PROTECTION OF FUNDAMENTAL RIGHTS AS GUARANTEED BY ARTICLES 14, 15, 19, 21, 25, 26, 29, 30 and CONSTITUTIONAL RIGHT AS GUARANTEED BY ARTICLE 300A OF THE CONSTITUTION AND CONSEQUENTIAL RELIEFS THERETO

IN THE MATTER OF:

Mansoor Ali Khan, [REDACTED]
[REDACTED]

... Petitioner

Versus

Union of India, Through Secretary, Ministry of Minority Affairs 11th Floor, Pandit Deendayal Antyodaya Bhawan, CGO Complex, Lodhi Road, New Delhi-110003 **... Respondent**

TO

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

The Humble Petition of the Petitioners above-named

MOST RESPECTFULLY SHOWETH:

2. The present writ petition is filed under Article 32 of the Indian Constitution against the impugned Waqf (Amendment) Act, 2024 which violates the Petitioner's fundamental rights of citizens under Articles 14, 15, 19, 21, 25, 26, 29, 30 and constitutional rights under Article 300A of the Constitution by the Waqf (Amendment) Act,

2025 whereby the Waqf Act, 1995 has been amended and renamed as the Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995.

3. That the Petitioner is a politician and social worker engaged in the administration and management of religious, social, cultural and educational institutions established for the betterment and advancement of the Muslim community in Karnataka and other sections of society. The Petitioner is a Life Member of the Central Muslim Association of Karnataka, the Al Ameen Education Society, Bangalore and several other organisations playing an active part in improving the lives of Muslims in Karnataka.
4. The Petitioner and his family have been playing a seminal role in the efficient, effective and just utilisation of Waqf assets through several charitable, educational and religious trusts and institutions that he leads. Petitioner's father, Mr. K. Rahman Khan, is a veteran politician who served as the Union Minister of Minority Affairs from 2012-2014 and had also made pivotal contributions as the Chairman of the Joint Parliamentary Committee on Waqf which culminated in the Waqf Amendment Act, 2013.
5. The Petitioner has managed and expanded charitable educational institutions, aiding thousands of students and enhancing academic standards. He is also actively involved with the Karnataka Federation of Independent Schools Management and FICCI ARISE, promoting collaborations between education and industry. The Petitioner plays an active role in facilitating democratic discourse through *Daily Salar English* in his capacity as the trustee of Daily Salar Publication. He has also donated ambulances, established ICU facilities, and funded medical expenses for underprivileged communities in addition to initiating scholarship programs, extracurricular activities,

and sports clubs aimed at fostering holistic development among young people.

6. The Waqf properties in the State of Karnataka have for generations been verbally and traditionally dedicated for religious and public purposes, constituting an implied or customary waqf under long-standing usage. The dedication was made by the members of Muslim community in Karnataka in good faith, as part of an enduring commitment to communal harmony, charity, and the religious ethos of the locality. Notably, while the mosques are specifically used by Muslims, the other spaces – including the libraries are used jointly and harmoniously by both Hindus and Muslims in the area, reinforcing the secular and inclusive spirit of the dedication. Collectively, these charitable activities, administered under the aegis of Karnataka State Waqf Board, involve the upkeep of several Masjids, Dargahs, Idgahs, Khabrastans (burial grounds), Ashoorkhanas, Orphanages, Makans, etc.
7. The legislative scheme of the pre and post-constitutional enactments on Waqf, i.e. the Mussalman Waqf Validating Act, 1913, the Mussalman Wakf Act, 1923 the Waqf Act, 1954 the Waqf (Amendment) Act, 1984, the Waqf Act, 1995 and the Waqf (Amendment) Act, 2013 was premised on the realisation of the sacred objective of waqf as it intends to halt the alienation of property once it passes from waqif, owner, to mutawalli, custodian, responsible for the redirection of rentier income towards Islamic ends. The purpose of each of the legislations was to safeguard the rights of waqifs, ensure accountability of Mutawallis and protect *auqaaf* from usurpation and mismanagement. Moreover, each of these legislations responded to the felt necessities of the time as perceived by the Muslim community. On the other hand, the present

law responds to majoritarian and communal prejudice, misinformation and misleading information about the extent, nature and use of Waqf property.

8. It is submitted that the petition is being filed on an urgent basis and several documents pertaining to the case, including the Impugned Order(s) and the underlying record, are not available in the public domain. Accordingly, the Petitioner is praying for liberty to supplement the Petition with additional facts and grounds at a later stage.

GROUND

I. THE IMPUGNED WAQF (AMENDMENT) ACT, 2025 IS MANIFESTLY ARBITRARY AND DISPROPORTIONATE

- A. BECAUSE Article 14 protects citizens and groups against arbitrary and disproportionate state action including parliamentary legislation.
- B. BECAUSE it is settled law that the Article 13(2) of the Constitution which proscribes the State from making “any law which takes away or abridges the right conferred by Part III”. Therefore, the Waqf (Amendment) Act, 2025 is liable to be declared void for violating core tenets of the Part III of the Constitution. (*Binoy Viswam v. Union of India, (2017) 7 SCC 59, Pr. 76*)
- C. BECAUSE it is the mandate of this Hon’ble Court to uphold the constitutional values and to enforce the constitutional limitations for these are the essence of the rule of law, *vide State of Rajasthan v. Union of India, AIR 1977 SC 1361*. The harmonization of Islamic religious principles in our pluralist legal regime is one of the hallmarks of the Indian Constitution.

- D.** BECAUSE the Waqf (Amendment) Act, 2025 seeks to radically disrupt and uproot the harmony between secular governance and religious practice that forms the bedrock of equal moral membership in the Indian context.
- E.** BECAUSE the usurpation of the statutory roles of the Survey Commissioner, the land revenue authorities and the State Waqf Board in favour of designated authority violates the basic structure on account of the denudation of equal citizenship.
- F.** BECAUSE the amending provisions are manifestly arbitrary for the reason that the Muslim state officials and authorities have been denuded of the 'good faith' of the State. It is axiomatic that the officials of the State Waqf Board as well as the Survey Commissioner discharged their statutory duties in good faith and deserve equal respect and trust of the State, irrespective of the fact that they practice and profess Islam.
- G.** BECAUSE the amending provisions do not demonstrate the necessity of imposing the direct and immediate restrictions of the religious freedom of the Muslim community. The fundamental rights of the citizens are affected without identifying any inherently pernicious act or mischief that could be harmful to the general public.
- H.** BECAUSE the impact of lack of deliberation is indicated by the non-inclusion of any amendments proposed by the Parliamentary opposition during the legislative process. Furthermore, the introduction of Sections 3D and 3E in the Bill after the presentation of the Joint Parliamentary Committee report is also a deviation from democratic practices.

- I.** BECAUSE the Amending Provisions impair the preambular value of fraternity by enforcing a division between ‘others’ and ‘us’. (*In Re : Section 6A of the Citizenship Act 1955 2024 SCC OnLine SC 2880*) The erection of arbitrary barriers on the rights of non-Muslim donors as well as Muslim donors, besides the discriminatory amendments of composition of statutory authorities harms the vision of an inclusive society.
- J.** BECAUSE the passage of legislation without sufficient scrutiny, parliamentary debate and deliberation are indicative of processes that militate against the proportionality of the impugned legislation, *vide Hirst v. United Kingdom (No. 2) 74025/01 [2005] ECHR 681*. It follows that the deference given to legislation enacted by Parliament while adjudicating on the measure’s proportionality would depend on whether the legislative body actually weighed the competing interests involved or dispassionately assessed the proportionality of the measure in question.
- K.** BECAUSE the presumption of constitutionality is premised on the *bona fide* exercise of legislative competence in the interest of public. (*Mohd. Hanif Quareshi v. State of Bihar, AIR 1958 SC 731, Pr. 15*) The violation of basic tents of fairness, objectivity, democracy and justice in the legislative process ought to be seen in the context of the state-sponsored misinformation campaign. Given the prevailing context, it is essential that the law passed by Parliament be held to strictest level of judicial and constitutional scrutiny.
- L.** BECAUSE the Section 5 of the Amending Act inserts Section 3C and postulates a presumption whereby pending a state-directed report, all disputes regarding the nature of waqf

property shall be prematurely ‘adjudicated.’ In other words, the provision is a legislative fiat that empowers the State Government to deem and treat disputed waqf properties as non-waqf properties. This provision is arbitrary in so far as it violates basic tenets of principles of natural justice and the rule of law.

M. BECAUSE this Hon’ble Court has held that any state measure is liable to void on account of being disproportionate unless it satisfies the four-pronged test as follows:

- a.** The action must be sanctioned by law;
- b.** The proposed action must be necessary in a democratic society for a legitimate aim;
- c.** The extent of such interference must be proportionate to the need for such interference;
- d.** There must be procedural guarantees against abuse of such interference.’ (*K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1, Pr. 638)

N. BECAUSE the procedure postulated in Section 3C of the UMEED Act is an impermissible restriction on fundamental rights. It stipulates a procedure which is grossly unfair, unjust and unreasonable. The encroachment of religious autonomy is not relatable to any legitimate state aim and bears no rational nexus between the objects and the means adopted to achieve them. (*K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1, Pr. 325)

O. BECAUSE the Waqf (Amendment) Act, 2025 violates the principle of proportionality in so far as it fails to demonstrate a rational connection between the restrictions and stipulations imposed, i.e. inclusion of third parties and excessive

bureaucratic control and the state interest sought to be achieved, i.e. transparency and accountability in the Waqf management.

- P.** BECAUSE the impugned law dilutes the available procedural safeguards by undermining the independence of the specialized dispute-resolution process that was codified in the extant law. Section 39 of the Amending Act expands the zone of consideration for appointment of the Chairman of Waqf Tribunal to include retired District Judges. The sitting District Judges enjoy constitutional guarantees under Chapter VI of Part VI of the Constitution. Moreover, they discharge their functions with the security of tenure that emerges from the direct control and supervision of the Hon'ble High Court. Therefore, the expansion of the eligibility criteria raises genuine apprehension about the independence of the Waqf Tribunals in so far as it institutionalizes post-retirement sinecures for sitting District Judges.
- Q.** BECAUSE this Hon'ble Court had held in *Mohd. Faruk v. State of M.P., (1969) 1 SCC 853* that a state action would be invalid unless it is established that a less drastic restriction will not ensure the interest of the general public.
- R.** BECAUSE the proposed Section 3C makes the Government a judge in its own cause. The process of enquiry envisaged in Section 3C (2) is a travesty of justice as the designated officer entrusted with the enquiry is a State Government appointee with uncanalized discretionary power.
- S.** BECAUSE the substitution of the Survey Commissioner, a key statutory authority in the grievance redressal framework of the extant law, diminishes the possibility of fair

administration. The officers appointed under the Waqf Act, 1995 carried out the purposes of the Act in a specialised regime of accountability that included offences and penalties for violations. The substitution of the Survey Commissioner with a designated officer undermines the salutary intent of fair administration of religious endowments and imperils the substitution of specialized protective machinery with an abusive and arbitrary authority acting as a mere delegate of the State Government.

- T. BECAUSE the disputed property shall not be treated as waqf property till such time the designated officer submits their report. This means that Waqf Boards may be disposed of their legally held properties even before the submission of a report in this regard and without a hearing, which goes against the fundamental tenets of natural justice.
- U. BECAUSE Clause 6 of the Act seeks to remove the availability of a Survey Commissioner and grants the power of a survey being conducted to the Collector who would make a survey as per the revenue laws of the State. The Collector, being the head of the revenue district, is in most cases a claimant on behalf of the Government. Therefore, bestowing the powers of the survey to the same authority and removing it from the specialized officer in the form of Survey Commissioner is a violation of the principles of natural justice because of the settled position reflected in the maxim *nemo judex in causa sua* i.e., no one should be a judge in their own cause.
- V. BECAUSE the inserted Section 3C is couched in the unwarranted suspicion of members of the Muslim community

and functionaries. Firstly, the Section erroneously assumes legislative competence for the Central Government to legislate on adjudication rights in land - both agricultural and non-agricultural. The Parliament has erred by legislating on subjects specifically covered under Entry 18 of List II and Entry 6 - List - III and ignored the clear demarcation of fields of legislations made in Seventh Schedule. The Waqf Act, 1995 had been legislated at the strength of entries in the Concurrent List about trusts and charitable institutions and intentionally excluded the subject of land records from the purview of rule-making power.

W.BECAUSE the scheme of the Waqf Amendment Act, 2025 is expansive according to the doctrine of pith and substance. The Section 3C(3) states that if the designated officer determines the property to be government property, he shall make necessary corrections in revenue records and submit a report to the State government. Furthermore, the Section 3C(4) states that the State government shall direct the Waqf Board to make appropriate correction in the records. Therefore, the legislation on the subject of land records is not merely an incidental encroachment but a gross intrusion into the States' exclusive legislative domain.

X. Without prejudice to Ground U above, the unfounded and unwarranted deep mistrust is violative of the cardinal bedrock of fraternity as much as it is arbitrary for being excessively broad. While the Section does outline the procedure to be followed by the designated officer upon concluding that the property in question is indeed Government property, there is no enumeration of recourse to be taken if the designated officer

concludes that the property is not Government Property. Therefore, Section 3C is hit by the vice of being arbitrary and excessively broad. It is submitted that it is not open for the Respondent to contend that such a lacunae can be filled by rules to be prescribed under the Act as such rules would continue to be without legislative guidance and suffer from the same vice of arbitrariness.

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

Z. BECAUSE Clause 13(ii) *ex-facie* makes an unreasonable classification which has no nexus with the objects of the principal Act. In amending the disqualifications for appointment as Member of the Board(s), Clause 13(ii) changes the disqualification of a member from being convicted of an offence involving moral turpitude to any conviction for not less than two years. This would also include a conviction for defamation and for a number of other offences which may not involve moral turpitude. It is submitted that while disqualification based on conviction of an offence involving moral turpitude was reasonable and had a reasonable nexus with the object of morally upright individuals to be appointed to the Boards the amended disqualification is irrational and fails to address the issue. It is notable that as per the amended definition, a person convicted and sentenced for one year would not be disqualified even if the offence involved moral turpitude. Examples of such offences, *inter alia*, include Assault or use of criminal force to woman with intent to

outrage her modesty (Section 74, Bharatiya Nyay Sanhita, 2023); sexual harassment (Section 75, Bharatiya Nyay Sanhita, 2023); Voyeurism (Section 77, Bharatiya Nyay Sanhita, 2023); Bribery (Section 173, Bharatiya Nyay Sanhita, 2023).

AA. BECAUSE the less intrusive measure to improve the functioning of Waqf Boards throughout the country would have been to accept the recommendation of the Sachar Committee. The Sachar Committee had recommended that a separate Waqf cadre should be created so that it is rationally connected and necessary to attain the professed state aim of professionalising the administration of Waqf properties.

II. THE WAQF (AMENDMENT) ACT, 2025 IS DISCRIMINATORY AGAINST MUSLIMS

BB. BECAUSE Article 15(1) of the Constitution prohibits discrimination, *inter alia*, on grounds of religion.

CC. BECAUSE the Waqf (Amendment) Act, 2025 seriously violates the principle of the rule of law, equality before the law and equal treatment by the law, forming the bedrock of the constitutional imperative of equal citizenship. In stark contrast to statutory provisions stipulating the composition of administrative Councils, Committees and Boards of non-Muslim religious and charitable endowments, the Waqf (Amendment) Act, 2025 amends Sections 9 and 14 of the Waqf Act, 1995 to mandate the inclusion of non-Muslims in the Central Waqf Council and the State Waqf Boards. The basis of such unreasonable classification is unjustified suspicion of the members of the minority Muslim community to self-administer Waqf properties in a fair and reasonable

manner. The amending provisions – Sections 4, 5, 10, 12, 33 and 44 of the Waqf (Amendment) Act, 2025 postulate a **different, onerous, irrational and prejudicial yardstick** for matters pertaining to administration, maintenance and preservation of Muslim religious and charitable endowments.

DD. BECAUSE Section 4 of the amending Act amends Section 3(r) of the Waqf Act, 1995 to omit Section 3(r)(i) that included ‘waqf by user’ from the definition of the Waqf. This exclusion marks a stark deviation from the definition of religious and charitable endowments. This Hon’ble Court has held that religious endowments of all religions retain their character by virtue of their continued usage. It was held in ***Commr. for Hindu Religious & Charitable Endowments v. Ratnavarma Heggade, (1977) 1 SCC 525***

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

EE. BECAUSE this Hon’ble Court has reiterated the juridical basis of Waqf by User in ***M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das, (2020) 1 SCC 1***, Pr. 1124, 1129, 1131 and 1134.

FF. BECAUSE Section 3 of the amending Act seeks to supersede authoritative pronouncements of this Hon'ble Court without removing the basis of the said pronouncements. It is settled law *in NHPC Ltd. v. State of Himachal Pradesh Secretary & Ors., 2023 INSC 810* that such an approach is constitutionally impermissible.

GG. Because Clause 2A of Impugned Act, 2025 seeks to override the binding judgment of this Hon'ble Court in *Maharashtra State Board of Wakfs v. Shaikh Yusuf Bhai Chawala & Ors., 2022 SCC OnLine SC 1653*, which affirmed that the mere form of a public charitable trust is not determinative; rather, the substance of the dedication tested specifically, by the intention of the waqif, the nature and manner of the dedication, and the rights retained or transferred to the trustees determine whether such an endowment qualifies as a waqf. Without removing the basis of the pronouncement, Clause 2A purports to nullify the judgment of this Hon'ble Court as it provides that, notwithstanding any judgment, decree, or order of any court, a trust established or regulated under any statute relating to public charities by a Muslim for purposes analogous to waqf shall not be governed by the Waqf Act, 1995. The impugned provision now reverses the settled position by asserting that the creation of a trust under a public charity statute is, by itself, sufficient to exclude it from the scope of the 1995 Act, thereby undermining a judicially settled interpretation and disrupting the constitutional balance between legislative authority and judicial review.

HH. BECAUSE Sections 10 and 12 of the Amending Act amend Sections 9 and 14 of the Waqf Act, 1995 to require a minimum

8 members of the Central Waqf Council and 4 members of the State Waqf Board to be Muslims. Furthermore, it makes a provision for the inclusion of two non-Muslims excluding the two *ex-officio* members in the Central Waqf Council and the State Waqf Boards. The inclusion of non-Muslim third parties in the administrative regime is discriminatory as it makes a stark deviation from the statutory framework governing other religious and charitable endowments.

- II.** BECAUSE the Amending provision in Section 9 and 14 provides for the appointment of two women to the Central Waqf Council and the State Waqf Board. The expression used is not ‘Muslim women.’ This is a stark deviation from the Waqf Act, 1995 that provided for the inclusion of Muslim women. The omission of Muslim women from the provision professed to promote inclusive management of Waqf properties is discriminatory in so far as it diminishes their separate existence and the compelling imperative of autonomous and inclusive governance. It is therefore not a special provision for the advancement of women under Article 15(3) as it denies a special guarantee that was secured in favor of the marginalized section of Muslim women under the extant law.
- JJ.** BECAUSE the basis of such unreasonable classification is unjustified suspicion of the members of the minority Muslim community to self-administer Waqf properties in a fair and reasonable manner.
- KK.** BECAUSE Clause 4(v) of the Act omits from the definition of a *Mutawalli* the words “, either verbally, or” restricting the appointment of a Mutawalli to be only by way of a deed or

instrument by which a waqf has been created. The aforesaid omission is contrary to recognised Islamic tenets and would result in an absurd position where a verbally appointed Mutawalli of a pre-existing waqf, created verbally (oral waqf and appointment of Mutawalli being permissible under Islam) would suddenly stand to be disqualified from his/her office as the amended law derecognises verbal appointment of a Mutawalli and the resultant Section 3(i) would require the appointment to have been made as per the deed or instrument by which the waqf was created. The same suffers from manifest arbitrariness, lack of reasoning, and violates Articles 14 and 25 of the Constitution.

LL. BECAUSE Section 33 in the Amending Act is arbitrary and has substantial scope for abuse. The Section 33 introduces an additional ground for the removal of a Mutawalli *vide* insertion of Section 64(l) “*is a member of any association which has been declared unlawful under the Unlawful Activities (Prevention) Act, 1967.*” The inclusion of this facially neutral ground for removal is nevertheless suspect because the said ground is neither included nor sought to be included in statutory rules governing other religious and charitable endowments. Given the well-established and pernicious religious bias in the enforcement of internal security law, the ground for removal has substantial scope of abuse.

MM. BECAUSE the Amending Act effectively vests unilateral power with the State Government to ensure a non-Muslim person in the supervisory role of the CEO of a Waqf Board. It is submitted that this is patent violation of the equality code of the Constitution as, *inter alia*, other legislations such as the

Hindu Religious Institutions and Charitable Endowments Act, 1997 enacted by the State of Karnataka mandate supervisory position to be held by a Hindu. The same enactment provides for members of the Committees of Management of each religious institution to be Hindus.

NN. BECAUSE the Amending Act restricts the scope of donors for Waqf. No similar restriction is placed on the right of a person of any religion to dedicate property to a temple, gurudwara or mutt so long as the same is not contrary to their own religious tenets. Therefore, (i) Singling out Muslim converts of less than 5 years; and (ii) placing restrictions on transfer of property for charity under Muslim law amounts to discrimination based on religion.

II. THE WAQF (AMENDMENT) ACT, 2025 UNREASONABLY RESTRICTS FREEDOM OF EXPRESSION AND ASSOCIATION

OO. BECAUSE Article 19 of the Constitution protects individual liberty and autonomy against unreasonable restrictions.

PP. BECAUSE the preservation of the rights under Article 19 necessitates the qualitative requirement wherein the State has to **act responsibly to uphold Part III of the Constitution** and not to take away these rights in an implied fashion or in casual and cavalier manner, *vide Anuradha Bhasin v. Union of India, (2020) 3 SCC 637, Pr. 23.1.*

QQ. BECAUSE the right to free expression and the right to the association under Article 19(1)(a) and Article 19(1)(c) are deeply inter-connected as laid down by this Hon'ble Court in *Supriyo v. Union of India, 2023 SCC OnLine SC 1348* and *Assn. for Democratic Reforms (Electoral Bond Scheme) v. Union of India, (2024) 5 SCC 1.*

- RR.** BECAUSE the Amending Act curbs religious and pious expression as it codifies excessive bureaucratic control in the administration of Waqf properties. Further, it proscribes free expression of the spiritual, social or other sensibilities by way of charity.
- SS.** BECAUSE the right to association is also protected by Article 22 of the International Covenant on Civil and Political Rights (ICCPR) which guarantees that “*everyone shall have the right to freedom of association with others.*” It provides that “*no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.*”
- TT.** BECAUSE a critical facet of free expression and unrestrained association is the ability to make financial or other contributions in pursuance of a common endeavour or pursuit with another individual or group.
- UU.** BECAUSE the Amending Act infringes upon the religious freedom of those who fail to demonstrate the practice of Islam. Section 4 (ix) of the Impugned Amendment Act, by amending Section 3(r) of the Waqf Act, 1995, not only prevents the donation of property by non-Muslims but also imposes arbitrary criteria of demonstrating the practice of Islam for five years on any Waqif.
- VV.** BECAUSE it was not uncommon for persons in the position of *Zamindars* in whose estates there were Muslims as well as Hindu inhabitants to make endowments of property for

Muslim institutions and such endowments have always been accepted by the Donee as valid (*Piratla Peda Venkatasubbarayudu and Ors. vs. Hazi Silar Saheb and Ors. 1929 SCC OnLine Mad 238*).

WW. BECAUSE it is trite law borne out of customary usage and finally statutory promulgation that even a dedication of land by a Hindu for the exclusive beneficial purpose of a Muslim graveyard is good in either Hindu or Muslim law (*Arur Singh and Ors. vs. Badar Din and Ors. 1939 SCC OnLine Lah 200; M.P. Wakf Board vs. Subhan Shah (Dead) By Lrs. And Ors. (2006) 10 SCC 696*).

III. THE IMPUGNED ACT STRIKES AT THE VERY ESSENCE OF THE RIGHT TO LIFE AND PERSONAL LIBERTY ENSHRINED IN ARTICLE 21 READ WITH ARTICLES 25 AND 26 OF THE CONSTITUTION.

XX. BECAUSE the Amending Act imposes unjust, unfair and unreasonable restrictions on the exercise of the right to conscience, being a facet of the right to live with privacy and dignity.

YY. BECAUSE This Hon'ble Court in *K.S. Puttaswamy (Privacy-9J.) v. Union of India, (2017) 10 SCC 1* had recognized that the Constitution acts as firewall against excessive state interference in so far as autonomy and privacy is essential to the exercise of freedom of conscience and the right to profess, practice and propagate religion under Article 25.

ZZ. BECAUSE the right to live with dignity – in all its critical facets: cultural, religious, social and political – is predicated on the existence of *only those restrictions* that could “be regarded as legitimate in a constitutional democracy.” Such an

interference ought to be “justified on grounds of a legitimate idea of justice, an ‘overlapping consensus.’” (***K.S. Puttaswamy (Aadhaar-5J.) v. Union of India, (2019) 1 SCC 1; Pr. 145.5***)

AAA. BECAUSE the Waqf (Amendment) Act, 2025 does not emerge from any overlapping consensus between diverse social groups. The law has been enacted without necessary public consultation and due deliberation. Serious concerns about due process, procedural propriety, separation of powers, religious autonomy and equal citizenship – forming the bedrock of our constitutional firmament – have been ignored and sidelined in the framing of the excessive provisions of the Amending Act.

BBB. BECAUSE the amending provisions undermine the right to access to justice by curtailing efficacious remedies, erecting barriers to justice by way of limitation and omission of the concept of waqf by user. The dilution of procedural safeguards and independent dispute resolution mechanism undermines confidence of justice seekers. *vide Anita Kushwaha v. Pushap Sudan, [2016] 8 SCC 509, Pr. 33.*

CCC. BECAUSE non-interference from the State – critical to self-regulation of religious matters in pursuance of the rights under Article 26 - has been seriously undermined by the several provisions of the Amending Act that on one hand broadens the scope of arbitrary and unchecked State interference and on the other hand undermines existing substantive and procedural safeguards that were enshrined in the Waqf Act, 1995 in consonance with law laid down in ***Commr., Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri***

Shirur Mutt, (1954) 1 SCC 412 and Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan, 1963 SCC OnLine SC 52.

DDD. BECAUSE the impugned Amendment Act undermines the principle of non-retrogression in so far as it makes inroads into the right of the Islamic religious denominations to maintain institutions for religious and charitable purposes, to **manage its own affairs** and to own and administer property acquired for such purposes.

EEE. BECAUSE the principle of non-retrogression sets forth that the State should not take measures or steps that deliberately lead to retrogression on the enjoyment of rights either under the Constitution or otherwise *vide Navtej Singh Johar v. Union of India, (2018) 10 SCC 1, Pr. 202*. Furthermore, the amending provisions predicate the sustenance of fundamental rights upon the satisfaction of majoritarian and statist sentiments. Therefore, the excessive curbs on religious denominations violate Article 26, irrespective of the fact that the Parliament had identified compelling state interest in facilitating the self-governance of Waqf assets through appropriate governance mechanism.

FFF. BECAUSE the Section 3D of the Act does violence to pre-existing harmony between the Waqf Act, 1995 and the Ancient Monument and Archaeological Sites and Remains Act, 1958 in so far as it precludes the possibility of the simultaneous usage of a Waqf property as a monument and as a place of worship.

GGG. BECAUSE the retrospective extinguishing of the waqf character of centuries-old religious sites such as mosques, dargahs, and khanqahs that have functioned as places of

worship and religious congregation for generations undermines religious freedom and autonomy.

HHH. BECAUSE the Section 3C severely undermines the salutary constitutional intent enshrined in the Places of Worship Act, 1994 in so far as it incentivizes legal mischief. The arbitrary power to dispute the Waqf status of a property and to prevent its usage until an enquiry report is prepared dilutes the statutory scheme of the Places of Worship Act, 1994 in so far as it envisages the maintenance of status quo as it existed on 15.08.1947.

III. BECAUSE graves and graveyards have a special place in Islam that has been reiterated by several judgments of constitutional courts. The special protection accorded to these sacred and special sites is interlinked with the right to practice religion and the right to die with dignity (*Mohammad Latief Magrey v. Union Territory of Jammu and Kashmir and Others, 2022 SCC OnLine SC 1203*). However, the dilution of the autonomous management of Waqf properties severely imperils the maintenance and upkeep of existing graves and graveyards, as also the possibility of establishing such graveyards in future..

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

Deed”, therefore, prevents the exercise of the religious right by Muslims. For instance, a person on his deathbed may want to dedicate some property towards religious or charitable purposes. He may also be the lawful owner and the title-holder of such property. His heirs may also not have any objection to such dedication. Even though he may have a right to practice his religion guaranteed under Article 25, such a person would be deprived from exercising such right due to this condition.

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

LLL. BECAUSE the impugned Amending Act is an invidious infringement that has no nexus with any regulation made in the interest of the general public. The circumscription of religious activities is arbitrary, excessive, unreasonable, irrational and therefore unconstitutional (*Chintamanrao v. State of M.P.*, 1950 SCC 695).

MMM. BECAUSE Clauses 4(ix)(a) and 4(ix)(d) of the Act, unnecessarily prescribe a novel definition for waqf by requiring waqf to mean permanent dedication by any person showing or demonstrating that he is practicing Islam for at least five years. This inclusion in the definition is violative of

Article 25 as the amended provision seeks to take away the exercise of religious freedom for five years from any new entrant to Islam who would want to make a dedication. Moreover, the definition suffers from absolute absurdity as it would become impossible to prescribe a test for the practice of Islam and would, therefore, result in unnecessary claims and litigations against waqfs by terming the waqif to not have been a practicing Muslim at the time of dedication. Further, as stated above in the Waqf Inquiry Committee's report of 1976, Islamic itself is not a precondition for the dedicator even though the purposes for which the dedication is made has to be as recognised to be pious and religious by Islam. The amendment to the definition therefore, violates Article 25 and Article 14. It is also submitted that while persons practicing any other faith are not required under any law to prove their faith before dedicating or endowing a property, by including this vague requirement the impugned amendment also falls foul of Article 15 of the Constitution.

NNN. BECAUSE the omission of the Explanation to Section 32(2)(e)(iii) nullifies the safeguard that only members of the relevant Muslim sect may decide on the question of liquidation of a waqf, instead vesting this power in a body potentially dominated by non-Muslims. Such an invidious provision head on infringes Article 26 inasmuch as it denies religious denominations within Islam the right to manage their own religious institutions and community resources.

IV. THE WAQF (AMENDMENT) ACT, 2025 INFRINGES THE FUNDAMENTAL RIGHT OF MINORITIES TO MANAGE THEIR

**RESOURCES AND INSTITUTIONS AND IMPAIRS THE PROTECTION
EXTENDED TO MINORITY PROPERTY**

OOO. BECAUSE the amending provisions denude the ‘special right’ or ‘protection’ which the Constitution guarantees minority education institutions.

PPP. BECAUSE restrictions on autonomy of minority institutions are impermissible unless they pertain to standard of education. *State of Kerala v. Very Rev. Mother Provincial (1970) 2 SCC 417.*

QQQ. BECAUSE the Constitution Bench had held in *Rev. Sidhajibhai Sabhai v. State of Bombay, 1962 (3) SCR 837*, that Article 30 is absolute and cannot be restricted on any grounds such as in Article 19. Moreover, this Court observed that the right can only be restricted on the grounds of efficiency of instruction, discipline, health, sanitation, morality and public order. The provisions in the Amending Act are not relatable to any of these grounds.

RRR. BECAUSE the amending provisions violate the principle that has been time and again reiterated that regulations that may be justified on the grounds stipulated in Articles 19(6) and 26 may fall foul of Article 30 if they infringe the ‘minority character’ of the institution.

SSS. BECAUSE this court has held that the right to administer has four components: (a) the right to choose its managing or governing body; (b) the right to choose the teachers; (c) the right not to be compelled to refuse admission to students; and (d) the right to use its properties and assets for the benefit of its own institutions. The draconian provisions in Section 3C and 3D limit the usage of the properties for benefit for muslim

community. (*Ahmedabad St. Xavier's College Society v. State of Gujarat*(1974) 1 SCC 71, and *Aligarh Muslim University v. Naresh Agarwal & Ors.*, 2024 INSC 856)

- TTT.** BECAUSE Waqf, as a system of dedicating property for religious or charitable purposes, promotes the rights enshrined in Article 30 of the Indian Constitution, which guarantees minorities' rights to establish and administer educational institutions. This is because Waqf properties, particularly those used for religious or charitable purposes, can be leveraged to fund and maintain such institutions, ensuring the minority community's right to self-determination in education.
- UUU.** BECAUSE the Waqf (Amendment) Act, 2025 undermines the constitutional safeguards granted to the Muslim religious minority towards establishing and administering educational institutions under Articles 29 and 30 of the Constitution. By severely endangering the resources available with charitable endowments and institutions engaged in establishing and administering schools and colleges for the welfare of minorities, the impugned Amending Act seriously diminishes the 'choice' of the minority groups to establish culturally autonomous places of learning.
- VVV.** BECAUSE this Court in *Rustom Cavasjee Cooper (Banks Nationalisation) v. Union of India*, (1970) 1 SCC 248 highlighted the intertwined nature of guarantees within Part III. It was held that Part III of the Constitution ensures that the pattern of guarantees on the texture of basic human rights delimits the protection of those rights in their allotted fields and not as distinct rights. It was, *inter alia*, held that:

“43.....Protection of the right to property or personal freedom is most needed when there is an actual threat. To argue that State action which deprives a person permanently or temporarily of his right to property, or personal freedom, operates to extinguish the right or the remedy is to reduce the guarantee to an empty platitude. Again to hold that the extent of, and the circumstances in which, the guarantee of protection is available depends upon the object of the State action, is to seriously erode its effectiveness....”

- WWW.** BECAUSE the detrimental effects on the Islamic system of dedicating property for religious or charitable purposes indirectly diminish the rights enshrined in Article 30 of the Indian Constitution. This is because Waqf properties, particularly those used for religious or charitable purposes, can be leveraged to fund and maintain such institutions, ensuring the minority community's right to self-determination in education.
- XXX.** BECAUSE Waqf properties can generate income that can be used to finance educational institutions, ensuring their operational viability. Furthermore, the Waqf properties can be used to provide physical infrastructure, such as buildings and facilities, for educational institutions.
- YYY.** BECAUSE the impugned Waqf (Amendment) Act, 2025 violates the constitutional right to property under Article 300A.
- ZZZ.** BECAUSE Section 3D encodes a strong presumption that a Waqf property if disputed by the State, is a State property. The omission of the Waqf Board's power to decide whether a property is a waqf under Section 40 is replaced by unilateral

power on the Designated Officer and Collector. It is fairly apprehended that these provisions seek unjust and iniquitous expropriation of property in a manner that has been found to be constitutionally invalid in a catena of cases including *Lucknow Nagar Nigam v. Kohli Brothers Colour Lab, 2024 SCC OnLine SC 188* and *Property Owners Association v. State of Maharashtra [2024] 11 S.C.R. 1*.

- AAAA.** BECAUSE Section 3E seriously violates the volitional dedication of property by members of the Scheduled Tribe community to Waqf. Section 3E stipulates that 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.
- BBBB.** BECAUSE Section 3E fails to consider the List of Scheduled Tribes under Article 342 is a religion-neutral list including several adherants of Islam. Several members of the tribes such as Bakarwals from the UT of Jammu and Kashmir and UT of Ladakh as well as Mech from the States of West Bengal and Assam practice and profess Islam.
- CCCC.** BECAUSE the Amending Act denies the right of a person not professing Islam to dedicate properties to a waqf although the same has had a long-standing legal recognition in India, *vide M.P. Wakf Board vs. Subhan Shah (Dead) By Lrs. And Ors. (2006) 10 SCC 696*.
- DDDD.** BECAUSE all persons who are competent to make a valid gift are also competent to constitute a valid waqf. Islam is not a necessary condition for the constitution of a waqf. The right of a person not professing Islam to dedicate properties to a waqf has had a long-standing legal recognition in India. Any person

of whatever creed may create a waqf; the only requirement in law is that the object for which dedication is to be made should be lawful according to the creed of the dedicator as well as Muslim law (*Motishah and Ors vs. Abdul Gaffar Khan AIR (1956) Nagpur 38*).

EEEE. BECAUSE the deletion of Section 107 of the Waqf Act, 1995 does violence to religious freedom encoded in Articles 25 and 26 by exposing waqf properties to adverse possession, contrary to their inalienable nature under Islamic law. This omission of Section 107 disregards Parliament's original intent to protect waqf assets from encroachment, as reflected in legislative debates and the Sachar Committee's recommendation to extend limitation protections until 2035. The amendment arbitrarily legitimizes illegal occupation while denying waqfs the benefit of long-standing religious use, amounting to a manifestly unjust and violation of the principle of non-retrogressive contributing to erosion of minority rights.

The Petitioner prays for liberty to add or amend the facts and grounds set out in this Petition.

No Petition or proceeding has been filed before any other court or tribunal for the same or similar reliefs.

PRAYER

In light of the foregoing submissions, it prayed that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction:

- 1) Issue a writ of mandamus, or any other appropriate writ, order, or direction, declaring the impugned Waqf (Amendment) Act,

2025 as unconstitutional for violating Article 14, 15, 19, 21, 25, 26, 29, 30 and 300A; and

- 2) Pass any other order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

And for this act of kindness, the Petitioner abovenamed, as in duty bound, shall ever pray.

FILED BY:

Place: New Delhi

Date: 14.04.2025

A handwritten signature in black ink, appearing to read 'Shivangi', with a stylized flourish at the end.

SHIVANGI ANAND

Advocate for the Petitioner

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

IN THE MATTER OF:-

MANSOOR ALI KHAN

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT

AFFIDAVIT

I, Mansoor Ali Khan, [REDACTED]

[REDACTED] the Petitioner in the above-captioned petition do hereby solemnly affirm on oath as under:-

1. That I am the Petitioner in the above captioned Petition and as such am well conversant with the facts and circumstances of the present case, and thereby competent and I am duly authorised to affirm this affidavit on behalf of the Petitioner.
2. That the contents of the accompanying Synopsis and List of Dates and Events from Page ___ to ___ have been read out and explained to me in vernacular, and the contents of paras 1 to _ on pages ___ to ___ of the accompanying Petition have been read out and explained to me in vernacular. I state that the facts stated in the Petition are true and correct to the best of my knowledge and belief. That the contents of the accompanying applications (IAs/CMPs) at pages ___ to ___ have also been read out and explained to me in vernacular and I say that what is stated therein is true and correct to me knowledge and belief and nothing has been concealed therein.
3. I state that the Annexures are true/translated copies of their respective originals.

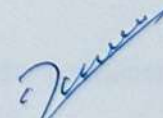


DEPONENT

VERIFICATION:

I, the deponent above named, do hereby verify that the facts stated in the above affidavit are true to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at B. 10/2/2025 on this 14 day of April, 2025




DEPONENT



14 APR 2025

SWORN TO BEFORE ME


ARAVIND PATIL, G.G. B.A., L.L.B.,
ADVOCATE & NOTARY
28, 12th Main, Near Old Sub Register Office
4th Block Jayanagar Bengaluru 560 011

THE MUSSALMAN WAKF ACT, 1923

ARRANGEMENT OF SECTIONS

SECTIONS.

Preliminary

1. Short title, extent and commencement.
2. Definitions.

Statements of Particulars

3. Obligation to furnish particulars relating to wakf.
4. Publication of particulars and requisition of further particulars.

Statements of Accounts and Audits.

5. Statement of accounts.
6. Audit of account.

General Provisions.

7. Mutawalli entitled to pay cost of audit, etc., from wakf funds.
8. Verification.
9. Inspection and copies.

Penalty.

10. Penalties.

Rules.

11. Power to make rules.
12. Savings.
13. Exemption.

//TRUE COPY//

THE MUSSALMAN WAKF ACT, 1923*

ACT NO. 42 OF 1923¹[5th August, 1923.]

An Act to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties

WHEAREAS it is expedient to make provision for the better management of wakf property and for ensuring the keeping and publication of proper accounts in respect of such properties;

It is hereby enacted as follows—

Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the Mussalman Wakf Act, 1923;

²[(2) It extends to the whole of India except ³[the territories which immediately before the 1st November, 1956, were comprised in Part B States].]

(3) This section shall come into force at once; and.

(4) The State Government may, by notification in the Official Gazette, direct⁴ that the remaining provisions of this Act, or any of them which it may specify, shall come into force in the State, or any specified part thereof, on such date as it may appoint in this behalf.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “benefit” does not include any benefit which a mutwalli is entitled to claim solely by reason of his being such mutwalli;

1. This Act has been repealed in its application to Bengal by the Bengal Wakf Act, 1934 (Bengal 13 of 1934), section 82; and repealed in part in the United Provinces by the United Provinces Muslim Wakf Act, 1936 (U.P. 13 of 1936); and amended in its application to—

Bihar and Orissa by the Bihar and Orissa Mussalman Wakf (Amendment) Act, 1926 (B. & O., 1 of 1926); and

Bombay by the Mussalman Wakf, (Bombay Amendment) Act, 1935 (Bombay 18 of 1935); the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944 (Bombay 10 of 1944) and the Mussalman Wakf (Bombay Amendment) Act, 1945 (Bombay 15 of 1945).

2. Subs. by the A.O. 1950 for the former sub-section.

3. Subs. by the Adaptation of Laws (No. 3) Order, 1956, for “Part B States”.

4. Sections 2 to 5 and 7 to 13 were brought into force in the Punjab with effect from 14-5-1924, *see* Punjab Gazette, 1924, Part I, p. 418.

Sections 2 to 13 were brought into force in the Presidency of Bombay from 1-6-1925, *see* Bombay Government Gazette, 1925, Part I, p. 1414.

All provisions of the Act were brought into force in Bihar and Orissa from 3-9-1925, *see* B & O. Gazette, 1925, Part II, p. 1192.

Sections 2 to 13 were brought into force in the Presidency of Bengal with certain modifications from 1-6-1927, *see* Calcutta Gazette, Part I, p. 1008.

Sections 2 to 13 were brought into force in Ajmer-Merwara from 1-2-1928, *see* Gazette of India, 1928, Part II-A, p. 20.

* This Act shall not apply to any Wakf to which the Wakf Act, 1954 (29 of 1954) applies. Now Wakf Act, 1954 (29 of 1954) is repealed by the Waqf Act, 1995 (43 of 1995) (w.e.f. 1-1-1996).

(b) “Court” means the Court of the District Judge or, within the limits of the ordinary original civil jurisdiction of a High Court, such Court, subordinate to the High Court, as the State Government may, by notification in the Official Gazette, designate in this behalf;

(c) “Mutwalli” means any person appointed either verbally or under any deed or instrument by which a wakf has been created or by a Court of competent jurisdiction to be the mutwalli of a wakf, and includes a naib-mutwalli or other person appointed by a mutwalli to perform the duties of the mutwalli, and, save as otherwise provided in this Act, any person who is for the time being administering any wakf property;

(d) “prescribed” means prescribed by rules made under this Act; and

(e) “wakf” means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable, but does not include any wakf, such as is described in section 3 of the Mussalman Wakf Validating Act, 1913 (6 of 1913), under which any benefit is for the time being claimable for himself by the person by whom the wakf was created or by any of his family or descendants.

Statements of Particulars

3. Obligation to furnish particulars relating to wakf.—(1) Within six months from the commencement of this Act every mutwalli shall furnish to the Court within the local limits of whose jurisdiction the property of the wakf of which he is the mutwalli is situated or to any one of two more such Courts, a statement containing the following particulars, namely—

(a) a description of the wakf property sufficient for the identification thereof;

(b) the gross annual income from such property;

(c) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished, or of the period which has elapsed since the creation of the wakf, whichever period is shorter;

(d) the amount of Government revenue and cesses, and of all rents, annually payable in respect of the wakf property;

(e) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (c) relate;

(f) the amount set apart under the wakf for—

(i) the salary of the mutwalli and allowances to individuals;

(ii) purely religious purposes;

(iii) charitable purposes;

(iv) any other purposes; and

(g) any other particulars which may be prescribed.

(2) Every such statement shall be accompanied by a copy of the deed or instrument creating the wakf or, if no such deed or instrument has been executed or a copy thereof cannot be obtained shall contain full particulars, as far as they are known to the mutwalli, of the origin, nature and objects of the wakf.

(3) Where—

(a) a wakf is created after the commencement of this Act, or

(b) in the case of a wakf such as is described in section 3 of the Wakf Validation Act, 1913 (6 of 1913) the person creating the wakf or any member of his family or any of his descendants is at the commencement of this Act alive and entitled to claim any benefit thereunder,

the statement referred to in sub-section (1) shall be furnished, in the case referred to in clause (a), within six months of the date on which the wakf is created or, if it has been created by a written document, of the date on which such document is executed, or, in the case referred to in clause (b), within six months of the date of the death of the person entitled to such benefit as aforesaid, or of the last survivor of any such persons, as the case may be.

4. Publication of particulars and requisition of further particulars.—(1) When any statement has been furnished under section 3, the court shall cause notice of the furnishing thereof to be affixed in some conspicuous place in the Court-house and to be published in such other manner, if any, as may be prescribed, and thereafter any person may apply to the Court by a petition in writing, accompanied by the prescribed fee, for the issue of an order requiring the mutwalli to furnish further particulars or documents.

(2) On such application being made, the Court may, after making such inquiry, if any, as it thinks fit, if it is of opinion that any further particulars or documents are necessary in order that full information may be obtained regarding the origin, nature or objects of the wakf or the condition or management of the wakf property, cause to be served on the mutwalli an order requiring him to furnish such particulars or documents within such time as the Court may direct in the order.

Statement of Accounts and Audit

5. Statement of accounts.—Within three months after the thirty-first day of March next following the date on which the statement referred to in section 3 has been furnished and thereafter within three months of the thirty-first day of March in every year, every mutwalli shall prepare and furnish to the Court to which such statement was furnished a full and true statement of accounts, in such form and containing such particulars as may be prescribed, of all moneys received or expended by him on behalf of the wakf of which he is the mutwalli during the period of twelve months ending on such thirty-first 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 wakf:

Provided that the Court may, if it is satisfied that there is sufficient cause for so doing, extend the time allowed for the furnishing of any statement of accounts under this section.

6. Audit of account.—Every statement of accounts shall, before it is furnished to the Court under section 5, be audited—

(a) in the case a wakf the gross income of which during the year in question, after deduction of the land revenue and cesses, if any, payable to the Government, exceeds two thousand rupees, by a person who is the holder of a certificate granted by the ¹[Central Government] under section 144 of the ²Indian Companies Act, 1913 (7 of 1913), or is a member of any institution or association the members of which have been declared under that section to be entitled to act as auditors of companies throughout the ³[territories to which this Act applies]; or

1. Subs. by the A.O. 1937 for “L.G.”

2. The relevant provisions of the Companies Act, 1956 (1 of 1956) may now be referred to.

3. Subs. by the A.O 1950 for “Provinces”.

(b) in the case of any other wakf, by any person authorised in this behalf by general or special order of the said Court.¹

General Provisions

7. Mutawalli entitled to pay cost of audit, etc., from wakf funds.—Notwithstanding any thing contained in the deed or instrument creating any wakf, every mutawalli may pay from the income of the wakf property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 3 or section 4 or in respect of the preparation or audit of the annual accounts for the purposes of this Act.

8. Verification.—Every statement of particulars furnished under section 3 or section 4, and every statement of accounts furnished under Section 5, shall be written in the language of the Court to which it is furnished, and shall be verified in the manner provided in the Code of Civil Procedure, 1908 (5 of 1908), for the signing and verification of pleadings.

9. Inspection and copies.—Any person shall, with the permission of the Court and on payment of the prescribed fee, at any time at which the Court is open, be entitled to inspect in the prescribed manner, or to obtain a copy of, any statement of particulars or any document furnished to the Court under section 3 or section 4, or any statement of accounts furnished to it under Section 5, or any audit report made on an audit under Section 6.²

Penalty

10. Penalties.—Any person who is required by or under section 3 or section 4 to furnish a statement of particulars or any document relating to a wakf, or who is required by Section 5 to furnish a statement of accounts, shall, if he, without reasonable cause the burden of proving which shall lie upon him fails to furnish such statement or document, as the case may be, in due time, or furnishes a statement which he knows or has reason to believe to be false, misleading or untrue in any material particular, or, in the case of a statement of account, furnishes a statement which has not been audited in the manner required by Section 6, be punishable with fine which may extend to five hundred rupees, or, in the case of a second or subsequent offence, with fine which may extend to two thousand rupees³.

Rules

11. Power to make rules.—(1) The State Government may, after previous publication, by notification in the Official Gazette, make rules to carry into effect the purposes of this Act.

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

(a) the additional particulars to be furnished by mutawallis under clause (g) of sub-section (1) of section 3;

(b) the fees to be charged upon applications made to a Court under sub-section (1) of section 4;

(c) the form in which the statement of accounts referred to in section 5 shall be furnished, and the particulars which shall be contained therein;

(d) the powers which may be exercised by auditors for the purpose of any audit referred to in section 6, and the particulars to be contained in the reports of such auditors;

1. In the application of the Act to Bombay, new ss. 6A to 6Q have been ins. by the Mussalman Wakf (Bombay Amendment) Act, 1935 (Bombay 18 of 1935), S. 5.

2. In the application of the Act to Bombay, a new s. 9A has been ins. by S. 11, *ibid*.

3. In the application of the Act to Bombay new ss. 10A to 10D have been ins. by the Mussalman Wakf (Bombay Amendment) Act, 1935 (Bom. 18 of 1935) S. 13.

(e) the fees respectively chargeable on account of the allowing of inspections and of the supply of copies under section 9;

(f) the safe custody of statements, audit reports and copies of deeds or instruments furnished to Courts under this Act; and

(g) any other matter which is to be or may be prescribed.

¹[(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

12. Savings.—Nothing in this Act shall—

(a) affect any other enactment for the time being in force in the ²[territories to which this Act applies] providing for the control or supervision of religious or charitable endowments; or

(b) apply in the case of any wakf the property of which—

(i) is being administered by the Treasurer of Charitable Endowments, the Administrator General, or the Official Trustee; or

(ii) is being administered either by a receiver appointed by any Court of competent jurisdiction, or under a scheme for the administration of the wakf which has been settled or approved by any Court of competent jurisdiction or by any other authority acting under the provisions of any enactment.

13. Exemption.—The State Government may, by notification in the Official Gazette, exempt from the operation of this Act or of any specified provision thereof any wakf or wakfs created or administered for the benefit of any specified section of the Mussalman community.

1. Ins. by Act 4 of 2005, s. 2 and Sch. (w.e.f. 11-1-2005).

2. Subs. by the A.O. 1950 for “Provinces”.

THE MUSLIM WAKFS BILL, 1952

(Report of the Select Committee)



सत्यमेव जयते

//TRUE COPY//

PARLIAMENT SECRETARIAT
NEW DELHI

March, 1954

Reports of the Select/Joint Committees Report
presented in the Lok Sabha in the year, 1954.

S.No.	S u b j e c t	Date of presentation
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SIXTH SESSION

1. Muslim Wakfs Bill, 1952 (S.C.) 4.3.54.
2. Special Marriage Bill, 1952 (J.C.) 18.3.54.

SEVENTH SESSION

1. Coffee Market (Expansion Amendment) Bill, 1954 (S.C.) 26.8.54.
2. Rubber (Production & Marketing) Amendment Bill, 1950 together with the Evidence s on the bill dated the 21st and 22nd July, 1954 (S.C.) -66-
3. Displaced persons (Compensation and Rehabilitation) Bill, 1954 (J.C.) 27.8.54
4. Code of Criminal Procedure (Amendment) Bill, 1954 (J.C.) 3.9.54.
5. Constitution (Third Amendment) Bill, 1952. (J.C.) 20.9.54

EIGHTH SESSION

1. Hindu Marriage & Divorce Bill, 1952. (J.C.) 26.11.54
2. Untouchability (Offences) Bill, 1954 (J.C.) 3.12.54
3. Delimitation Commission (Amendment) Bill, 1954. (S.C.) 22.12.54

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Composition of the Select Committee

Shri C. C. Biswas—*Chairman*.
 Dr. Syed Mahmud.
 Shri M. Hifzur Rahman.
 Shri Ahmed Mohiuddin.
 Shri Gurmukh Singh Musafir.
 Pandit Krishna Chandra Sharma.
 Shri Hira Vallabh Tripathi.
 Maulana Mohammad Saeed Masuodi.
 Col. B. H. Zaidi.
 Shri Mohanlal Saksena.
 Chaudhri Hyder Husein.
 Shri Syed Ahmed.
 Shri Amjad Ali.
 Dr. N. M. Jaisoorya.
 Shrimati Subhadra Joshi.
 Shri S. V. L. Narasimham.
 *Shri Atma Singh Namdhari.
 Shri Piare Lal Kureel Talib.
 Shri Syed Mohammad Ahmad Kazmi.

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary*.
 Shri K. G. Bijlani, *Under Secretary*.

*Died on the 7th January, 1954.

Report of the Select Committee

The Select Committee to which the Bill* to provide for the better governance and administration of Muslim Wakfs and the supervision of Mutawallis' management of them, in India was referred, have considered the Bill and now submit this their Report, with the Bill as amended by the Committee annexed thereto.

The Select Committee felt that in order to give effect to their decisions, it would be more convenient to redraft the Bill and the Bill has been accordingly entirely redrafted. In this Report, any reference to any clause will be taken to mean a reference to the clause of the Bill as amended by the Select Committee.

Upon the changes proposed in the Bill which are not formal or consequential, the Select Committee note as follows:—

Clauses 1 and 2.—These clauses correspond to clauses 1 and 2 of the original Bill. The Committee consider that the Act should be called simply the Wakf Act and not the Muslim Wakfs Act.

The Act should extend to the whole of India except, of course, the State of Jammu and Kashmir. For the sake of administrative convenience, the Act should be brought into force in any particular State by notification issued by the Central Government.

In four States, namely, West Bengal, Bihar, Uttar Pradesh and Delhi, there are already State Acts relating to wakfs. The Committee consider that the Central Act should not be applied to these States against the wishes of the State Governments. Provision has, therefore, been made that the Central Act may be applied to these States only on the recommendation of the State Government concerned.

In Bombay there is no such special legislation relating to wakfs, but there is the Bombay Public Trusts Act, 1950, which in the opinion of the Committee, does not adequately meet the special problems of wakfs. They consider that the Central Act should be made applicable to Bombay also.

There are special Acts to make better provision for the administration of what is generally known as Durgah Khawaja Saheb, namely, the Durgah Khawaja Saheb Act, 1936, and the Durgah Khawaja Saheb (Emergency Provisions) Act, 1950. The Committee consider that in view of these special Acts, this Act should not apply to Durgah Khawaja Saheb.

Subject to the exceptions mentioned before, this Act should apply to all wakfs whether created before or after the commencement of this Act. The Committee consider that the original provision relating to the power of the Central Government to exempt any wakf from the operation of this Act should be omitted.

Clause 3.—This clause corresponds to clause 3 of the original Bill. Some of the definitions of the original Bill were considered unnecessary and have been omitted.

*This Bill was published in Part II—Section 2 of the *Gazette of India*, dated 26th July, 1952.

Clause 3 (f).—The definition of 'mutawalli' has been expanded so as to include committees appointed for the purposes of managing or administering wakfs.

The Committee consider that it would be convenient to define 'Sunni wakf' and 'Shia wakf'. These expressions have accordingly been defined. The expressions 'wakf' and 'wakf deed' have also been defined. Apart from the usual definition of a wakf, it has been defined to include a wakf by user, Mashrut-ul-khidmat and wakf-alal-aulad to the extent to which the property is dedicated for any pious, religious or charitable purposes.

Clauses 4 to 7.—These clauses correspond to clauses 4 to 6 of the original Bill. The Committee have redrafted these clauses to make the provisions simpler and the intention clear. The Commissioner of Wakfs should make a preliminary survey of wakfs existing in the State at the date of the commencement of the Act and prepare a report and submit it to the State Government. The Committee have considered the various particulars which such a report should contain. The State Government should forward the report to the State Board which is to be established in the State. The Board should examine the report and publish the list of wakfs in the State. The whole report need not be published and it would be enough if publication is made of such particulars in relation to each wakf as may be prescribed by rules. The list so published shall be final, subject to any decision of the civil court thereon.

Clause 8.—Provision has been made that in a State where a preliminary survey of wakfs has already been made under any State law, it would not be necessary to make such survey over again under the provisions of this Act.

Clauses 9 to 11.—These clauses correspond to clauses 7 to 9 of the original Bill. The Committee consider that there should be a Board of Wakfs for every State. It is not, however, necessary to have the same number of members in all the States. The Committee suggest that there should be eleven members in the Board of every Part A State, seven members in the Board of every Part B State and five members in the Board of every Part C State. It is, however, felt that having regard to the number of wakfs in a State and in order to give proper representation to various interests, it may be necessary to vary the number of members of the Board and the State Government has been empowered to fix the number but in no case, the number of members in a Board should exceed eleven.

The Committee feel that it would be more convenient to have a nominated Board rather than an elected body. This would enable the State Governments to give proper representation to various interests and to nominate suitable persons to the Board.

Clause 12.—This clause corresponds to clause 11 of the original Bill.

Clause 13.—This clause corresponds to clause 10 of the original Bill with minor drafting changes.

Clause 14.—This clause corresponds to clauses 12 to 16 of the original Bill. All matters of detail like the location of office, quorum etc. have been left to be regulated by rules.

Clause 15.—This clause corresponds to clause 19 of the original Bill.

The Committee feel that it should be clearly brought out that the main function of the Board is to ensure that the income and property of the wakf are applied to the objects and for the purposes for which the wakf was created or intended and that in performing its functions, the Board should act in conformity with the directions of the wakf and the purposes of the wakf.

It is also necessary to provide that when the Board settles any scheme of management for a wakf or directs in accordance with the cypres doctrine in what manner the income of a wakf or surplus income thereof should be utilised, an opportunity should be given to the parties affected to represent their cases before the Board. Moreover, the aggrieved parties should have the liberty to file a civil suit for setting aside the decision of the Board. When the Board has to decide in accordance with the cypres doctrine how the income or surplus income of a wakf should be utilised, the functions of the Board should be exercised,—

- (i) in the case of a Shia wakf, by the Shia members of the Board only; and
- (ii) in the case of a Sunni wakf by the Sunni members of the Board only.

The Committee feel that there may be some Boards where there may not be an adequate number of Shia members or Sunni members and in such a case, the Board may co-opt persons who are Shias or Sunnis, as the case may be, to be temporary members of the Board for exercising its powers for the aforesaid purpose only.

In order that the Board may have effective control over the administration of wakfs, the Committee consider that the Board should be given power to scrutinise and approve the budgets submitted to it by mutawallis. The Board should also arrange for the auditing of accounts of wakfs. These provisions have accordingly been incorporated in this clause.

Clause 16.—This clause corresponds to clause 21 of the original Bill.

Clauses 17 to 19.—These clauses correspond to clauses 22 to 25 of the original Bill with minor changes.

Clause 20.—This is a usual provision in order that no act or proceeding of the Board may be invalidated by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

Clause 21.—The Committee consider that the Secretary of the Board who is the chief executive officer thereof should be appointed by the State Government but he should be under the administrative control of the Board.

Clause 22.—This clause corresponds to clause 20 of the original Bill.

Clause 23.—This clause corresponds to clause 27 of the original Bill.

Clause 24.—The Committee consider it necessary to provide specifically that the office of chairman or member of a Board should not disqualify a person from membership of Parliament.

The original Bill contemplated the setting up of a Central Board by the Central Government for the purpose of coordinating the activities of State Boards and supervising the functions of the State Boards. (See chapter III—clauses 28 to 39—of the original Bill.) The Committee have considered the question and are of opinion that it is not necessary to have a Central Board. State Governments have been given ample powers to supervise the functioning of Boards in the States, and if a Board does not perform its functions properly, the Board may also be superseded by an order of the State Government. Power has, however, been given in clause 62 to the Central Government to call for any information or report in relation to the functioning of State Boards and the Central Government may give directions on questions of policy to be followed by the Boards. The provisions relating to Central Board have, therefore, been omitted.

Clauses 25 and 26.—These clauses correspond to clauses 40 and 41 of the original Bill. Some drafting changes have been made.

Clause 27.—The Committee consider that the Board should be empowered to make an inquiry in relation to any property which it has reason to believe to be wakf property, and if the Board finds that the property is wakf property it may cause it to be registered. The decision of the Board should, subject to any decision of the civil court on the question, be final.

Clause 28.—This clause corresponds to clause 42 of the original Bill.

Clause 29.—An obligation has been imposed on the mutawallis and others to notify to the Board any change which may take place either in the management of a registered wakf or in any particulars mentioned in the application for registration. This would enable the Board to keep the Register of Wakfs up-to-date.

Clause 30.—This clause has been inserted to provide that where any wakf has already been registered under any State law, it shall not be necessary to register the wakf under the provisions of this Act again.

Clauses 31 and 32.—An obligation has been imposed on every mutawalli of a wakf to submit the budget and the accounts in relation to the wakf to the Board within the prescribed time.

Clause 33.—The Committee consider that the accounts of wakfs should be audited by an auditor appointed by the Board and the costs of the audit should be met from the Wakf Fund. This clause also specifies the particulars which the report of an auditor should contain.

Clauses 34 and 35.—These clauses correspond to clauses 44 and 45 of the original Bill. Some drafting changes, however, have been made.

Clause 36.—This clause corresponds to clause 62 of the original Bill but the duties of the mutawallis have been more specifically stated.

Clause 37.—This clause has been inserted to enable the mutawalli to incur certain expenses which he has to incur under the provisions of this Bill.

Clause 38.—This clause corresponds to clause 63 of the original Bill with certain drafting changes.

Clause 39.—The Committee consider that it would be convenient if a reserve fund is created from the income of a wakf for payment of public dues or for the preservation of the wakf property. An enabling provision has, therefore, been inserted.

Clause 40.—This clause corresponds to clause 71 of the original Bill.

Clause 41.—This clause corresponds to clause 66 of the original Bill. It has, however, been provided that no court inferior to that of a Presidency Magistrate or a Magistrate of the first class should try any offence punishable under this Act.

Clause 42.—This clause corresponds to clause 61 of the original Bill.

Clause 43.—This clause corresponds to clause 64 of the original Bill. It is open to a Board to institute a civil suit for the removal of a mutawalli. Apart from this, the Committee feel that the powers of a Board to remove a mutawalli by an executive order, should be restricted. This power should be exercised only when some court has found the mutawalli guilty of an offence. It has, therefore, been suggested that a mutawalli may be removed by an executive order of the Board only if such mutawalli has been convicted more than once of an offence punishable under section 41 or has been convicted of an offence of criminal breach of trust or any other offence involving moral turpitude. Where a committee of management has been appointed by the Board for performing the functions of a mutawalli, the Board has been empowered to supersede the committee, if the committee does not properly perform its functions. Before taking any action for the removal of a mutawalli the Board must hold an inquiry into the matter and the decision should be taken by a majority of not less than three-fourths of the members of the Board. The Committee also consider that when a mutawalli is removed from office, the Board should be empowered to direct the mutawalli to deliver possession of the wakf property to the Board or to any authorised person. If the mutawalli fails to deliver possession under the orders of the Board, the order of the Board should be executable as a decree of civil court. It should also be made clear that the removal of a mutawalli from his office should not affect his personal rights, if any. Provision has accordingly been made.

Clauses 44 and 45.—These clauses correspond to clauses 46 to 48 of the original Bill. Some drafting changes have, however, been made.

Clauses 46 and 47.—These clauses correspond to clauses 59 and 60 of the original Bill. Some drafting changes, however, have been made.

Clause 48.—This clause corresponds to clause 72 of the original Bill.

Clauses 49 to 53.—Provision has been made that every Board should frame its budget and submit it to the State Government for its approval. The accounts of the Board should also be submitted to the State Government and they should be audited by an auditor appointed by the State Government. The costs of the audit shall be paid from the Wakf Fund. The State Government after examining the auditor's report may pass such orders on the report as it thinks fit.

Clause 54.—This clause corresponds to clause 73 of the original Bill.

Clauses 55 to 61.—These clauses correspond to clauses 49 to 58 of the original Bill. Some changes have been made, mainly of a drafting nature.

Clause 62.—The Committee consider that as there would be no Central Board to supervise the functions of State Boards the Central Government should have the power to call for reports and information from State Governments in relation to the functioning of the State Boards. After considering such report or information, the Central Government may issue directions on questions of policy to be followed by the Board. Provision has accordingly been made.

Clause 63.—This clause empowers the State Government to issue general or special directions to the Board and the Board has to comply with such directions.

Clause 64.—The State Government has been empowered, under certain circumstances, to supersede the Board and during the period of supersession, the functions of the Board shall be performed by such person or persons as the State Government may direct.

Clauses 65 and 66.—These are usual clauses for giving protection to persons taking action under this Act in good faith and making certain officers public servants within the meaning of section 21 of the Indian Penal Code.

Clauses 67 and 68.—These clauses deal with the powers of State Governments and Boards to make rules and regulations.

Clause 69.—This corresponds to clauses 74 and 75 of the original Bill. A specific provision has also been made that if this Act is applied to any State in which any corresponding law is in force, the corresponding law should stand repealed.

2. The Select Committee recommend that the Bill be passed as now amended.

NEW DELHI;

The 4th March, 1954.

C. C. BISWAS,

Chairman of the Select Committee.

Minutes of Dissent

I

I beg to differ from some of the decisions of the Select Committee:

1. At least ten States have stated that they do not want the Central Act to be made applicable to those States. These States are Bihar, Madras, U.P., Bombay, Saurashtra, West Bengal, Mysore, Travancore-Cochin, Madhya Pradesh and Hyderabad. Even in the case of Ajmer, although the Government of Ajmer have no comments to offer, the Judicial Commissioner and the District Judge have opposed to this Bill being made applicable to that State. As the Trusts are included in the concurrent list, it may not be desirable to legislate on concurrent matters and apply them to the States which are averse to those measures.

2. There may not be much objection to a model Central Act but it should be left entirely to the State to decide whether this model Act be made applicable to that State.

3. Even according to this Bill, it will be the responsibility of the State Government to see that the State Boards work satisfactorily. In other words the State Governments will be responsible for proper management of the Muslim Wakfs. If these States already have got certain Acts under which these various Wakfs are administered and the State Governments are satisfied that these Acts are working satisfactorily, there is absolutely no justification for the Centre to intervene and ask the State Governments to apply the Central Act. Some of the States like Hyderabad want to follow Bombay and enact General Public Trusts Act for the management of Charitable Trusts belonging to all faiths. They are opposed to all such sectarian Acts.

I, therefore, strongly object to this Act being made applicable to the States which have opposed its application. At the most we may only have a model Act and it should be left entirely to the States to decide whether they would like to adopt this Act. In any case it should not be made applicable automatically.

NEW DELHI;

MOHANLAL SAKSENA.

The 4th March, 1954.

II

In the light of experience gained it is necessary to apply this piece of legislation to the whole of India and more fully in those places or States where there are Wakfs more in number. It is common knowledge that wakf properties wherever it obtained were being mismanaged or not properly managed, and in most cases Wakf property had gone into the hands of designing and unscrupulous persons who had considered them as their personal and private property.

Opinion in circulation was sought from various interests and objection to its applicability was mostly received from places and States where Wakf existed in large numbers with their local legislation with the consequence of gross mismanagement. The local legislation was either in considerable disuse or unequal to the task.

So, various factors including non-existence of such Acts in many States required such a legislation to come up. A consolidated and uniform legislation passed by the Centre was necessary. "The need for supervision" as given in the Statement of Objects and Reasons was felt more, for in addition to various enactments dealing with the subjects of charitable endowments, the Musalman Wakfs Act 1923 enacted for the whole of India, did not prove of much practical values.

The need for better supervision and good governance of those Wakfs now existing and also for those that are to come, this piece of legislation should be made applicable to the whole of India without making any exceptions in case of U.P., West Bengal, Bihar and Delhi.

I respectfully differ from the views of the other Members of the Select Committee and urge that it should apply to the whole of India without any exception.

NEW DELHI;

The 4th March, 1954.

- AMJAD ALI.

THE MUSLIM WAKFS BILL, 1952

(AS AMENDED BY THE SELECT COMMITTEE)

(Words sidelined indicate the amendments suggested by the Committee)

A

BILL

to provide for the better administration and supervision of wakfs.

Be it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Wakf Act, 1954. 5

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in a State to which this Act extends on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf for that State; and different dates may be appointed for different States: 10

Provided that in respect of any of the States of Bihar, Delhi, Uttar Pradesh and West Bengal, no such notification shall be issued except on the recommendation of the State Government concerned.

2. Application of the Act.—Save as otherwise expressly provided under this Act, this Act shall apply to all wakfs whether created before or after the commencement of this Act: 15

Provided that nothing in this Act shall apply to Durgah Khawaja Saheb, Ajmer, to which the Durgah Khawaja Saheb Act, 1936 (XXIII of 1936) and the Durgah Khawaja Saheb (Emergency Provisions) Act, 1950 (XVII of 1950), apply. 20

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

(a) “beneficiary” means a person or object for whose benefit a wakf is created and includes religious, pious and charitable

objects and any other objects of public utility established for the benefit of the Muslim community;

(b) "benefit" does not include any benefit which a mutawalli is entitled to claim solely by reason of his being such mutawalli;

(c) "Board" means a Board of Wakfs established under section 9;

(d) "Commissioner" means a Commissioner of Wakfs appointed under section 3 and includes any additional or assistant commissioner of wakfs;

(e) "member" means a member of the Board and includes the Chairman;

(f) "mutawalli" means any person appointed either verbally or under any deed or instrument by which a wakf has been created or by a competent authority to be the mutawalli of a wakf and includes any naib-mutawalli, khadim, mujawar, sajjadanishin, 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 or Committee for the time being managing or administering any wakf property as such;

(g) "net income" means the total income less any revenue, cess, rates and taxes payable to the Government or any local authority;

(h) "person interested in a wakf" means any person who is entitled to receive any pecuniary or other benefit from the wakf and includes,—

(i) any person who has a right to worship or to perform any religious rite in a mosque, idgah, imambarah, dargah, khangah, maqbara, graveyard or any other religious institution connected with the wakf or to participate in any religious or charitable institution under the wakf;

(ii) the wakif and any descendant of the wakif and mutawalli;

(i) "prescribed" means prescribed by rules made by the State Government under this Act and includes the regulations made by the Board under this Act;

(j) "Shia wakf" means a wakf governed by Shia law;

(k) "Sunni wakf" means a wakf governed by Sunni law;

(l) "wakf" means the permanent dedication by a person professing Islam of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes—

(i) a wakf by user;

(ii) mashrut-ul-khidmat; and

(iii) a wakf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable;

and "wakif" means any person making such dedication;

(m) "wakf deed" means any deed or instrument by which a wakf has been created and includes any valid subsequent deed or instrument by which any of the terms of the original dedication have been varied.

CHAPTER II

SURVEY OF WAKFS

4. Preliminary survey of wakfs.—(1) The State Government may, by notification in the Official Gazette, appoint for the State a Commissioner of Wakfs and as many additional or assistant commissioners of wakfs as may be necessary for the purpose of making a survey of wakf properties existing in the State at the date of the commencement of this Act.

(2) All additional and assistant commissioners of wakfs shall perform their functions under this Act under the general supervision and control of the Commissioner of Wakfs.

(3) The Commissioner shall, after making such inquiry as he may consider necessary, submit his report to the State Government containing the following particulars, namely:—

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

(b) the nature and objects of each wakf;

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

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

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

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

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

(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) any other matter which may be prescribed.

(5) If, during any such inquiry, any dispute arises as to whether a particular wakf is a Shia wakf or Sunni wakf and there are

clear indications in the deed of wakf as to its nature, the dispute shall be decided on the basis of such deed.

5. Publication of list of wakfs.—(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.

(2) The Board shall examine the report forwarded to it under sub-section (1) and publish, in the Official Gazette, a list of wakfs existing in the State containing such particulars as may be prescribed.

6. Disputes regarding wakfs.—(1) If any question arises whether a particular property is wakf property or not or whether a wakf is a Shia wakf or Sunni wakf, the Board or the mutawalli of the wakf or any person interested therein may institute a suit in a civil court of competent jurisdiction for the decision of the question and the decision of the civil court in respect of such matter shall be final:

Provided that no such suit shall be entertained by the civil court after the expiry of one year from the date of the publication of the list of wakfs under sub-section (2) of section 5.

(2) Notwithstanding anything contained in sub-section (1), no proceeding under this Act in respect of any wakf shall be stayed by reason only of the pendency of any such suit or of any appeal or other proceeding arising out of such suit.

(3) The 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 of any rules made thereunder.

(4) The list of wakfs published under sub-section (2) of section 5 shall, unless it is modified in pursuance of a decision of the civil court under sub-section (1), be final and conclusive.

7. Recovery of costs of survey.—(1) The total cost of making a survey under this Chapter shall be borne by all the mutawallis in proportion to the income of the property of the wakfs situated in the State, such proportion being assessed by the Commissioner.

(2) Notwithstanding anything contained in the deed or instrument by which the wakf was created, any mutawalli may pay from the income of the wakf any sum due from him under sub-section (1).

(3) Any sum due from a mutawalli under sub-section (1) may, on a certificate issued by the State Government, be recovered from the property comprised in the wakf in the same manner as an arrear of land revenue.

8. Chapter II not to apply to certain States.—The provisions of this Chapter shall not apply to any State where a survey of wakf properties existing in the State has, before the commencement of this Act, been made under any law in force in that State.

CHAPTER III

ESTABLISHMENT OF BOARDS AND THEIR FUNCTIONS

9. Incorporation.—(1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint

in this behalf, there shall be established a Board of Wakfs under such name as may be specified in the notification.

(2) The said Board shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property and to transfer any such property subject to such conditions and restrictions as may be prescribed and shall be the said name sue and be sued.

10. Composition of the Board.—(1) The Board shall consist of—

(a) eleven members in the case of each of the States specified in Part A of the First Schedule to the Constitution;

(b) seven members in the case of each of the States specified in Part B of the First Schedule to the Constitution; and

(c) five members in the case of each of the States specified in Part C of the First Schedule to the Constitution:

Provided that any State Government may, by notification in the Official Gazette, vary the number of members in the Board and fix such number, not exceeding eleven members, as it thinks fit and in such a case, the Board shall consist of the number of members specified in the notification.

(2) There shall be a Chairman of the Board who shall be elected by the members from amongst themselves.

11. Appointment of members.—The members of the Board shall be appointed by the State Government by notification in the Official Gazette from any one or more of the following categories of persons, namely:—

(a) members of the State Legislature and members of Parliament representing the State;

(b) persons having special knowledge of Muslim law and representing associations such as State Jamiat-ul-Ulama-i-Hind (whether such persons are Hanafi, Ahle-Hadis or Shafai) or State Shia Conference;

(c) persons having special knowledge of administration, finance or law;

(d) mutawallis of wakfs situate within the State:

Provided that in no case more than one mutawalli shall be appointed to the Board:

Provided further that in determining the number of Sunni members or Shia members in the Board, the State Government shall have regard to the number and value of Sunni wakfs and Shia wakfs to be administered by the Board.

12. Term of office.—The members of the Board shall hold office for five years:

Provided that a member shall, notwithstanding the expiration of his term of office, continue to hold office until the appointment of his successor is notified in the Official Gazette.

13. Disqualifications 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—

(a) if he is not a muslim and is less than twenty-one years of age;

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

(c) if he is an undischarged insolvent;

(d) if he has been convicted of an offence involving moral turpitude;

(e) if he has, on any previous occasion, been removed from the office of a member or has been removed by order of a competent court from any position of trust either for mismanagement or corruption.

14. Meetings of the Board.—(1) The Board shall meet for the transaction of business at such times and places as may be prescribed.

(2) The Chairman, or in his absence, any member chosen by the members from amongst themselves, shall preside at a meeting of the Board.

(3) Subject to the provisions of this Act, all questions which come before any meeting of the Board shall be decided by a majority of votes of the members present, and in the case of equality of votes, the Chairman or, in his absence, any other person presiding shall have a second or casting vote.

15. Functions of the Board.—(1) Subject to any rules that may be made under this Act, the general superintendence of all wakfs in a State shall vest in the Board established for the State; and it shall be the duty of the Board so to exercise its powers under this Act as to ensure that the wakfs under its superintendence are properly maintained, controlled and administered and the income thereof is duly applied to the objects and for the purposes for which such wakfs were created or intended:

Provided that in exercising its powers under this Act in respect of any wakf, the Board shall act in conformity with the directions of the wakf, the purposes of the wakf and any usage or custom of the wakf sanctioned by the Muslim law.

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

(a) to maintain a record containing information relating to the origin, income, object and beneficiaries of every wakf;

(b) to ensure that the income and other property of wakfs are applied to the objects and for the purposes for which such wakfs were created or intended;

(c) to give directions for the administration of wakfs;

(d) to settle schemes of management for a wakf:

Provided that no such settlement shall be made without giving the parties affected an opportunity of being heard;

(e) in any case where the objects of the wakf are not evident from any written instrument or the objects for which they were created have ceased to exist, to direct in what manner the income of the wakf or the surplus income thereof shall be utilised; but no such direction shall be given 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 wakf, by the Sunni members of the Board only; and

(ii) in the case of a Shia wakf, 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 its powers 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;

(f) to scrutinise and approve the budgets submitted by mutawallis and to arrange for the auditing of accounts of wakfs;

(g) to appoint and remove mutawallis in accordance with the provisions of this Act;

(h) to take measures for the recovery of lost properties of any wakf;

(i) to institute and defend suits and proceedings in a court of law relating to wakfs;

(j) to sanction leases of property for more than three years or mortgage or exchange properties according to the provisions of Muslim law;

Provided that no such sanction shall be given unless at least three-fourths of the members of the Board vote in favour of such a transaction;

(k) to administer the Wakf Fund;

(l) to call for such returns, statistics, accounts and other information from the mutawallis with respect to the wakf property as the Board may, from time to time, require;

(m) to inspect, or cause inspection of, wakf properties, accounts or records or deeds and documents relating thereto;

(n) to investigate and determine the nature and extent of wakfs and wakf property; and to cause, whenever necessary, a survey of the wakf properties;

(o) generally do all such acts as may be necessary for the due control, maintenance and administration of wakfs.

(3) Where the Board has settled any scheme of management under clause (d) of sub-section (2) or given any direction under

clause (e) of sub-section (2), any person interested in the wakf or affected by such settlement or direction may institute a suit in a civil court of competent jurisdiction for setting aside such settlement or directions and the decision of the civil court thereon shall be final.

16. Committees of the Board.—(1) The Board may, whenever it considers necessary, establish either generally or for a particular purpose or for any specified area or areas committees for the supervision of wakfs.

(2) The constitution, functions and duties of such committees shall be determined from time to time by the Board:

Provided that it shall not be necessary for the members of such committees to be members of the Board.

17. Resignation of Chairman and members.—The Chairman or any other member may resign his office by writing under his hand addressed to the State Government:

Provided that the Chairman or the members shall continue in office until the appointment of his successor is notified in the Official Gazette.

18. Removal of Chairman and members.—(1) The State Government may, by notification in the Official Gazette, remove the Chairman of the Board or any member thereof if he—

(a) is or becomes subject to any disqualifications specified in section 13; or

(b) refuses to act or is incapable of acting or acts in a manner which the State Government, after hearing any explanation that he may offer, considers to be prejudicial to the interests of the wakfs; or

(c) fails, without excuse sufficient in the opinion of the Board, to attend three consecutive meetings of the Board.

(2) Where the Chairman of the Board is removed under sub-section (1), he shall also cease to be a member of the Board.

19. Filling of a vacancy.—When the seat of a member becomes vacant by his removal, resignation, death or otherwise, a new member shall be appointed in his place and such member shall hold office so long as the member whose place he fills would have been entitled to hold office, if such vacancy had not occurred.

20. Vacancies amongst members or defect in the constitution not to invalidate acts or proceedings of the Board.—No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

21. Secretary and other officers of the Board.—(1) There shall be a Secretary to the Board who shall be a muslim and shall be appointed by the State Government, in consultation with the Board.

(2) The Secretary shall be the Chief Executive Officer of the Board and shall be under its administrative control.

(3) The Board may appoint such other officers and servants as it may consider necessary for the efficient performance of its functions under this Act.

22. Delegation.—The Board may; by a general or special order in writing, delegate to the Chairman or any other member or to the Secretary or any other officer or servant of the Board, subject to such conditions and limitations (if any) as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

23. Inspection of records and issue of copies.—(1) The Board may allow inspection of its proceedings or other records in its custody and issue copies of the same on payment of such fees and subject to such conditions as may be prescribed.

(2) All copies issued under this section shall be certified by the Secretary of the Board in the manner provided in section 76 of the Indian Evidence Act, 1872 (I of 1872).

24. Prevention of disqualification for membership of Parliament.—It is hereby declared that the offices of Chairman and members of a Board shall not disqualify, and shall be deemed never to have disqualified, the holders thereof for being chosen as, or for being, members of Parliament.

CHAPTER IV

REGISTRATION OF WAKFS

25. Registration.—(1) Every wakf whether created before or after the commencement of this Act shall be registered at the office of the Board.

(2) Application for registration shall be made by the mutawalli:

Provided that such applications may be made by the wakif or his descendants or a beneficiary of the wakf or any muslim belonging to the sect to which the wakf belongs.

(3) An application for registration shall be made in such form and manner and at such place as the Board may prescribe and shall contain the following particulars, so far as possible—

(a) a description of the wakf properties sufficient for the identification thereof;

(b) the gross annual income from such properties;

(c) the amount of land revenue and cesses, and of all rates and taxes annually payable in respect of the wakf properties;

(d) an estimate of the expenses annually incurred in the realisation of the income of the wakf properties;

(e) the amount set apart under the wakf for—

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

(ii) purely religious purposes;

(iii) charitable purposes; and

(iv) any other purposes;

(f) any other particulars prescribed by the Board.

5 (4) Every such application shall be accompanied by a copy of the wakf deed 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 wakf.

(5) Every application made under sub-section (2) shall be signed and verified by the applicant in the manner provided in the Code of Civil Procedure, 1908 (Act V of 1908) for the signing and verification of pleadings.

10 (6) The Board may require the applicant to supply any further particulars or information that it may consider necessary.

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

20 (8) In the case of wakfs 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 wakfs created after such commencement, within three months from the date of the creation of the wakf.

25 **26. Register of wakfs.**—The Board shall maintain a register of wakfs which shall contain in respect of each wakf copies of the wakf deeds, when available and the following particulars, namely:—

(a) the class of the wakf;

(b) the name of the mutawalli;

30 (c) the rule of succession to the office of mutawalli under the wakf deed or by custom or by usage;

(d) particulars of all wakf properties and all title deeds and documents relating thereto;

35 (e) particulars of the scheme of administration and the scheme of expenditure at the time of registration;

(f) such other particulars as may be prescribed.

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

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

45 **28. Power to cause registration of wakf and to amend register.**—The Board may direct a mutawalli to apply for the registration of a

wakf, or to supply any information regarding a wakf or may itself cause the wakf to be registered or may at any time amend the register of wakfs.

29. Notification of change in registered wakfs.—(1) In the case of any change in the management of a registered wakf due to the death or retirement or removal of the mutawalli, the incoming mutawalli shall forthwith, and any other person may, notify the change to the Board.

(2) In the case of any other change in any of the particulars mentioned in section 25, the mutawalli shall, within three months from the occurrence of the change, notify such change to the Board.

30. Savings.—Notwithstanding anything contained in this Chapter, where any wakf has been registered before the commencement of this Act under any law for the time being in force, it shall not be necessary to register the wakf under the provisions of this Act and any such registration made before such commencement shall be deemed to be a registration made under this Act.

CHAPTER V

MUTAWALLIS AND WAKF ACCOUNTS

31. Budget.—Every mutawalli of a wakf shall in every year prepare, in such form and at such time as may be prescribed, a budget for the next financial year showing the estimated receipts and expenditure during that financial year and submit it to the Board for approval.

32. Submission of accounts of wakfs.—Before the 1st day of May next following the date on which the application referred to in section 25 has been made and thereafter before the 1st day of May in every year, every mutawalli of a wakf shall prepare and furnish to the Board a full and true statement of accounts, in such form and containing such particulars as may be prescribed by the Board, of all moneys received or expended by the mutawalli on behalf of the wakf 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 wakf:

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

33. Audit of accounts of wakfs.—(1) The accounts of wakfs submitted to the Board under section 32 shall be audited and examined annually or at such other intervals as the Board may determine by an auditor appointed by the Board.

(2) The auditor shall submit his report to the Board and the report of the auditor shall, among other things, specify all cases of irregular, illegal or improper expenditure or of failure to recover money or other property caused by neglect or misconduct and any other matter which the auditor considers it necessary to report; and the report shall also contain the name of any person who, in the opinion of the auditor, is responsible for such expenditure or failure and the auditor shall in every such case certify the amount of such expenditure or loss as due from such person.

(3) The costs of the audit of the accounts of a wakf shall be paid from the Wakf Fund.

34. Board to pass orders on auditor's report.—The Board shall examine the auditor's report, and may call for the explanation of any person in regard to any matter mentioned therein, and shall pass such orders on the report as it thinks fit.

35. Sums certified due recoverable as arrears of land revenue.—

(1) Every sum certified to be due from any person by an auditor in his report under section 33 unless such certificate is modified or cancelled by an order of the Board made under section 34, and every sum due on a modified certificate shall be paid by such person within sixty days after the service of a demand for the same issued by the Board.

(2) If such payment is not made in accordance with the provisions of sub-section (1), the sum payable may, on a certificate issued by the Board after giving the person concerned an opportunity of being heard, be recovered in the same manner as an arrear of land revenue.

36. Duties of mutawallis.—It shall be the duty of every mutawalli—

(a) to carry out the directions of the Board;

(b) to furnish such returns and supply such information or particulars as may from time to time be required by the Board;

(c) to allow inspection of wakf properties, accounts or records or deeds and documents relating thereto;

(d) to discharge all public dues; and

(e) to do any other act which he is lawfully required to do by or under this Act.

37. Mutawalli entitled to pay certain costs from income of wakf property.—Notwithstanding anything contained in the wakf deed, every mutawalli may pay from the income of the wakf property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 25 or any accounts under section 32 or any information or documents required by the Board or for the purpose of enabling him to carry out the directions of the Board.

38. Power of the Board to pay dues in case of default by mutawalli.

(1) Where a mutawalli refuses to pay or fails to pay any revenue, cess, rates or taxes due to the Government or any local authority, the Board may discharge the dues from the Wakf Fund and may recover the amount so paid from the wakf property and may also recover damages not exceeding twelve and a half per cent. of the amount so paid.

(2) Any sum of money due under sub-section (1) may, on a certificate issued by the Board after giving the mutawalli concerned an opportunity of being heard, be recovered in the same manner as an arrear of land revenue.

39. Creation of reserve fund.—For the purpose of making provision for the payment of rent and of revenue, cess, rates and taxes due to the Government or any local authority, for the discharge of the expenses of the repair of the wakf property and for the preservation of the wakf property, the Board may direct the creation and maintenance, in such manner as it may think fit, of a reserve fund from the income of a wakf.

40. Extension of time.—The Board may, if it is satisfied that it is necessary so to do, extend the time within which any act is required to be done by the mutawalli under this Act.

41. Penalties.—(1) If a mutawalli fails—

- (a) to apply for the registration of a wakf; 5
- (b) to furnish statements of particulars or accounts or returns as required by this Act;
- (c) to supply information or particulars as required by the Board;
- (d) to allow inspection of wakf properties, accounts or records or deeds and documents relating thereto; 10
- (e) to deliver possession of any wakf property, if ordered by the Board or the court;
- (f) to carry out the directions of the Board;
- (g) to pay the contributions payable under section 46; 15
- (h) to discharge any public dues; or
- (i) to do any other act which he is lawfully required to do by or under this Act,

he shall, unless he satisfies the court that there was reasonable cause for his failure, be punishable with fine which may extend to one thousand rupees. 20

(2) No court shall take cognizance of an offence punishable under this Act save upon complaint made by the Board or an officer duly authorised by the Board in this behalf.

(3) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act. 25

42. Power to appoint mutawallis in certain cases.—When there is a vacancy in the office of the mutawalli of a wakf and there is no one to be appointed under the terms of the deed of the wakf, or where the right of any person to act as mutawalli is disputed, the Board may appoint any person to act as mutawalli for such period and on such conditions as it may think fit. 30

43. Removal of mutawallis.—(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— 35

- (a) has been convicted more than once of an offence punishable under section 41; or
- (b) has been convicted of an offence of criminal breach of trust or any other offence involving moral turpitude. 40

(2) Where a committee is appointed by the Board to act as a mutawalli for managing or administering any wakf property and the committee, in the opinion of the Board, is unable to perform, or has persistently made default in the performance of, the duty imposed on

it by or under this Act or has exceeded or abused its powers, the Board may supersede the committee and appoint any other person or committee to act as the mutawalli of the wakf property.

5 (3) For the removal of doubts it is hereby declared that the removal of a person from the office of the mutawalli shall not affect his personal rights, if any, in respect of the wakf property either as a beneficiary or in any other capacity or his rights, if any, as a sajjadanishin.

10 (4) No action shall be taken by the Board under sub-section (1) or sub-section (2), unless it has held an inquiry into the matter in the prescribed manner and the decision has been taken by a majority of not less than three-fourths of the members of the Board.

15 (5) Where a mutawalli has been removed from his office under sub-section (1) or sub-section (2), the Board may, by order, direct the mutawalli to deliver possession of the wakf property to the Board or any officer thereof duly authorised in this behalf or to any person or committee appointed to act as the mutawalli of the wakf property; and the order of the Board shall be deemed to be a decree of a civil court and shall be executed by the civil court as if it had passed the
20 decree.

25 **44. Application for inquiry.**—Any person interested in a wakf may make an application to the Board supported by an affidavit to institute an inquiry relating to the administration of the wakf and if the Board is satisfied that there are reasonable grounds for believing that the affairs of the wakf are being mismanaged, it shall take such action thereon as it thinks fit.

30 **45. Inquiry by the Board.**—(1) The Board may, either on an application received under section 44 or on its own motion, institute an inquiry into any matter relating to a wakf and shall hold the inquiry in such manner as may be prescribed or authorise any person in this behalf to hold the inquiry.

35 (2) For the purposes of any inquiry under this Act, the Board or any person authorised by it in this behalf shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908) for enforcing the attendance of witnesses and production of documents.

CHAPTER VI

FINANCE OF THE BOARD

40 **46. Annual contributions payable to the Board.**—(1) The mutawalli of every wakf shall pay annually to the Board such contribution not exceeding five per cent. of the net annual income of such of its property as is situate in the State as the Board may, subject to the sanction of the State Government, from time to time, determine:

45 Provided that no such contribution shall be payable by the mutawalli of a wakf of which the net annual income does not exceed one hundred rupees.

(2) The Board may in the case of any particular wakf reduce or remit such contribution for such time as it thinks fit.

(3) The mutawalli of a wakf may realise the contributions payable by him under sub-section (1) from the various persons entitled to receive any pecuniary or other material benefits from the wakf, but the sum realisable from any one of such persons shall not exceed such amount as shall bear to the total contribution payable the same proportion as the value of the benefits receivable by such person bears to the entire net annual income of the wakf:

5

Provided that if there is any income of the wakf available in excess of the amount payable as dues under this Act, other than as the contribution under sub-section (1), and in excess of the amount payable under the wakf deed, the contribution shall be paid out of such income.

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(4) The contribution payable under sub-section (1) in respect of a wakf shall, subject to the prior payment of any dues to the Government or any local authority or of any other statutory first charge on the wakf property or the income thereof, be a first charge on the income of the wakf and shall be recoverable, on a certificate issued by the Board after giving the mutawalli concerned an opportunity of being heard, as an arrear of land revenue.

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(5) If a mutawalli realises the income of the wakf and refuses to pay or does not pay such contribution, he shall also be personally liable for such contribution which may be realised from his person or property in the manner aforesaid.

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47. Power of the Board to borrow.—For the purpose of giving effect to the provisions of this Act, the Board may, with the previous sanction of the State Government, borrow such sum of money and on such terms and conditions as the State Government may determine and the Board shall repay the money borrowed, together with any interest or costs due in respect thereof, according to the terms and conditions of the loan.

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48. Wakf Fund.—(1) All moneys received by the Board under section 46 and all other moneys realised by the Board under this Act shall form a fund to be called the Wakf Fund.

(2) Subject to any rules that may be made by the State Government in this behalf, the Wakf Fund shall be under the control of the Board.

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(3) The Wakf Fund shall be applied to—

(a) repayment of any loan incurred under section 47 and payment of interest thereon;

(b) payment of the cost of audit of the Wakf Fund and the accounts of wakfs;

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(c) payment of the salary and allowances of the Secretary and staff of the Board;

(d) payment of travelling allowances to the Chairman, members, Secretary and staff of the Board;

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(e) payment of all expenses incurred by the Board in the performance of the duties imposed, and the exercise of the powers conferred, by or under this Act.

(4) If any balance remains after meeting the expenditure referred to in sub-section (3), the Board may use any portion of such balance for the preservation and protection of wakf properties or for such other purposes as it may deem fit.

5 **49. Budget of the Board.**—The Board shall in every year prepare, in such form and at such time as may be prescribed, a budget for the next financial year showing the estimated receipts and expenditure during that financial year and forward a copy of the same to the State Government.

10 **50. Accounts of the Board.**—The Board shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may be prescribed.

15 **51. Audit of accounts of the Board.**—(1) The accounts of the Board shall be audited and examined annually by such auditor as may be appointed by the State Government.

(2) The auditor shall submit his report to the State Government and the report of the auditor shall, among other things, specify all cases of irregular, illegal or improper expenditure or of failure to recover money or other property caused by neglect or misconduct and any other matter which the auditor considers it necessary to report; and the report shall also contain the name of any person who, in the opinion of the auditor, is responsible for such expenditure or failure and the auditor shall in every such case certify the amount of such expenditure or loss as due from such person.

25 (3) The cost of the audit shall be paid from the Wakf Fund.

52. State Government to pass orders on auditor's report.—The State Government shall examine the auditor's report and may call for the explanation of any person in regard to any matter mentioned therein, and shall pass such orders on the report as it thinks fit.

30 **53. Sums certified due recoverable as arrears of land revenue.**—(1) Every sum certified to be due from any person by an auditor in his report under section 51 unless such certificate is modified or cancelled by an order of the State Government made under section 52, and every sum due or a modified certificate shall be paid by such person within sixty days after the service of a demand for the same issued by the State Government.

(2) If such payment is not made in accordance with the provisions of sub-section (1), the sum payable may, on a certificate issued by the Board after giving the person concerned an opportunity of being heard, be recovered in the same manner as an arrear of land revenue.

40 **54. No financial liability of Government.**—The State Government shall not be liable for any expenditure incurred in connection with the administration of this Act.

CHAPTER VII

JUDICIAL PROCEEDINGS

45 **55. Institution of suits under section 14 of the Religious Endowments Act, 1863 and section 92 of the Code of Civil Procedure, 1908.**—(1) A suit to obtain any of the reliefs mentioned in section 14 of the Religious Endowments Act, 1863 (XX of 1863) and in section 92 of the Code of Civil Procedure, 1908 (Act V of 1908), relating to any wakf

may, notwithstanding anything to the contrary contained in those Acts, be instituted by the Board without obtaining the leave or consent referred to in those Acts.

(2) No suit to obtain any of the reliefs referred to in sub-section (1) relating to a wakf shall be instituted by any person or authority other than the Board without the consent in writing of the Board: 5

Provided that no such consent shall be required for the institution of a suit against the Board in respect of any act purporting to be done by it in pursuance of this Act or of any rules or orders made thereunder. 10

56. Notice of suits by parties against the Board.—No suit shall be instituted against the Board in respect of any act purporting to be done by it in pursuance of this Act or of any rules made thereunder, until the expiration of two months next after notice in writing has been delivered to, or left at, the office of the Board, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left. 15

57. Notice of suits, etc., by courts.—(1) In every suit or proceeding relating to a title to wakf property or the right of a mutawalli, the court shall issue notice to the Board at the cost of the party instituting such suit or proceeding. 20

(2) Whenever any wakf property is notified for sale in execution of a decree of a civil court or for the recovery of any revenue, cess, rates or taxes due to the Government or any local authority, notice shall be given to the Board by the court, Collector or other person under whose order the sale is notified. 25

(3) In the absence of a notice under sub-section (1), any decree or order passed in the suit or proceeding shall be declared void, if the Board, within one month of its coming to know of such suit or proceeding, applies to the court in this behalf. 30

(4) In the absence of a notice under sub-section (2), the sale shall be declared void, if the Board, within one month of its coming to know of the sale, applies in this behalf to the court or other authority under whose order the sale was held. 35

58. Proceedings under the Land Acquisition Act, 1894.—(1) If, in the course of proceedings under the Land Acquisition Act, 1894 (I of 1894) it appears to the Collector before an award is made that any property under acquisition is wakf property, a notice of such acquisition shall be served by the 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. 40

(2) Where the Board has reason to believe that any property under acquisition is wakf property, it may at any time before the award is made appear and plead as a party to the proceeding. 45

(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 (I of 1894) without giving an opportunity to the Board to be heard. 50

(4) Any order passed under section 31 or section 32 of the Land Acquisition Act, 1894 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.

59. Board to be made a party to a suit or proceeding regarding a wakf on its application.—In any suit or proceeding in respect of a wakf or any wakf property by or against a stranger to the wakf or any other person, the Board may appear and plead as a party to the suit or proceeding.

60. Bar to compromise of suits by or against mutawallis.—No suit or proceeding in any court by or against the mutawalli of a wakf relating to title to wakf property or the rights of the mutawalli shall be compromised without the sanction of the Board.

61. Power to make application to the court in case of failure of mutawalli to discharge his duties.—(1) Where a mutawalli is under an obligation to perform any act which is recognised by Muslim law as pious, religious or charitable and the mutawalli fails to perform such act, the Board may apply to the court for an order directing the mutawalli to pay to the Board or to any person authorised by the Board in this behalf the amount necessary for the performance of the act.

(2) Where a mutawalli is under an obligation to discharge any other duties imposed on him under the wakf and the mutawalli wilfully fails to discharge such duties, the Board or any person interested in the wakf may make an application to the court and the court may pass such order thereon as it thinks fit.

CHAPTER VIII

MISCELLANEOUS

62. Directions by the Central Government.—(1) The Central Government may call for any report or information from the Government of any State with respect to the functioning of the Board in that State and after considering such report or information, the Central Government may issue such directions on questions of policy to be followed by the Board as it may think fit.

(2) In the performance of its functions under this Act, the Board shall be guided by the directions issued under sub-section (1).

63. Directions by the State Government.—Subject to any directions on questions of policy issued under section 62, the State Government may, from time to time, give to the Board such general or special directions as the State Government thinks fit and in the performance of its functions, the Board shall comply with any such directions.

64. Power to supersede the Board.—(1) If the State Government is of opinion that the Board is unable to perform, or has persistently made default in the performance of, the duty imposed on it by or

under this Act or has exceeded or abused its powers, the State Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the State Government shall give a reasonable time to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members of the Board shall, as from the date of supersession, vacate their offices as such members;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Board shall, during the period of supersession, be exercised and performed by such person or persons as the State Government may direct; and

(c) all property vested in the Board shall, during the period of supersession, vest in the State Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government may—

(a) extend the period of supersession for such further period as it may consider necessary; or

(b) reconstitute the Board in the manner provided in section 10 and section 11.

65. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Board or the 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.

66. The Commissioner, auditor, etc., to be deemed to be public servants.—The Commissioner, every auditor, every officer and servant of the Board and every other person duly appointed to discharge any duties imposed on them by this Act or rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

67. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

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

(a) the particulars which a list of wakfs published under sub-section (2) of section 5 may contain;

(b) the conditions and restrictions subject to which the Board may transfer any property;

(c) the regulation of the functions of the Board;

(d) the terms and conditions of service of the Secretary of the Board;

(e) the manner in which any inquiry may be held under this Act;

(f) the powers vested in a civil court which may be exercised by the Board or the Commissioner or any other person while holding an inquiry under this Act;

(g) the form in which a register of wakfs may be maintained and the further particulars which it may contain;

(h) the form in which and the time within which the budget of the Board may be prepared and submitted by the Board and approved by the State Government;

(i) the manner in which the accounts of the Wakf Fund may be kept and audited and the contents of the auditor's report;

(j) the payment of moneys into the Wakf Fund, the investment, custody and disbursement of such moneys;

(k) the circumstances under which, and the terms and conditions on which, the Board may be allowed to borrow;

(l) the circumstances in which, and the conditions subject to which, the Board may reduce or remit the contribution payable in respect of a wakf;

(m) the procedure to be followed in recovery of any sum due under this Act as an arrear of land revenue;

(n) any other matter which has to be, or may be, prescribed.

68. Power to make regulations.—(1) The Board may, with the previous sanction of the State Government, make regulations not inconsistent with this Act or the rules made thereunder for carrying out its functions under this Act.

(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:—

(a) the time and place of the meetings of the Board and the number of members required to form a quorum at its meetings;

(b) the procedure and conduct of business at the meetings of the Board;

(c) the constitution and functions of committees of the Board and the procedure for transaction of business at the meetings of such committees;

(d) the allowances or fees to be paid to the Chairman or members of the Board or members of committees;

(e) terms and conditions of service of the officers and servants of the Board;

(f) the form of application for registration of wakfs, further particulars to be contained therein and the manner and place of registration of wakfs;

(g) further particulars to be contained in the register of wakfs;

(h) the books to be kept at the office of the Board;

(i) the form in which and the time within which the budgets of wakfs may be prepared and submitted by the mutawallis and approved by the Board;

(j) the manner in which the accounts of wakfs may be kept and audited and the contents of the auditor's report;

(k) the method of calculating the income of a wakf for the purpose of levying contributions under this Act;

(l) fees payable for inspection of proceedings and records of the Board or for issue of copies of the same;

(m) persons by whom any order or decision of the Board may be authenticated;

(n) any other matter which has to be, or may be, prescribed.

(3) All regulations made under this section shall be published in the Official Gazette and the regulations shall have effect from the date of such publication.

69. Repeal and savings.—(1) The following enactments, namely:—

(1) The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810 (Ben. Regulation XIX of 1810);

(2) Section 5 of the Religious Endowments Act, 1863 (XX of 1863);

(3) The Charitable Endowments Act, 1890 (VI of 1890);

(4) The Charitable and Religious Trusts Act, 1920 (XIV of 1920);

(5) The Mussalman Wakf Act, 1923 (XLII of 1923);

shall not apply to any wakf to which this Act applies.

(2) If, immediately before the commencement of this Act in any State, there is in force in that State any law which corresponds to this Act [other than an enactment referred to in sub-section (1)] that corresponding law shall stand repealed;

Provided that such repeal shall not affect the previous operation of that corresponding law, and subject thereto, anything done or any action taken in the exercise of any power conferred by or under the corresponding law shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.

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HOUSE OF THE PEOPLE

Report of the Select Committee on the Bill to provide for
the better administration and supervision of wakfs.

(As amended by the Select Committee)

APPENDIX

I

FIRST MEETING

The First meeting of the Select Committee on the Muslim Wakfs Bill was held on Saturday, the 9th May, 1953 at 5-40 P.M. in Committee Room No. 62, Parliament House.

2. The following were present:—

MEMBERS

Shri C. C. Biswas—*Chairman*.
 Shri M. Hifzur Rahman.
 Shri Ahmed Mohiuddin.
 Shri Gurmukh Singh Musafir.
 Pandit Krishna Chandra Sharma.
 Shri Hira Vallabh Tripathi.
 Syed Mohammad Ahmad Kazmi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman*.

Shri N. C. Nandi, *Deputy Secretary*.

Shri V. Narasimhan, *Under Secretary*.

3. The Committee discussed their programme and decided that the next meeting of the Committee should be held about a week before the next session of the House.

4. The Committee then adjourned.

II

SECOND MEETING

The Second meeting of the Select Committee on the Muslim Wakfs Bill was held on Thursday, the 30th July, 1953 at 4 P.M. in Committee Room No. 62, Parliament House.

2. The following were present:—

MEMBERS

Shri C. C. Biswas—*Chairman*.
 Dr. Syed Mahmud.
 Shri M. Hifzur Rahman.
 Shri Ahmed Mohiuddin.
 Shri Gurmukh Singh Musafir.
 Pandit Krishna Chandra Sharma.
 Shri Hira Vallabh Tripathi.

Maulana Mohammad Saeed Masuodi.

Col. B. H. Zaidi.

Shri Mohanlal Saksena.

Shri Syed Ahmed.

Shrimati Subhadra Joshi.

Shri Atma Singh Namdhari.

Syed Mohammad Ahmad Kazmi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman.*

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary.*

Shri V. Narasimhan, *Under Secretary.*

3. At the outset Syed Mohammad Ahmad Kazmi, Member in Charge of the Bill explained in detail the objects of the Bill. Thereafter there was general discussion on the Bill with particular reference to (a) whether a Central Act of this kind was necessary or the matter should be left to the respective State Governments; (b) what should be the definition of a 'Wakf'; and (c) whether the expenses for running the machinery provided under the Bill will be commensurate with the results expected to be achieved.

4. As directed by the Chairman printed copies of *Precis of Opinions* on the Bill were circulated to the Members at the meeting.

5. After some discussion on some of the opinions contained in the *Precis* the Committee felt that the Members should make a detailed study of the various opinions expressed on the Bill and note down the general principles on which they would like the Bill to be based so that they could be discussed at the next meeting.

6. The Committee then adjourned at 6 P.M.

III

THIRD MEETING

The Third meeting of the Select Committee on the Muslim Wakfs Bill was held on Friday, the 28th August, 1953 at 4 P.M. in Committee Room No. 62, Parliament House.

2. The following were present:—

MEMBERS

Shri C. C. Biswas—*Chairman.*

Dr. Syed Mahmud.

Shri M. Hifzur Rahman.

Shri Ahmed Mohiuddin.

Pandit Krishna Chandra Sharma.

Shri Mohanlal Saksena.

Shri Amjad Ali.
 Shri Syed Ahmed.
 Shri S. V. L. Narasimham.
 Syed Mohammad Ahmad Kazmi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman.*

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary.*

Shri K. G. Bijlani, *Under Secretary.*

3. Copies of certain amendments to the Bill prepared by Syed Mohammad Ahmad Kazmi were circulated at the meeting.

4. The Committee took up clause by clause consideration of the Bill.

5. *Clause 2.*—Consideration of this clause was deferred until the other clauses of the Bill are disposed of.

6. *Clause 3.*—The Committee felt that the definitions given in this clause could be considered when the relevant clauses in which they occur were under consideration.

The Committee however considered the following new definition of "Wakf" proposed by Syed Mohammad Ahmad Kazmi:—

"Wakf means the permanent dedication or grant by a person professing Islam of any property movable or immovable, for any purpose, recognized by Muslim Law or usage as religious, pious, or charitable and where no deed of wakf is traceable, includes a wakf by user, it also included a wakf Alal-Aulad to the extent of the portion provided for the charity for the time being".

The main point under consideration was whether a Wakf could only be created by a person professing Islam. This question was however left open for further consideration later on.

7. *Clauses 4, 5 and 6.*—The Committee considered the principle underlying these clauses. It was of opinion that the State Governments should appoint or designate an officer of that State as Chief Commissioner of Wakfs whose duty should be to carry out a survey in the State, wherever necessary through District Officers, and collect the required information regarding Wakfs in that State and submit his report to the Government. The Government should then place the report before the 'Board of Muslim Wakfs'. Thereupon the Board should draw up a list of Wakfs to which the provisions of this Act should apply and such a list should then be notified by the Government in the Official Gazette.

8. The Draftsman was directed to redraft the clauses on the above suggested lines.

9. The Committee then adjourned at 6 P.M. to meet again on Tuesday, the 1st September, 1953 at 4 P.M.

IV

FOURTH MEETING

The Fourth meeting of the Select Committee on the Muslim Wakfs Bill was held on Tuesday, the 1st September, 1953 at 4 p.m. in Committee Room No. 62, Parliament House.

2. The following were present:—

MEMBERS

Shri C. C. Biswas—*Chairman*.
Dr. Syed Mahmud.
Shri M. Hifzur Rahman.
Shri Ahmed Mohiuddin.
Chaudhri Hyder Husein.
Shri Syed Ahmed.
Shri Syed Mohammad Ahmad Kazmi.
Shrimati Subhadra Joshi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman*.

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary*.
Shri K. G. Bijlani, *Under Secretary*.

3. The Committee resumed clause by clause consideration of the Bill.

4. The Committee re-examined the decision arrived at a previous meeting regarding the publication of the list of Wakfs to which the provisions of this Act should apply. The Committee was of the opinion that on receipt of the report from the Chief Commissioner of Wakfs the State Government concerned should draw up a list of Wakfs and such a list should be published in the Gazette and a copy thereof forwarded to the Board of Muslim Wakfs.

5. In this connection Committee discussed in what stage the Board of Muslim Wakfs provided for in the Bill should be constituted by the State Governments.

6. As regards the report of the Chief Commissioner of Wakfs, the Committee was of opinion that as the report would be voluminous, the whole report need not be published but only the details of the Wakfs as far as it would be necessary.

The Committee therefore thought that a suitable provision might be inserted under the rule-making power clause 67, that the form in which the report should be published might be prescribed.

7. The Committee considered at length a proposal that a provision might be inserted in the Bill to the effect that if the Central Government was satisfied that there was satisfactory provision for the administration of Muslim Wakfs in a State, the Central Government

should by notification exempt the operation of this Act in respect of that State.

Discussion on this question was not concluded.

8. Committee then adjourned at 6 P.M. to meet again on 10th September, 1953 at 4 P.M. subject to the House not meeting in the afternoon on that day.

V

FIFTH MEETING

The Fifth meeting of the Select Committee on the Muslim Wakfs Bill was held on 2nd November, 1953 at 4 P.M. in Committee Room No. 63, Parliament House.

2. The following were present:—

MEMBERS

Shri C. C. Biswas—*Chairman*.
 Shri M. Hifzur Rahman.
 Shri Ahmed Mohiuddin.
 Shri Gurmukh Singh Musafir.
 Pandit Krishna Chandra Sharma.
 Shri Hira Vallabh Tripathi.
 Maulana Mohammed Saeed Masuodi.
 Shri Mohanlal Saksena.
 Shri Amjad Ali.
 Shri Syed Ahmed.
 Shri Piare Lall Kureel Talib.
 Shri Syed Mohammad Ahmad Kazmi.
 Shrimati Subhadra Joshi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman*.

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary*.

Shri K. G. Bijlani, *Under Secretary*.

3. At the outset the Committee took up the question (which was partly discussed at its previous meeting) whether a suitable provision might be inserted in the Bill empowering the Central Government to exempt operation of the Act in such of the States where there was already adequate machinery for the administration of Muslim Wakfs. After some discussion the Committee thought that this question might be decided after other provisions of the Bill were disposed of.

4. *Clause 8.*—To this clause the mover of the Bill moved the following amendment:—

‘For Clause 8 substitute the following:—

“8. Constitution of the Board.—The Board shall consist of:

(a) 11 members in case of States mentioned in item (i) of section 2, 9 members in case of States mentioned in item (ii) of section 2, and 7 members in case of States mentioned in item (iii) of section 2.

(b) The President to be elected by the members of the Board if he is not one of the members.”’

The amendment was tentatively adopted.

5. *Clause 9.*—The mover of the Bill proposed that the following be substituted for clause 9:—

“9. Members of the Board:—

The requisite number of the members of the Board as provided in section 8 shall, for the States Delhi and Ajmer be nominated by the Union Government and in respect of the rest of the States by the respective State Governments from the following categories:—

1. Members of the State Legislature and members of Parliament belonging to the particular State,
2. State Jamiautul Ulama (Hanafi, Ahle-Hadis, and Shafai),
3. State Shia Conference,
4. Graduates,
5. Social Workers, and
6. Mutawallis.

Provided that in nominating members of the Board the Government concerned will take into consideration the number of various wakfs belonging to the various sects of the Muslims.”

It was suggested by some members that as “State Jamiautul Ulama” and “State Shia Conference” have no legal entities it would not be proper to mention their names in an Act. Objection was taken to the category “Social Workers” as the same was very vague. Therefore it was proposed that without mentioning the names of these categories (2, 3 and 5) it might be provided that a specified number of members would be nominated from the Shia or Sunni Community and those members must be Muslim theologians.

It was also proposed that for the words “from the following categories” occurring in the amendments the words “from anyone or more of the following categories be substituted.”

No final decision was made on this clause.

6. *Clauses 10 and 11.*—Were adopted with necessary consequential amendments.

7. *Clause 12.*—Was adopted without amendment.

8. *Clause 13.*—The following amendment was moved by the mover:—

“13-Quorum.—The Quorum of the Board shall be 5 and 4 and 3 in case of Boards in items (i), (ii) and (iii) respectively of section 2.”

The amendment was adopted.

9. *Clause 14.*—Discussion on this clause was not concluded.

10. The Committee then adjourned at 5-30 P.M. to meet again on Tuesday, the 3rd November, 1953, at 3-30 P.M.

VI

SIXTH MEETING

The Sixth meeting of the Select Committee on the Muslim Wakfs Bill was held on Tuesday, the 3rd November, 1953 at 3-30 P.M. in Committee Room No. 63, Parliament House.

2. The following were present:—

MEMBERS

Shri C. C. Biswas—*Chairman*.
 Shri M. Hifzur Rahman.
 Shri Ahmed Mohiuddin.
 Shri Gurmukh Singh Musafir.
 Pandit Krishna Chandra Sharma.
 Shri Hira Vallabh Tripathi.
 Maulana Mohammed Saeed Masuodi.
 Shri Mohanlal Saksena.
 Shri Amjad Ali.
 Shri Syed Ahmed.
 Shri S. V. L. Narasimham.
 Shri Piare Lal Kureel Talib.
 Shri Syed Mohammad Ahmad Kazmi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman*.

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary*.
 Shri K. G. Bijlani, *Under Secretary*.

3. *Clause 9.*—(i) The Committee reconsidered the following clause 9:—

“9. Members of the Board:

The requisite number of the members of the Board as provided in section 8 shall, for the States Delhi and Ajmer be nominated by the Union Government and in respect of

the rest of the States by the respective State Governments from the following categories:—

1. Members of the State Legislature and members of Parliament belonging to the particular State,
2. State Jamiautul Ulama (Hanafi, Ahle-Hadis, Shafai),
3. State Shia Conference,
4. Graduates,
5. Social Workers, and
6. Mutawallis.

Provided that in nominating members of the Board the Government concerned will take into consideration the number of various wakfs belonging to the various sects of the Muslims."

(ii) For the categories 2 and 3 of the proposed clause 9, the Committee thought that the following be substituted:—

"Persons versed in Islamic jurisprudence from such institutions or bodies such as Jamiautul Ulama-e-Hind, State Shia Conference etc.,"

(iii) The categories 4 and 5 were deleted.

(iv) For the category 6 the following was substituted:—

"6. Mutawallis within the State".

(v) The Committee also thought to add a proviso to category 6 in order to provide that there should not be more than one Mutawalli in the Board.

(vi) The Committee felt that in the proposed proviso to clause 9 the words "belonging to the various sects of the Muslims" should be deleted and the whole proviso should be redrafted somewhat on the following lines:—

"In constituting the Board the Government shall take into consideration the number of Shia or Sunni Wakfs which are to be administered by the Board."

(vii) The Committee thought that in clause 3 pertaining to definitions, necessary definitions regarding Shia or Sunni Wakfs should be inserted as follows:—

(a) Shia Wakf means a Wakf governed by Shia Law.

(b) Sunni Wakf means a Wakf governed by Sunni Law.

(viii) The Committee directed the Draftsman to revise the entire clause on the above mentioned lines.

4. Clause 14.—Was adopted.

5. Committee considered that a new provision should be inserted to provide that ordinary law courts will have jurisdiction to hear disputes arising out of the decision of the Board.

6. Clauses 15 and 16.—Committee thought these clauses should be deleted from the Bill as they could be better included in the rules to be framed under the Act.

7. *Clause 17.*—In the proviso to sub-clause (1) the words “a Government Treasurer or whole-time” should be deleted.

(ii) Regarding the appointment of Secretary to the Board the Committee thought that the Government should appoint the Secretary in consultation with the Board.

8. *Clause 18.*—The Committee thought that this clause should be suitably amended to provide that in case of suspension of Secretary by the Board the matter should be intimated to the Government immediately.

9. *Clause 19.*—Discussion on this clause was not concluded.

10. The Committee then adjourned to meet again on Wednesday, the 4th November, 1953 at 3-30 P.M.

VII

SEVENTH MEETING

The Seventh meeting of the Select Committee on the Muslim Wakfs Bill was held on Wednesday, the 4th November, 1953, at 3-30 P.M. in Committee Room No. 63, Parliament House.

2. The following were present:

MEMBERS

Shri C. C. Biswas—*Chairman*.
 Shri M. Hafzur Rahman.
 Shri Ahmed Mohiuddin.
 Shri Gurmukh Singh Musafir.
 Pandit Krishna Chandra Sharma.
 Shri Hira Vallabh Tripathi.
 Maulana Mohammed Saeed Masuodi.
 Shri Mohan Lal Saksena.
 Shri Amjad Ali.
 Shri Syed Ahmed.
 Shri S. V. L. Narasimham.
 Shri Piare Lal Kureel Talib.
 Shri Syed Mohammad Ahmad Kazmi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman*.

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary*.
 Shri K. G. Bijlani, *Under Secretary*.

3. The Committee resumed discussion on clause 19 of the Bill.

(i) In sub-clause (2) (a) for the words “to complete and maintain an authentic record of rights” the words “to maintain a record” were substituted.

(ii) Sub-clause (2) (b) was revised to provide that the budget should be prepared and sanctioned according to the Rules.

(iii) Sub-clause (2) (c) was revised to provide for the scrutiny and approval by the Board of the budget submitted by the Mutawallis.

(iv) Sub-clause (2) (e) (iii) was deleted and it was felt to provide for a rule that by the 3/4th majority the Board should be able to remove or dismiss a Mutawalli and in such cases the Mutawalli should have the right of appeal to the State Government. Also to insert a provision for empowering the Board to conduct an inquiry giving proper opportunity to the Mutawallis to explain his conduct etc.

In this connection it was also suggested that the whole of sub-clause (2) (e) might be deleted and that there should be a provision merely for the removal of Mutawallis by the Board which should also be empowered to institute suits in appropriate cases.

(v) Sub-clause (2) (h) was deleted.

4. The Committee then adjourned to meet again on Thursday, the 5th November, 1953 at 10-30 A.M.

VIII

EIGHTH MEETING

The Eighth meeting of the Select Committee on the Muslim Wakfs Bill was held on Thursday, the 5th November, 1953, at 10-30 A.M. in Committee Room No. 63, Parliament House.

2. The following were present:

MEMBERS

Shri M. Hafzur Rahman.
Shri Ahmed Mohiuddin.
Pandit Krishna Chandra Sharma.
Shri Hira Vallabh Tripathi.
Maulana Mohammed Saeed Masuodi.
Shri Mohan Lal Saksena.
Shri Amjad Ali.
Shri Syed Ahmed.
Shri S. V. L. Narasimham.
Shri Piare Lal Kureel Talib.
Shrimati Subhadra Joshi.
Shri Syed Mohammad Ahmed Kazmi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman*:

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary*.
Shri K. G. Bijlani, *Under Secretary*.

3. In the absence of Shri C. C. Biswas, the Chairman of the Committee, Shri Amjad Ali was elected as the Chairman for the meeting under the Rules.

4. Clause 20.—Was adopted subject to certain minor amendments.

5. Clause 21.—Was adopted.

6. Clause 22.—In part (c) the words "without excuse, sufficient in the opinion of the Board" were deleted and for the word "six" the word "three" was substituted.

7. Clause 23.—Was adopted.

8. Clause 24.—For the words "elected or co-opted as the case may be" the word "nominated" was substituted.

9. Clause 25.—The Committee felt that clauses 22 and 25 should be combined and also to make it clear in the revised clause that if a President of the Board is removed he automatically ceases to be a member of the Board.

10. Clause 26.—The Committee felt that the provisions of this clause should be incorporated in clause 19.

11. Clause 27.—Was adopted.

12. Clauses 28 to 39.—The whole of Chapter III containing clauses 28 to 39 regarding Central Board of Muslim Wakfs were held over.

13. Clause 40.—In the proviso to sub-clause (4) in the first line for the word "Mutawalli" the word "applicant" was substituted.

14. Clauses 41 to 44.—Were adopted.

15. Clause 45.—For the figures "62" and "32" occurring in this clause the figures "43" and "44" respectively were substituted.

(ii) For the words "by the Board" the words "as if they were arrears of land revenue" were substituted.

16. The Committee then adjourned *sine die*.

IX

NINTH MEETING

The Ninth Meeting of the Select Committee on the Muslim Wakfs Bill was held on Saturday, the 13th February, 1954 at 10-30 A.M. in Committee Room No. 62, Parliament House.

2. The following were present:

MEMBERS

Shri C. C. Biswas—Chairman.

Shri M. Hifzur Rahman.

Shri Ahmed Mohiuddin.

Shri Gurmukh Singh Musafir.

Pandit Krishna Chandra Sharma.

Shri Hira Vallabh Tripathi.

Maulana Mohammed Saeed Masuodi.

Col. B. H. Zaidi.

Shri Mohan Lal Saxena.

Shri Amjad Ali.

Shri Syed Ahmed.

Shrimati Subhadra Joshi.

Shri S. V. L. Narasimham.

Shri Piare Lal Kureel Talib.

Shri Syed Mohammad Ahmad Kazmi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman.*

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary.*

Shri K. G. Bijlani, *Under Secretary.*

3. Before commencing the business, the Chairman mentioned about the very sad death of Shri Atma Singh Namdhari, who was a member of the Committee. As a mark of respect all the members stood up in silence.

4. The Chairman informed the Committee that a deputation of certain Muslims had seen him on the 29th December, 1953 stressing their viewpoint that the Bill was against the Islamic law.

5. After considerable discussion, it was decided that this Act should automatically apply to the whole of India except to the States of Bengal, U.P., Delhi and Bihar where it could be applied by notification issued by the State Governments. In respect of Ajmer it was decided that this Act should be applicable to the Muslim Wakfs in that State except the Dargah Khawaja Sahib for which there is already a separate Act in existence.

6. The Committee decided that it was not necessary to have a Central Board and that actual administration of the Wakfs should be left to the State Boards. It was also decided that the Central Government should have the power to call for reports from the State Governments regarding the functioning of the State Boards, to give such directions as they consider necessary and to make rules for carrying out the purposes of this Act. It was further decided that State Governments should have the power to supersede the State Boards.

7. The Committee decided that in the light of the discussion that had taken place the Bill should be revised and placed before the Committee.

8. The Committee then adjourned at 12-40 P.M. to meet again on Wednesday, the 17th February, 1954 at 10 A.M.

X

TENTH MEETING

The Tenth Meeting of the Select Committee on the Muslim Wakfs Bill was held on Wednesday, the 17th February, 1954, at 10 A.M. in Committee Room No. 62, Parliament House.

2. The following were present:

MEMBERS

Shri C. C. Biswas—*Chairman*.
 Shri M. Hifzur Rahman.
 Shri Ahmed Mohiuddin.
 Shri Hira Vallabh Tripathi.
 Maulana Mohammed Saeed Masuodi.
 Shri Amjad Ali.
 Shri Syed Ahmed.
 Shri Syed Mohammad Ahmad Kazmi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman*.

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary*.
 Shri K. G. Bijlani, *Under Secretary*.

3. Re-drafted Bill (incorporating the decisions of the Committee) which had been circulated on the previous evening, was considered clause by clause. The following decisions were taken:—

- (1) In clause 3(j) a further sub-clause be added as follows:—
 “(iii) Mashrut-ul-Khidmat”;
- (2) Definitions of “Shia Wakf” and “Sunni Wakf” be added to the definition clause (3);
- (3) Clause 11(b) be re-drafted to convey the intention that:
 “persons having special knowledge of Muslim law and representing Associations such as State Jamiat-ul-Ulama-e-Hind (whether they are Hanafi, Ahle-Hadis or Shefai), or State Shia Conference”;
- (4) Clause 13(c) was revised to read as follows:—
 “if he is undischarged insolvent.”

4. The Committee then adjourned at 11-45 A.M. to meet again on Thursday, the 18th February, 1954 at 10 A.M.

XI

ELEVENTH MEETING

The Eleventh Meeting of the Select Committee on the Muslim Wakfs Bill was held on Thursday, the 18th February, 1954, at 10 A.M. in Committee Room No. 62, Parliament House.

2. The following were present:

MEMBERS

Shri C. C. Biswas—*Chairman*.
 Dr. Syed Mahmud.
 Shri M. Hifzur Rahman.

Shri Ahmed Mohiuddin.
 Pandit Krishna Chandra Sharma.
 Shri Hira Vallabh Tripathi.
 Shri Syed Ahmed.
 Shri S. V. L. Narasimham.
 Shri Syed Mohammad Ahmad Kazmi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman.*

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary.*

Shri K. G. Bijlani, *Under Secretary.*

3. The Committee considered the revised Bill and the following decisions were taken:—

- (1) The words "and for the benefit of any class of persons" in clause 15(2) (b) occurring in lines 2 and 3 be deleted.
- (2) In first proviso to clause 15(2) (d) for the word "concerned" occurring in line two the word "affected" be substituted.
- (3) In second proviso to clause 15(2) (d), between the words "person" and "aggrieved" occurring in the first line, the words "interested in the Wakf or" be inserted.
- (4) A proviso be added to clause 15(2) (e) to the effect that in case of surplus funds of Shia Wakfs only Shia members will vote and in the case of Sunni Wakfs only Sunni members will vote; and that the Board shall have the power to co-opt other members of that community, if in the opinion of the Board the number of members who have to take decision regarding utilization of surplus funds is too small. (The Draftsman was requested to give this proviso shape and form.)
- (5) To clause 15(2) (e) a further proviso be added on the lines of the Second proviso to clause 15(2) (d).
- (6) In clause 21(1), the words "but shall be under the administrative control of the Board" be added at the end.
- (7) In clause 22 the words "for the efficient running of the day-to-day administration of the Board" occurring at the end be deleted.
- (8) The existing clause 41 should be re-numbered as clause 41(1). A second sub-clause (2) be added to the effect that the complaint shall be filed by the Board or by any person authorised by the Board.
- (9) The following proviso be added to clause 43(1):—
 "Provided that the removal of a mutawalli will not affect his personal right as a beneficiary—if he is any—or his right as a Sajadah Nishin—if he be one."
- (10) A new clause be added to the Bill to the effect that order of the Board to a Mutawalli to deliver possession of

Wakf property could be executed as a Decree of a Court.

4. The Committee then adjourned at 12 Noon to meet again on Friday, the 19th February, 1954, at 10 A.M.

XII

TWELFTH MEETING

The Twelfth Meeting of the Select Committee on the Muslim Wakfs Bill was held on Monday, the 1st March, 1954 at 10 A.M. in Committee Room No. 62, Parliament House.

2. The following were present:

MEMBERS

Shri C. C. Biswas—*Chairman*.

Shri M. Hifzur Rahman.

Shri Ahmed Mohiuddin.

Shri Gurmukh Singh Musafir.

Shri Amjad Ali.

Shri Syed Ahmed.

Shrimati Subhadra Joshi.

Shri Syed Mohammad Ahmad Kazmi.

MINISTRY OF LAW

Shri R. S. Sarkar, *Additional Draftsman*.

SECRETARIAT

Shri N. C. Nandi, *Deputy Secretary*.

Shri K. G. Bijlani, *Under Secretary*.

3. The Committee considered the draft report and the Bill as amended copies of which had been circulated to members earlier. They were adopted by the Committee subject to the following amendment and a few minor verbal changes:—

Clause 43.—The Committee felt that the Board should be empowered to remove a *mutawalli* who has been convicted of an offence of criminal breach of trust not only in respect of wakf property but in respect of any property or any other offence involving moral turpitude. Accordingly in sub-clause (1) (b) of this clause for the words "in respect of wakf property" the words "or any other offence involving moral turpitude" were substituted.

4. It was decided that the report of the Committee be presented to the House on the 4th March, 1954, and that minutes of dissent, if any, be sent by tomorrow (the 2nd March, 1954) evening.

5. The Committee then adjourned at 11-40 A.M.



CHAPTER ELEVEN

Leveraging Community Initiatives: The Case of Wakfs

1. Introduction

The Chapters in this Report bring to the fore a considerable amount of deficits in a number of socio-economic and developmental measures that were empirically evaluated for the Muslim community in comparison with the other SRCs. Since such deficits are faced by all poor people, efforts to bring about improvement in the condition of Muslims would require additional funds to be earmarked from the ongoing programmes, such as the Sarva Shiksha Abhiyan (SSA), Public Health Programmes, JawaharLal Nehru National Urban Renewal Mission (JNNURM) etc and increased allocations to institutions of higher learning. It is increasingly recognized that additional investments and fresh programme initiatives can receive a boost from community involvement and financial participation of the local area resources that can be accessed through the process of bequests and donations, also known as the third sector activity. In fact, community participation in terms of physical contribution of resources can facilitate the implementation of many programmes like provision of land to establish schools and ICDS centres in villages, urban fringes and slums. That can also take care of the requirement of playground to establish even a primary school. Similarly, promotion of special help groups (SHGs) and micro-financial institutions (MFIs) require both institutional and financial resources to be contributed by the community groups.

It is in this context that the initiatives of the Muslim community to enhance its welfare should be seen. The initiatives relating to Madarsas were discussed in Chapter 4. The other important community-specific initiative relates to Wakfs. To earmark a part of what one has earned or inherited and set it apart in perpetuity for charitable purposes is considered an act of piety. As such, generous Muslims adhering to the principles of 'endowment' embedded in Islam often bequeath large and valuable acreage of properties in the name of God. The proceeds from these properties are dedicated to meet the exclusive needs of the poor and also to the perpetual maintenance of the bequeathed property. This type of property

The proceeds from Wakf properties are dedicated to meet the exclusive needs of the poor and also to the perpetual maintenance of the bequeathed property



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bequests made by Muslims is called 'Wakf'.

The objectives of Wakfs recognized in Islam as religious, pious and charitable include, though are not limited to, the following:

- Establishing, maintaining and fostering the educational institutions, hostels, libraries, sports facilities and so on. Awarding of scholarships so as to promote education.
- Providing health care, relief and financial aid to all poor including the victims of communal riots and natural disasters.
- Construction of musafir khanas and marriage halls for community use.
- Maintenance of mosques, dargahs, graveyards and consolidation of Wakf properties.
- Financial support to poor widows, indigent and physically handicapped persons; arranging the marriage of indigent girls and maintenance of divorced women.
- Payment of salary to Imams and Muazzins as ordered by Supreme Court.

The objectives of Wakfs in Islam are recognized as religious, pious and charitable

The person who so dedicates his or her property is known as Waakif and the person nominated by the Waakif to manage the affairs of the Wakf property is known as Mutawalli. Apart from landed (often agricultural) and built up commercial and residential properties, Wakfs in India include Mosques, Dargahs, Khanqahs, Maqbaras, Ashoorkhanas, Qabristans (graveyards), Takiyas, Idgahs, Imambaras, Anjumans and so on.

The Britishers who were finding ways to subdue Muslim resistance passed Land Resumption Act taxing Wakf lands and thus dealing a crushing blow to Muslim traditions. "An amount of 1.1 million pounds was thus collected in taxes in Bengal from formerly tax-exempt lands. A large part of this sum was derived from lands (hitherto) held rent free by Musalmans or by Mohammadan foundations. The panic and hatred which ensued have stamped themselves forever on the rural records. Hundreds of ancient families were ruined and the educational system of the Musalmans which was almost entirely maintained by such grants, received its death blow. The Mohammadan foundations suffered the most."¹ Although the Wakf is a perpetual bequest, the Mutawallis, often tend to have almost absolute control over the income generated from it.

2. Economic Potential of Wakf Assets in India

The Committee asked all the state Wakf Boards and Central Wakf Council to provide data on the nature, type and distribution of Wakf properties especially taking the location factor into account². It was expected that such data would be routinely available as the Wakf surveys of the properties have to be undertaken on a regular basis as per the Act. However, the information was not available as in many states

1. The Politicization of Islam by Keman H. Karpat, 2001

2. A large number of Wakfs are located in prime areas such as the central city wards and mohallas. Incidentally, all reference in this chapter is to public Wakfs (in no case to family Wakfs known as Wakf-'al-al-aulad)



such surveys were not up-to-date. Data on the income from rental and other sources were also sought. A roundtable brainstorming workshop was held in Delhi to get first hand information and views about the Wakfs across India. The chairpersons and CEOs of Wakf Boards, a few academics and practitioners of Wakf law and former chairpersons of Wakf Boards participated. The Committee also received a number of representations from mutawallis and their associations.

There are more than 4.9 lakh registered Wakfs spread over different states and union territories of India³. Large concentration of the Wakf properties is found in West Bengal (148,200) followed by Uttar Pradesh (122,839). Other states with a sizeable number of Wakfs are Kerala, Karnataka and Andhra Pradesh (see Table 11.1)⁴. The total area under Wakf properties all over India is estimated at about 6 lakh acres and the book value at about Rs 6,000 crores. However, the market value of these properties will be higher manifold. For instance, a recent estimate of the current value of Wakf properties in Delhi alone is in excess of Rs. 6,000 Crores (Rs. 60 billion). A good number of the Wakf properties in urban areas are found to be located in city centres where the current value is many times more than the book value⁵. However, the current annual income from these properties is only about Rs. 163 crores, which amounts to a meagre rate of return of 2.7 per cent. Of this amount the Wakf Boards are entitled to receive a share at the rate of 7% which is used for the working expenses of the Wakf Boards. The remaining amount is expected to be spent on the stated objectives of the respective Wakfs.

As the book values of the Wakfs properties are about half a century old, the current value can safely be estimated to be several times more and the market value of the Wakf properties can be put at Rs. 1.2 lakh crores (1,200 billion). If these properties are put to efficient and marketable use they can generate at least a minimum return of 10 per cent which is about Rs. 12,000 crores per annum. It has emerged from the data presented in Table 11.2, that wherever the Wakf lands have been put to efficient use they have generated an average return of about 20 per cent⁶. It is obvious, therefore, that if some of these Wakf properties situated in prime locations across the country are developed and put to commercial use, their market value and annual income will shoot up. The enhanced Wakf income could be utilized to upgrade the educational status and improve other human development dimensions of the beneficiaries of Wakfs. This is being done even now but such success stories are few and far between. The Committee would, however, like to put a caveat here. The optimum utilization of Wakf properties would require proper administrative back up by the central and state governments as well as legislative support by way of crucial amendments to the Wakf Act and some other pieces of existing legislation.

There are more than 4.9 lakh registered Wakfs spread over the country but the current annual income from these properties is only about Rs. 163 crores, which amounts to a meagre rate of return of 2.7 per cent

3. Many Wakfs have multiple properties.

4. Information in respect of other states (though smaller in size) could not be received by the Committee in time to be included in this report.

5. A large number of Wakf properties are also agricultural land.

6. The loans provided by the central Wakfs Council to State Wakf Boards for investment and development produced a rate of return of just about 20 per cent as the 21st century unfolded itself.



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Table 11.1: Properties Gazetted as Wakfs in Indian States

States	Area (acre)	No. of properties	Book Value (in lakhs)	Total Current Income of all the properties	7% share of Wakf Board
West Bengal	59090	148200	16000	457	32
Uttar Pradesh	15000	122839	15200	1214	85
Kerala	22410	36500	135586	803	56
Andhra Pradesh	145512	35703	8135	388	326
Karnataka	18033	28731	-	1288	90
Maharashtra	92207	23566	4185	443	31
Gujarat	8792	22485	600	381	27
Rajasthan	153180	19543	196755	8314	58
Madhya Pradesh	-	15000	-	-	-
Haryana	20895	11929	1125	500	500
Punjab	1778	11243	1589	596	596
Tamil Nadu	34388	7057	165072	1385	97
Bihar	-	2459	2000	33	2
Uttaranchal	-	2032	285	268	19
Delhi	152	1977	-	67	5
Pondicherry	425	589	179	118	8
Assam	190	168	110	35	2
Total	572052	490021	546821	16290	1934

Source: As per information received by the Prime Minister's High Level Committee from State Wakf Boards in 2005-06.

Table 11.2 Returns to Investment in Wakf Properties in India

State	Loan given (Rs. in lakhs)	Annual Return before Development (Rs. in '000)	Annual Return after Development (Rs. in '000)	Increase in Return after Development (%)	Rate of Return to Loan
Kerala	49.8	96	877.7	814	15.7
Bihar	23.8	5.8	459	7,814	19.0
Karnataka	633.7	1,087.8	12,001	1,003	17.2
Maharashtra	41	9.7	590	5,988	14.2
Andhra Pradesh	58.7	30.7	1,160	3,681	19.2
Rajasthan	3.2	--	106	--	32.9
Madhya Pradesh	75.4	85	2,512	2,855	32.2
Tamil Nadu	191.4	720.3	3,747	420	15.8
Orissa	188.1	60.4	4,232	6,907	22.2
Punjab	17.6		666		37.9
INDIA	1241.6	2,086	25,760.7	1,135	19.1

Data : S.K Rashid (2005) - Protection, Maintenance and Development of Awqaf in India (with special reference to Rajasthan), Institute of Objective Studies, New Delhi: pp 74-85.



3. Constraints on the Fulfillment of Wakf Objectives

To safeguard the existence of a large number of Wakf properties in India, a comprehensive Wakf Act was passed by Parliament in 1954. Over the years, during the process of the implementation of the Wakf Act, many lacunae and loopholes were noticed and the Wakf Inquiry Committee recommended amendments that were incorporated in the Wakf Act of 1995. Despite these efforts, the management of the Wakf Boards and the properties remains unsatisfactory. This is due to inadequate empowerment of the State Wakf Boards and the Central Wakf Council.

3.1 Organizational Constraints

Though there are conscientious Mutawallis too, yet there instances where Wakfs are treated by Mutawallis as their personal properties. From dargahs the offerings are sometimes appropriated by them. In any case, Mutawallis are classically known for not coming forward to seek grants or loans from Central Wakf Council or Wakf Boards for the development of the Wakf properties. Proposals for educational institutions are replaced by them for construction of shops. Rental is negotiated at low level in lieu of extraneous considerations. Despite the above mentioned efforts, the management of the Wakf Boards and the properties remain unsatisfactory due to inadequate empowerment of the State Wakf Boards and Central Wakf Council. Wakf properties which sub-serve the larger public interest should be protected as such. However, Wakf properties where specific religious rites are observed because of the importance of the site should be respected. Such a policy will lead to effective social cohesion and economic development. Therefore an effort should be made not to include such properties in land acquisition.

Non-availability of Records

The records of Wakf properties are not well maintained and are prone to the vagaries of weather, mutilation and loss. This calls for immediate remedial action. These should be digitized under a Government programme. The Central Government may consider special grants through the Central Wakf Council to undertake this task and supervise the quality of documentation. In spite of listing of Wakfs in statutory surveys often the properties are not registered as Wakfs in revenue records and in the records of the Local Self Governments. These lacunae and inaction on the part of the state governments are the source of prolonged litigation.

Encroachments on Wakf Properties

Encroachments on the Wakf properties are made not only by private persons but also by the government and its agencies as was brought to the notice of the Committee across the country. The encroachments are in two forms - (1) an absolute usurpation of property with no rents or other payments of any sort; and (2) those where the occupying party pays a nominal rent which has not been revised for decades. The number of private encroachments is very large. They are scattered all over the country and are often involved in litigation. Focussed attention is, therefore, called for on encroachments by the State that is the custodian of the Wakf interests.

The management of the Wakf Boards is unsatisfactory due to inadequate empowerment of the State Wakf Boards and Central Wakf Council

Encroachments by the State who is the custodian of the Wakf interests is common



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The attitude of the state governments and their agencies has resulted in large scale abrogation of the cherished and charitable objectives of the Wakfs

A list of properties which are gazetted as Wakf properties⁷ but are currently under the unauthorized occupation by the governments and their agencies submitted to the Committee is presented in Box 11.2. (An illustrative list of properties claimed to be under unauthorized and illegal occupation by the private as well as the government agencies from all over India can be found in Appendix 11.1). It would be seen that the attitude of the state governments and their agencies has resulted in large scale abrogation of the cherished and charitable objectives of the Wakfs for which such endowments were created. In fact encroachment by the State on the Wakf lands, besides causing embarrassment to the authorities and emboldening private encroachers, has stood in the way of reform and reconstruction. As early as nineteen seventies Prime Minister Indira Gandhi wrote a letter to the Chief Ministers asking them to either vacate or pay to the Wakf Boards the market value of the Wakf properties. Alternatively, the directive was to pay lease rent at market rents for the Wakf properties encroached upon by the governments and their agencies (See Box 11.3).

Box 11.2
Some instances of unauthorized occupation of gazetted Wakfs by Governments and their agencies reported to the Committee by various state Wakf Boards during 2005-06

State	No. of Wakf properties
Delhi ⁸	316
Rajasthan	60
Karnataka	42
Madhya Pradesh	53
Uttar Pradesh	60
Orissa	53

Note: This is not an exhaustive list of properties.

7. The list provided to the Committee is not exhaustive and further details can be obtained from the respective state Wakf Boards.

8. Archaeological Survey of India, Delhi Development Authority, Railways, Cantonment, Delhi Police, Central Public Works Department, New Delhi Municipal Committee, Delhi Municipal Corporation, Delhi Transport Corporation, Delhi Jal Board and Lady Harding Medical College and Hospital.



Box 11.3

Prime Minister Indira Gandhi's letter addressed to the Chief Ministers

APPENDIX VII

No. 71-PMO/76

New Delhi, March 26, 1976

I have been concerned for some time about improving the administration of Wakfs. The State Governments must ensure that Wakfs are properly maintained and administered by the State Wakf Boards in terms of the Wakf Act of 1954. The following are some matters which require your urgent attention.

For a variety of reasons, including unsettled conditions after partition, a large number of Wakf properties have gone into the adverse possession of private parties as well as State Government departments and local bodies. The Wakf Boards could well start legal proceedings against the concerned State Government Departments. Obviously such litigation would not be desirable. Hence you should settle the issue on an administrative basis. As far back as 1961, we had made the following three concrete suggestions for quick settlement of such cases:

- (i) Where feasible, the Wakf property should be vacated and handed over to the Wakf concerned;
- (ii) Where costly buildings have been put up on the land and their vacation is not feasible, the State Governments may enter into permanent leases with the Wakf Boards, after paying to the Boards the bulk of the market value as premium; or
- (iii) In the alternative, the State Governments may arrange to make over the fair market value of the lands to the Boards, which will relinquish their rights over the land if in their direct management, or obtain from the Mutawallis concerned with their consent, the necessary deeds of relinquishment.

I understand that the Wakf Boards have sent your Government lists of Wakf properties in the possession of Government departments and local bodies. Please see that these are dealt with as suggested above. A periodic review should be undertaken and a monthly report sent to me and to the Minister for Wakfs.

Most Wakf properties are leased out on very nominal price which cannot be increased because of Rent Control Acts. In its Interim Report the Wakf Inquiry Committee has suggested that all public Wakfs serving a religious or charitable purpose or for that matter all public trusts and endowments belonging to any community, should be exempted from the provisions of the Rent Control Acts. The Committee rightly felt that Wakfs, which are not meant to benefit individuals, should be treated differently from individual landlords. I understand that at the suggestion of the Centre, the States of Andhra Pradesh, Kerala, Karnataka and Tamil Nadu have already agreed to exempt public Wakf properties from their respective Rent Control Acts. Please look into the possibility of making a similar exemption in your State.

Yours sincerely,

(Sd)

(INDIRA GANDHI)



To attain the objective of putting the Wakf properties to optimum use, fresh institutional support is essential

The importance of stricter monitoring of the Wakf management in general and the vacation of encroachments in particular cannot be over-emphasized

3.2 Present day Management of Wakfs

To attain the objective of putting the Wakf properties to optimum use fresh institutional support is essential. Presently state Wakf Boards comprise Muslim MPs, MLAs and some others. They may not be necessarily equipped with the technical expertise and knowledge required to exploit the Wakf resources optimally. The importance of stricter monitoring of the Wakf management in general and the vacation of encroachments in particular cannot be over-emphasized. The respective state governments have remained indifferent for many years and the matter once again received the Parliament's attention and a Joint Parliamentary Committee was constituted during 1996-2006. The comprehensive recommendations of this JPC are yet awaited. However, its reports in respect of nine states (Tripura, Manipur, Maharashtra, Goa, Assam, Meghalaya, Dadra & Nagar Haveli, Pondicherry, Lakshadweep) and Ajmer Dargah Act are available on the Web :-<http://RAJYASABHA.NIC.IN/BOOK2/REPORTS/WAKF/REPORTSLIST.HTML>

Mandate of the Joint Parliamentary Committee on Wakfs - 1996-2006

1. Assess, ascertain and identify the Wakf properties in the country.
2. Identify the Wakf properties which have been encroached upon in various States and Union Territories and to suggest ways to retrieve the property.
3. Identify the Wakf properties illegally gifted, transferred, mortgaged, leased or sold etc. and to suggest ways to fix responsibility and to retrieve the property.
4. Suggest ways and measures for proper utilization of the Wakf properties.
6. Ascertain the status of implementation of the Wakf Act 1995 by various State Governments.
7. Suggest such amendments to the Wakf Act 1995 as may be considered necessary, so as to achieve its objectives including retrieval of the Wakf properties encroached upon.
8. To examine the functioning of the Central Wakf Council and suggest suitable measures for making it effective.
9. To look into the working of the State Wakf Boards and recommend suitable measures for their proper and smooth functioning.
10. Suggest suitable legislative measures to realize all or any of the above objects.

General Issues and Constraints: Problems Faced by State Wakf Boards

Various State Wakf Boards brought to the notice of the Committee a number of problems out of which a selected few are presented here as examples. Such occurrences are detrimental to the interests of Wakf and also infringe the entitlement of its designated beneficiaries in particular and the poor in general.

Private Occupation of Prime Wakf Properties:

Often Wakf properties are situated in the heart of a town / city. These are



commercially valuable assets of the Wakf Boards and should be available for appropriate development and enhancement of the revenues. However, such properties have often been occupied either by corporations or third parties. An effective methodology would need to be evolved for expeditious settlement of such disputes⁹.

Over-ruling or Conflicting Orders by State Governments

The Minorities Department of U. P. Government has unauthorisedly passed orders over-ruling the quasi-judicial orders given by the Wakf Board a copy of the most recent example of the UP government over ruling the Wakf Boards orders is available with the community. The Department has, in this way, been staying over-ruling and vacating the Board orders. Such actions are ultra vires the Wakf Act. Both Sunni and Shia Boards drafted and submitted in 2004 the proposed Rules for the functioning of the Wakf Board and for implementation of the Wakf Act 1995. But the Department has yet to take action thereupon. While the U.P. Government could be advised to look into the matter, the Wakf Act 1995 may be amended to prevent such interference.

Transfer of Records and Jurisdiction

Due to non-transfer, delay in transfer or confusion in administrative jurisdiction Wakf properties often suffer from mismanagement. Clarity would have to be brought about both administratively and by legislation so as to improve Wakf management. See example in the footnote below¹⁰.

Due to non-transfer, delay in transfer or confusion in administrative jurisdiction Wakf properties often suffer from mismanagement

Undoing the Trifurcation of Punjab Wakf Board

Till 2004 there was a combined Wakf Board for Punjab, Haryana, Himachal Pradesh and Chandigarh. The Wakf resources of all these states were pooled together and were being utilized for the people of erstwhile undivided Punjab. This

9. One case of mis-utilisation of prime Wakf property is that of Sajan Lal Shia Wakf property located in the heart of the city of Hyderabad. It was a graveyard and is now under the occupation of the prestigious Viceroy Hotel. The latter is not even accepting that it is a Wakf property and is not allowing the Surveyor of Wakfs to discharge his duty. Similarly, Prince Ghulam Mohammad Wakf Estate situated at a prime location in Kolkata was on lease favouring the Shaw Wallace Company on a meager rent since 1906. The lease was terminated by the Wakf Board in 1984. The lessee approached the High Court where the matter is pending for the last 22 years. For the intervening period the High Court decided that an amount of Rs. 25,000/- per month should be paid as occupation charges to the Wakf Board. However, the market rental is of the order of Rs. 10 lakhs per annum.

10. The case of Maharashtra Wakf Board is placed below; however these problems vary across states and contexts. Maharashtra: Before the commencement of the Wakf Act 1995 in Maharashtra, all the Muslim trusts and Wakfs (except those in Marathwara Region which were governed by Wakf Act 1954) were covered under the purview of Bombay Public Trusts Act 1950 and were handled by the Charity Commissioner of Maharashtra. However, the Wakf Act 1995 was enforced from 1 January 1996. It was thus mandatory for the Charity Commissioner of Maharashtra to transfer all the Mosques, Idgahs, Imambaras, Dargahs, Khanqahs, Maqbaras and graveyards etc to the Maharashtra Wakf Board. In the meanwhile even the Wakf Survey Commissioner completed his job and the State Government published the list of Wakfs under section 5(2) of the Wakf Act 1995 in the Government Gazette on 13 November 2003. The Charity Commissioner was directed to transfer the amount collected by him from Wakf properties after the jurisdiction over them stood transferred to the Wakf Board. The Charity Commissioner ignored the legislative-cum-administrative mandate as well as the Wakf Minister's direction and has continued to collect a share from the Wakf income. After persistent follow up by the Wakf Board, the Charity Commissioner has transferred only part of the record to the Wakf Board in 2006. Hence the interests of the Wakfs are being jeopardized as proper follow up is not possible in various legal cases as well as complaints received by the Wakf Board cannot be properly investigated in the absence of complete record. In some cases the Charity Commissioner is also alienating Wakf properties without jurisdiction.¹⁰



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Many states have huge amounts that are outstanding but not paid to the Wakf Boards for various reasons

provided the required flexibility in fiscal matters vis-à-vis the general welfare and particularly the provision of educational & vocational institutions and medical facilities etc. However, the trifurcation of the Wakf Board entailed huge enhancement of administrative expenditure as now there are three separate Boards and corresponding administrative infrastructure. There are 11,000 Wakf properties in Punjab but not many Muslims to take advantage there from. Haryana has a huge Mewat belt where large number of Muslims are among the most backward in the country. But they can no longer enjoy the usufruct of prime Wakf properties situated in Punjab. The people of Himachal Pradesh and Chandigarh are now practically bereft of the welfare measures hitherto available to them. The Committee analysed the representations made to it in this regard and studied the issue. It is of the view that the Central Government may revert to the status quo ante and undo the trifurcation of the erstwhile Punjab Wakf Board.

Outstanding Amounts due to Wakfs

Many states have huge amounts that are outstanding but not paid to the Wakf Boards for various reasons. For example, Maharashtra Wakf Board informed the Committee that the state Government owes an amount of Rs 81,68,285/- and associated interest to the Maharashtra Wakf Board against acquisition of properties in Aurangabad, Jalna, Parbhani, Nanded, Beed, Osmanabad, Latur, Pune, Nasik, Amrawati, Sangli, Nagpur, Ahmednagar and Dhule¹¹. It is necessary that appropriate directives should be incorporated in the Wakf Act with respect to the payment of the outstanding dues within a reasonable time.

There are a number of situations in which even the recommendations given by the Joint Parliamentary Committee have not been implemented

Non-implementation of the JPC Recommendations

There are a number of situations in which even the recommendations given by the Joint Parliamentary Committee have not been implemented. Following is one such case study: In Shillong, Umshyrpi College was established in 1994 by Muslims of Meghalaya. For a long time the College Committee has been requesting the State Government to withdraw the acquisition proceedings in respect of the Wakf land at Grove Side, Keating Road, Shillong and to allot it to the College for its expansion. The Wakf Board and the Mutawalli of the Wakf concerned, namely Golam Rahman Wakf Estate, have approved the proposal. Even the Joint Parliamentary Committee recommended it to the Chief Minister and the Union Minister of Welfare wrote to him in this regard. But this work has not yet been done though the land required by the College is lying in disuse. The Central Government may consider taking up the matter with Meghalaya Government and asking the latter to pass necessary order withdrawing the acquisition proceedings in respect of the said property and allotting it to Umshyrpi College¹².

A Case Study of National Capital Territory of Delhi

The Government of India acquired large areas of land between 1911 and 1915 for

11. Letter no. MSBW/REG/668/2006 of the CEO, Maharashtra State Wakf Board of Wakfs addressed to the Committee

12. Letter No. MSWB/PMO/2005-06/1029 dated 08 August 2005 of Meghalaya Board of Wakfs addressed to the Committee.



construction of the New Capital/Extension of Delhi city. A number of Wakf properties were also acquired although compensation was not received or accepted in case of many of these properties. In 1940, individual agreements were made by the Government of India in 42 cases with the Sunni-Majlis-e-Auqaf (predecessor of Delhi Wakf Board) permitting the use of the properties for religious purposes. By notification in the Delhi Gazette in 1970 a large number of properties, including those under agreement, were declared as Wakf properties. This was challenged by over 300 suits in the District Courts by the Land & Development Officer (L&DO) and the Delhi Development Authority (DDA), both under the Ministry of Urban Development, Government of India.

Between 1974 and 1984 four high-powered committees examined the disputes between the parties. The matter was also examined by a Group of Ministers comprising six Cabinet ministers. A Committee of Officers including representatives from the Ministry of Works and Housing, Ministry of Home Affairs, Delhi Development Authority, Land & Development Officer and the Delhi Wakf Board surveyed the properties in detail to assess the nature of each property in the context of the requirements for development of the capital city. They verified that in the case of 123 properties it was clear that they could be classified as Wakf properties and recommended that they be transferred to the Delhi Wakf Board. The Government of India approved the recommendation of the Committee on 31.1.84 and ordered the transfer of 123 properties (61 in the control of L&DO and 62 in the control of the DDA). Besides these 123 properties, it was found by the Committee of Officers that there were 40 other properties which were also Wakf properties but which were situated inside government properties such as the public parks. It was decided that in respect of these properties the ownership would continue to vest with the government and the Delhi Wakf Board would be permitted to use them as Wakf properties.

A number of Wakf properties were also acquired although compensation was not received or accepted in case of many of these properties

In spite of the above mandates, as a consequence of a writ petition, the Delhi High Court on 1st June 1984 ordered that 'status quo regarding the property should be maintained and possession should be retained by the government. The Union of India has stated in its reply before the High Court that, only after thorough scrutiny of the notified Wakf properties and verification at site, it was decided to transfer to the Delhi Wakf Board only such properties which were:

- i. Clearly Wakf in nature,
- ii. Not required for public utilities and
- iii. Could clearly be separated from the adjacent public buildings.
- iv. The transfer of Wakf properties to Delhi Wakf Board is for their effective management and in the public interest.
- v. Wakf properties that did not exist at site but had been notified in the Gazette were ignored.

Accordingly all disputes between the Government agencies and the Delhi Wakf Board had come to an end and all pending cases from both sides were to be



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The Delhi Wakf Board has effectively been deprived of the use of its valuable properties

High legislative, administrative and judicial priority should be accorded to Wakf in order to improve the management of about five lakhs Wakf properties spread across India

withdrawn from the courts. However, due to the interim stay of 6th June 1984 no further action has been taken in this regard. It is sad that even after 22 years and 112 listings of the case the matter is not heard due to lack of enthusiasm on the part of the Government.

During the intervening 22 years the Wakf properties have been extensively encroached upon and this is an ongoing process. It would be seen that the Delhi Wakf Board has effectively been deprived of the use of its valuable properties. It has been unable to generate resources from its assets to discharge its statutory Wakf obligations and is currently impoverished.

In 2003 the market value of these 123 properties was estimated at about Rs.3,000 crores by the petitioners. Property prices in Delhi have since doubled. Therefore these, Wakf properties could now be valued at Rs.6,000 crores. Due to the protracted litigation their economic value could not be tapped. If the commercial potential is now exploited it could generate enough resources to meet many needs of the Muslim community in Delhi. The Government of India may consider instructing its law officer to take active interest in the matter and have the long pending court matter disposed off at the earliest. This could be done by getting the legal support upgraded and imparting the overdue urgency to the finalization of this case.

4. Overcoming Constraints: Some Recommendations

4.1 Organizational Reforms

This chapter brings to light the importance of Wakf as a socio-religious institution almost equivalent to the present day 'non-government organizations' involved in welfare activities. However, at present, the management of Wakf properties is seriously impaired both due to high incidence of litigation and poor management. Often important Wakf cases, and thereby valuable properties, are lost because of lack of financial and administrative resources. Therefore strengthening Wakf Boards administratively with necessary financial and legal backup is absolutely necessary. High legislative, administrative and judicial priority should be accorded to Wakf in order to improve the management of about five lakhs Wakf properties spread across India. Governments both at the centre and in the states have, perhaps because of their heavy preoccupations, found it fit just to maintain the status quo, without realizing the high potential that Wakfs have both for generating wealth and meeting the welfare requirements of the poor and the needy. With appropriate legislative and legal empowerment as indicated in this chapter, the management of Wakf properties can be revitalized so as to make them not only financially viable but also rewarding. Following are some recommendations designed to improve the management and functioning of the Wakfs across India.

It appears to be essential to provide a technical advisory body for development of Wakf properties both at the state and national levels. This body may comprise representatives from state Wakfs Boards, area experts from institutions such as



School of Planning and Architecture, National Institute of Design and IITs and academics such as sociologists, economists, financial and legal experts. A representative from appropriate government department should also be part of this body. Any Wakf property whose current undeveloped market value is estimated to be Rs.1 crore or more, or whose area is more than one bigha in urban and above 2 acres in rural parts of India should be referred to the Technical Advisory Body. All Wakf properties should be developed, mortgaged or encumbered only with the concurrence of the State or Central Technical Advisory Body as the case may be.

- **Woman Representation:** It is of utmost importance to provide for atleast two women each in the Central Wakf Council and each state Wakf Board. Besides providing gender equity this will help in improving direct access to welfare measures for women and children.
- **Composition of the Central Wakf Council (CWC):** A Union Minister occupies the position as the ex-officio President of the Central Wakf Council. Given his preoccupations, often the Council is not able to prepare and take timely action on matters of urgency. It is, therefore, proposed that a full time President should be appointed from out of eminent persons like retired high court judges, chancellors and vice chancellors of central universities and former chiefs of state Wakf Boards. The President may hold office for a period of three years. The other members of the Central Wakf Council could be nominated from a list of eminent Muslims drawn from various professions such as architects, doctors, lawyers, chartered accountants and academicians. The representation of MPs and MLAs as at present may be combined and their gross number in each state Wakf Board may be reduced from the existing four to two. The Secretary of the Central Wakf Council should be an officer of the rank of at least Joint Secretary to Government of India so that meaningful and effective communication and interaction with government authorities is facilitated. In order to be effective, this officer must have a good knowledge of Wakf matters, Muslim scriptures and proficiency in Urdu.
- **State Wakf Boards:** The chairmen and members of the state Wakf Board can be selected from a list of eminent persons in each state. For example, a retired high court judge, the former vice chancellors, and those who have established Muslim educational institutions of repute should be considered for appointment in the Wakf Board. The other members of the Wakf Boards can be nominated from a list of Muslim professionals drawn from various professions such as the architects, doctors, lawyers, chartered accountants and academicians. The representation of MPs and MLAs as at present may be combined and their gross number in each state Wakf Board may be reduced from the existing four to two. The Act does not provide any qualification for a person to be appointed by the state Government as Chief Executive Officer of the Board. It has been found that in cases where the Chief Executive Officer is not high ranking in the hierarchy of state bureaucracy the interests of the Wakf

It is of utmost importance to provide for atleast two women each in the Central Wakf Council and each state Wakf Board

The chairman and members of the state Wakf Board can be selected from a list of eminent persons in each state



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The government may, consider creating a new cadre of officers with knowledge of Islamic law to deal with the specific affairs of the Wakfs efficiently

A National Wakf Development Corporation may be constituted by the central Government with a revolving corpus fund of Rs 500 crores

Board often suffer. It is, therefore, necessary that the Chief Executive Officer must be full time and must rank with senior officers of the state Government. Ideally a Class I Officer of All India or Central Services directly recruited through UPSC should be appointed as CEO.

- **Group-A Officers for Wakfs:** There is strong case to create a new cadre of officers to manage the affairs of State Wakf Boards and Central Wakf Council. It is estimated that up to 200 Group-A officers are needed to service the Wakfs affairs across India. The government may, therefore, consider creating a new cadre of officers to be recruited by the UPSC so that they can deal with the specific affairs of the Wakfs efficiently. Such officers, however, should have the knowledge of Islamic law and Urdu, as most of the documents relating to Wakfs are in that language. Some officers of this cadre could, subject to the concurrence of the Central Haj Committee, be seconded to the Central and State Haj Committees for giving them administrative support.
- **Maintenance of Accounts:** It is recommended that all the Wakfs are compulsorily brought under the scheme of 'financial audit'.
- **National & State Wakf Development Corporations:** A National Wakf Development Corporation may be constituted by the central Government with a revolving corpus fund of Rs 500 crores. It would also be advisable to seek out matching funds to be added to the corpus from the community and NGOs. The CMD of this corporation should be well versed in Muslim religious practices and be proficient in Urdu. The corporation may continue providing financial and technical help for development of Wakf properties with a view to enhance Wakf resources. Similar corporations should be established in all the states.
- **Ajmer Dargah Act needs to be amended:** Wakf Act 1954 was amended in 1995. Now some more amendments are being suggested in this Report. However, Dargah Khwaja Saheb Ajmer Act 1955 has never been amended while the problems there are same as in the case of all other Wakfs in the rest of India. Hence it is necessary to introduce comprehensive changes in Dargah Khwaja Saheb Ajmer Act also.

4.2 Legal and Administrative Remedies

- **Removal of Avoidable Judicial Dichotomy:** Amendment of Wakf Act Section (6) sub-section (1) : The Supreme Court in Board of Muslim Wakf, Rajasthan vs Radha Kishan and Others stated that where a non-Muslim is in possession of a certain property his right, title and interest therein can not be put in jeopardy merely because the property is included in the list of Wakfs. Such a person is not required to file a suit (within a period of one year) for declaration of his title, as required in the Wakf Act. That is to say, the special rule of limitation laid down in the proviso to sub-section (1) of Section 6 is not applicable to non-Muslims. Such interpretation is detrimental to the interests of Wakf and may well tend to encourage encroachments. Section 6 may therefore be amended to avoid the



confusion and the amendment should be given retrospective effect from the date of notification of the property as Wakf. In section 6(1) of the Wakf Act 1995 after the expression "or any person interested therein" the following words may be added "irrespective of his / her / its religion".

- **Enhanced Lease Period:** Increase the maximum period of lease of Wakf properties from 3 to 30 years where the property is used by registered charitable societies or trusts for building and/or running educational or health care institutions, or for other social and economic developmental purposes consistent with the objects of the Wakf (if any specified) and as permissible under Islamic law.
- **Define 'Encroacher':** The definition of 'Encroacher' needs to be inserted in Section 3. This definition should say that 'Encroacher' means "any person occupying the Wakf premises without the authority of law and includes a person whose tenancy, lease or license has expired or has been terminated by the Board, or who has altered the property leased out or occupied by him without the prior written permission of the Wakf Board concerned". The inclusion of this definition will help the Wakf Boards in removing encroachments. Secondly, a person occupying the Wakf premises should be included in the definition of "person interested". Thirdly, the "Wakf premises" should be defined to mean "any Mosque, Graveyard, Mazar, Takiya, Eidgah, Imambara, Dargah, Khanqah, Maqbara, Anjuman and land appurtenant or belonging to them, the property dedicated for their maintenance, the property purchased from their income, the land, garden, well, baoli, school, hospital and other institutions dedicated as Wakf and the passages used leading to the Wakf premises". This definition will help in the proceedings under Section 54, for removal of unauthorised occupants of Wakf property.
- **Rent Control Act:** Often the Rent Control Act (RCA) provides protection to the tenants in such a way that the owners lose incentive to develop and maintain properties. Wakf properties are in the purview of RCAs in most of the states¹³. Thus the application of the RCA to Wakfs is damaging the noble interests of Wakfs and hurting the entitlements of the beneficiaries. Therefore, an amendment exempting the Wakf properties from the purview of the RCA within the Wakf Act is urgently needed. This can be done by introducing an over-riding provision in the Wakf Act.
- **Extension of Time for Recovery from Adverse Possession:** The Public Wakf (Extension) of Limitation Act, 1959 facilitated the recovery of properties forming part of public Wakfs by way of suits. Under the said Act the time for filing suits for recovery of Wakf properties against adverse possession was extended till 31st December 1970. Various states extended the said time further; these are as follows :

Increase the maximum period of lease of Wakf properties from 3 to 30 years where the property is used for education, health care and other purposes consistent with the objects of the Wakf and as permissible under Islamic law

An amendment exempting the Wakf properties from the purview of the Rent Control Act within the Wakf Act is urgently needed

13. For example, the Wakfs are taken out of the purview of RCA in Uttar Pradesh and Andhra Pradesh.



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Failure on the part of the State and statutory bodies entrusted with safeguarding...administering Wakf properties has caused disquiet in the Muslim community

Bihar & UT Delhi	till	31st December 1985
Haryana	till	31st December 1975
Madhya Pradesh	till	31st December 1983
Himachal Pradesh	till	31st December 1978
Orissa	till	31st December 1981
Rajasthan	till	31st December 1980
West Bengal	till	31st December 1976

However, since 1947, most state Wakf Boards were either not properly constituted or were not sufficiently equipped to utilise or take advantage of the periods of extension of limitation. Although the administration and supervision of public works is the statutory obligation of the State, often for very long periods there has existed a virtual vacuum or absence of Wakf administration. Consequently, a large number of Wakf properties have been subjected to adverse possession and suits for recovery of the same have become time-barred. Therefore, the period of limitation should be extended till 2035 with retrospective effect. Otherwise, very valuable properties would stand unfairly encroached upon and appropriated by strangers. This would be tantamount to a collective failure of the State Wakf machinery. Due to their inaction or insufficient action the government would be deemed to be a party to the undue loss/shrinking of Wakf properties. Such failure on the part of the State and/or the statutory bodies entrusted with safeguarding/managing/developing/administering Wakf properties has caused disquiet in the Muslim community.

- **The Ancient Monuments and Archeological Sites and Remains (AMASR) Act, 1958:** This Act has often been at cross purposes with the Wakf Act. Very often the former has an over riding effect. There are innumerable cases where the Wakf property, despite being a place of worship and of religious reverence, cannot be touched by the Wakf Board because it is declared as protected monument¹⁴. Given the present state of large number of Wakf properties under the control of the Archeological Survey of India (ASI), it would only be proper if their lists are annually reviewed and their condition is assessed in a joint meeting of senior officers of the ASI with the representatives of the Central Wakf Council. The minutes should be signed by both the parties, copies should be preserved by both of them as well as the ministries concerned. An indicative list of properties which are under the physical control of the ASI but but are gazetted as Wakf properties can be found in Appendix 11.1.
- **Thika Act :** The West Bengal Assembly in 1981 enacted a Thika and Other Tenancies and Lands (Acquisition and Regulations) Act popularly known as Thika Act which was amended in 2001. By virtue of this Act the tenants of a large number of properties across the state became their owners. While the Act exempts the application of Thika Act to the government and municipal

14. The reference is to properties which are already gazetted as Wakf properties but are under the control and occupation of the Archeological Survey of India. The reference made here is not to such properties which have historical monuments such as the Taj Mahal, Qutab Minar and Humayun's Tomb, etc.



properties, the same benefit was not extended to cover the Wakf properties. Consequently the Wakf Board lost a large number of properties and income there from. Efforts have been made by the Wakf Board and NGOs to seek exemption of Wakf land from the Thika Act. The West Bengal Government may be advised to accord the solicited exemption.

- The Committee is of the firm view that law should not be used for acquiring Wakf properties and recommends that to ensure this on permanent basis the Government should take appropriate action.
- **Wakf Rules:** Even after a lapse of eleven years since the Wakf Act 1995 was enacted, a large number of states have not framed the Wakf Rules; this is one of the main reasons for non-implementation of the provisions of the Wakf Act and perpetuation of corruption and lack of accountability. Refresher training courses are to be offered regularly so that the staff of the State Wakf Boards are adequately trained. This work could be supervised by the Central Wakf Council.

4.3 Enabling Legal Provisions

- **Amendments to Wakf Act 1995**

The Committee suggests that the following issues should be dealt with in the Wakf Act 1995 in such a way that the state Wakf Boards become effective and are empowered to properly deal with the removal of encroachment of Wakf properties. Additionally it has been observed that the Wakf Tribunals as notified in the Wakf Act have been found to be not as effective as they were envisaged to be (Section 83 and 84). The primary reason is that the members of the state judicial service who preside over the Wakf Tribunals normally hold dual or multiple charges, i.e., as district, sessions or civil judge. Consequently, they have paucity of time in attending to Wakf matters and the Tribunals in some instance sit only a few days in a month. It is common knowledge that delay in adjudication of properties especially suffering from encroachment / unauthorized construction/ illegal occupation / misuser creates its own resultant problems. Additionally the Wakf Board is deprived of the legitimate use of and profits accruing from the property. It would therefore be appropriate to amend Section 83 (4) of the Wakf Act to specify that the Wakf Tribunal will be manned by full time presiding officer appointed exclusively for Wakf purposes. The Wakf Tribunal would also have the power to give the interim relief and award damages etc., as the case may be.

According to the the Islamic precepts the ownership of Wakfs rests only with God, the Mutawallis are the managers of the properties and the usufruct is meant only for the poor and needy. These principles do not get reflected in a number of other laws that have relevance to proper implementation of the Wakf Act. Wakf deserves to get benefited in two ways: firstly, some enactments that are found in various laws need to be amended to facilitate the functioning of Wakfs and, secondly there are a few other Acts that offer empowerment in

The Committee is of the firm view that law should not be used for acquiring Wakf properties and recommends that to ensure this on permanent basis the Government should take appropriate action

Wakf Tribunal should be manned by full time presiding officer appointed exclusively for Wakf purposes



The Public Premises (Eviction of Unauthorized Occupation) Act, 1971 should be applied to remove encroachment from Wakf properties and arrears of rent, at market rates, should be recovered as arrears of land revenue

The exemption of Wakf properties from some enactments would serve the greater philanthropic purpose of Wakf properties

such a way that Wakf Boards can take advantage of by getting legally empowered. The state level examples for both the above types are given below:

- **Public Premises (Eviction of Unauthorized Occupants) Act**

All Wakfs as notified in the Gazette should be treated as public premises. Wakfs are meant for a large section of the public. Some activities of Wakfs such as running schools, orphanages, monthly financial assistance to the needy, are philanthropic and secular in nature. Any encroachment on these properties should be treated like encroachment on government land. The Public Premises (Eviction of Unauthorized Occupation) Act, 1971 should be applied to remove encroachment from Wakf properties and arrears of rent, at market rates, should be recovered as arrears of land revenue.

- **Other Legal Structures which can empower Wakfs**

As stated in the beginning of this chapter the character of Wakf properties is quite different from privately held properties. The ownership of Wakf properties is vested in God, understood in mundane sense as an artificial juridical person. And, the usufruct invariably belongs to the downtrodden, the poor and the needy. Yet, the state and central legislation, does not usually take cognizance of such difference. While the exemption of Wakf properties from some enactments would serve the greater philanthropic purpose of Wakf properties, appropriate though minor amendments in the following Acts would strengthen the functioning of the Wakfs without in any way hurting their general public objective. Government may like to take necessary action after consulting Wakf Boards and enlightened public opinion.

Some of such enactments are:

- Rent Control Act, Land Reforms Act
- Agricultural Land Ceilings Act
- Urban Land Ceiling Act
- Registration of Properties Act
- Tenancy Act
- Stamp Duty Act
- Court Fee Act
- Income-tax Act
- Private Forest Vesting & Assignments Act

5. Summing up

This chapter brings to light the deeper malaise and misuse of the Wakf properties both by individuals and institutions. Such a state of affairs exists due to a number of organizational, managerial and legal impediments. The information provided above should be sufficient to initiate corrective action especially by the governments and the legal system which will enable the Wakfs to put the properties to good use for expanding and augmenting and putting at a proper level the welfare activities of Wakfs. This would supplement to some extent the broad based



Leveraging Community Initiatives: The Case of Wakfs

ameliorative endeavours of the State which necessarily have a massive magnitude. This will also be a step towards self-reliance by the Muslim community. It is possible to use the Wakf properties to put in place world class facilities such as universities and colleges, hospitals and health centers and convention centers. The properties can also be used to put up old age homes, polytechnics, and coaching centres.

**PARLIAMENT OF INDIA
RAJYA SABHA**

**THIRD REPORT
OF
JOINT PARLIAMENTARY COMMITTEE
ON WAKF
ON
AMENDMENTS TO THE WAKF ACT, 1995**

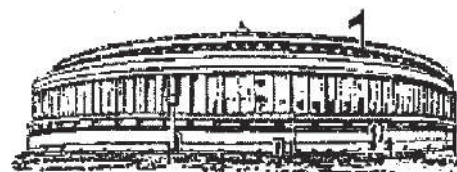


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**(PRESENTED TO THE RAJYA SABHA ON THE 4TH MARCH, 2008)
(LAID ON THE TABLE OF THE LOK SABHA ON THE 4TH MARCH, 2008)**

**RAJYA SABHA SECRETARIAT
NEW DELHI**

FEBRUARY, 2008/PHALGUNA, 1929 (SAKA)



//TRUE COPY//

PARLIAMENT OF INDIA
RAJYA SABHA

THIRD REPORT
OF
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LIST OF MEMBERS OF THE JOINT PARLIAMENTARY COMMITTEE ON WAKF

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Ahmed Patel
3. Maulana Obaidullah Khan Azmi
4. Shri Sk. Khabir Uddin Ahmed
5. Shri Kamal Akhtar
6. Shri S.P.M. Syed Khan
7. Vacant
8. Shri Satish Chandra Misra
9. Shri Mukhtar Abbas Naqvi
- *10. Shri Tariq Anwar

LOK SABHA

11. Shri Iqbal Ahmed Saradgi
12. Shri Anwar Hussain
13. Shri Abdul Mannan Hossain
14. Shri G. Nizamuddin
15. Shri Rashid J.M. Aaron
16. Shri Narayan Chandra Borkataky
17. Shri Prahlad Joshi
18. Shri Hansraj Gangaramji Ahir
19. Shri Avinash Rai Khanna
- #20. Shri Syed Shahnawaz Hussain
21. Shri Mohammad Salim
22. Shri T.K. Hamza
23. Shri Saleem Shervani
24. Shri Mukeem Mohammad
25. Dr. Mohd. Shahabuddin
26. Prof. K.M. Kader Mohideen
27. Shri Chandrakant Bhaurao Khaire
28. Shri Arjuncharan Sethi
29. Shri Suravaram Sudhakar Reddy
30. Shri A.R. Shaheen

SECRETARIAT

Shri Shamsheer Singh, Joint Secretary
 Shri P. P. K. Ramacharyulu, Director
 Shri P. Narayanan, Deputy Director
 Shri Suresh B. Malkani, Committee Officer

*Nominated on 8th March, 2007.

#Nominated *w.e.f.* 3rd December, 2007 Vice Shri Jaswant Singh Bisnoi who resigned.

SUB-COMMITTEE ON AMENDMENTS TO THE WAKF ACT, 1995

1. Shri A.R. Shaheen — *Convenor*
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PREFACE

I, the Chairman of the Joint Parliamentary Committee on Wakf, having been authorised by the Committee to submit the Report on its behalf, present this Third Report on Amendments to the Wakf Act, 1995.

1.2 The Joint Parliamentary Committee on Wakf was constituted on 2nd January, 2006 by Hon'ble Chairman, Rajya Sabha in consultation with Hon'ble Speaker, Lok Sabha with the following terms of reference:

- (i) to ascertain the status of implementation of the Wakf Act, 1995 by various State Governments;
- (ii) to suggest such amendments to the Wakf Act, 1995, as may be considered necessary, so as to achieve its objectives including retrieval of the Wakf properties encroached upon;
- (iii) to examine the functioning of the Central Wakf Council and suggest suitable measures for its effective functioning; and
- (iv) to look into the working of the State Wakf Boards and recommend suitable measures for their proper and smooth functioning.

1.3 The Committee was constituted for a term of one year. As the Committee could not complete the work assigned to it, the Committee sought extension of one more year and the Chairman, Rajya Sabha granted extension. The term of the Committee was further extended upto 31st March, 2008 by the Chairman, Rajya Sabha to complete the assigned task.

1.4 Earlier a Select Committee of Rajya Sabha was constituted to look into the working of the Wakf Boards on 29.10.1996. Later the status of this Committee was raised to the Joint Committee which was reconstituted on 28.1.1999, and on 27.5.2000. However, the present Joint Committee on Wakf was constituted with different terms of reference and as mentioned in the earlier paragraph, with specific term of one year.

1.5 The Committee decided to constitute a separate Sub-Committee on 8th June, 2007 to look into all aspects of the suggestions received for amendments in the Wakf Act, 1995. A Sub-Committee under the Convenorship of Shri A. R. Shaheen, M.P. (Lok Sabha) was constituted for the purpose.

1.6 The Sub-Committee carried out the task assigned to it meticulously and considered various suggestions including the proposals adopted by the Sub-Committee on Amendments of the previous JPC on the functioning of Wakf Boards and submitted its comprehensive proposals for amending the Wakf Act, 1995 to the Committee.

1.7 The Sub-Committee, while finalizing the suggestions of the Committee for amending the Wakf Board has relied mainly on the following:—

- (i) Suggestions for amendments to Wakf Act, 1995, adopted by the Sub-Committee on Amendments of the previous JPC on the functioning of Wakf Boards;
- (ii) Suggestions made to the present JPC on Wakf in the written representations, discussions, and oral evidence;

(iii)

(iv)

(iii) Suggestions made by the Members of the Committee.

1.8 The Committee, in its meeting held on 27th February, 2008 considered its Third Report containing the proposals submitted by the Sub-Committee and adopted it with some changes.

1.9 The Committee wishes to express its gratitude to the Sub-Committee on Amendments to the Wakf Act, 1995 for the hard work put in by them and completing the task assigned to them.

1.10 The Committee trusts that the suggestions made by it in the Report would be implemented in letter and spirit by the Government.

NEW DELHI;
February 27, 2008

Phalguna 8, 1929 (Saka)

S.M. LALJAN BASHA
Chairman,
Joint Parliamentary Committee on Wakf.

REPORT

CHAPTER-I

INTRODUCTION

This Report seeks to amend the Wakf Act, 1995 to make it more effective so that it may achieve the objects for which it was enacted. The Wakf Act, 1995 came into force *w.e.f.* 1st January, 1996 throughout the width and the breadth of the country except the State of Jammu and Kashmir.

The word 'Wakf' has its origin in the Arabic verb 'Waqafa'. The Islamic concept of the 'Wakf' assumed a very significant application to any property, movable or immovable, devoted in the name of *Allah the Almighty* for religious, pious or Charitable purpose and for the upliftment of the poorer Sections of the Society. The history of development of Muslim Wakf in our Country is spread over a period of almost eight hundred years. Significant developments took place in the Country after the establishment of Sultanate at Delhi wherein many Muslim Wakfs came into existence. There is no accurate account of the Muslim Wakfs developed in the Country during British Rule. A brief survey of Wakf legislation in the Country reveals that prior to Independence, during British regime, the East India Company's interference began with the promulgation of Regulation XIX of 1810 of Bengal Code which was followed by Regulation VI of the Madras Code 1817. With a view to protect and preserve the Wakf properties the British Government passed the Religious endowment Act 1863. Thereafter, there were several Acts which were enacted to deal with Wakf matters.

After the attainment of Independence, the Central Legislation in the name of the Wakf Act, 1954 was enacted. This Act governed the entire field of Wakf administration throughout the country leaving out certain areas which were governed by the Acts of the concerned States. The working of the Wakf Act, 1954 brought out many deficiencies in it and as such Amendments were carried out in it subsequently in the year 1959, 1964 and 1969. Thereafter the Wakf (Amendment) Act, 1984 was enacted. In view of the strong opposition of the Wakf (Amendment) Act, 1984 only the following two provisions of the Act could be enforced.

- (i) Period of limitation for filing suits for recovery of Wakf property in adverse possession could be 30 years instead of 12 years (Section 66-0); and
- (ii) The Evacuee Wakf property would be and would deem to have always been vested with the Wakf Board (Section 66 H).

The main criticism of the Wakf (Amendment) Act, 1984 was that it was a gross interference by the state in the day-to-day management of the wakfs. Thereafter, the new central legislation called the Wakf Act, 1995 was brought into force throughout the country except in the State of J and K *w.e.f.* 1.1.1996 and it repealed all the Wakf laws except the Durgah Khawaja Saheb Act, 1955. Barring these two exceptions the new Act governs the entire field of Wakf matters in the Country.

The Joint Parliamentary Committee on Wakf in its meeting held on 12th February, 2007 decided that a Press Communique be issued inviting suggestions from individuals/oraganisations for amending the Wakf Act, 1995. The Press Communique issued is at Annexure.

The Committee in its meeting held on 4th June, 2007 decided that a Sub-Committee be constituted to look into the suggestions received for amendments in the Wakf Act, 1995 and

suggest comprehensive proposals. The Chairman of the Joint Committee constituted a Sub-Committee on Amendments to Wakf Act, 1995 on 8th June, 2007 under the Convenorship of Shri A.R. Shaheen, M.P. (Lok Sabha).

The Committee at its meeting held on 4th June, 2007 decided to constitute a Sub-Committee on 8th June, 2007 to look into the suggestions received for amendments in the Wakf Act, 1995. A Sub-Committee under my Convenorship was accordingly constituted and assigned the responsibility of examining all suggestions received for amending the Wakf Act, 1995.

The Sub-Committee at its first meeting held on 25th July, 2007 took note of the fact that the Sub-Committee on Amendment of the earlier JPC on the functioning of Wakf Boards had considered various suggestions for amendments to the Wakf Act, 1995 and had adopted various amendments. However the report could not be presented due to the dissolution of the Lok Sabha. The present Sub-Committee decided to fully utilize that and consider all those proposals. The Sub-Committee also considered the suggestions received by the present JPC on Wakf. The Sub-Committee decided to send all the suggestions including the proposals already adopted by the previous Sub-Committee to the Ministry of Minority Affairs for their comments.

The Sub-Committee at its meeting held on 3rd October, 2007 took note of the fact that comments of the Ministry of Minority Affairs were not received and it was likely to take a long time. The Sub-Committee after discussing all the proposals adopted by the previous sub-Committee, adopted them with some changes.

The Sub-Committee at its meeting held on 18th December, 2007 considered all the suggestions including the proposals already adopted by it in its previous meeting in the light of the comments received from the Ministry of Minority Affairs. The sub-Committee after some discussion adopted some suggestions including the proposals adopted by it in the earlier meeting. All those suggestions are dealt in Chapter II of the Report. The Sub-Committee also adopted the third Report of the Committee.

The Sub-Committee submitted its report giving its proposals for amending the Wakf Act, 1995 to the JPC on Wakf. The Committee at its meeting held on 26th December, 2007 considered the proposals submitted by the sub-Committee and adopted the draft Report with some changes.

CHAPTER-II

SUGGESTIONS FOR AMENDMENTS

Section 3

Section 3 deals with the definitions used in the Act. Several suggestions were received by the Committee. The Committee felt that it was necessary to add the definitions of ‘Encroacher’ and ‘Wakf Premises’ and few other changes in the section. The Committee was of the opinion that the following amendments may be made in the section:—

Sub-Section (g) — The following text be added: “or contained in the register maintained under Sec. 37 at the end of the Sub-Section”.

In Sub-Section k(i) the words “to worship” be replaced by “to prayer” and the spelling of “Khangah” be written as “Khanqah”. The spelling of “Wakf” be corrected as “Waqf” wherever it appears and its plural be written as “Auqaf”.

In Sub-Section (r) (i), after the words “Such cesser”: the following words may be added:

“And by reason of any entry in the name of Shamlat Deh, Shamlat Patti, Jumla Malkan etc. in the revenue record”.

Following new definitions may be added in the Section:

- (u) Encroacher — “Encroacher” means any person occupying Wakf property without the authority of law and includes a person whose tenancy, lease or license has expired or has been terminated by the Board.”**
- (v) Wakf premises — “Wakf premises” means any mosque, Graveyard, Mazar, Takia, Eidgah, Imambara, Dargah, Khanqah, Maqbara and land belonging to them, the property attached to them, the property dedicated for their maintenance, the property purchased from their income, the land, garden, well, baoli, school, hospital and other institutions dedicated as Wakf and will include the path and passages being used and leading to the “Wakf property.”**

The Committee accordingly recommends that the above amendments may be carried out in the section

Section 4

Section 4 deals with the survey of Wakfs. The Section provides, for appointment of Survey Commissioner, Additional Assistant Survey Commissioners and other aspects relating to survey. The Committee received several suggestions for amendment to this Section. The Committee felt that the State Governments are taking a very long time for completing the survey of Wakfs and after the commencement of the present Act, not a single State has completed the survey. The Committee, therefore, felt that a cut-off date is required to be fixed in the amending Act within which the survey should be completed. The Committee also felt that such survey should also be conducted every 10 years. The Committee also felt that a few more amendments are also required in the Section to make it very clear. The Committee accordingly decided that the following amendments may be made in Section 4:

- (a) In Sub-section (1) of Section 4, the words “The State Government may, by notification in the Official Gazette...” be substituted by the words “The State Government shall, by notification in the Official Gazette...”.
- (b) The following clause may be inserted after Sub-section (1): “Every State/UT shall have a list of Wakfs and that the survey of Wakfs shall be completed within one year from the date of commencement of the Amendment Act in case such survey was not done after the enactment of Wakf Act, 1995”.
- (c) The following proviso may be inserted after Sub-section (1):

Provided that Where Survey Commissioner has not been appointed under the Wakf Act, 1995, he shall be appointed within three months from the date of the commencement of the Amendment Act.

- (e) In the proviso to Sub-section (6), the words ‘period of twenty years’ may be substituted by the words ‘period of ten years’.
- (f) The following proviso be added to Sub-section (6), after the existing proviso:—

Provided further that such second or subsequent survey shall include all such Wakfs and Wakf properties which were in existence as on 15.8.1947.”

The following new sub-Section (7) may be inserted after Sub-section (6);

- (7) “Once a Survey Commissioner notifies the Wakf property, the same Shall be treated as ‘Deemed Mutation’”, for the purposes of revenue records and determination of title to the property.

The Committee felt that there is no explicit provision in the Wakf Act, 1995 to provide legal sanctity to the survey conducted under the Wakf Act, 1954. The Committee accordingly recommends that a suitable provision may be inserted in the section giving legal sanctity to the survey conducted under the Wakf Act, 1954.

The Committee accordingly recommends that the above amendments may be carried out in the section

Section 5

Section 5 of the Act deals with publication of List of Wakfs, Regarding **Section 5**. The Committee after discussing various suggestions decided that the following amendments may be made in the section.

Sub-Section (2) may be substituted by following:—

(2) the Board shall examine the report forwarded to it under Sub-Section (1) and send it back to the Government for publication in the Official Gazette a list of Sunni Wakfs or Shia Wakfs 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.

“Provided that the publication of list of Wakfs shall be completed within one year of the commencement of the proposed Wakf (Amendment) Act”.

The following new Sub-Section (3) be added after Sub-Section (2)

“(3) The list published in the Official Gazette shall be referred to whenever the authorities are updating the land records”. Suitable consequential amendments in other Central/State Acts be also carried out.

The Committee accordingly recommends that the above amendments may be carried out in the section

Section 6

Section 6 deals with disputes regarding Wakfs.— The Committee felt that the Wakf Properties included in the list of Wakfs published prior to the second or subsequent survey shall not be entertained. The Committee also felt that a few more amendments are required in the section. The Committee therefore, decided that the following amendments may be made in the section:

In sub-Section (1), after the words, “or any person”, the word “of any religion or religious persuasion aggrieved or” may be inserted.

The following proviso may be inserted after the existing proviso to Sub-section (1):—

“Provided further that in case of a second or subsequent survey pursuant to Sub-Section (6) of Section 4, no suit shall be entertained by the Tribunal with respect to any Wakf property which has been included in the list of Wakfs which had already been published prior to the second or subsequent survey and the period of one year from the date of publication of such list of Wakfs has also expired”.

Explanation to sub-Section (1) may be deleted.

The Committee accordingly recommends that the above amendments may be carried out in the section.

Section 7

The Committee discussed the provisions of **Section 7** regarding Power of Tribunal to determine disputes regarding Wakfs. After some discussion it was of the view that the Wakf Tribunals shall exclusively deal with Wakf cases. The Committee accordingly decided that the following amendments may be made in the Section:

A provision be made for exclusive trial of Wakf cases in the Wakf Tribunals and the transfer of pending cases to it.

In sub-Section (1) after the words, “or any person”, the words “aggrieved by the publication of the list of wakfs under Section 5 or”, may be inserted.

The Committee accordingly recommends that the above amendments may be carried out in the section.

Section 8

Section 8 deals with the recovery of the cost of Survey. The Committee was of the view that the cost of survey should be borne by the State Government/UT and this burden should not be put on the Wakf Boards. The Committee accordingly decided that the section may be substituted by the following:—

“8. The total cost of making a survey including the cost of publication of the list or lists of Wakfs under this Chapter shall be borne by the State Government.”

The Committee accordingly recommends that the above amendments may be carried out in the section.

Section 9

Chapter-III (Section 9 to 12) Deal with - Central Wakf Council (Sections 9 to 12) of the Wakf Act, 1995. The Committee discussed the role of Central Wakf Council in general and as an advisory body in particular and was of the considered view was that the Council in its present form had not helped to improve the Wakf administration. The Committee received various suggestions including:—

- (i) making an apex regulatory body
- (ii) making a Commission etc.

The Committee, however, felt that the structure of the council need not be changed. The Committee decided that by amending the Section 9, the Council can be strengthened which can have desired result without encroaching on the powers of State Wakf Boards/State Government.

The Committee accordingly decided that following amendments may be made to Section 9.

In sub-Section (1) the words “For the purpose of advising it” may be substituted by the words “To advice Government of India, States and Wakf Boards”. At the end of sub-Section (1), the following be added:

“which may be continuously provided information/reports by the State Wakf Boards/ State Governments on the performance of Awqaf/Wakf Boards in the State, particularly on their financial performance, annual reports and audit reports etc”.

The Committee accordingly recommends that the above amendments may be carried out in the section.

Section 13

Section 13 deals with incorporation of Wakf Boards. After some discussion, The Committee decided that the following amendment may be made in the Section:

The following proviso may be added to Sub-section (1) of Section 13:

“Provided that the Board of Wakfs shall be constituted within three months from the date of commencement of the Amendment Act”.

The Committee accordingly recommends that the above amendments may be carried out in the section.

Section 14

Section 14 deals with composition of the Wakf Board. The Committee felt that the composition the Wakf Board needs to be revamped to make it more effective. The Committee after considering various suggestions decided that following amendments may be made in Section 14:

Sub-Section (1) may be substituted by the following:—

(1) The Board for a State and the Union Territory of Delhi shall consist of—

- (a) a Chairperson;**
- (b) Members, as the State Government may think fit, to be elected from each of the electoral colleges consisting of —**
 - (i) one Muslim Member of Parliament from the State or, as the case may be, the Union Territory;**

- (ii) one Muslim Member of the State Legislature;
- (iii) one Muslim Member enrolled with the Bar Council of the concerned State/UT; as an advocate for at least fifteen years of the relevant State/Union Territory and having significant practice and reputation in the legal profession.
- (iv) One and not more than two Mutawallis of the Wakfs having an annual income of Rupees fifty thousand and above:

Provided that the Members from the categories (i) to (iv) above shall be elected from the electoral college constituted for each category.

- (c) One Muslim Member, who has professional background or experience in town planning or business management and/or social work, to be nominated by the State Government.
- (d) One member to be nominated by the State Government from recognized scholars in Islamic Theology;
- (e) One Member to be nominated by the State Government from among the officers of the State Government not below the rank of Deputy Secretary. Provided that in case of UTs, the Board shall consist of not less than three and not more than five Members to be appointed by the Central Government from amongst the categories specified in Sub-section (1)."

The following proviso may be inserted after the first proviso to Sub-section (2):—

"Provided that the Members of Parliament or Members of State Legislatures elected to the Board should continue to be Members of the Board until the Parliament or State Legislature, as the case may be, is dissolved *i.e.* once they are elected to the Board, they should continue to be Members of the Board as long as they are MPs or MLAs, as the case may be".

Sub-section (7) may be substituted by the following:

"In the case of Union Territories, the Board shall consist of not less than five and not more than seven members to be appointed by the Central Government from amongst the categories of persons specified in sub-section (1). Provided that one Member from each category mentioned in sub- clauses (i) to (iv) of clause (b) of sub-section (1) shall be elected to the Board."

The following new Sub-section (10) may be added

"(10) - In the composition of the Board where Shia and Sunni Wakf Boards are established in pursuance to Sub-Section 2 of Section 13, the composition of such Boards shall consist of only Shia or Sunni Members as the case may be".

The Committee accordingly recommends that the above amendments may be carried out in the section.

Section 16

The criteria for disqualification of Members in a Wakf Board is provided in Section 16. The Committee had detailed discussions of the provisions, after which the Committee decided that the following amendment may be made in the Section.

Following new Sub-Clause be added to Clause (e):—

“(iii) held guilty of encroachment on a Wakf property and the same has been confirmed at least by the Wakf Tribunal or appeal was not preferred.”

The Committee accordingly recommends that the above amendment may be carried out in the section.

New Section 20 A

The Committee discussed a suggestion for insertion of a provision providing procedure for removal of Chairman of Wakf Board at length along with the provisions mentioned in Section 20. The Committee after considering various suggestions felt that there is a need for a new Section. The Committee decided that the following new section may be added after Section 20:

“Removal of the Chairman by vote of no confidence.

20 A. Chairman can be removed by vote of no confidence in the following manner:—

- (a) No resolution expressing want of confidence in any person elected as Chairman of a Board shall be moved except in the manner where 12 months have not elapsed after the date of his election as a Chairman 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 atleast half of members of the total members of the Board.
- (c) Atleast three members of the Board signing the notice of no confidence motion shall personally present to the State Government, the notice together with an affidavit signed by them to the effect that the signatures on the 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 motion 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 proposed no-confidence motion. Provided that atleast 15 days notice shall be given for such meeting.
- (e) The notice for meeting under clause (d) hereinabove, shall also provide that in the event of the no-confidence motion being duly carried, election of the new Chairman, as the case may be, shall also be held in the same meeting.
- (f) (i) 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 concerned) to act as a Presiding Officer of the meeting in which the resolution for no confidence shall be considered.
(ii) The quorum for such a meeting of the Board shall be half of the total number of members of the Board.
- (g) The resolution for no confidence shall be deemed to be carried, if passed by a simple majority of the members present.
- (h) When a resolution for no-confidence is carried, the Chairman shall cease to hold that office forthwith and shall be succeeded by his successor who shall be elected by another resolution in the same meeting.

- (i) Election of the new Chairman shall be conducted under clause (h) in the meeting in the Chairmanship of the said Presiding Officer referred in clause (1) (I) in the following manner:—
 - (1) The Chairman shall be elected from amongst the elected members of the Board;
 - (2) nomination of candidates shall be proposed and seconded in the meeting itself. Election after withdrawal, if any, shall be held by show of hands;
 - (3) the election shall be held by simple majority of the members present in the meeting. In case of quality of votes, the matter shall be decided by drawing of lots;
 - (4) the proceeding of the meeting shall be signed by the Presiding Officer.
- (j) The new Chairman elected under clause (h) shall hold the office only up to the remainder of the term of the Chairman removed by the votes of no confidence.
- (k) If the motion for 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.”

The Committee accordingly recommends that the above amendment may be carried out in the section

Section 23

The Committee discussed **Section 23** which deals with appointment of Chief Executive Officer, in detail and felt that Sub-Section needs to be amended to make the procedure more effective. The Committee after some discussion decided that the following amendment may be made in the Section:

Sub-Section (1) may be substituted by the following:

“(1) There shall be a Chief Executive Officer of the Board who shall be a Muslim and shall be appointed by the State Government from a panel of two names suggested by the Board and he should not be below the rank of a Director of the State Government, by notification in the Official Gazette”.

The Committee accordingly recommends that the above amendment may be carried out in the section.

Section 26

The Committee discussed **Section 26** of the Wakf Act, 1995 regarding powers of Chief Executive Officer in respect of orders or resolutions of Board and decided to delete the entire Section. **The Committee after some discussion decided that the Section 26 may be deleted. The Committee accordingly recommends that the above amendment may be carried out in the section.**

Section 27

The Committee discussed Section 27 of the Wakf Act, 1995 regarding delegation of powers by the Board. The Committee decided that the following amendments be made in Section.

The word “Secretary” may be substituted by the words “Chief Executive Officer”.

The following may be added after the words “as it may deem necessary”:—

“except for the powers and functions of the Board mentioned in Section 32(2)(c), (d), (g) and (j)”

At the end of the Section, the following proviso may be inserted:

“Provided that the Wakf Board should not make blanket delegation of all its powers to its Chairman or any other person to lease/alienate the Wakf properties and policy-making power.”

The Committee accordingly recommends that the above amendments may be carried out in the section.

Section 29

Section 29 deals with Powers of Chief Executive officers to inspect records, registers etc. The Committee after considering various suggestions decided that the following amendments may be made in the Section:—

The words “and restrictions” and “and subject to the payment of such fees as may be leviable under any law for the time being in force” may be deleted.

The following two new sub-sections may be added:-

“(2) The Muttawallis or any other person having the custody of any documents related to Wakf properties shall produce the same, within the prescribed period, before the Chief Executive Officer on being called upon to do so in writing. In case the mutawalli fails to produce the documents within the prescribed period, the Chief Executive Officer shall have the right to inspect the same”.

“(3) Subject to such conditions as may be prescribed, an agency of Government or any other organisation shall supply, within 10 working days, copies of the records, registers of properties or other documents relating to wakf properties or claimed to be wakf properties, to the Chief Executive Officer on a written request to this effect from him.

Provided that before taking any course of action as mentioned in sub-section (2) and (3), the Chief Executive Officer shall obtain approval of the Board”.

The Committee accordingly recommends that the above amendments may be carried out in the section.

Section 31

Section 31 deals with prevention of disqualification for Membership of Parliament. The Committee after considering various suggestions decided that the following amendment may be made in the Section:—

After the word “Parliament” the words “or a member of the State/UT Legislature”, may be added.

The Committee accordingly recommends that the above amendment may be carried out in the section.

Section 32

Section 32 deals with powers and functions of the Board.

The Committee after considering various suggestions decided that the following amendments may be made in the Section:—

The proviso to clause (j) of Sub Section (2) may be substituted by the following:—

“Provided that no such sanction shall be given unless more than fifty per cent of the total membership of the Board and at least two-thirds of the members present and voting vote in favour of such transaction.

Provided further that where no such sanction is given by the Board, the reasons for doing so shall be recorded in writing.”

In Sub-Section (2) the following may be added

“to determine or cause to be determined in such manner as may be prescribed by the Board, fair rent of the Wakf land or building”.

In Sub-section (4), the words “education, technical education” may be inserted before the words “shopping centre”

In Sub-section (5) the words “with the prior approval of the Government” may be deleted.

The following new sub-Section may be added:

“Notwithstanding anything contained in the Wakf deed, any gift, sale, exchange or mortgage of or creation of third party rights in any immovable property which is Wakf property, the Board shall have the power to change the nature and object of Wakf property, after inviting and considering objections through prior public notice in one urdu/vernacular daily and in one popular English daily in case the original object of the Wakf has ceased to exist and has become incapable of achievement”.

The Committee accordingly recommends that the above amendments may be carried out in the section.

Section 33

Section 33 deals with Powers of inspection by CEO or Persons authorized by him. The Committee after considering various suggestions decided that the following amendments may be made in the Section:—

In Sub-Section (1) the words “with the prior approval of the Board” may be deleted in Sub- Section (1).

The Committee accordingly recommends that the above amendment may be carried out in the section.

Section 37

Under Section 37, the Wakf Board is required to maintain a Register of Wakf. The Committee felt that in many cases the details of Wakf are not entered in the Revenue Records. The Committee therefore decided that the following two new Sub-Sections need to be added in Section.

(2). The Board shall forward the details of the properties entered in the register of Wakfs to the concerned land record office which is having jurisdiction of the Wakf property”.

(3). The land record office on receipt of the details as mentioned in Sub-Section (2) shall make necessary entries in the land record to the effect that the Wakf Board is a joint owner of the Wakf property”.

The Committee recommends that the above amendments may be carried out in the Section.

Section 38

Under Section 38, the Board has the power to appoint an Executive Officer in respect of Wakf having a gross annual income of more than 5 lakhs of rupees. The Committee after considering various suggestions decided that the following amendment may be made in the Section:—

Sub-Section 1 may be substituted by the following:—

“(1) When the Board has instituted proceedings against the Muttawalli for his removal and the Board is of the opinion that it is necessary to do so in the interest of Wakf, the Board may appoint, on whole or part-time basis or in an honorary capacity, subject to such conditions as may be provided by the Board, an Executive Officer with such supporting staff as it considers necessary for any Wakf.

Provided that the person chosen for appointment shall be a person professing Islam and having such qualifications as may be prescribed”.

The Committee recommends that the above amendment may be carried out in the Section.

Section 40

Section 40 deals with decision if a Property is a Wakf Property. The Committee after considering various suggestions decided that the following **two new Sub-Sections may be added in the Section:—**

“Sub-Section (5) Where any person has reason to believe that a particular property is Wakf property, he may apply to the Board and the Board may, after making such inquiry as it may deem fit, decide the question.”

“Section 40 (6):— The decision of the Board on a question under Sub-Section (1) shall, unless revoked or modified by Tribunal, be final.”

The Committee recommends that the above amendment may be carried out in the Section.

Section 44

The Committee after considering various suggestions decided that the following amendments may be made in the Section:—

In Sub-Section 1 the words “having net annual income exceeding Rs.5000/- may be inserted between the words “Wakf” and “shall”. In Sub-Section 2 the words “ninety days” may be substituted by the words “thirty days”.

Sub-Section 3 may be substituted by the following:—

“The Board may give such a direction as it may deem fit in case the Board considers any item in the Budget being contrary to the objects of the Wakf and the provisions of this Act.”

The Committee recommends that the above amendments may be carried out in the Section.

Section 46

The Committee after considering various suggestions decided that the following amendment may be made in the Section:—

the words ‘1st day of May’ may be substituted by the words ‘1st day of July’ wherever they occur in Sub-Section 2 of this Section.

The Committee recommends that the above amendment may be carried out in the Section.

Section 47

The Committee discussed Section 47 regarding ‘Audit of accounts of Wakf in the light of the various suggestions. received from different organisations .The Committee after considering various suggestions decided that the following amendment may be made in the Section:—

The words “ten thousand rupees” be substituted by “fifty thousand rupees” wherever they occur in this Section.

The Committee recommends that the above amendment may be carried out in the Section.

Section 51

The Statement of Reasons and Objects relating to the Wakf Act, 1995, *inter alia*, has mentioned that the purpose of the Act is to make alienation of Wakf property more difficult. The Committee felt that provisions of Section 51 is not addressing this issue properly. Accordingly the Committee decided that the following amendments may be made in the Section.

In the proviso to Sub-section (1), the words “Graveyard, Imambara” may be inserted after the word “Khanqah”.

After Sub-section (1), following new Sub-section may be added:—

“(IA) Any sale or total transfer of Wakf property is void ab initio. The only exception shall be acquisition of Wakf properties under the Land Acquisition Act, 1894, provided that:

- (a) The acquisition etc shall not be in contravention of the Places of Public Worship (Protection) Act, 1990.
- (b) The purpose for which the land is being acquired must be undisputedly a public purpose;
- (c) There must be no other alternative land which can be considered as more or less suitable for that purpose.
- (d) The compensation should be the prevailing market value plus the solatium and equally suitable land must be given *in lien* of the acquired property so that that the interest and objective of the Wakf are adequately safeguarded/fulfilled”.

The Committee recommends that the above amendment may be carried out in the Section.

Section 52

Section 52 Deals with recovery of Wakf Property transferred in contravention of Section 51. **The Committee decided that Sub Section (1) the words “or Section 56” may be inserted after the words “in contravention of the provisions of section 51”.**

The Committee recommends that the above amendments may be carried out in the Section.

New Section 52A

It has been experienced that section 51 and section 52 of the Act contains no penal provisions to curb the unauthorized alienation of Wakf property by way of gift, sale or mortgage without prior sanction of the Board as required under section 51 of the said Act. Keeping this position in view, the Committee considered it necessary that a new section may be inserted, after section 52 of the Wakf Act, 1995, providing penalty for unauthorized alienation declaring such alienation as a cognizable and non-bailable offence punishable with imprisonment for a term, which may extend to two years. This was earlier enacted by West Bengal *vide* The Wakf(West Bengal Amendment) Bill 2001 (Bill No. 13 of 2001) and is considered useful to be inserted in the Wakf Act, 1995 itself. The Committee therefore decided that the following new Section 52A may be added after the Section 52:

“Section 52A. Penalty for alienation of Wakf property without sanction of Board

- (1) Whoever alienates or purchases or takes possession of” in any manner whatsoever, either permanently or temporarily, any immovable property which is Wakf property, without prior sanction of the Board, shall be punishable with rigorous imprisonment for a term which may extend to two years;**
- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 any offence punishable under this section shall be cognizable and non-bailable;**
- (3) The Wakf property alienated within the scope and meaning of this section shall be vested in favour of the Board without any compensation therefore;**
- (4) No court shall take cognizance of any offence under this section save off complaint made by the Board or an officer duly authorized by the Board in this behalf;**
- (5) 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.”**

The Committee recommends that the above amendment may be carried out in the Section.

Section 54

Section-54 deals with removal of Encroachment from Wakf Property. The committee felt that the present provisions of the Section are not sufficient and the CEO needs to be strengthened for removal of encroachments. The Committee after considering various suggestions decided that the following amendments may be made in Section-54

The following explanation may be added after Sub-Section 1 of Section 54.

“Explanation:- The word “encroachment” used in the above provision shall be deemed to include the property whose lease, licence or the grant period has expired or terminated by the Board and the word “encroacher” shall also include the lessee, licensee or the grantee whose period of lease, licence or grant has expired or terminated by the Board or any other unauthorized occupant.”

The following new Sub-Sections may be added after Sub-Section (4):—

“(5) For the purposes of this Section, the Chief Executive Officer shall have powers of Collector or Assistant Collector by the State Government to issue and enforce a warrant of ejectment.”

“(6) The Central or State Government as the case may be, by notification in the Official Gazette shall declare all or any Wakf institutions registered with the Wakf Board, other than Wakf al-al-aulad, to be public premises.

“(7) If the Chief Executive Officer, after making such inquiry as he deems expedient in the circumstances of the case, is satisfied that any persons who were allowed temporary occupation of any of any Wakf are in unauthorised occupation of the said premises, he may, for reasons to be recorded in writing, make an order for the eviction of such persons forthwith and, thereupon, if such persons refuse or fail to comply with the said order of eviction, he may evict them from the premises and take possession thereof under the the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and may, for that purpose, use such force as may be necessary.’

The Committee recommends that the above amendment may be carried out in the Section.

New Section 54A

The Committee felt that there are no provisions for providing punishment to encroachers. The Committee accordingly decided that the following new Section 54A may be added after Section 54:

“54-A. (1) Whoever encroaches on or alters the structure, status or use of any land, building, space or other property which is Wakf property, and which has been registered as such under this Act, shall be punishable with rigorous imprisonment for a term which may extend to two years, or with fine which may extend to five lakh rupees, or with both.

(2) Any offence punishable under this section shall be cognizable.

(3) No court shall take cognizance of any offence punishable under this section except on complaint made by the Board or by an officer of the Board duly authorized by it in this behalf.

(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.

(5) Any fine imposed under this section shall, when realised, be credited to the Wakf Fund.

The Committee recommends that the above amendments may be carried out in the Section.

Section 55

Section 55 deals with enforcement of Orders made under Section 54. The Committee decided that the following amendments may be made in the Section:—

The words “the Executive Magistrate or the Sub-divisional Magistrate as the case may be” may be substituted by the words “the Sub-Divisional Magistrate”. The Following provisos may be added to this Section.

“Provided that Whosoever being a public servant fails in his lawful duty to prevent or remove an encroachment shall on conviction be punishable with a fine which may extend upto Rs.15000/- for each offence.

The Committee recommends that the above amendments may be carried out in the Section.

Section 61

Section 61 deals with penalties. The Committee discussed Sub-Section-1 of Section 61 of the Wakf Act, 1995 and felt that more stringent punishment should be imposed if a Mutawalli fails to comply with his duties as are enlisted under Clauses (a) to (h) of this Section in a much objective manner. The Committee decided that **the following amendment may be made in the Section:—**

In Sub-Section 1 the words “fine up to eight thousand Rupees” may be substituted by the words “fine upto ten thousand rupees on failure in compliance to (i) Clauses (a) to (d) and fine upto ten thousand rupees with imprisonment upto six months on non-compliance of provisions contained in clauses (e) to (h)”.

The Committee recommends that the above amendment may be carried out in the Section.

Section 65

Section 65 deals with assumption of direct Management of certain Wakf by Board. The Committee discussed the Section and decided that the following be added at the end of the Section:—

“Notwithstanding anything contained in Sub-Section (1) the Board shall take over the administration of the Wakf, if the Wakf Board has evidence before it to prove that management of a Wakf has infringed the provisions of this Act.”

The Committee recommends that the above amendment may be carried out in the Section.

Section 67

Section 67 deals with supervision and Supersession of Committee of Management. The Committee decided that **the following amendment may be made in the Section:—**

In sub-Section (1), before the first proviso, the following proviso be inserted: “Provided that after the lapse of the term of the Committee, it shall continue to function, till a new Committee is appointed or its term is extended for subsequent period.”

The Committee recommends that the above amendment may be carried out in the Section.

Section 68

The Committee discussed Section 68 regarding “Duty of mutawalli or Committee to deliver possession of records etc.” In the light of the suggestion received the Committee decided that **the words “Magistrate of the first Class” wherever they occur, may be substituted by the words “Executive Magistrate/Sub-Divisional Magistrate”.**

The Committee recommends that the above amendment may be carried out in the Section.

Section 69

Section 69 deals with Power of Board to frame Scheme for Administration of Wakfs. The Committee decided that **Sub-Section 1 may be substituted by the following:—**

‘Whenever the Board is satisfied after an enquiry whether on its own motion or on the application by persons interested in any Wakf, to frame a scheme for the proper administration of the Wakf, it may by an order frame such scheme for the administration of the Wakf, after giving reasonable opportunity and after consultation with the mutawalli or others in the prescribed manner.’

The Committee recommends that the above amendment may be carried out in the Section.

Section 71

Section 71 deals with manner of holding inquiry. The Committee discussed this Section and decided that **the words “an application received under Section 73” be substituted by the words “an application received under Section 70”**

The Committee recommends that the above amendment may be carried out in the Section.

Section 72

The Committee discussed Section 72 which deals with the annual contribution to the Board and decided that the following amendments may be made in the Section :—

In Sub-Section (1) Explanation 1 (iii), after the words “the following purposes” the words “in respect of lands directly under cultivation by the Mutawalli for the benefit of the Wakf” may be added.

In the proviso under Explanation 1 (iii), the word “an” may be deleted before the words “expenditure incurred” and the words “ten per cent” may be substituted by the words “twenty per cent” may be substituted.

After the proviso, to explanation 1 (iii) of Sub Section (1) the following proviso may be added:—

“Provided further that no such deduction shall be permitted in respect of Wakf lands given on lease by whatever name called such as ‘batai’, share cropping’ etc.”

The Committee recommends that the above amendments may be carried out in the Section.

Section 77

The Committee discussed Section 77 of the Wakf Act, 1995 regarding 'Wakf Fund' and decided that the following amendment may be made in the Section:—

“Payment of maintenance to Muslim Women as ordered by Court(s) under the provisions of the Muslim Women (Protection of Rights on Divorce) Act, 1986.”

The Committee recommends that the above amendment may be carried out in the Section.

Section 81

Section 81 deals with Powers of State Government to pass orders on auditors report. The Committee while discussing the role of Central Wakf Council under Section 9 felt that the Auditors reports should be sent to Central Wakf Council. The Committee decided that in Section 81 also an enabling provision may be made. Accordingly the Committee decided that the following may be added at the end of the Section:—

“A copy of the auditors report alongwith the orders passed by the State Government on it shall be forwarded by the State Government to the Central Wakf Council within one month of the laying of the report.”

The Committee recommends that the above amendment may be carried out in the Section.

Section 83

Section 83 deals with Constitution of Tribunals etc. The Committee felt that the Tribunal should consist of more than one person.

The Committee accordingly decided to substitute the existing Sub-Section (4) by the following:—

“Every Tribunal shall consist of:—

- (i) One member of the Judicial or civil services holding the rank not below the rank of District, Sessions, or Civil Judge class I, who shall be the Chairman;**
- (ii) One officer of the State Civil Service equivalent in rank to Additional District Magistrate;**
- (iii) One person having knowledge of Muslim law and Jurisprudence, The appointments of every such person will be made either by name or by designation”.**

The Committee recommends that the above amendment may be carried out in the Section.

Section 84

The Conunittee discussed Section 84, and decided that the following new Sub- Section may be added to the Section:—

“Applications so made to the Tribunal shall be decided upon by the Tribunal within one year from the date of filing of such applications.”

The Committee recommends that the above amendment may be carried out in the Section.

Section 85

The Committee discussed, the Section and decided that the words **“Revenue Courts and any other authority or Court of original jurisdiction”** may be inserted after the words **“Civil Court”**.

The Committee recommends that the above amendment may be carried out in the Section.

Section 86

The Committee discussed the Section and decided that in Clause (b) after the words **“Previous Mutawalli”** the words **“or by any other person”** may be added.

The Committee recommends that the above amendment may be carried out in the Section.

Section 87

The Committee discussed Section 87, and decided that the following new Sub-Section (3) may be added to the Section:—

“(3) Sub-Sections (1) and (2) shall not be applicable to those Wakfs which are Wakfs by user.”

The Committee recommends that the above amendment may be carried out in the Section.

Section 91

The Committee considered Section 91 which deals with Proceedings under the Land Acquisition Act, 1894 in the light of the suggestions received. After some discussion the Committee decided that the following two new Sub Sections may be added:—

“(5) Nothing contained in section 18 and 28A of the Land Acquisition Act, 1894 with respect to limitation shall apply to the acquisition of Wakf properties.

(6) Nothing contained in section 30 of the Land Acquisition Act 1894 regarding apportionment of compensation between the Board and the lessee or any person claiming any right, title or interest in any manner, whatsoever shall apply to acquisition of Wakf properties”.

The Committee recommends that the above amendments may be carried out in the Section.

Section 97

Section 97 deals with direction by State Government. The Committee decided that the following proviso may be added at the end of Section:—

“Provided that while issuing any directions under this Section, the State Government shall not interfere with the provisions of any Wakf deed or any usage, practice or custom of the Wakf.”

The Committee recommends that the above amendment may be carried out in the Section.

Section 99

The Committee discussed the Section regarding Power to supersede Board. After some discussion, the Committee decided that in sub-Section (3) (a) **the words “such further period as it may consider necessary” may be substituted by the words “another six months with reasons to be recorded and the total period of supersession should not exceed more than a year.”**

The Committee recommends that the above amendment may be carried out in the Section.

Section 102

Since Committee decided that the central Wakf Committee needs to be strengthened and accordingly it proposed an amendment in Section 9 it was of the opinion that it was necessary for central government to seek the advice of CWC in the process of reorganization of Wakf Boards. The Committee discussed the Section and decided that **in Sub-Section (2), after the words, “after consulting the” the words “Central Wakf Council and” may be inserted.**

The Committee recommends that the above amendment may be carried out in the Section.

Section 105

The Committee decided that the words **“as may be practicable” may be substituted ‘by the words and figures “within a period of 10 working days”.**

The Committee recommends that the above amendment may be carried out in the Section.

Section 106

The Committee discussed this Section and felt that the Central Wakf Council should also be involved in the Constitution of common Wakf Board. This will strengthen the Central Wakf Council. The Committee accordingly decided that in **sub-Section (1), after the words, “after consultation with” the words “the Central Wakf Council and” may be inserted.**

The Committee recommends that the above amendment may be carried out in the Section.

New Section 108 A

The Committee considered a suggestion proposing that the Wakf Act should have over riding powers over the State Revenue Laws. The Committee felt that such a provision would clarify the position and decided that the following new Section 108A may be added after Section 108:

“Sec. 108-A : Notwithstanding anything contained in any other Act or enactment, the Wakf Act would prevail over all the other local revenue laws.”

The Committee recommends that the above amendment may be carried out in the Section.

NEW CHAPTER TITLED “DEVELOPMENT AND PROMOTION”

The Committee discussed about the necessity of provisions for Development of Wakf properties and decided that the new chapter “**Development and Promotion**” may be added at the appropriate place in the Act:—

“Development and Promotion

— *The Central Government shall establish, as soon as possible, a National Wakf Properties Development Board, for the development of the Wakf properties in the Country.*

— *The Central Government shall, as soon as possible, establish a National Board for promotion of education among Muslims and utilize the surplus funds of the Wakf institutions in the Country generated through the development of Wakf properties.*

— *Provided that the Central Government may frame rules for administration of these Boards as may be considered appropriate.”*

GENERAL SUGGESTIONS

The Committee also makes the following General Suggestions.

The following new section may be added at the appropriate place:

‘The provisions of this Act and of the rules and order made thereunder shall have 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 such law.’

The following new section may be added at the appropriate place

‘While renting out the wakf land or building fair rent shall be determined.’

A National Wakf Development Corporation may be constituted by the Central Government with a revolving corpus funds of Rs. 500 crores.

The Central Government may make Rules for survey in which all the details are incorporated which may include the following:

The survey should record the particulars of the wakf property along with a revenue map of the same and a detailed description of the-present status and user; the various hands through which the user has passed over the years; “the present income derived; the optimum user to which it can now be put; as also as accurate an estimate as possible of the correct income which the property should fetch as on date. The procedure to be followed should be clearly set out and should follow as closely as possible the procedure laid down for Revenue settlements done in the time of the British Raj. Provision may also be made in the Rules mentioning that State Governments are to abide by the Rules for Survey of Wakf Properties made by the Central Government.

All the State governments may bring the Wakf properties under the purview of State Public Premises (Eviction of Unauthorized Occupants) Acts, for the purpose of removal of encroachment.

The Committee recommends that all the state governments may exempt the Wakf properties in the respective states from the Rent Control Acts of each state concerned. For this purpose, the state governments may make necessary amendments in the Rent Control Acts.

MINUTES

***XIV
FOURTEENTH MEETING**

The Committee met at 3.00 P.M. on Monday, the 4th June, 2007 in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Sk. Khabir Uddin Ahmed
3. Shri Kamal Akhtar
4. Shri S.P.M. Syed Khan
5. Shri Motiur Rahman
6. Shri Tariq Anwar

LOK SABHA

7. Shri Anwar Hussain
8. Shri Narayan Chandra Borkataky
9. Shri Avinash Rai Khanna
10. Shri Mohammad Salim
11. Shri T.K. Hamza
12. Prof. K.M. Kadermohiuddin
13. Shri Chandrakant Bhaurao Khaire
14. Shri A.R. Saheen

SECRETARIAT

Shri Sham Sher Singh, Joint Secretary

Shri P. P. K. Ramacharyulu, Director

Shri M. R. Verma, Under Secretary

Shri P. Narayanan, Committee Officer

2. At the outset, Chairman welcomed the members of the Committee.
3. The Chairman, then requested the Members to give their suggestions, if any, to amend the Wakf Act, 1995. A Member suggested that MPs/MLAs should not be nominated to a State Wakf Board. Instead those people who are well-versed in Wakf matters should be elected to the Board.
4. Some Members suggested that the post of CEO of the Wakf Board should be made permanent. Neither retired officials nor officials on deputation should be appointed as CEO.

*Minutes of 1st—XIIIth appended to 5th and 9th Reports of the Committee.

5. A Member suggested that leasing of Wakf properties should be allowed to exceed three years. The Chairman also suggested that lease should be extended for a period of six years. However, another Member suggested that rent of Wakf properties should be increased from time-to-time, as per market value of the property.
6. Thereafter, it was decided that the Committee should hear some experts to seek their views to amend the Wakf Act, 1995 and a sub-Committee may also be constituted for this purpose. The Committee, then, authorized the Chairman to constitute a Sub-Committee.
7. In the end, the Chairman requested the Members to join the study visit of the Committee to Aurangabad, Mumbai and Bhopal from 18th to 24th June, 2007.
8. The Committee then adjourned at 03.55 P.M. to meet again at 11.00 A.M. on 5th June, 2007

XV
FIFTEENTH MEETING

The Committee met at 11.00 A.M. on Tuesday, the 5th June, 2007 in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Kamal Akhtar
3. Shri Tariq Anwar

LOK SABHA

4. Shri Iqbal Ahmed Saradgi
5. Shri Narayan Chandra Borkataky
6. Shri Avinash Rai Khanna
7. Shri Mohammad Salim
8. Shri T.K. Hamza
9. Shri Mukeem Mohammad
10. Prof. K.M. Kadermohiuddin
11. Shri Chandrakant Bhaurao Khaire
12. Shri A.R. Saheen

SECRETARIAT

Shri Sham Sher Singh, Joint Secretary
Shri P. P. K. Ramacharyulu, Director
Shri M. R. Verma, Under Secretary
Shri P. Narayanan, Committee Officer

WITNESSES

- (i) Shri Najmi Waziri, Advocate, Supreme Court of India
 - (ii) Shri Zafar Saifullah, Former Cabinet Secretary
 - (iii) Dr. M. Rehman, Chairman and Administrator, Bombay Mercantile Co-operative Bank Ltd., Mumbai.
2. At the outset, the Chairman welcomed the Members of the Committee.
 3. The Chairman, then, welcomed Shri Najmi Waziri, Advocate, Supreme Court of India and requested him to suggest any changes in the Wakf Act, 1995, for making it more effective.
 4. Shri Waziri started his presentation with Section 4 of the Wakf Act, 1995 (*hereinafter referred as Act*). He stated that Section 4 contains the provision for appointment of Survey Commissioners in States but ordinarily Survey Commissioners are not appointed. If they are appointed, they do not do much work because there is no technical support or a group which can

assist the Survey Commissioner. Therefore, he suggested amendment in Section 4 to extend some facilities or technical support to find out encroachment on the Wakf properties.

5. He further stated that in 1913, Wakf Validating Act was initiated by the Government of India and thereafter Wakf Act, 1954 and Wakf Act, 1995 was enacted but till date no Central rules have ever been made. In the absence of Central rules, Wakf affairs can not be run in a uniform way, he added.

6. Shri Waziri also suggested that Section 6 needs to be amended to include all persons irrespective of their religion to challenge a gazette notification of the Wakf properties. As per existing provisions, only members of Muslim community can do it.

7. He further stated that there are instances of graveyards having been leased out for a pittance or gifted to state agencies for development of parks and of commercial property being let out perpetually. Therefore, Section 51 needs to be amended to prohibit the leasing out of properties by way of leases or encumbering the properties in a manner that destroys the basic character of the property except by way of prior public notice as prescribed in subsection 2 thereof.

8. Shri Waziri suggested amendments in Section 80 of the Act. He stated that the Section should be suitably amended to provide that the accounts of a Wakf board should be submitted to the State Examiner of Local Funds by 30th June of each year for the preceding financial year so that the same can be audited and examined by the said authority, the Wakf board concerned shall be deemed to be dissolved, if it is not done. This measure would bring about the much needed accountability from the state wakf boards and compel them to be transparent in their activities.

9. Shri Waziri also suggested some other changes in the Act, which are as follows:—

- (i) CEO of a Wakf Board should not be below the rank of Joint Secretary;
- (ii) All Wakf properties should be taken out of the Rent Control Act and put under the Public Premises (Eviction of Unauthorised Persons) Act, 1958; and
- (iii) Constitution of Wakf Development Corporation, which will be a corporate Body to integrate the Wakf properties along with tourist maps.

10. After the presentation of Shri Waziri, some Members sought some clarifications which were replied to by the witness.

The witness then withdrew.

11. The Committee then adjourned at 01.00 P.M. for lunch.

12. The Committee re-assembled at 02.00 P.M. to hear Shri Zafar Saifullah, Former Cabinet Secretary.

13. Shri Saifullah started his presentation with the remarks that in the Act, survey of Wakf properties, their enlistment and the review is taken from the date of the gazette notification of the Act. But the illegal transactions have taken place not from the notification of the Act but from the time of independence. Therefore, survey of Wakf properties should cover Wakfs from 15.08.1947 onwards. Regarding unauthorized and illegal occupancy, he stated that as normal course of eviction takes very long time, provisions of Public Premises (Eviction of Unauthorised Persons) Act, 1971 should be invoked for eviction. Moreover, cases of Wakf properties, their rent and lease should be exempted from the purview of the Rent Control Act.

14. In Section 6 (1) and 7 (1), he suggested that existing limitation period of one year should be extended to three years. Regarding Section 8, he suggested that costs of survey should be borne by the State Government and not by the respective State Wakf Boards.

15. As regards Central Wakf Council (Sec. 9 of the Act), Shri Saifullah suggested that it should be re-designated as the Central Wakf Commission, with *inter alia*, the following powers:

- (i) The power of superintendence, control and direction of the State Wakf Boards.
- (ii) The power to supercede and/or dissolve a State Wakf Board which is found to be repeatedly negligent in performing its duties and/or fully carrying out the directives of the Central Wakf Commission.
- (iii) The power to inspect the offices and records of any State Wakf Board and any of the Wakf properties administered by it.
- (iv) The power to summon any document and/or record of any State Wakf Board as also any of its officers to appear before it or any of its Committees.
- (v) To investigate, on a representation to it from any member of the public or “*suo motu*”, any instance of omission of a property from the list of Wakfs and, if satisfied about the same, to order its inclusion in such list.

16. After the presentation of Shri Saifullah, some Members sought some clarifications which were replied by the witness.

The witness then withdrew.

17. The Chairman then welcomed Dr. M. Rehman, Chairman and Administrator, Bombay Mercantile Co-operative Bank Ltd., Mumbai and requested him to express his suggestions on the Act. Dr. Rehman stated that the office of the Secretary, CWC should have a fixed term. Moreover, the Secretary should be substituted by a Commissioner, Wakf Properties and Director General, Wakf Council. He further suggested that suitable amendments be made in Sections 54 and 55 of the Act. He suggested that the power to remove encroachments should be vested in Mutawallis and not with CEO as he is not able to follow any case of encroachment by sitting at his headquarters. Instead concerned Mutawalli should approach the concerned SDM for removal of encroachments.

18. Speaking about Section 54 of the Act, Dr. Rehman suggested that it should be amended so that removal of encroachment takes place under the Public Premises Eviction Act. All such cases, which remain pending for more than 3 years are to be reported to the State Legislature in the annual report, to be consolidated by the concerned State Wakf Board. The authority can also be given to the Mutawalli to seek prosecution under IPC and CrPC. It can also be entrusted to the concerned Tahasildar under the Land Revenues Act.

19. Dr. Rehman further spoke about the rents to be paid by allottees. He stated that the Wakf Boards have to pay a considerable portion of money in court fees and it depends on the quantum of the dues to be recovered from the defaulters. According to him as the Wakf Board is not in possession of the property, the court fee as such should not be levied on it. The concerned Board or the Mutawalli have no money to fend for all these things. Hence, it would be necessary to allow the recovery suits to be filed on simple stamp paper of Rs.10 or 20. If it is considered too measly, then it can be on a Rs.50-100 stamp paper. In addition to this, there is notary fees, and other mandatory things to be paid. Therefore, it would be appropriate if the Council is headed by a Director-General or a Commissioner for wakf properties having direct responsibilities for the entire country. Otherwise, 60% of the recoveries are not effected.

20. Dr. Rehman concluded his presentation with the suggestion that a new section can be introduced in the Act in which DM or SDM can *suo motu* release any mosque or dargha or a public graveyard or a public interest litigation can be filed before a designated court for the

vacation of premises and properties as existence of encroachment on a place of worship is repugnant to the secular character of the country.

The witness then withdrew.

A verbatim record of the proceedings was kept.

7. The Committee then adjourned at 04.15 P.M.

***XIX
NINETEENTH MEETING**

The Committee met at 11.00 A.M. on Thursday, the 18th October, 2007 in Room No. '63', First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Maulana Obaidullah Khan Azmi
3. Shri Sk. Khabir Uddin Ahmed
4. Shri Kamal Akhtar
5. Shri S.P.M. Syed Khan

LOK SABHA

6. Shri Iqbal Ahmed Saradgi
7. Shri G. Nizamuddin
8. Shri Rashid J.M. Aaron
9. Shri Narayan Chandra Borkataky
10. Shri Hansraj Gangaramji Ahir
11. Shri Avinash Rai Khanna
12. Shri Jaswant Singh Bishnoi
13. Shri Mohammad Salim
14. Shri T.K. Hamza
15. Shri Arjuncharan Sethi

SECRETARIAT

Shri P.P.K. Ramacharyulu, Director

Shri P. Narayanan, Deputy Director

2. At the outset, the Chairman welcomed the Members of the Committee and wished them Greetings on the occasion of Eid. The Committee then took up for consideration the statement adopted by the Sub-Committee on Amendments to the Wakf Act, 1995. The Chairman then requested the Members to offer their suggestions on the Amendments suggested by the Sub-committee. The Committee was then briefed by the Co-Convenor of the Sub-Committee, about the suggested Amendments to the Act. The Co-Convenor informed that the Sub-Committee took note of the fact that the Sub-Committee on Amendments of the earlier JPC had considered various suggestions for amendments had detailed discussions on each section and wherever necessary consulted the Law Ministry before finalizing its view on the Amendment. The Present Sub-

*Minutes of XVIIth and XVIIIth Meeting appended to 1st and 9th Reports of the Committee.

Committee, therefore, thought it prudent to adopt all the amendments suggested by the previous Sub-Committee. The Sub-Committee also took into view the amendments suggested by experts who had appeared before the Present Committee and finalized the amendments to each section.

3. The Committee then took up for consideration Section-26, of the Act. Section-26 deals powers of Chief Executive Officer in respect of orders or resolutions of Board. The Sub-Committee had recommended deletion of this section. Some of the Members of the Committee felt that deleting altogether this Section, means reducing the powers of C.E.O. The Committee had detailed discussion on the Section. The Committee felt that whenever the Board passes any resolution, the C.E.O. also forms part of it, and never opposes it on the meeting. Moreover the Board is a collective body and the decision taken by the Board should not be over ruled by the C.E.O. The Committee therefore agreed to the recommendation of the Sub-Committee to delete the Section.

4. The Committee then took up for discussion Section-33. It deals with powers of inspection by C.E.O. or persons authorized by him. The Sub-Committee had recommended that the words "with the prior approval of the Board" may be deleted. Some members felt that by deleting the said words the C.E.O. becomes supreme. The Committee discussed the provision in detail. The Committee felt that, this much of Powers should be given to C.E.O. to enable him to perform the duties assigned to him under the Act, without which the C.E.O may not be in a position to control the Mutawallis, cannot stop any encroachment if it is brought to his notice in any of the Wakf properties. The Committee therefore decided to accept the suggestion of the Sub-Committee.

5. The Committee then took up for consideration Section-37 which stipulates the Wakf Board to maintain a Register of Wakf. The Sub-Committee had suggested two new sub-sections may be added to the existing sections wherein it has been suggested that the Board should forward details of Wakf properties as maintained by to the concerned land record office. Some Members felt that words "office of Registrar or Sub-Registrar" may be added in the new Section. The Committee, after some discussion, decided that the Sub-Sections are comprehensive enough to take care of the requirements of the Section and decided to accept the recommendation of the Sub-Committee without any modification.

6. The Committee then decided to accept other amendments suggested by the Sub-Committee and directed the Secretariat to prepare the report on the amendments.

7. The Committee then discussed its forth coming visit to Cochin and Chennai from 23rd to 27th October. The Committee decided to postpone its visit to Kochi because of incessant rains there, and accordingly rescheduled its visit to Chennai from 24th to 27th October, 2007.

A verbatim record of the proceedings was kept

The Committee then adjourned at 12:15 P.M.

***XXII**
TWENTY SECOND MEETING

The Committee met at 3.00 P.M. on Friday, the 15th February, 2008 in Room No. 'G-074', Parliament Library Building, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Sk. Khabir Uddin Ahmed

LOK SABHA

3. Shri Anwar Hussain
4. Shri G. Nizamuddin
5. Shri Hansraj Gangaramji Ahir
6. Shri Syed Shahnawaz Hussain
7. Shri Mohammed Salim
8. Shri T.K. Hamza
9. Shri Mukeem Mohammad
10. Shri A.R. Shaheen

SECRETARIAT

Shri P.P.K. Ramacharyulu, Director

Shri B.C. Sharma, Joint Director

Shri P. Narayanan, Deputy Director

2. At the outset, the Chairman welcomed the Members of the Committee.
3. The Committee then took up for consideration the draft Report First Report on Implementation of Wakf Act, 1995 in West Bengal and Working of Board of Wakfs, West Bengal; Second Report on Implementation of Wakf Act, 1995 in Rajasthan and Working of Rajasthan Board of Muslim Wakfs; Third Report on Amendments to the Wakf Act 1995; Implementation of Wakf Act, 1995 in Assam and Working of Assam Board of Wakfs; and Implementation of Wakf Act, 1995 in U.T. Chandigarh and Working of Chandigarh Wakf Board.

After some deliberations the Committee decided to consider the reports in the next meeting. The Committee thereafter decided to meet again on 27th February, 2008 for considering and adopting the draft 1st, 2nd, 3rd, 4th and 5th reports.

3. The Committee then adjourned at 4.15 P.M.

*Minutes of XXth and XXIst the Meeting appended to 4th and 6th Reports of the Committee.

**XXIII
TWENTY THIRD MEETING**

The Committee met at 3.00 P.M. on Wednesday, the 27th February, 2008 in Room No. '62', First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Sk. Khabir Uddin Ahmed
3. Shri Kamal Akhtar
4. Shri S.P.M. Syed Khan

LOK SABHA

5. Shri Anwar Hussain
6. Shri Rashid J.M. Aaron
7. Shri Narayan Chandra Borkataky
8. Shri Prahlad Joshi
9. Shri Avinash Rai Khanna
10. Shri Syed Shahnawaz Hussain
11. Shri Mohammad Salim
12. Shri Mukeem Mohammad
13. Prof. K.M. Kader Mohideen
14. Shri Chandrakant Bhaurao Khaire
15. Shri Suravaram Sudhakar Reddy

SECRETARIAT

Shri Shamsheer Singh, Joint Secretary

Shri P. P. K. Ramacharyulu, Director

Shri B.C. Sharma, Joint Director

Shri P. Narayanan, Deputy Director

2. At the outset, the Chairman welcomed the Members of the Committee. The Committee then took up for consideration the draft First Report on Implementation of Wakf Act, 1995 in West Bengal and Working of Board of Wakfs, West Bengal; Second Report on Implementation of Wakf Act, 1995 in Rajasthan and Working of Rajasthan Board of Muslim Wakfs; Third Report on Amendments to the Wakf Act, 1995; Implementation of Wakf Act, 1995 in Assam and Working of Assam Board of Wakfs; and Implementation of Wakf Act, 1995 in U.T. Chandigarh and Working of Chandigarh Wakf Board of the Committee. After some discussion the Committee adopted unanimously the draft 1st, 2nd, 4th and 5th Reports of the Committee.

The Committee adopted the third Report on the Amendments to the Wakf Act, 1995 with some minor changes in the Sections mentioned below:—

Section 4

The following new sub-Section (7) may be inserted after Sub-section (6); (7) “once a Survey Commissioner notifies the Wakf property, the same shall be treated as ‘Deemed Mutation’, for the purposes of revenue records and determination of title to the property.

Section 6

In sub-Section (1), after the words, “or any person”, the word “of any religion or religious persuasion aggrieved or” may be inserted.

Section 14

Sub-Section (1) may be substituted by the following:—

(1) The Board for a State and the Union Territory of Delhi shall consist of—

- (a) a Chairperson;
- (b) Members, as the State Government may think fit, to be elected from each of the electoral colleges consisting of—
 - (i) one Muslim Member of Parliament from the State or, as the case may be, the Union Territory;
 - (ii) one Muslim Member of the State Legislature;
 - (iii) one Muslim Member enrolled with the Bar Council of the concerned State/UT; as an advocate for at least fifteen years of the relevant State/Union Territory and having significant practice and reputation in the legal profession.
 - (iv) One and not more than two Mutawallis of the Wakfs having an annual income of Rupees fifty thousand and above:

Provided that the Members from the categories (i) to (iv) above shall be elected from the electoral college constituted for each category.

- (c) One Muslim Member, who has professional background or experience in town planning or business management and/or social work, to be nominated by the State government.
- (d) One member to be nominated by the State Government from recognized scholars in Islamic Theology;
- (e) One Member to be nominated by the State Government from among the officers of the State Government not below the rank of Deputy Secretary.

Provided that in case of UTs, the Board shall consist of not less than three and not more than five Members to be appointed by the Central Government from amongst the categories specified in Sub-section (1).”

The following proviso may be inserted after the first proviso to Sub-section (2):—

“Provided that the Members of Parliament or Members of State Legislatures elected to the Board should continue to be Members of the Board until the Parliament or State Legislature, as the case may be, is dissolved *i.e.* once they are elected to the Board, they should

continue to be Members of the Board as long as they are MPs or MLAs, as the case may be”.

Sub-section (7) may be substituted by the following:

“In the case of Union Territories, the Board shall consist of not less than five and not more than seven members to be appointed by the Central Government from amongst the categories of persons specified in sub-section (1). Provided that one Member from each category mentioned in sub-clauses (i) to (iv) of clause (b) of sub-section (1) shall be elected to the Board.”

The following new Sub-section (10) may be added

“(10) – In the composition of the Board where Shia and Sunni Wakf Boards are established in pursuance to Sub-Section 2 of Section 13, the composition of such Boards shall consist of only Shia or Sunni Members as the case may be”.

Section 16

The following new Sub-Clause be added to Clause (e):—

“(iii) held guilty of encroachment on a Wakf property and the same has been confirmed at least by the Wakf Tribunal or appeal was not preferred.”

Section 23

Sub-Section (1) may be substituted by the following:

“(1) There shall be a Chief Executive Officer of the Board who shall be a Muslim and shall be appointed by the State Government from a panel of two names suggested by the Board and he should not be below the rank of a Director of the State Government, by notification in the Official Gazette”.

Section 29

“(2) The Muttawallis or any other person having the custody of any documents related to Wakf properties shall produce the same, within the prescribed period, before the Chief Executive Officer on being called upon to do so in writing. In case the mutawalli fails to produce the documents within the prescribed period, the Chief Executive Officer shall have the right to inspect the same”.

“(3) Subject to such conditions as may be prescribed, an agency of Government or any other organisation shall supply, within 10 working days, copies of the records, registers of properties or other documents relating to wakf properties or claimed to be wakf properties, to the Chief Executive Officer on a written request to this effect from him.

Provided that before taking any course of action as mentioned in sub-section (2) and (3), the Chief Executive Officer shall obtain approval of the Board”.

Section 32

The following new sub-Section may be added:

“Notwithstanding anything contained in the Wakf deed, any gift, sale, exchange or mortgage of or creation of third party rights in any immovable property which is Wakf

property, the Board shall have the power to change the nature and object of Wakf property, after inviting and considering objections through prior public notice in one Urdu/vernacular daily and in one popular English daily in case the original object of the Wakf has ceased to exist and has become incapable of achievement”.

Section 51

In Section 51 in the proviso to Sub-section (1), the words “Graveyard, Imambara” may be inserted after the word “Khanqah”.

After Sub-section (1), following new Sub-section may be added:—

“(1A) Any sale or total transfer of Wakf property is void *ab initio*. The only exception shall be acquisition of Wakf properties under the Land Acquisition Act, 1894, provided that:

(a) The acquisition etc. shall not be in contravention of the Places of Public Worship (Protection) Act, 1990.

New Section 54A

54A (1) Whoever encroaches on or alters the structure, status or use of any land, building, space or other property which is Wakf property, and which has been registered as such under this Act, shall be punishable with rigorous imprisonment for a term which may extend to two years, or with fine which may extend to five lakh rupees, or with both.

(2) Any offence punishable under this section shall be cognizable.

(3) No court shall take cognizance of any offence punishable under this section except on complaint made by the Board or by an officer of the Board duly authorized by it in this behalf.

(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.

(5) Any fine imposed under this section shall, when realised, be credited to the Wakf Fund.

Section 55

In Section 55 The words “the Executive Magistrate or the Sub-divisional Magistrate as the case may be” may be substituted by the words “the Sub-Divisional Magistrate” .

The Following proviso may be added to this Section.

“Provided that Whosoever being a public servant fails in his lawful duty to prevent or remove an encroachment shall on conviction be punishable with a fine which may extend upto Rs.15000/- for each offence”.

Section 105

The Committee decided that the words “as may be practicable” may be substituted by the words and figures “within a period of 10 working days”.

Thereafter, the Committee decided to present/lay the reports to both the Houses of Parliament on 4th March, 2008. For this purpose, the Committee authorized the Chairman and in his absence Shri Kamal Akhtar to present the Reports in Rajya Sabha and Shri Chandrakant Bhaurao Khaire and in his absence Shri Avinash Rai Khanna to lay the reports in Lok Sabha.

The Committee then adjourned at 4:00 P.M.

***XXV
TWENTY FIFTH MEETING**

The Committee met at 5.00 P.M. on Friday, the 28th March, 2008 in Main Committee Room, Parliament House Annexe, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Sk. Khabir Uddin Ahmed
3. Shri Kamal Akhtar
4. Shri S.P.M. Syed Khan
5. Shri Tariq Anwar

LOK SABHA

6. Shri Anwar Hussain
7. Shri G. Nizamuddin
8. Shri Rashid J.M. Aaron
9. Shri Narayan Chandra Borkataky
10. Shri T.K. Hamza
11. Prof. K.M. Kader Mohideen

SECRETARIAT

Shri Shamsher Singh, Joint Secretary

Shri P.P.K. Ramacharyulu, Director

Shri B.C. Sharma, Joint Director

Shri P. Narayanan, Deputy Director

Shri S.B. Malkani, Committee Officer

WITNESSES

All India Muslim Personal Law Board

Shri Yusuf Hatim Muchchala, Sr. Advocate, Mumbai High Court.

Shri Sheikh Abdul Sattar, Secretary, All India Muslim Personal Law Board.

Prof. Riyaz Umar, Treasurer, All India Muslim Personal Law Board.

Maulana Syed Nizamuddin, General Secretary, All India Muslim Personal Law Board.

Shri Jafer, Vice-President, Jamait-e-Islami.

Shri Bahar-U-Barqi, Advocate, Supreme Court.

*Minutes of XXIVth Meeting appended to the Report of the Committee.

2. * * *
3. The Chairman informed the Members of the Committee that representatives of All India Muslim Personal Law Board had requested to appear before the Committee to put forth their views on improving the working of the State Wakf Boards, Central Wakf Council and on the Wakf Act, 1995 and acceded to their request. The Chairman then welcome the Members of the All India Muslim Personal Law Board and sought their suggestions on
- (a) improving the functioning of the Wakf Boards and the Central Wakf Council;
 - (b) retrieving the Wakf properties encroached by the Government agencies; and
 - (c) any other issue related to Wakf.
4. The Committee heard the Members of the All India Muslim Personal Law Board on the whole gamut of issues pertaining to Wakf. Members then, sought some clarifications to which the Members of the All India Muslim Personal Law Board responded.
5. The witnesses then withdrew.
- A verbatim record of the proceedings was kept.
6. The Committee then adjourned at 6.45 P.M.

रजिस्ट्री सं० डी० एल०—(एन)04/0007/2003—13

REGISTERED NO. DL—(N)04/0007/2003—13



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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No. 37] NEW DELHI, MONDAY, SEPTEMBER 23, 2013/ ASVINA 1, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd September, 2013/Asvina 1, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 20th September, 2013, and is hereby published for general information:—

THE WAKF (AMENDMENT) ACT, 2013

No. 27 OF 2013

[20th September, 2013.]

An Act to amend the Wakf Act, 1995.

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

1. (1) This Act may be called the Wakf (Amendment) Act, 2013.

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 the long title to the Wakf Act, 1995 (hereinafter referred to as the principal Act), for the word "Wakfs", the word "Auqaf" shall be substituted.

Amendment
of long title.

3. In section 1 of the principal Act, in sub-section (1), for the word "Wakf", the word "Waqf" shall be substituted.

Amendment
of section 1.

//TRUE COPY//

Substitution of references to certain expressions by certain other expressions.

4. Throughout the principal Act, for the words “wakf”, “wakfs” and “wakif”, wherever they occur, the words “waqf”, “auqaf” and “waqif” shall, respectively, be substituted, and such other consequential amendments as the rules of grammar may require shall also be made.

Amendment of section 3.

5. In section 3 of the principal Act,—

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

“(ee) “encroacher” means any person or institution, public or private, occupying waqf property, in whole or part, without the authority of law and includes a person whose tenancy, lease or licence has expired or has been terminated by mutawalli or the Board;”;

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

“(g) “list of auqaf” means the list of auqaf published under sub-section (2) of section 5 or contained in the register of auqaf maintained under section 37;”;

(iii) in clause (i), after the proviso, the following provisos shall be inserted, namely:—

“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;”;

(iv) in clause (k), in sub-clause (i), for the words “worship” and “khangah”, the words “offer prayer” and “khanqah, peerkhana and karbala” shall, respectively, be substituted;

(v) for clause (r), the following clause shall be substituted, namely:—

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

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

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

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

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

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

Amendment of section 4.

6. In section 4 of the principal Act,—

(a) in sub-section (1), for the words “wakfs existing in the State at the date of the commencement of this Act”, the words “auqaf in the State” shall be substituted;

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

“(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:

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.”;

(c) in sub-section (6),—

(i) in the proviso, for the words “twenty years”, the words “ten years” shall be substituted;

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

“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.”.

7. In section 5 of the principal Act,—

Amendment
of section 5.

(a) in sub-section (2), for the words “publish in the Official Gazette”, the words “forward it back to the Government within a period of six months for publication in the Official Gazette” shall be substituted;

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

“(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.”.

8. In section 6 of the principal Act, in sub-section (1),—

Amendment
of section 6.

(a) for the words “any person interested therein”, the words “any person aggrieved” shall be substituted;

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

“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.”;

(c) the *Explanation* shall be omitted.

9. In section 7 of the principal Act,—

Amendment
of section 7.

(a) in sub-section (1),—

(i) for the words “any question”, the words “any question or dispute” shall be substituted;

(ii) for the words “or any person interested”, the words and figure “or any person aggrieved by the publication of the list of auqaf under section 5” shall be substituted;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) The Tribunal shall have the powers of assessment of damages by unauthorised occupation of waqf property and to penalise such unauthorised occupants for their illegal occupation of the waqf property and to recover the damages as arrears of land revenue through the Collector:

Provided that whosoever, being a public servant, fails in his lawful duty to prevent or remove an encroachment, shall on conviction be punishable with fine which may extend to fifteen thousand rupees for each such offence.”.

Substitution of
new section
for section 8.

10. For section 8 of the principal Act, the following section shall be substituted, namely:—

State
Government
to bear cost of
survey.

“8. The total cost of making a survey including the cost of publication of the list or lists of auqaf under this Chapter shall be borne by the State Government.”.

Amendment
of section 9.

11. In section 9 of the principal Act,—

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

“(1) The Central Government may, by notification in the Official Gazette, establish a Council to be called the Central Waqf Council, for the purpose of advising the Central Government, the State Governments and the Boards on matters concerning the working of Boards and the due administration of auqaf.

(1A) The Council referred to in sub-section (1) shall issue directives to the Boards, on such issues and in such manner, as provided under sub-sections (4) and (5).”;

(b) in sub-section (2), in clause (b),—

(i) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

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

(ii) after sub-clause (viii), the following proviso shall be inserted, namely:—

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

(c) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) The State Government or, as the case may be, the Board, shall furnish information to the Council on the performance of Waqf Boards in the State, particularly on their financial performance, survey, maintenance of waqf deeds, revenue records, encroachment of waqf properties, annual reports and audit reports in the manner and time as may be specified by the Council and it may *suo motu* call for information on specific issues from the Board, if it is satisfied that there was *prima facie* evidence of irregularity or violation of the provisions of this Act and if the Council is satisfied that such irregularity or violation of the Act is established, it may issue such directive, as considered appropriate, which shall be complied with by the concerned Board under intimation to the concerned State Government.

(5) Any dispute arising out of a directive issued by the Council under sub-section (4) shall be referred to a Board of Adjudication to be constituted by the Central Government, to be presided over by a retired Judge of the Supreme Court or a retired Chief Justice of a High Court and the fees and travelling and other allowances payable to the Presiding Officer shall be such as may be specified by that Government.”.

12. In section 13 of the principal Act,—

Amendment
of section 13.

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

“Provided that in case where a Board of Waqf has not been established, as required under this sub-section, a Board of Waqf shall, without prejudice to the provisions of this Act or any other law for the time being in force, be established within six months from the date of commencement of the Wakf (Amendment) Act, 2013.”;

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

“(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.”.

13. In section 14 of the principal Act,—

Amendment
of section 14.

(1) in sub-section (1),—

(i) for the words “the Union territory of Delhi”, wherever they occur, the words “the National Capital Territory of Delhi” shall be substituted;

(ii) in clause (b),—

(a) for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(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”;

(b) after sub-clause (iv), the following *Explanations* shall be inserted, namely:—

“*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;”;

(iii) for clauses (c) to (e), the following clauses shall be substituted, namely:—

“(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;”;

(II) after sub-section (I), the following sub-section shall be inserted, namely:—

“(IA) 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 (I):

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.”;

(III) sub-section (5) shall be omitted.

(IV) sub-section (7) shall be omitted.

Amendment
of section 15.

14. In section 15 of the principal Act, the words, brackets and figures “from the date of notification referred to in sub-section (9) of section 14” shall be inserted at the end.

Amendment
of section 16.

15. In section 16 of the principal Act, after clause (d), the following clause shall be inserted, namely:—

“(da) he has been held guilty of encroachment on any waqf property;”.

Insertion of
new section
20A.

16. After section 20 of the principal Act, the following section shall be inserted, namely:—

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.”

Amendment
of section 23.

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

“(1) There shall be a full-time Chief Executive Officer of the Board 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.”.

Substitution of
new section
for section 27.

18. For section 27 of the principal Act, the following section shall be substituted, namely:—

Delegation of
powers by
Board.

“27. The Board may, by a general or special order in writing, delegate to the Chairperson, any other member, the Chief Executive Officer or any other officer or servant of the Board or any area committee, subject to such conditions and limitations as may be specified in the said order, such of its powers and duties under this Act, as it may deem necessary, except the powers and functions of the Board mentioned under clauses (c), (d), (g) and (j) of sub-section (2) of section 32 and section 110.”.

Substitution of
new section
for section 28.

19. For section 28 of the principal Act, the following section shall be substituted, namely:—

Power of
District
Magistrate,
Additional
District
Magistrate or
Sub-Divisional
Magistrate to
implement the
directions of
the Board.

“28. Subject to the provisions of this Act and the rules made thereunder, the District Magistrate or in his absence an Additional District Magistrate or Sub-Divisional Magistrate of a District in the State shall be responsible for implementation of the decisions of the Board which may be conveyed through the Chief Executive Officer and the Board may, wherever considers necessary, seek directions from the Tribunal for the implementation of its decisions.”.

Amendment
of section 29.

20. Section 29 of the principal Act shall be numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so numbered, for the words “subject to such conditions and restrictions as may be prescribed and subject to the payment of such fees as may be leviable under any law for the time being in force”, the words “subject to such conditions as may be prescribed” shall be substituted;

(b) after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:—

“(2) The mutawalli or any other person having the custody of any document related to waqf properties shall produce the same, within the prescribed period, before the Chief Executive Officer on being called upon to do so in writing.

(3) Subject to such conditions as may be prescribed, an agency of the Government or any other organisation shall supply, within ten working days, copies of the records, registers of properties or other documents relating to waqf properties or claimed to be waqf properties, to the Chief Executive Officer on a written request to this effect from him:

Provided that before taking any course of action as mentioned in sub-sections (2) and (3), the Chief Executive Officer shall obtain approval of the Board.”.

21. In section 31 of the principal Act, the following shall be inserted at the end, namely:—

Amendment
of section 31.

“or a Member of Union territory Legislature or a Member of a State Legislature if so declared under a law made by the appropriate State Legislature”.

22. In section 32 of the principal Act,—

Amendment
of section 32.

(I) in sub-section (2),—

(a) for clause (j), the following clause, shall be substituted, namely:—

“(j) to sanction lease of any immovable property of a waqf in accordance with the provisions of this Act and the rules made thereunder:

Provided that no such sanction shall be given unless a majority of not less than two-thirds of the members of the Board present cast their vote in favour of such transaction:

Provided further that where no such sanction is given by the Board, the reasons for doing so shall be recorded in writing.”;

(b) after clause (n), the following clause shall be inserted, namely:—

“(na) to determine or cause to be determined, in such manner as may be specified by the Board, market rent of the waqf land or building.”;

(II) in sub-section (4), for the words “offers a feasible potential for development as a shopping centre”, the words “has the potential for development as an educational institution, shopping centre, market, housing or residential flats and the like” shall be substituted;

(III) in sub-section (5), the words “with the prior approval of the Government,” shall be omitted.

23. In section 33 of the principal Act, in sub-section (I),—

Amendment
of section 33.

(a) after the words “the Chief Executive Officer”, the words “or any other person authorised by him in writing” shall be inserted;

(b) the words “either himself or any other person authorised by him in writing in this behalf” shall be omitted.

24. In section 36 of the principal Act, in sub-section (2), in the proviso, for the words “made by the wakf”, the words “made by the waqf” shall be substituted.

Amendment
of section 36.

25. Section 37 of the principal Act shall be numbered as sub-section (I) thereof, and after sub-section (I) as so numbered, the following sub-sections shall be inserted, namely:—

Amendment
of section 37.

“(2) The Board shall forward the details of the properties entered in the register of auqaf to the concerned land record office having jurisdiction of the waqf property.

(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.”.

26. In section 44 of the principal Act,—

Amendment
of section 44.

(a) in sub-section (2), for the words “ninety days”, the words “thirty days” shall be substituted;

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

“(3) In case the Board considers any item in the budget being contrary to the objects of the waqf and the provisions of this Act, it may give such direction for addition or deletion of such item as it may deem fit.”.

Amendment
of section 46.

27. In section 46 of the principal Act, in sub-section (2), for the figure, letters and words “1st day of May”, at both the places where they occur, the figure, letters and words “1st day of July” shall be substituted.

Amendment
of section 47.

28. In section 47 of the principal Act,—

(I) in sub-section (I),—

(i) in clause (a), for the words “ten thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(ii) in clause (b), for the words “ten thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(iii) in clause (c), after the words “the State Government may,”, the words “under intimation to the Board,” shall be inserted;

(II) in sub-section (3), in the first proviso, for the words “more than ten thousand rupees but less than fifteen thousand rupees”, the words “more than fifty thousand rupees” shall be substituted.

Amendment
of section 51.

29. In section 51 of the principal Act,—

(i) for sub-section (I), the following sub-sections shall be substituted, namely:—

“(I) Notwithstanding anything contained in the waqf deed, any lease of any immovable property which is waqf property, shall be void unless such lease is effected with the prior sanction of the Board:

Provided that no mosque, dargah, khanqah, graveyard, or imambara shall be leased except any unused graveyards in the States of Punjab, Haryana and Himachal Pradesh where such graveyard has been leased out before the date of commencement of the Wakf (Amendment) Act, 2013.

(1A) Any sale, gift, exchange, mortgage or transfer of waqf property shall be void *ab initio*:

Provided that in case the Board is satisfied that any waqf property may be developed for the purposes of the Act, it may, after recording reasons in writing, take up the development of such property through such agency and in such manner as the Board may determine and move a resolution containing recommendation of development of such waqf property, which shall be passed by a majority of two-thirds of the total membership of the Board:

Provided further that nothing contained in this sub-section shall affect any acquisition of waqf properties for a public purpose under the Land Acquisition Act, 1894 or any other law relating to acquisition of land if such acquisition is made in consultation with the Board: 1 of 1894.

Provided also that—

(a) the acquisition shall not be in contravention of the Places of Public Worship (Special Provisions) Act, 1991; 42 of 1951.

(b) the purpose for which the land is being acquired shall be undisputedly for a public purpose;

(c) no alternative land is available which shall be considered as more or less suitable for that purpose; and

(d) to safeguard adequately the interest and objective of the waqf, the compensation shall be at the prevailing market value or a suitable land with reasonable solatium in lieu of the acquired property.”;

(ii) sub-sections (2), (3), (4) and (5) shall be omitted.

30. In section 52 of the principal Act, in sub-section (1), after the words and figures “provisions of section 51”, the words and figures “or section 56” shall be inserted.

Amendment
of section 52.

31. After section 52 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
52A.

“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.

(3) No court shall take cognizance of any offence under this section except on a complaint made by the Board or any officer duly authorised by the State Government in this behalf.

(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.”.

32. In section 54 of the principal Act,—

Amendment
of section 54.

(a) in sub-section (3), for the words “he may, by an order, require the encroacher to remove”, the words “he may, make an application to the Tribunal for grant of order of eviction for removing” shall be substituted;

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

“(4) The Tribunal, upon receipt of such application from the Chief Executive Officer, for reasons to be recorded therein, make an order of eviction directing that the waqf property shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the waqf property:

Provided that the Tribunal may before making an order of eviction, give an opportunity of being heard to the person against whom the application for eviction has been made by the Chief Executive Officer.

(5) If any person refuses or fails to comply with the order of eviction within forty-five days from the date of affixture of the order under sub-section (2), the Chief Executive Officer or any other person duly authorised by him in this behalf may evict that person from, and take possession of, the waqf property.”.

Amendment
of section 55.

33. In section 55 of the principal Act,—

(a) for the word, brackets and figure “sub-section (3)”, the word, brackets and figure “sub-section (4)” shall be substituted;

(b) for the words “apply to the Sub-Divisional Magistrate”, the words “refer the order of the Tribunal to the Executive Magistrate” shall be substituted.

Insertion of
new section
55A.

34. After section 55 of the principal Act, the following section shall be inserted, namely:—

Disposal of
property left
on waqf
property by
unauthorised
occupants.

“55A. (1) Where any person has been evicted from any waqf property under sub-section (4) of section 54, the Chief Executive Officer may, after giving fourteen days’ notice to the person from whom possession of the waqf property has been taken and after publishing the notice in at least one newspaper having circulation in the locality and after proclaiming the contents of the notice by placing it on conspicuous part of the waqf property, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

(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.”

Amendment
of section 56.

35. In section 56 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “A lease or sub-lease for any period exceeding three years”, the words “A lease for any period exceeding thirty years” shall be substituted;

(ii) the following provisos shall be inserted at the end, namely:—

“Provided that a lease for any period up to thirty years may be made for commercial activities, education or health purposes, with the approval of the State Government, for such period and purposes as may be specified in the rules made by the Central Government:

Provided further that lease of any immovable waqf property, which is an agricultural land, for a period exceeding three years shall, notwithstanding anything contained in the deed or instrument of waqf or in any other law for the time being in force, be void and of no effect:

Provided also that before making lease of any waqf property, the Board shall publish the details of lease and invite bids in at least one leading national and regional news papers.”;

(b) in sub-section (2), for the words “A lease or sub-lease for any period exceeding one year and not exceeding three years”, the words “A lease for a period of one year but not exceeding thirty years” shall be substituted;

(c) in sub-section (3),—

(i) the words “or sub-lease”, at both the places where they occur, shall be omitted;

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

“Provided that the Board shall immediately intimate the State Government regarding a lease for any period exceeding three years of any waqf property and thereafter it may become effective after the expiry of forty-five days from the date on which the Board intimates the State Government.”;

(d) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Every rule made by the Central Government under this section 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.”.

36. In section 61 of the principal Act, in sub-section (1), for the words “eight thousand rupees”, the words, brackets and letters “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” shall be substituted.

Amendment
of section 61.

37. In section 65 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

Amendment
of section 65.

“(5) Notwithstanding anything contained in sub-section (1), the Board shall take over the administration of a waqf, if the waqf Board has evidence before it to prove that management of the waqf has contravened the provisions of this Act.”.

38. In section 68 of the principal Act,—

Amendment
of section 68.

(i) in sub-section (2), for the words “Magistrate of the first class” and “Magistrate”, the words “District Magistrate, Additional District Magistrate, Sub-Divisional Magistrate or their equivalent” shall be substituted;

(ii) in sub-sections (3), (4), (5) and sub-section (6), for the words “the Magistrate” the words “any Magistrate” shall be substituted.

39. In section 69 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section 69.

“(1) Where the Board is satisfied after an enquiry, whether on its own motion or on the application of not less than five persons interested in any waqf, to frame a scheme for the proper administration of the waqf, it may, by an order, frame such scheme for the administration of the waqf, after giving reasonable opportunity and after consultation with the mutawalli or others in the prescribed manner.”.

40. In section 71 of the principal Act, in sub-section (1), for the figures “73”, the figures “70” shall be substituted.

Amendment
of section 71.

41. In section 72 of the principal Act, in sub-section (1), in *Explanation I*, in clause (iii),—

Amendment
of section 72.

(i) after the words “following purposes”, the words “in respect of lands directly under cultivation by the mutawalli for the benefit of the waqf” shall be inserted;

(ii) in sub-clause (f), in the proviso, for the words “ten per cent.”, the words “twenty per cent.” shall be substituted;

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

“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.”.

Amendment
of section 77.

42. In section 77 of the principal Act, in sub-section (4), after clause (f), the following clause shall be inserted, namely:—

“(g) payment of maintenance to Muslim women as ordered by a court of competent jurisdiction under the provisions of the Muslim Women (Protection of Rights on Divorce) Act, 1986.”.

25 of 1986.

Amendment
of section 81.

43. In section 81 of the principal Act, after the words “as it thinks fit”, the following shall be inserted at the end, namely:—

“and a copy of the said auditor’s report, along with orders shall be forwarded by the State Government to the Council within a period of thirty days of laying of such report before each House of the State Legislature where it consists of two Houses or where such Legislatures consist of one House, before that House.”.

Amendment
of section 83.

44. In section 83 of the principal Act,—

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

“(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;”;

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

“(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.”.

Amendment
of section 85.

45. In section 85 of the principal Act, for the words “civil court”, the words “civil court, revenue court and any other authority” shall be substituted.

46. In section 86 of the principal Act, in clause (b), after the words "a previous mutawalli", the words "or by any other person" shall be inserted. Amendment of section 86.
47. Section 87 of the principal Act shall be omitted. Omission of section 87.
48. In section 90 of the principal Act, in sub-section (3), for the words "one month", the words "six months" shall be substituted. Amendment of section 90.
49. In section 91 of the principal Act, in sub-section (1), for the words "it appears to the collector before an award is made that any property", the words "and before an award is made, in case the property" shall be substituted. Amendment of section 91.
50. In section 97 of the principal Act, the following proviso shall be inserted at the end, namely:— Amendment of section 97.
- "Provided that the State Government shall not issue any direction being contrary to any waqf deed or any usage; practice or custom of the waqf."
51. In section 99 of the principal Act,— Amendment of section 99.
- (a) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—
- "Provided further that the power of the State Government under this section shall not be exercised unless there is a *prima facie* evidence of financial irregularity, misconduct or violation of the provisions of this Act.;"
- (b) in sub-section (3), for clause (a), the following clause shall be substituted, namely:—
- "(a) extend the period of supersession by another six months with reasons to be recorded in writing and, the period of continuous supersession shall not exceed more than a year; or"
52. In section 102 of the principal Act, in sub-section (2), for the words "after consulting the State Governments", the words "after consulting the Council and the State Governments" shall be substituted. Amendment of section 102.
53. After section 104 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 104A.
- "104A. (1) Notwithstanding anything contained in this Act or any other law for the time being in force or any waqf deed, no person shall sell, gift, exchange, mortgage or transfer any movable or immovable property which is a waqf property to any other person. Prohibition of sale, gift, exchange, mortgage or transfer of waqf property.
- (2) Any sale, gift, exchange, mortgage or transfer of property referred to in sub-section (1) shall be void *ab initio*."
54. After section 104A of the principal Act, the following section shall be inserted, namely:— Insertion of new section 104B.
- "104B. (1) If any waqf property has been occupied by the Government agencies it shall be returned to the Board or the mutawalli within a period of six months from the date of the order of the Tribunal. Restoration of waqf properties in occupation of Government agencies to waqf Board.

(2) The Government agency may, if the property is required for a public purpose, make an application for determination of the rent, or as the case may be, the compensation, by the Tribunal at the prevailing market value.”

Amendment
of section
106.

55. In section 106 of the principal Act, in sub-section (1), for the words “after consultation with the Government”, the words “after consultation with the Council and the Government” shall be substituted.

Insertion of
new section
108A.

56. After section 108 of the principal Act, the following section shall be inserted, namely:—

Act to have
overriding
effect.

“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.”

Amendment
of section
109.

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

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

“(i) the qualifications required to be fulfilled by a person to be appointed as a mutawalli under clause (i) of section 3;

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

(b) in clause (vi), for the word “under”, the words, brackets and figure “under sub-section (1) of ” shall be substituted;

(c) after clause (vi), the following clauses shall be inserted, namely:—

“(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;”;

(d) clause (xi) shall be omitted;

(e) after clause (xxii), the following clause shall be inserted, namely:—

“(xxiia) 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 under sub-section (4A) of section 83;”.

P.K. MALHOTRA,
Secy. to the Govt. of India.

Waqf row: JPC chairman meets farmers in Karnataka, Congress lashes out

Synopsis

Jagdambika Pal, Chairman of the Joint Parliamentary Committee (JPC) on the Waqf Amendment Bill, visited Karnataka to address farmers' claims that the Waqf board is laying claim to their land. Farmers allege that despite possessing land for generations, the Waqf board is asserting ownership. Pal aims to investigate these claims and submit a comprehensive report.



Jagdambika Pal

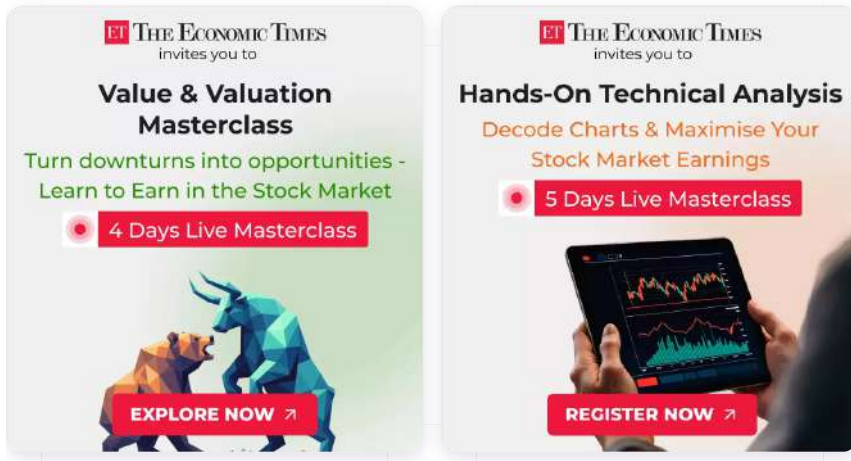
[Joint Parliamentary Committee](#) (JPC) Chairman [Jagdambika Pal](#) on Thursday morning visited Karnataka amid the ongoing [Waqf row](#) and said that farmers in north Karnataka are claiming that the [Waqf board](#) was claiming land that belonged to them. The JPC has been formed to review the [Waqf Amendment Bill](#) introduced this year in the Parliament.

The farmers say that they have been here for almost 70 years, but despite that the Waqf board is claiming ownership of their land, Pal added.

"You have seen now that the farmers from north Karnataka are the airport and they have handed over a memorandum which says that the (Waqf) board was claiming a piece of land that belonged to them. I have enquired whether they have the deed (for the land) or (proof of) ownership of the land. They (the farmers) are claiming that they have been here for more than 50-70 years but even then the board is claiming (their land). I will look into it," Pal said.

SECTIONS Waqf row: JPC chairman meets farmers in Karnataka, Congress lashes out

The JPC Chairman said that he was visiting Hubballi to meet the farmers to enquire about the situation and submit a fact-finding report.



"As a chairman of Waqf board JPC, I came to Hubballi to meet farmers. They are saying that despite being the bona fide owner of the land, the (Waqf) board is claiming ownership. I was told by Tejasvi Surya to visit the Hubballi and Bijapur area to enquire about the situation. Waqf board is also claiming places that have historical monuments protected by the Archaeological Survey of India (ASI). We will enquire and prepare a report. We have come here for fact-finding. We will also meet various other farmers' organisations from Hubballi and Vijayapura," he said.

Meanwhile, Congress MP Mohammad Jawed on Thursday lashed out at JPC Chairman Pal, accusing him of not working in the interest of Parliamentary democracy by taking a "unilateral" decision to visit Karnataka to meet the farmers. He said that the entire JPC team should pay a visit there.

"The entire JPC team should go there. Who gave him (JPC Chairman Pal) this authority? This is unfortunate. It is not appropriate to take this unilateral and political decision, especially when the Karnataka Government has made it clear that the land will remain with them. It is not appropriate to make it a political issue. JPC Chairman's action is not in the interest of parliamentary democracy," said Jawed while speaking to ANI.

Earlier, Karnataka Minister MB Patil stated on Wednesday that the Bharatiya Janata Party (BJP) is engaging in "political drama" amid the ongoing row over Waqf properties.

"What I have come to know is that the chairman of the JPC committee is visiting Vijayapura. Let him come. The deputy commissioner will provide all the necessary information. The BJP is merely attempting to stage a political drama," Patil said.

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Business Standard

Draft report on Waqf Bill circulated among members, panel to meet today

JPC Chairman Jagdambika Pal has said that the democratic process was followed in the deliberations, opposition members have said that very little time has been given to them

ANI |



The Draft Report On The Waqf (Amendment) Bill, 2024 Has Been Sent To Members Of The Joint Parliamentary Committee. (Photo: Shutterstock)

The draft report on the Waqf (Amendment) Bill, 2024 has been sent to members of the Joint Parliamentary Committee ahead of the meeting of the panel on Wednesday, sources said with the panel having cleared amendments to 14 clauses.

While JPC Chairman Jagdambika Pal has said that the democratic process was followed in the deliberations, opposition members have said that very little time has been given to them to go through the large draft report and give their comments.

Jagdambika Pal, who is a BJP MP, said that there will be meeting tomorrow to adopt the draft report. He also rejected opposition's allegations.

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"In yesterday's meeting, we had asked for proposals from the MPs on the 44 proposed amendments. Today, those including Kalyan Banerjee and A Raja who are levelling allegations that they were not allowed to speak are wrong. We had got voting done on all amendments proposed by the Opposition. The entire procedure transparently took place. We have sent the revised bill to the legislative department," he said.

"There will be a meeting to adopt the bill in Delhi tomorrow. The JPC report will also be adopted tomorrow. After this, we will request the Speaker to present the amended bill. Everything is on record. Kalyan Banerjee, A Raja, Owaisi, Sanjay Singh, Imran Masood have always disrupted the meetings. I have always given them a chance to speak and also do cross-examination of those appearing before the JPC," he added.

He said the panel has visited several states including Maharashtra, Gujarat, Tamil Nadu, Karnataka, Telangana, Odisha, Assam, West Bengal, Bihar and Uttar Pradesh.

"We met all stakeholders, state government officials, work board, Shia Waqf board, Sunni Waqf board, minority commissions, Islamic scholars, professors, retired judges, lawyers, high courts, Supreme Court, we met with everyone," he said.

Pal referred to the role of majority vote in the decision-making process.

"Whether it is within the parliament, or whether it is a standing committee of the parliament, or whether it is a joint parliamentary committee, it will be decided from the vote of any party, on the basis of majority, whether the amendment is adopted or not," he said.

"It was done in a transparent and democratic way, and on all the clauses, whether it was on any member of the opposition, we have done voting on them, and the result that came out, we have declared it clause by clause every time, and our secretary has recorded," he added.

Sources said some of the amendments proposed by the panel include replacing district collector with a state government official senior to him to decide on a property being a Waqf or government land and the Waqf tribunal having a member with knowledge of Muslim law and jurisprudence.

The panel on Waqf bill was given extension in the winter session of Parliament

and is due to submit its report in the budget session of Parliament.

Ahead of the meeting on Wednesday, DMK leader A Raja alleged that the Parliamentary Committee on Waqf Bill "has been reduced to a farce".

"We were told that the Draft Report of the Committee & its Bill will be discussed tomorrow at 10 AM. It is 655 pages and has been sent to us just now. MPs are expected to go through it and provide comments and submit dissent notes. This is simply not possible. What is the point of an independent parliamentary committee if the government does as it pleases anyway?" he asked.

The budget session of Parliament will begin on January 31 and will continue till continue till April 4 with an inter-session break.

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Bill No. 109-C of 2024**THE WAQF (AMENDMENT) BILL, 2025**

A

BILL

further to amend the Waqf Act, 1995.

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

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

Short title and
commencement.

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

43 of 1995.

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

Amendment of
section 1.

Amendment of
section 2.

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

“Provided further that nothing in this Act shall, notwithstanding any judgement, decree or order of any court, apply to a trust (by whatever name called) established before or after the commencement of this Act or 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:—

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

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

Certain conditions of waqf.

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

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

Filing of details of waqf on portal and database.

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

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

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

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

(c) the deed of waqf, if available;

(d) the present mutawalli and its management;

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

35 (f) the amount of land-revenue, cesses, rates and taxes annually payable in respect of the waqf properties;

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

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

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

(ii) purely religious purposes;

(iii) charitable purposes; and

(iv) any other purposes;

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

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

Wrongful
declaration of
waqf.

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

(2) If any question arises as to whether any such property is a Government property, the State Government may, by notification, designate on Officer above the rank of Collector (hereinafter referred to as the designated officer), who shall conduct an inquiry as per law, and determine whether such property is a Government property or not and submit his report to the State Government: 5

Provided that such property shall not be treated as waqf property till the designated officer submits his report. 10

(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. 15

(4) The State Government shall, on receipt of the report of the designated officer, direct the Board to make appropriate correction in the records. 15

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. 20 7 of 1904.
24 of 1958.

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

3E. Notwithstanding anything contained in this Act or any other law for the time being in force, no land belonging to members of Scheduled Tribes under the provisions of the Fifth Schedule or the Sixth Schedule to the Constitution shall be declared or deemed to be waqf property.”. 25

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:— 30

“(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.”; 35

(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; 40

(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; 45

(b) in sub-section (2), after the words “Shia auqaf”, the words “or Aghakhani auqaf or Bohra auqaf” shall be inserted;

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

5 “(2A) The State Government shall upload the notified list of auqaf on the portal and database within ninety days from the date of its publication in the Official Gazette under sub-section (2).

10 “(2B) The details of each waqf shall contain the identification, boundaries of waqf properties, their use and occupier, details of the creator, mode and date of such creation, purpose of waqf, their present mutawallis and management in such manner as may be prescribed by the Central Government.”;

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

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

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

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

Amendment of section 6.

(a) in sub-section (1),—

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

25 (ii) the words “and the decision of the Tribunal in respect of such matter shall be final” shall be omitted;

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

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

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

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

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

Amendment of section 7.

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

40 (ii) the words “and the decision of the Tribunal thereon shall be final” shall be omitted;

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

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

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

Provided also that”.

Amendment of
section 9.

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

“(2) The Council shall consist of—

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

(b) three Members of Parliament of whom two shall be from the House of the People and one from the Council of States; 5

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

(i) three persons to represent Muslim organisations having all India character and national importance; 10

(ii) Chairpersons of three Boards by rotation;

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

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

(d) two persons who have been Judges of the Supreme Court or a High Court; 15

(e) one Advocate of national eminence;

(f) four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine; 20

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

Provided that two of the members appointed under clause (c) shall be women: 25

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

Amendment of
section 13.

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

“(2A) The State Government may, if it deems necessary, by notification in the Official Gazette, establish a separate Board of Auqaf for Bohras and Aghakhans.”. 30

Amendment of
section 14.

12. In section 14 of the principal Act,—

(a) for sub-sections (1), (1A), (2), (3) and (4), the following sub-sections shall be substituted, namely:— 35

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

(a) a Chairperson;

(b) (i) one Member of Parliament from the State or, as the case may be, the National Capital Territory of Delhi; 40

(ii) one Member of the State Legislature;

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

(i) one mutawalli of the waqf having an annual income of one lakh rupees and above; 45

(ii) one eminent scholar of Islamic theology;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. In section 16 of the principal Act,—

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

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

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

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

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

Amendment of
section 16.

Amendment of
section 17.

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

Omission of
section 20A.

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

Amendment of
section 23.

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

5

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

Amendment of
section 28.

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

10

Amendment of
section 30.

18. In section 30 of the principal Act, in sub-section (2), for the words and figures “section 76 of the Indian Evidence Act, 1872”, the words and figures “section 75 of the Bharatiya Sakshya Adhiniyam, 2023” shall be substituted.

1 of 1872.

15 47 of 2023.

Amendment of
section 32.

19. In section 32 of the principal Act,—

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

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

20

Amendment of
section 33.

20. In section 33 of the principal Act,—

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

25

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

Amendment of
section 36.

21. In section 36 of the principal Act,—

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

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

30

(b) in sub-section (3),—

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

35

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

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

40

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

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

45

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

50

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

5 (7A) Where the Collector in his report mentions that the property, wholly or in part, is in dispute or is a Government property, the waqf in relation to such part of property shall not be registered, unless the dispute is decided by a competent court.”;

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

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

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

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

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

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

Amendment of section 37.

(a) in sub-section (1),—

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

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

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

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

Omission of section 40.

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

Amendment of section 46.

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

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

25. In section 47 of the principal Act,—

Amendment of section 47.

(a) in sub-section (1),—

(i) in clause (a),—

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

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

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

Provided that the State Government shall, while preparing such panel of auditors, specify the remuneration to be paid to such auditors;”;

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

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

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

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

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

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

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

Amendment of section 48.

26. In section 48 of the principal Act,—

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

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

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

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

Insertion of new section 50A.

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

Disqualification of mutawalli.

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

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

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

(c) is an undischarged insolvent;

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

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

(f) has been on a previous occasion—

(i) removed as a mutawalli; or

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

1 of 1894. 30 of 2013.	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.	Amendment of section 51.
		29. In section 52 of the principal Act, in sub-section (4), the words “and the decision of the Tribunal on such appeal shall be final” shall be omitted.	Amendment of section 52.
	10	30. In section 52A of the principal Act,— (a) in sub-section (1),— (i) for the words “rigorous imprisonment”, the word “imprisonment” shall be substituted; (ii) in the proviso, for the words “be vested in the Board”, the words “be reverted back to the waqf” shall be substituted; (b) sub-section (2) shall be omitted; (c) sub-section (4) shall be omitted.	Amendment of section 52A.
	20	31. In section 55A of the principal Act, in sub-section (2), in the proviso, the words “and the decision of the Tribunal thereon shall be final” shall be omitted.	Amendment of section 55A.
		32. In section 61 of the principal Act,— (a) in sub-section (1),— (i) clauses (e) and (f) shall be omitted; (ii) for the long line, the following shall be substituted, namely:— “he shall, unless he satisfies the court or the Tribunal that there was reasonable cause for his failure, be punishable with a fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees.”; (b) after sub-section (1), the following sub-section shall be inserted, namely:— “(1A) If a mutawalli fails to— (i) deliver possession of any waqf property, if ordered by the Board or the Tribunal; (ii) carry out the directions of the Collector or the Board; (iii) do any other act which he is lawfully required to do by or under this Act; (iv) provide statement of accounts under section 46; (v) upload the details of waqf under section 3B, he shall be punishable with imprisonment for a term which may extend to six months and also with a fine which shall not be less than twenty thousand rupees but which may extend to one lakh rupees.”; (c) in sub-section (5), for the words and figures “the Code of Criminal Procedure, 1973”, the words and figures “the Bharatiya Nagarik Suraksha Sanhita, 2023” shall be substituted.	Amendment of section 61.
2 of 1974. 46 of 2023.	45	33. In section 64 of the principal Act,— (a) in sub-section (1),—	Amendment of section 64.

(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)



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-08042025-262340
CG-DL-E-08042025-262340

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1615]

नई दिल्ली, मंगलवार, अप्रैल 8, 2025/चैत्र 18, 1947

No. 1615]

NEW DELHI, TUESDAY, APRIL 8, 2025/CHAITRA 18, 1947

अल्पसंख्यक कार्य मंत्रालय
अधिसूचना

नई दिल्ली, 8 अप्रैल, 2025

का.आ. 1646(अ).—केन्द्रीय सरकार, वक्फ (संशोधन) अधिनियम, 2025 (2025 का 14) की धारा 1 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 8 अप्रैल, 2025 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के उपबंध प्रवृत्त होंगे।

[फा.सं.12/3/2023-वक्फ]
शेरशा सी शेख मोहिद्दीन, संयुक्त सचिव

MINISTRY OF MINORITY AFFAIRS

NOTIFICATION

New Delhi, the, 8th April, 2025

S.O. 1646(E).—In exercise of the powers conferred by sub-section (2) of section 1 of the Waqf (Amendment) Act, 2025 (14 of 2025), the Central Government hereby appoints the 8th day of April, 2025 as the date on which the provisions of the said Act shall come into force.

[F. No. 12/3/2023-Waqf]

SHERSHA C SHAIK MOHIDDIN, Jt. Secy.

IN THE SUPREME COURT OF INDIA

EXTRAORDINARY JURISDICTION

I. A. No. _____ OF 2025

IN

WRIT PETITION (CIVIL) No. _____ OF 2025

IN THE MATTER OF:

MANSOOR ALI KHAN

... Petitioner

VERSUS

UNION OF INDIA & ORS.

... Respondents

AN APPLICATION FOR INTERIM DIRECTIONS

To

The Hon'ble Chief Justice of India

and his companion Justices

of the Supreme Court of India.

**The humble application of
the Petitioners abovenamed**

MOST RESPECTFULLY SHOWETH:

- 1. The Petitioner is a politician and social worker engaged in the administration and management of religious, social, cultural and educational institutions established for the betterment and advancement of the Muslim community in Karnataka and other sections of society. The Petitioner and his family have been playing a seminal role in the efficient, effective and just utilisation of Waqf assets through several charitable, educational and religious trusts and institutions that he leads.**

2. The Petitioner apprehends that the implementation of Sections 3, 4, 5, 6, 10, 12, 15, 16, 21, 29, 33, 39, 43 and 44 of the Waqf (Amendment) Act, 2025 would cause irreversible and irretrievable damage to rights and interest of Muslim Waqfs, Mutawallis and the community at large.
3. The impugned Act, by way of Sections 3, 4, 5, 6, 10, 12, 15, 16, 21, 29, 33, 39, 43 and 44, significantly changes the governance regime for the management of Waqf properties while denuding the very definition of Waqf. The Act came into force on 08.04.2025. The aforesaid provisions of the Act enable Fundamentally, the Waqf (Amendment) Act, 2025 infringes upon fundamental rights guaranteed under Articles 14, 15(1), 19(1)(a) read with 19(1)(c), 21, 25, 26, 29, 30 and the constitutional rights guaranteed under Article 300A of the Constitution.
4. The Petitioner submits that the Waqf (Amendment) Act, 2025 introduces a regime of administering religious and charitable endowment of the minority Muslim community that enables a mala fide, unjust, prejudiced and iniquitous expropriation of property dedicated for pious and sacred ends. It encodes a baseless suspicion of the erstwhile statutory institutions, namely the Survey Commissioner, the State Waqf Board, the Chief Executive Officers, the Central Waqf Council and the Waqf Tribunal under the Waqf Act, 1995. The public dissemination of fear and concern of 'state property takeover' is at the root of the misconceived distrust. The presence of elected Muslim members of legislatures, the legal profession and civil society in the erstwhile statutory

institution does not render these institutions worthy of distrust.

5. Furthermore, the Section 3 of the amending Act seeks to supersede authoritative pronouncements of this Hon'ble Court without removing the basis of the said pronouncements. It is settled law in *NHPC Ltd. v. State of Himachal Pradesh Secretary & Ors., 2023 INSC 810* that such an approach is constitutionally impermissible.
6. Therefore, the Petitioner has a strong prima facie case for declaration of the Waqf (Amendment) Act, 2025 as unconstitutional. The provisions of the Act postulate and mandate an immediate change of status quo of Waqf properties, severely prejudicing the usage and possession of the same by members of the Islamic religious denominations. Thus, the balance of convenience lies in the favor of the Petitioner as the operation of the Act would lead to an imminent change of status quo on several Waqf properties. The denial of relief to the Petitioner would cause irreparable harm.
7. That the present application is *bona fide* and in the interest of justice.

PRAYER

In light of the facts and circumstances stated hereinabove, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a. Pass a direction, order, or appropriate writ for an immediate stay on the operationalization of Sections 4, 5, 6, 10, 12, 15,

16, 21, 29, 33, 39, 43 and 44 of the Waqf (Amendment) Act, 2025;

- b.** In the alternative, pass a direction, order, or appropriate writ to stay the operation of Proviso to Section 3C (2) to limit the draconian effect of the same on existing waqf properties; and
- c.** Pass any other orders/directions that may be deemed fit and proper in the interest of justice.

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

Filed by:

Date: 13.04.2025

Place: New Delhi



Ms. Shivangi Anand
Advocate for the Petitioner

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

IN THE MATTER OF:-

MANSOOR ALI KHAN

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT

AFFIDAVIT

I, Mansoor Ali Khan, [REDACTED]

Petitioner in the above-captioned petition do hereby solemnly affirm on oath as under:-

1. That I am the Petitioner in the above captioned Petition and as such am well conversant with the facts and circumstances of the present case, and thereby competent and I am duly authorised to affirm this affidavit on behalf of the Petitioner.
2. That I have read the contents of the application from paras ____ to ____ . I state that the facts stated in the application are true and correct to best of my knowledge and belief and nothing has been concealed therein. I state that the annexures if any are true/true translated copies of their respective originals.
3. The contents of the application have been read out and and explained to me in vernacular.


DEPONENT

VERIFICATION:

I, the deponent above named, do hereby verify that the contents para 1 to 3 of my affidavit are true to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at B.lore on this 14 APR 2025 day of April, 2025


DEPONENT



SWORN TO BEFORE ME


ARAVIND PATIL, G.G. B.A., L.L.B.
ADVOCATE & NOTARY
28, 12th Main, Near Old Sub Register Office
4th Block Jayanagar Bengaluru 560 011

14 APR 2025

200

200

IN THE SUPREME COURT OF INDIA

EXTRAORDINARY JURISDICTION

I. A. No. _____ OF 2025

IN

WRIT PETITION (CIVIL) No. _____ OF 2025

IN THE MATTER OF:

MANSOOR ALI KHAN

... Petitioner

VERSUS

UNION OF INDIA & ORS.

... Respondents

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3.	NA	----
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10.	Vakalatnama & Memo of Appearance	00
TOTAL		Rs. 610

Date: 13.04.2025

Place: New Delhi

Ms. Shivangi Anand

Advocate for the Petitioner

VAKALATNAMA

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

IN THE MATTER OF:-

Mansoor Ali Khan

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT

I, Mansoor Ali Khan, s/o K Rahman Khan, aged 52 years, the Petitioner in the above Petition/Suit Appeal/Reference do hereby appoint and retain **SHIVANGI ANAND, Advocate**, Supreme Court to act and appear to me/us in the Suit/Appeal/Reference and on my/our behalf to conduct and prosecute or (defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and applications for Review, to file and obtain return of documents, and to deposit and receive money on my/our behalf in the said Suit/Appeal/Petition/Reference and in applications of Review and to represent me/us and to take all necessary steps on my behalf in the above matter.

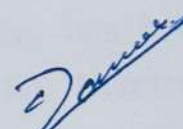
I/We agree to ratify all acts done by the aforesaid advocate in pursuance of this authority.

Date this the 14th day of APRIL, 2025

ACCEPTED, IDENTIFIED AND CERTIFIED

[MS. SHIVANGI ANAND]

Advocate on Record
Supreme Court of India
3/44, LGF Jangpura-B
New Delhi - 110014

PETITIONER

MEMO OF APPEARANCE

The Registrar,
Supreme Court of India,
New Delhi.



Sir,

Please enter my appearance on behalf of Petitioner in the above mentioned matter.

Dated:

[MS. SHIVANGI ANAND]
AOR CODE : 4061

Advocate for the Petitioner