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EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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

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

LOK SABHA

The following Bills were introduced in Lok Sabha on 8th August, 2024:—

Bill No. 109 of 2024

A Bill further to amend the Waqf Act, 1995.

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

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

Short title and commencement.

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

43 of 1995.

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

Amendment of section 1.

Amendment of section 3.

3. In section 3 of the principal Act,—

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

‘(aa) “Aghakhani waqf” means a waqf dedicated by an Aghakhani waqif;’;

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

‘(ca) “Bohra waqf” means a waqf dedicated by a Bohra waqif;’;

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

‘(da) “Collector” includes the Collector of land-revenue of a district, or the Deputy Commissioner, or any officer not below the rank of Deputy Collector authorised in writing by the Collector;’;

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

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

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

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

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

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

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

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

(viii) clause (p) shall be omitted;

(ix) in clause (r),—

(a) in the opening portion, for the words “any person, of any movable or immovable property”, the words “any person practising Islam for at least five years, of any movable or immovable property, having ownership of such property,” shall be substituted;

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

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

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

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

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

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

Certain conditions of waqf.

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

3B. (1) Every waqf registered under this Act, prior to the commencement of the Waqf (Amendment) Act, 2024, shall file the details of the waqf and the property dedicated to the waqf on the portal and database, within a period of six months from such commencement.

Filing of details of waqf on portal and database.

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

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

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

(c) the deed of waqf, if available;

(d) the present mutawalli and its management;

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

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

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

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

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

(ii) purely religious purposes;

(iii) charitable purposes; and

(iv) any other purposes;

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

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

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

Wrongful declaration of waqf.

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

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

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

(4) The State Government shall, on receipt of the report of the Collector, direct the Board to make appropriate correction in the records.”.

Amendment of
section 4.

5. In section 4 of the principal Act,—

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

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

“(1) Any survey of auqaf pending before the Survey Commissioner, on the commencement of the Waqf (Amendment) Act, 2024, shall be transferred to the Collector having jurisdiction and the Collector shall make the survey in accordance with the procedure in the revenue laws of the State, from the stage such survey is transferred to the Collector, and submit his report to the State Government.”;

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

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

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

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

Amendment of
section 5.

6. In section 5 of the principal Act,—

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

(b) in sub-section (2), after the words “Shia auqaf”, the words “or Aghakhani auqaf or Bohra auqaf” shall be inserted;

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

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

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

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

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

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

Amendment of
section 6.

7. In section 6 of the principal Act,—

(a) in sub-section (1),—

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

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

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

(iv) the second proviso shall be omitted;

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

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

Amendment of section 7.

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

(ii) the words “and the decision of the Tribunal thereon shall be final” shall be omitted;

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

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

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

Provided also that”.

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

Amendment of section 9.

“(2) The Council shall consist of—

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

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

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

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

(ii) Chairpersons of three Boards by rotation;

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

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

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

(e) one Advocate of national eminence;

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

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

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

Provided further that two members appointed under this sub-section shall be non-Muslim.”.

Amendment of section 13.

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

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

Amendment of section 14.

11. In section 14 of the principal Act,—

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

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

(a) a Chairperson;

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

(ii) one Member of the State Legislature;

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

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

(ii) one eminent scholar of Islamic theology;

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

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

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

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

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

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

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

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

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

Provided also that the elected members of Board holding office on the commencement of the Waqf (Amendment) Act, 2024 shall continue to hold office as such until the expiry of their term of office.

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

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

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

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

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

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

Amendment of section 16.

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

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

Amendment of section 17.

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

Omission of section 20A.

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

Amendment of section 23.

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

16. In section 32 of the principal Act,—

Amendment of section 32.

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

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

17. In section 33 of the principal Act,—

Amendment of section 33.

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

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

18. In section 36 of the principal Act,—

Amendment of section 36.

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

“(1A) On and from the commencement of the Waqf (Amendment) Act, 2024, no waqf shall be created without execution of a waqf deed.”;

(b) in sub-section (3),—

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

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

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

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

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

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

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

(7A) Where the Collector in his report mentions that the property, wholly or in part, is in dispute or is a Government property, the waqf in relation to such part of property shall not be registered, unless the dispute is decided by a competent court.”;

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

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

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

(10) No suit, appeal or other legal proceeding for the enforcement of any right on behalf of any waqf which have not been registered in accordance with the provisions of this Act, shall be instituted or commenced or heard, tried or decided by any court after expiry of a period of six months from the commencement of the Waqf (Amendment) Act, 2024.”.

19. In section 37 of the principal Act,—

(a) in sub-section (1),—

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

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

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

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

Omission of section 40.

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

Amendment of section 46.

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

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

22. In section 47 of the principal Act,—

Amendment of section 47.

(a) in sub-section (1),—

(i) in clause (a),—

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

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

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

Provided that the State Government shall, while preparing such panel of auditors, specify the remuneration to be paid to such auditors;”;

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

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

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

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

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

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

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

23. In section 48 of the principal Act,—

Amendment of section 48.

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

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

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

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

Insertion of new section 50A.

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

Disqualification of mutawalli.

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

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

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

(c) is an undischarged insolvent;

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

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

(f) has been on a previous occasion—

(i) removed as a mutawalli; or

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

Amendment of section 52.

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

Amendment of section 52A.

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

(a) in sub-section (1),—

(i) for the words “rigorous imprisonment”, the word “imprisonment” shall be substituted;

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

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

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

Amendment of section 55A.

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

Amendment of section 61.

28. In section 61 of the principal Act,—

(a) in sub-section (1),—

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

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

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

(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.”.

29. In section 64 of the principal Act,—

Amendment of section 64.

(a) in sub-section (1),—

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

“(g) has failed, without reasonable excuse, to maintain regular accounts for one year or has failed to submit, within one year, the yearly statement of accounts, as required by section 46; or”;

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

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

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

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

Amendment of section 65.

31. In section 67 of the principal Act,—

Amendment of section 67.

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

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

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

32. In section 69 of the principal Act,—

Amendment of section 69.

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

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

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

Amendment of section 72.

33. In section 72 of the principal Act,—

(a) in sub-section (1), for the words “seven per cent.”, the words “five per cent.” shall be substituted;

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

Amendment of section 73.

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

Amendment of section 83.

35. In section 83 of the principal Act,—

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

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

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

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

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

“(4) Every Tribunal shall consist of two members—

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

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

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

Provided further that a Tribunal established under this Act, prior to the commencement of the Waqf (Amendment) Act, 2024, shall continue to function as such until the expiry of the term of office of the Chairman and the members thereof under this Act.”;

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

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

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

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

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

36. In section 84 of the principal Act,—

Amendment of section 84.

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

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

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

37. In section 91 of the principal Act,—

Amendment of section 91.

(a) in sub-section (1),—

1 of 1894.

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

30 of 2013.

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

1 of 1894.

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

30 of 2013.

(c) in sub-section (4),—

1 of 1894.

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

30 of 2013.

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

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

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

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

Amendment of section 100.

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

Amendment of section 101.

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

Omission of section 104.

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

Omission of sections 107, 108 and 108A.

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

Insertion of new section 108B.

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

Power of Central Government to make rules.

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

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

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

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

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

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

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

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

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

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

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

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

Amendment of section 109.

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

(a) clause (ia) shall be omitted;

(b) clause (iv) shall be omitted;

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

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

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

Amendment of section 110.

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

STATEMENT OF OBJECTS AND REASONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. The Bill seeks to achieve the above objectives.

NEW DELHI;

KIREN RIJIJU.

The 6th August, 2024.

Notes on Clauses

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Clause 17 of the Bill seeks to amend section 33 relating to powers of inspection by Chief Executive Officer or person authorised by him so as to omit in the words in the proviso in sub-section (4) of section 33 related to “and the Tribunal shall have no power to make any order staying pending the disposal of the appeal, the operation of the order made by the Chief Executive Officer under sub-section (3)”; and to omit sub-section (6).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Clause 32 of the Bill seeks to amend section 69 related to power of Board to frame scheme for administration of waqf so as to omit sub-section (3) and insert a proviso in sub-section (4) that no such order shall be made under this sub-section unless a written notice inviting objections from the person likely to be affected and general public, in such manner as may be prescribed by the State Government.

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

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

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

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

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

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

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

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

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

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

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

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

FINANCIAL MEMORANDUM

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

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 41 of the Bill seeks to insert a new section 108A which confers power upon the Central Government to make rules. The matters on which rules may be made, *inter alia*, relate to—(a) the waqf asset management system for the registration, accounts, audit and other details of waqf and Board under clause (ka), and the manner of payments for maintenance of widow, divorced woman and orphan under sub-clause (iv) of clause (r), of section 3; (b) any other particulars under clause (j) of sub-section (2) of section 3B; (c) the manner in which details of waqf to be uploaded under sub-section (2A) of section 5; (d) any other particulars under clause (f) of sub-section (3) of section 36; (e) the manner in which the Board shall maintain the register of auqaf under sub-section (1) of section 37; (f) such other particulars to be contained in the register of auqaf under clause (f) of sub-section (1) of section 37; (g) form and manner and particulars of the statement of accounts under sub-section (2) of section 46; (h) the manner for publishing audit report under sub-section (2A) of section 47; (i) the manner of publication of proceedings and orders of Board under sub-section (2A) of section 48; and (j) any other matter which is required to be, or may be, prescribed.

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

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