

**DIARY NO. 19435/2025**

**DECLARATION**

All defects have been duly cured. Whatever has been added/deleted/modified in the petition is the result of curing of defects and nothing else. Except curing the defects, nothing has been done. Paper books are complete in all respects.



**YASH S VIJAY**

Advocate for the Petitioner

Code-3775

Date:- 15/04/2025

Contact No: - 9953300973

## MODIFIED CHECK LIST

1.	(i) Whether SLP (Criminal) has been filed in Form No. 28 with certificate as per Notification dated 17.6.1997.	NA
	(ii) Whether the prescribed court fee has been paid.	Yes
2.	(i) Whether proper and required numbers of paper-books (1+3) have been filed?	Yes
	(ii) Whether brief list of dates/ events has been filed?	Yes
	(iii) Whether paragraphs and pages of paper books have been numbered consecutively and correctly noted in Index?	Yes
3.	Whether the contents of the petition/appeal, applications and accompanying documents are clear, legible and typed in double space on one side of the paper.	Yes
4.	Whether the petition and the application bear the signatures of the counsel/In-person.	Yes
5.	Whether an affidavit of the petitioner in support of the petition/appeal/ application has been filed, properly attested and identified.	Yes
6.	If there are any vernacular documents/portions/lines and translation of such documents are not filed, whether application for exemption from filing Official Translation, with affidavit and court fee, has been filed.	NA
7.	If a party in the court below has died, whether application for bringing LRs on record indicating the date of death, relationship, age and addresses along with affidavit and court fee has been filed.	NA
8.	(i) Whether the Vakalatnama has been properly executed by the Petitioners/ appellants and accepted and identified by the Advocate and Memo of Appearance filed.	Yes
	(ii) If a petitioner is represented through power of attorney, whether the original power of attorney in English/translated copy has been filed and whether application for permission to appear before the court has also been filed?	NA
	(iii)(a) Whether the petition is filed by a body registered, under any Act or Rules?	No
	(b) If yes, is copy of the Registration filed?	NA
	(iv)(a) Whether the person filing petition for such incorporated body has authority to file the petition?	NA
	(b) If yes, is proof of such authority filed	NA

9.	Whether the petition/appeal contains a statement in terms of order XVI/XXI of Supreme Court Rules as to whether the petitioner has filed any petition against the impugned order / Judgment earlier, and if so, the result thereof stated in the petition.	NA
10.	Whether certified copy of the impugned judgment has been filed and if certified copy is not available, whether an application for exemption from filing certified copy has been filed.	NA
11.	Whether the particulars of the impugned judgment passed by the Court(s) below are uniformly written in all the documents.	NA
12.	(i) Whether the addresses of the parties and their representation are complete and set out properly and whether detailed cause title has been mentioned in the impugned judgment and if not, whether the memo of parties has been filed, if required?	NA
	(ii) Whether the cause title of the petition/ appeal corresponds to that of the impugned judgment and names of parties therein?	NA
13.	Whether in case of appeal by certificate the appeal is accompanied by judgment and decree appealed from and order granting certificate.	NA
14.	If the petition/appeal is time barred, whether application for condonation of delay mentioning the no. of days of delay, with affidavit and court fee has been filed.	NA
15.	Whether the Annexures referred to in the petition are true copies of the documents before the Court below and are filed in chronological order as per list of dates.	Yes
16.	Whether the petition/appeal is confined only to the pleadings in the Court/Tribunal below and	NA
	If not whether application for taking additional grounds/documents with affidavit and court fee has been filed.	NA
17.	(i) In SLP/Appeal against the order passed in Second Appeal whether copies of the orders passed by the Trial Court and First Appellate Court have been filed.	NA
	(ii) If required copy of the judgment / order / notification / award etc. is not filed, whether letter of undertaking has been filed in civil matters?	NA
18.	In matters involving conviction whether separate proof of surrender in respect of all convicts or application for exemption from surrendering has been filed (Please see entitled judgment dated 16.6.2006 in CrI. Appeal No.685/2006 entitled Mayuram Subramanian Srinivasan Versus C.B.I) (Copy of surrender proof to be included in the paper books.)	NA

	Whether in case where proof of surrender/ separate certificate from the jail Authority has not been filed, an application for exemption from filing separate proof of surrender has been filed.	NA
19.	In case of quashing of FIR whether a copy of the petition filed before the High Court under section 482 of Cr.P.C. has been filed.	NA
20.	In case of anticipatory bail whether a copy of FIR or translated copy has been filed.	NA
21.	(i) Whether the complete listing proforma has been filled in, signed and included in the paper-books?	Yes
	(ii) If any identical matter is pending/ disposed of by Supreme Court, whether complete particulars of such matters have been given?	NA

Place:New Delhi

Date: 12.04.2025

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

**IN THE MATTER OF:**

TAMILAGA VETTRI KAZHAGAM

...PETITIONER

VERSUS

UNION OF INDIA

...RESPONDENT

ALONG WITH

I.A. NO. \_\_\_\_ OF 2025

(An application seeking stay of operation)

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

Filed on: 13.04.2025

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**ADVOCATE FOR THE PETITIONER:**

**YASH S VIJAY**

## RECORD OF PROCEEDINGS

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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:	Tamilaga Vettri Kazhagam
(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	No similar/batch matter pending
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	N.A.



	detention /custody undergone	
(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.
NEW DELHI DATE: 12.04.2025		AOR for Petitioner  (YASH S VIJAY) CC No.3775 <a href="mailto:chambers@yashsvijay.com">chambers@yashsvijay.com</a>

## B

### SYNOPSIS

By this petition, the Petitioner seeks to challenge the constitutionality of several provisions of the Waqf (Amendment) Act, 2025, which amended various Sections of the Waqf Act, 1995, on the grounds of violating Articles 14, 15, 19, 21, 25, 26, and 29 of the Constitution of India. *Inter alia*, it is contended that the provisions of the Act (as amended) violate religious freedoms guaranteed to persons of the Muslim community, insofar as it imposes restrictions on and unreasonably interferes with the dedication of waqf property and their management. A comparative analysis of how religious endowments are treated under Indian laws makes it clear that the Waqf (Amendment) Act, 2025, specifically deprives waqfs (and thereby Muslims and Islamic religious denominations) of autonomy in the management of their religious affairs under Article 26. Religious endowments for Christians, Sikhs, and Hindus are granted higher degrees of autonomy, something which is totally denied to Muslims as a natural consequence of the Waqf (Amendment) Act, 2025.

1. Section 3(ix)(a) of the Waqf (Amendment) Act, 2025, violates the Constitution, insofar as it enables only specified categories of Muslims to dedicate waqf property.

It is submitted that the amended Section 3(r) of the Act enables only those members of the Muslim community, who have been demonstrably practising the religion for five or more years, to dedicate properties as waqf. This creates an unintelligible differentia between two classes of Muslims, i.e. those who practising for more than five years and those for less than that year, without carrying any rational nexus with the object sought to be achieved with the said classification. This violates the 'classification' test under Article 14 stipulated by this Hon'ble Court in *Ram Krishna Dalmia v. S.R. Tendolkar*, AIR 1958 SC 538. Additionally, it

## C

impedes upon Muslims' freedom to profess their religion under Article 25, insofar as it imposes a requirement to demonstrate their practice of religion before a third-party (without prescribing the manner in which this is to be done), in order to be eligible for dedicating properties as waqf.

Furthermore, it impedes the freedom of conscience under Article 25 of those who have recently converted to Islam and/or do not belong to the Muslim community, insofar as it imposes a total embargo on them dedicating any property as waqf for any purpose. It also violates the freedom of expression under Article 19(1)(a), insofar as one would like to freely express their religious views by dedicating waqf properties despite not being an active follower of the Islamic faith.

In addition, this amended provision suffers from vagueness, as it stipulates that there should be 'no contrivance involved in the dedication of such property'. It does not define the term 'contrivance': in effect, it ends up providing unchecked and arbitrary discretion to Collectors to exclude properties from waqf status, by not providing any parameters for determining whether any 'contrivance' has been involved in the dedication of any waqf property.

2. Sections 3(ix)(b), 18(a), and 18(c) of the Waqf (Amendment) Act, 2025, violate the Constitution, insofar as they amend protections for gifts in Islamic law.

Section 3(i) of the Act, which defines the term 'mutawalli', is now amended to omit the phrase 'either verbally or' – hence, a person can be appointed as a mutawalli only under a deed or instrument by which a waqf is created. Similarly, the amendment to Section 36(4) omits 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". Additionally, under Section 36(1A)

## D

of the amended Waqf Act, no waqf shall be created without executing a waqf deed, on and from the commencement of the Waqf (Amendment) Act, 2025. While these provisions now intend to rule out any scope for oral/verbal forms of creation of waqf, the same is an unreasonable restriction on the right enjoyed by members of the Muslim community under Articles 25 and 26: it impinges upon the fundamental principle of gifts in Islamic law ('hiba'), which can be executed orally as a matter of custom and can be registered as a matter of choice. The Waqf (Amendment) Act, 2025, disqualifies all forms of waqf dedications made without executed documentation, denying to all persons their right to make religious charity in the form of property as per their conscience and faith.

3. Sections 3(ix)(b) and 18(c) of the Waqf (Amendment) Act, 2025, violates the Constitution, insofar as they remove protections available for properties declared as 'waqf by user'.

The Waqf (Amendment) Act, 2025, omits Section 3(r)(i) of the Waqf Act, thereby doing away with 'waqf by user' – even though the said provision is said to carry prospective effect, it does not recognise how the concept of 'waqf by user' is deeply enshrined in Islamic law, and explicitly forbids its continuance and benefit for those intending to create 'waqf by user' in the future. This concept essentially recognises charitable/religious endowments based on their continuous use for religious, charitable, and pious purposes without interruption.

The Waqf Act, 1995, formally codified the principle of 'waqf by user', whose legal recognition protected the legal status of religious sites which often lacked formal paperwork due to historical and administrative gaps. Many sites of sacred importance to Muslims have been established through community practices as well as oral declarations, with their waqf status affirmed on the basis of consistent public usage from generations

## E

to generations. To expect that such practices can be changed by the use of law as a tool (under the guise of 'reform') would essentially violate Muslims' freedom to freely practise their religion under Article 25 of the Constitution, as well as their freedom to manage their own religious affairs under Article 26. This is especially relevant when a Constitution Bench of this Hon'ble Supreme Court, in *M. Siddiq v. Mahant Suresh Das*, (2020) 1 SCC 1, has categorically upheld the status of 'waqf by user' as a valid form of dedication of properties as waqf, as having its roots in Islamic *sharia* law. The Waqf (Amendment) Act, 2025, denies legal recognition, protection, and regulation to several undocumented properties which can potentially be classified as 'waqf by user' in the future.

By excluding religious sites from availing the status of 'waqf by user' (even if with prospective effect), the amended law exposes them to potential State appropriation as well as encroachment. Furthermore, the emphasis on the execution of formal documentation like a deed creates enormous practical difficulties for smaller waqf institutions. These new requirements are extremely onerous for those having low access to resources, procedural and legal awareness, and has the potential to create more property litigation and flood our administrative setup and judiciary with disputed claims over waqf properties. This would, in effect, defeat the very objects for which it had been promulgated, whilst impeding Muslims' freedom to manage their religious affairs, including the acquisition and management of movable and immovable property under Article 26.

Hence, amended Sections 3(i), 3(r)(i) and 36(4), read in conjunction, infringe upon an 'essential religious practice' for the Muslim community, as defined by this Hon'ble Court in *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, AIR 1954 SC 282 (and as refined in a catena of judgements

## F

thereafter). Furthermore, the said provision does not constitute the least restrictive measure intended to attain the legislative objects defined in the Statement of Objects and Reasons accompanying the Waqf (Amendment) Bill, 2025. The least restrictive measure, instead, could have been to subject 'waqf by user' properties to some degree of regulation and to institute supportive and transitional measures from the informal waqf practices currently in place to the newly mandated formal documentation requirements. The amendment is not constitutional, because it does not undertake this approach and fails the test of 'proportionality' laid down by this Hon'ble Court in various judgments.

4. Sections 5, 9, 14, and 19(a) of the Waqf (Amendment) Act, 2025, violate the Constitution, insofar as they amend the composition of the Central Waqf Council and State Waqf Boards, and vest arbitrary control with the State over waqf properties.

The Waqf (Amendment) Act, 2025, further impedes upon Muslims' freedom to manage their religious affairs under Article 26 of the Constitution, by stipulating the entry of non-Muslims into the Central Waqf Council and State Waqf Boards under Sections 9 and 14 of the Act respectively. It is erroneous to suggest, as the Union of India has attempted to, that the presence of non-Muslims is mandated only for administrative purposes relating with waqf properties, without implicating any religious activities. This is because in Islamic law, the ownership of waqf properties is vested with the Almighty Allah – any decisions taken with respect to the administration or management of these properties should ideally be vested with members of the Muslim community.

The unamended Section 9 of the Act respected this sentiment and clearly stipulated that aside from the Minister of in-charge of waqf (being an *ex officio* member), the Central Government shall appoint all other members

## G

to the Central Waqf Council only from amongst Muslims. Similarly, Section 14 also stipulated only Muslim membership of the State Waqf Board, aside from the post of its Chairperson. However, the amended Act clearly limits the categories of members who shall be appointed from the Muslim community, and also mandatorily stipulates the appointment of two non-Muslims in the Central Waqf Council as well as State Waqf Boards, that too over and above the *ex officio* members (who need not belong to the Muslim community to begin with).

Furthermore, the Act unreasonably classifies members of the Central Waqf Council and State Waqf Boards, by prescribing a category of members who shall belong only to the Muslim community, while the rest can belong to the non-Muslim communities. The said classifications are made without any intelligible differentia, and do not have a rational nexus with the attaining the legislative object of promoting effective management of waqf properties. In turn, the Act in its present form has been deliberately promulgated to retain the hypothetical possibility in which the Central Waqf Council and the State Waqf Boards shall have a majority of non-Muslim members, simply because it does not prescribe any maximum or minimum number of non-Muslim members to be appointed therein.

To this end, it is important to note that non-Muslims, under the new composition of the Central Waqf Council and State Waqf Boards irrespective of whether in the majority or minority, shall not take charge of only secular aspects of administration of waqf properties. Rather, they will have a direct say in ensuring the use and application of waqf property for charitable, pious, religious, and other purposes: they will have a significant hand in determining non-secular matters associated with a property whose ownership has been vested in the hands of the Almighty Allah.

## H

Similarly, Section 19(a) of the Waqf (Amendment) Act, 2025, severely compromises on the sectarian autonomy of the State Waqf Boards. It repeals the rule which distinctly requires Sunni Waqf Boards to be managed by members of the Sunni Muslim sect, while Shia Waqf Boards were earlier required to be managed by Shia members. It is a direct infringement both religious denominations' right to freely manage religious affairs guaranteed under Article 26, without unreasonable interference.

Furthermore, under Section 11 of the Waqf (Amendment) Act, 2025, all members of the State Waqf Boards shall be nominated by the respective State Governments. However, the amended law does not provide any indicia to channelise the exercise of a State Government's discretion (except for enlisting the categories of people from amongst whom Muslims can be appointed). Independently, and when read in context of the possibility of a non-Muslim majority in the Central Waqf Council and the State Waqf Boards, these provisions in the Waqf (Amendment) Act, 2025, constitute an unreasonable interference with Muslim denominations' freedom to manage their own religious affairs under Article 26 of the Constitution. The amended law flies in the face of judgments of this Hon'ble Court (such as *Ratilal Panachand Gandhi v. State of Bombay*, AIR 1954 SC 388 and *Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan*, AIR 1963 SC 1638), whereby the sanctity of Article 26(d) in guaranteeing a religious denomination's right to administer its property was discussed and emphasised on. The law, in its present form, substitutes autonomy in the management of religious affairs with absolute control of the State.

Furthermore, the exclusion of government properties from the scope of being dedicated as waqf properties under Section 3C of the Waqf Act (as inserted by Section 5 of the Waqf (Amendment) Act, 2025), is at odds with



# I

this Hon'ble Court's judgment in Mahant Ram Kishan Dass v. State of Punjab, AIR 1981 SC 1576. To this end, this provision wholly excludes those perceived to be 'government properties' within the subjective satisfaction of government officials from the scope of being eligible for dedication as waqf properties. It vests arbitrary power with the State to consider/declare any property as 'government property' as defined under new Section 3(fb) of the Act. This is further compounded by how the said provision also draws an adverse presumption against such eligibility by declaring that pending an inquiry on this matter, such property shall not be treated as waqf property.

5. Sections 9, 14, and 40A of the Waqf (Amendment) Act, 2025, violate the Constitution, insofar as they discriminate between waqf properties and properties held by other religious denominations.

It should also be noted that the Waqf (Amendment) Act, 2025, treats Muslims' waqf properties on a totally different basis as compared with properties owned, established, and managed by members of other religions (as subject to State regulation). It is submitted that while Hindu religious institutions retain the freedom to appoint/elect/nominate only members of their own community in bodies responsible for the administration of their properties, Muslims in India shall not only be denied such autonomy in choosing/nominating/electing the membership of the bodies governing waqf properties, but also be deprived of fair representation from members of their own faith, all in the name of 'State regulation' and 'reform'. Such treatment accorded to members of the Islamic faith is discriminatory on grounds of religion under Article 15 of the Constitution.

Additionally, under Section 40A of the Waqf (Amendment) Act, 2025, the Limitation Act, 1963, shall apply to proceedings relating to any

## **J**

claim/interest concerning immovable properties comprised in a waqf. The Limitation Act is not applied to religious endowments to protect them from claims of adverse possession by potential encroachers, upon the expiry of limitation period of 12 years. However, the new version of Section 107 of the Waqf Act deprives already existing 'waqf by user' properties from protections they enjoyed earlier by virtue of the inapplicability of the Limitation Act, despite the Waqf (Amendment) Act, 2025, purportedly not having a retrospective effect. Additionally, the treatment meted out to waqf properties vis-à-vis endowments of other religious denominations is discriminatory and falls foul of Article 15 of the Constitution. It exposes properties used by Muslim religious denominations to encroachment, and denies to them the freedom to own and acquire immovable property under Article 26(c) of the Constitution.

Hence, this Writ Petition.

# K

## LIST OF DATES & EVENTS

DATE	EVENT
1913	The Mussalman Wakf Validating Act, 1913 (Act No. VI of 1913) was promulgated by the Governor-General of India in Council. The Act declared Muslims' right to settle their properties as waqf in favour of their families, children and descendants.
1923	The Mussalman Wakf Act, 1923 (Act No. XLII of 1923) was legislated by the Central Legislative Assembly: despite being enacted by a colonial regime, it marked a crucial step forward in the law governing waqfs. It laid down the basis for regulating, creating, maintaining, and administering waqfs and their properties.
26.01.1950	<p>The Constitution of India took effect, whereby the Republic of India adopted the principles of equality and secularism as the basic structure governing its polity. Fundamental Rights were guaranteed to all citizens, which included, <i>inter alia</i>, protections against discrimination and denial of equality under Articles 14-15, right to six core freedoms under Article 19, and the right to life and personal liberty under Article 21.</p> <p>Additionally, all persons are guaranteed the freedom of conscience and to freely practise, profess, and propagate their religion under Article 25, subject to public order, morality, health, and other Fundamental Rights. Furthermore, Article 26 guaranteed to every religious</p>

## L

	<p>denomination or any section thereof, the right to (subject to public order, morality, and health):</p> <ul style="list-style-type: none"><li>(a) Establish and maintain institutions for religious and charitable purposes;</li><li>(b) Manage its own affairs in matters of religion;</li><li>(c) Own and acquire movable and immovable property; and</li><li>(d) Administer such property in accordance with law.</li></ul> <p>Article 29 guaranteed, to any section of citizens (including minorities) residing within the territory of India, the Fundamental Right to conserve their distinct script, language, and culture.</p>
1954	<p>The Parliament of India enacted the Waqf Act, 1954, with the stated objective of enabling better administration and supervision of waqfs, as an improvement over the Act of 1923. The law sought to uphold the sanctity of waqf properties as endowed by donors in the name of the Almighty Allah, in the quest to protect them from possible manipulation and/or encroachments.</p>
1984	<p>The Waqf (Amendment) Act, 1984, was passed by the Parliament of India. Hereby, special tribunals were constituted for determining any dispute, question or other matter relating to waqf properties.</p>
1995	<p>The Waqf Act, 1995, was enacted to overhaul the former regime governing waqf properties. It not only strengthened powers of State Waqf Boards, but also required stringent maintenance of property records and digitisation of data,</p>

## M

	as steps aimed at maintaining transparency and accountability.
2013	The Waqf (Amendment) Act, 2013 enabled non-Muslims to endow waqf properties in the name of the Almighty Allah. It also expanded the jurisdiction of Waqf Tribunals to cover landlord-tenant disputes (and the determination of their rights/obligations).
08.08.2024	Waqf (Amendment) Bill, 2024 (No. 109 of 2024) was introduced in the Lok Sabha, to further amend the Waqf Act, 1995. On the same day, it was referred to the Joint Parliamentary Committee.
28.01.2025	The draft report of the Joint Parliamentary Committee was circulated to its members, a night before the date appointed for its final consideration and adoption.
29.01.2025	The draft report was approved by the Joint Parliamentary Committee.
02.04.2025 & 03.04.2025	The Hon'ble Minister of Minority Affairs, Shri Kiren Rijiju, introduced the Waqf (Amendment) Bill, 2025 in the Lok Sabha for consideration. The Bill was passed late at night after considerable discussion on one day and upon the incorporation of certain amendments moved by members of the Treasury Benches (which were not subject to adequate discussion before the Joint Parliamentary Committee).
03.04.2025 & 04.04.2025	The Waqf (Amendment) Bill, 2025 was introduced in the Rajya Sabha, and was passed late at night after considerable discussion on one day.

## N

05.04.2025	<p>The Waqf (Amendment) Act, 2025, secured assent from the Hon'ble President of India, and was notified in the Official Gazette.</p> <p>A true copy of the Waqf (Amendment) Act, 2025 (as notified in the Gazette of India CG-DL-E-05042025-262316, dated 05.04.2025), is annexed herewith and marked as <b>ANNEXURE P-1 (pages 32 to 46)</b>.</p>
08.04.2025	<p>The impugned Waqf (Amendment) Act, 2025, entered into force with full force and effect.</p>

IN THE SUPREME COURT OF INDIA

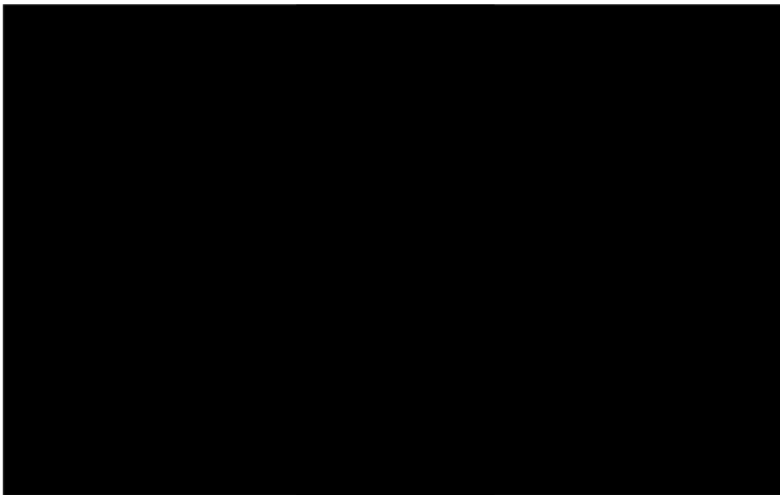
EXTRAORDINARY JURISDICTION

WRIT PETITION (CIVIL) NO. \_\_\_\_ OF 2025

(Under Article 32 of the Constitution of India read with Order  
XXXVIII of the Supreme Court Rules, 2013)

**IN THE MATTER OF:**

**TAMILAGA VETTRI KAZHAGAM**



**...PETITIONER**

VERSUS

**UNION OF INDIA**

Through Secretary

Ministry of Minority Affairs

11<sup>th</sup> Floor, Pandit Deendayal Antyodaya Bhawan,

CGO Complex, Lodhi Road,

New Delhi-110003

**...RESPONDENT**

**WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF  
INDIA READ WITH ORDER XXXVIII OF THE SUPREME COURT**

**RULES, 2013, CHALLENGING THE CONSTITUTIONALITY OF PROVISIONS OF THE WAQF (AMENDMENT) ACT, 2025**

TO,

THE HON'BLE CHIEF JUSTICE

AND HIS COMPANION JUSTICES OF THE

HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF

THE PETITIONER HEREIN

**MOST RESPECTFULLY SHOWETH THAT:**

1. This petition is filed under Article 32 of the Constitution of India, to challenge the constitutionality of various provisions of the Waqf (Amendment) Act, 2025, which amended several Sections of the Waqf Act, 1995, on the grounds of violating Articles 14, 15, 19, 21, 25, and 26 of the Constitution. The Act, having been passed by both Hon'ble Houses of the Parliament of India, received the assent of the Hon'ble President of India on 05.04.2025.
2. The Petitioner, whose name translates in English as the 'Tamil Nadu Victory Federation', is a political party founded in 2024 by actor-turned-politician Mr. Joseph Vijay. The Petitioner believes in the causes of social justice, secularism, egalitarianism, and Marxism: it firmly stands by the ideologies advocated by Dr. B.R. Ambedkar and E.V. Ramasamy Naicker 'Periyar'. Its slogan is *Pirappokkum Ellaa Uyirkkum* (translating in English as 'All are equal by birth'). The Petitioner has taken a stand on various issues of general importance to the public, and currently has a membership of more than 1 crore



citizens of India. It is being represented in the present Petition by its General Secretary, Mr. N. Anand, having been authorised by the Petitioner's President vide letter dated 06.04.2025 (produced along with this Petition).

3. A Comparative Analysis of Treatment of Religious Endowments under Indian Law:

3.1. Before undertaking a deeper analysis into the provisions of the Waqf (Amendment) Act, 2025, and how it specifically deprives waqfs (and thereby Muslims and Islamic religious denominations) of autonomy in the management of their religious affairs under Article 26, a comparative analysis of the treatment of religious endowments under Indian law is merited.

3.2. Christian religious endowments (which primarily cover Church properties), are managed internally by Church authorities, trusts, and societies without a specific government body having oversight on them. The Catholic Church is a significant landowner in India, managing properties through trusts/charitable societies with an estimated value above Rs. 2,00,00,00,00,000/- (Rupees Twenty Thousand Crores only) as of 2017. Interestingly, these entities operate under general trust laws as well as the Societies Registration Act, 1860, which grant a high degree of autonomy. Unlike the Waqf Act, 1995, which governs Muslims, there is no Act dedicated to Christian properties and trusts, with their management handled by Church hierarchies (such as bishops and priests). Despite some rulings and calls for a reform in the law to govern Church properties, governmental control is currently low and autonomy enjoyed by the endowment is high.

- 3.3. Similarly, Sikh religious endowments, i.e. mainly gurdwaras, are managed by bodies such as the Shiromani Gurdwara Parbandhak Committee ('SGPC') or similar committees. These are elected directly by the Sikh community under the Sikh Gurdwaras Act, 1925. The SGPC, responsible for gurdwaras in Punjab, Himachal Pradesh, and Chandigarh, administers key sites like the Darbar Sahib in Amritsar. This electoral process ensures high autonomy, with management by community-chosen representatives rather than government appointees. The Gurdwaras Act, enacted by the British Punjab Government in 1925, establishes SGPC as a statutory body: however, its provisions seek to maintain the independence of the SGPC's operations, with low government control. This structure reflects the community's desire for self-governance, particularly highlighted by historical movements such as the Gurdwara Reform Movement.
- 3.4. Hindu religious endowments, primarily temples, are managed by departments in State Governments, such as the Hindu Religious and Charitable Endowments ('HR&CE') Department. For instance, the Tamil Nadu HR&CE Department, established under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, controls 36,425 temples, 56 mathas, and other endowments. This Department handles administration, finances, and property management, with officials appointed by the government. It is important to note that the basis for this State intervention lies in Article 25(2)(b) of the Constitution of India, which empowers the State to provide for 'social welfare and reform or the throwing open of Hindu religious

institutions of a public character to all classes and sections of Hindus’.

- 3.5. From the above, it can be concluded that religious endowments in India enjoy sufficient degree of autonomy to perform their functions and manage their religious affairs in accordance with Articles 25-26 of the Constitution. The officials involved in the management of these endowments invariably belong to those religious denominations generally, and government intervention, if any, finds basis not just in any statute, but in the *grund norm*, i.e. the Constitution itself.
4. Background to the History of the Waqf Act, 1995, and the Waqf (Amendment) Act, 2025:
  - 4.1. In Islam, charity forms a foundational pillar of the faith, going beyond the status of being merely a prescription. Waqf traces its origin to a system evolved in the religion’s early days, as a means for believers to give away their property for use of the larger community.
  - 4.2. Waqf refers to ‘charitable endowment’ in Islamic law, intending to operate as a welfare measure for socio-economic wellbeing within the Muslim community – this is not to suggest that non-Muslims cannot benefit from such endowments. However, the institution prevails as per canons and tenets of Islamic law as derived from the *sharia* law. It is a means for voluntarily dedicating property, in the name of the Almighty Allah, for charitable, religious, educational, and other noble purposes, thereby facilitating a self-sustaining mechanism for public welfare. This institution is particularly distinct within Islamic jurisprudence, whilst harbouring significant religious merit for endowers.

- 4.3. Therefore, the institution of ‘waqf’ forms an essential aspect of Islamic practice and tenets of Islamic law, with the dedication, management, and administration of such properties being entitled to protection under the Constitution of India. Waqf properties in India cover immovable assets including agricultural, commercial, and residential lands, along with sites of religious significance such as mosques, dargahs, shrines, graveyards, imambaras, and so on – these are managed by Waqf Boards set up under the Waqf Act, 1995, as promulgated by the Parliament. This law was intended to regulate the use and deployment of waqf properties for the general good of the community, in line with the tenets and canons of Islamic law. Many Muslims (and also several non-Muslims) have contributed to this cause wholeheartedly.
- 4.4. However, the Waqf (Amendment) Act, 2025, introduces several changes to the scheme of the Waqf Act, 1995. The Bill (as it was back then) was referred to the Joint Parliamentary Committee in 2024, and was reintroduced after considering its recommendations this year. It is submitted that while matters of religion are entirely outside the pale of law, the State can lawfully regulate a religious denomination’s administration of property under Article 26(d) of the Constitution – however, it should be noted that several amended provisions of the Waqf Act, 1995 (now called as the Unified Waqf Management, Empowerment, Efficiency and Development Act) fall foul of religious protections and equality guaranteed by the Constitution of India to all persons.

5. How the Waqf (Amendment) Act, insofar as it enables only specified categories of Muslims to dedicate Waqf property, falls foul of the Constitution:

5.1. Amended Section 3(r) of the Act enables only those members of the Muslim community, who have been demonstrably practising the religion for five or more years, to dedicate properties as waqf. This provision creates an unintelligible differentia between two classes of Muslims, i.e. those who practising for more than five years and those for less than that year, without any rational nexus with the object sought to be achieved with the said classification. This violates the 'classification' test under Article 14 stipulated by this Hon'ble Court in *Ram Krishna Dalmia v. S.R. Tendolkar*, AIR 1958 SC 538.

5.2. Furthermore, the amended law falls foul of Articles 14 and 15 of the Constitution – when juxtaposed with laws governing endowments in other religions, it is seen that these contain no similar restrictions/conditions on the eligibility for being an endower. This amounts to discrimination on the grounds of religion under Article 15, given that individuals belonging to other religions can freely dedicate property, irrespective of the time for which they may be practising or professing a particular religion. This is a denial of both equality before law as well as equal protection of the law.

5.3. It is submitted that the provision is diametrically opposite to the interpretation of Article 25 of the Constitution as adopted by this Hon'ble Court in *Sri Lakshmana Yatendrulu v. State of Andhra Pradesh*, AIR 1995 SC 2001:

“Article 25, as its language amplifies, assures to every person...freedom not only to entertain his religious beliefs, as

may be approved of by his judgment and conscience, but also exhibit his belief in such outwardly act as he thinks proper and to propagate or disseminate his ideas for the edification of others.”

5.4. The provision, as it stands, impedes upon Muslims’ freedom to profess their religion under Article 25, insofar as it imposes a requirement to be a practising Muslim for five or more years and to demonstrate their practice of religion before a third-party (without prescribing the manner in which this is to be done), to be eligible for dedicating properties as waqf. It is submitted that no other law in India governing religious endowments insists upon the endower to demonstrate their practice of a particular religion. To this end, this provision is a blatant violation of one’s freedom to determine how they wish to profess their religion under Article 25 of the Constitution. As this Hon’ble Court laid down in *Punjabrao v. Dr. D.P. Deshmukh*, AIR 1965 SC 1179:

“‘Profession’ of religion means the right of the person who believes in a religion, to State his creed or ‘to declare freely and openly one’s faith’.”

5.5. By insisting upon a practising Muslim to adopt certain mannerisms or particular kinds of lifestyle would not only reinforce problematic stereotypes associated with the community, but also severely undermine dignity and privacy, along with the individual freedom of determining one’s course of life, assured under the right to life and personal liberty under Article 21 of the Constitution.

5.6. Furthermore, it impedes the freedom of conscience and practice of religion under Article 25 of those who have recently converted to Islam and/or do not belong to the Muslim community, insofar

as it imposes a total embargo on them dedicating any property as waqf for any purpose. It forbids recently-converted Muslims, for reasons of good faith, from practically expressing their faith and belief in Islamic tenets by dedicating property to the Almighty Allah as waqf. To this end, as this Hon'ble Court held in *Ratilal Panachand Gandhi v. State of Bombay*, AIR 1954 SC 388:

“...every person has a fundamental right not merely to entertain such religious belief as may be approved of by his judgment or conscience but to exhibit his belief and ideas in such overt acts as are enjoined or sanctioned by his religion and further to propagate his religious views for the edification of other...”

- 5.7. It is submitted that one's concept of 'religion' cannot be subject to any dogmatic interpretation: the term, as it appears in Articles 25-28, should be fluid enough, so long as it refers to 'one's views of their relation to their Creator'. In other words, this means that non-Muslims (and recent converts, who have not been practising for five or more years) should be equally eligible to dedicate waqf properties without any unreasonable restrictions. After all, this Hon'ble Court has emphasised that no set formula can be laid down to determine the essence of one's religious views/beliefs.
- 5.8. To this end, the said provision also violates the freedom of expression under Article 19(1)(a), insofar as one would like to freely express their religious views by dedicating waqf properties despite not being an active follower of the Islamic faith.
- 5.9. In addition, this amended provision suffers from vagueness, as it stipulates that there should be 'no contrivance involved in the dedication of such property'. It does not define the term 'contrivance': in effect, it ends up providing unchecked and

arbitrary discretion to Collectors to exclude properties from waqf status, by not providing any parameters or indicia for determining whether any ‘contrivance’ has been involved in the dedication of any waqf property. Such a provision is liable to be struck down for suffering from the vice of vagueness, in line with this Hon’ble Court’s dicta in *Shreya Singhal v. Union of India*, AIR 2015 SC 1523.

6. How the Waqf (Amendment) Act, insofar as it amends protections for gifts in Islamic law, falls foul of the Constitution:

6.1. Section 3(i) of the Act, which defines the term ‘mutawalli’, is now amended to omit the phrase ‘either verbally or’ – hence, a person can be appointed as a mutawalli only under a deed or instrument by which a waqf is created. Similarly, the amendment to Section 36(4) omits 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”. Additionally, under Section 36(1A) of the amended Waqf Act, no waqf shall be created without executing a waqf deed, on and from the commencement of the Waqf (Amendment) Act, 2025.

6.2. While these provisions now intend to rule out any scope for oral/verbal forms of creation of waqf, the same is an unreasonable restriction on the right enjoyed by members of the Muslim community under Articles 25 and 26: it impinges upon the fundamental principle of gifts in Islamic law (‘hiba’), which can be executed orally as a matter of custom and can be registered only as a matter of choice (without affecting the legality of the said hiba in any manner). The Waqf (Amendment) Act, 2025 disqualifies all forms of waqf dedications made without



executed documentation, denying to all persons their right to make religious charity in the form of property as per their conscience and faith. Since time immemorial, many waqf properties have been dedicated as hiba. To this end, the restriction imposed by the amended provision in the Waqf Act is unreasonable, insofar as it is not justified on the grounds of ‘public order, morality, or health’.

6.3. Additionally, the law, insofar as it outlaws any particular form of oral hiba from being dedicated to the Almighty Allah as a waqf property, deprives Muslims of their Fundamental Right under Article 29 to conserve their distinct culture.

7. How the Waqf (Amendment) Act, 2025, insofar as it removes protections for ‘Waqf by User’, violates the Constitution:

7.1. Furthermore, the Waqf (Amendment) Act, 2025, omits Section 3(r)(i) of the Waqf Act, thereby doing away with ‘waqf by user’ – even though the said provision is said to carry prospective effect, it does not recognise how the concept of ‘waqf by user’ is deeply enshrined in Islamic law, and explicitly forbids its continuance and benefit for those intending to create ‘waqf by user’ in the future. This concept essentially recognises charitable/religious endowments based on their continuous use for religious, charitable, and pious purposes without interruption, even without formal documentation.

7.2. The Waqf Act, 1995, formally codified the principle of ‘waqf by user’, whose legal recognition protected the legal status of religious sites which often lacked formal paperwork due to historical and administrative gaps. Many graveyards, mosques, shrines, and other sites of sacred importance to Muslims have been established through community practices as well as oral

declarations, with their waqf status being affirmed on the basis of consistent public usage from generations to generations. To expect that such practices can be changed by the use of law as a tool (under the guise of ‘reform’) would essentially violate Muslims’ freedom to freely practise their religion under Article 25 of the Constitution, as well as their freedom to manage their own religious affairs under Article 26.

7.3. This is especially relevant when a Constitution Bench of this Hon’ble Supreme Court, in *M. Siddiq v. Mahant Suresh Das*, (2020) 1 SCC 1, has categorically upheld the status of ‘waqf by user’ as a valid form of dedication of properties as waqf, as having its roots in Islamic *sharia* law – it categorically stated that Islamic law does not insist upon an oral declaration of waqf in each case, meaning that dedication of a property as waqf may be reasonably inferred from the facts and circumstances of a case, or from a waqif’s conduct. This Hon’ble Court even discussed case law in which Courts dealt with property being used as waqf property for time immemorial, where it was not practical to seek formal proof in the form a declaratory deed. Hence, this Hon’ble Court categorically noted that a specific document of dedication may not be available upon the efflux of time, despite the said property being used for public, religious, or charitable purposes. Hence, the Court held:

“Hence, despite the absence of an express deed of dedication, where the long use of the property as a site for public religious purpose is established by oral or documentary evidence, a court can recognise the existence of a waqf by user. The evidence of long use is treated as sufficient though there is no evidence of an express deed of dedication...Our

jurisprudence recognises the principle of waqf by user even absent an express deed of dedication or declaration. Whether or not properties are waqf property by long use is a matter of evidence.”

7.4. It is submitted that the said principle was upheld by this Hon’ble Court to apply to even Hindu religious denominations, in *Commissioner for Hindu Religious and Charitable Endowments v. Ratnavarma Heggade*, (1977) 1 SCC 525. To deny the applicability of this principle to waqf properties would amount to discrimination under Article 15 on the grounds of religion, and a denial of equal protection of laws under Article 14. This Hon’ble Court in *Ratnavarma Heggade (supra)* held:

“Neither a document nor express words are essential for a dedication for a religious or public purpose in our country. Such dedications may be implied from user permitted for public and religious purposes for sufficient length of time. The conduct of those whose property is presumed to be dedicated for a religious or public purpose and other circumstances are taken into account in arriving at the inference of such a dedication.”

7.5. To this end, the derecognition of ‘waqf by user’ by the Waqf (Amendment) Act, 2025, unfairly, unreasonably, arbitrarily, and for no good cause, singles out Muslim endowments. It subjects them to differential treatment and creates an arbitrary and unjustified classification without any rational basis, thereby violating Article 14. Furthermore, the said amendment takes away the legal basis for recognising oral waqfs, and disregards the Islamic law principle of recognition of oral contracts and testimonies, as affirmed by this Hon’ble Court in *M. Siddiq*

(*supra*) and which forms an essential element of Muslim personal law.

7.6. Furthermore, the Waqf (Amendment) Act, 2025, denies legal recognition, protection, and regulation to several undocumented properties which can potentially be classified as ‘waqf by user’ in the future, notwithstanding that it does not take away the said protections from already recognised ‘waqf by user’ sites. The said provisions also aim to override the direct effect of this Hon’ble Court’s numerous judgments on ‘waqf by user’, thereby being *ultra vires* in nature. Since the practice of ‘waqf by user’ is rooted in Islamic tenets, Parliament cannot suitably alter the basis upon which this Hon’ble Court has rendered its observations in M. Siddiq (*supra*) upholding the status of ‘waqf by user’ sites – to this end, Parliament lacks the legislative competence to undo the effect of recognition of ‘waqf by user’ granted by this Hon’ble Court, as it is rooted in the tenets of Islamic law.

7.7. To this end, the amended Sections 3(i), 3(r)(i) and 36(4), read in conjunction, infringe upon an ‘essential religious practice’ for the Muslim community, as defined by this Hon’ble Court in *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, AIR 1954 SC 282 (and as refined in a catena of case law). As this Hon’ble Court laid herein, the Constitution of India protects not only freedom of religious opinion, but also acts done in pursuance of religion – to this end, religious practices reflect matters concerning religion, and the veneration of religion implies that practices annexed thereto should be equally respected. It is submitted that by preventing dedication of properties as ‘waqf by

user' in the future, the Waqf (Amendment) Act, 2025, disrespects Islamic traditions and customs that enable the dedication of waqf properties in this manner.

7.8. As this Hon'ble Court emphasised in *Court Commissioner of Police v. Acharya Jagadishwaranand Avadhuta*, AIR 2004 SC 2984, an essential religious practice is one which is fundamental to follow a religious belief, the cornerstone of essential parts or practices upon which the superstructure of a religion is built (without which, a religion will not be a religion). To this end, excluding believers (and even non-believers) in the Islamic religion from dedicating properties as 'waqf by user' would tantamount to an invasion on the core tenets of the religion, without which the religion would be deprived of its fundamental character. While it is not compulsory for a Muslim to dedicate waqf property, the said religious practice is protected under Articles 25-26 of the Constitution. It is submitted that the very nature of the Islamic religion will be altered without the provision of 'waqf by user', especially for those who lack the means to execute deeds and formal documentation or have been the beneficiaries of the fruits derived from waqf properties.

7.9. By excluding religious sites from availing the status of 'waqf by user' (even if with prospective effect), the amended law exposes them to potential State appropriation as well as encroachment. In so doing, it deprives Muslims of the Fundamental Right to conserve their distinct culture under Article 29 of the Constitution.

7.10. Furthermore, the emphasis on the execution of formal documentation like a deed creates enormous practical difficulties for smaller waqf institutions. These new requirements are

extremely onerous for those having low access to resources, procedural and legal awareness, and has the potential to create more property litigation and flood our administrative setup and judiciary with disputed claims over waqf properties. This would, in effect, defeat the very objects for which it had been promulgated, whilst impeding Muslims' freedom to manage their religious affairs, including the acquisition and management of movable and immovable property under Article 26.

7.11. Furthermore, the said provision does not constitute the least restrictive measure intended to attain the legislative objects defined in the Statement of Objects and Reasons accompanying the Waqf (Amendment) Bill, 2025. The least restrictive measure, instead, could have been to subject 'waqf by user' properties to some degree of regulation and to institute supportive and transitional measures from the informal waqf practices currently in place to the newly mandated formal documentation requirements. The amendment is not constitutional, because it does not undertake this approach: consequently, it fails the test of 'proportionality' laid down by this Hon'ble Court in judgments such as *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1, and as applied in *Association for Democratic Reforms v. Union of India*, 2024 INSC 113.

8. How the Waqf (Amendment) Act, 2025, insofar as it amends the composition of the Central Waqf Council and State Waqf Boards and vests arbitrary control with the State over waqf properties, violates the freedom of religious denominations to manage their religious affairs under the Constitution:

8.1. The Waqf (Amendment) Act, 2025, further impedes upon Muslims' freedom to manage their religious affairs, by stipulating

the entry of non-Muslims into the Central Waqf Council and State Waqf Boards under Sections 9 and 14 of the Act respectively. It is erroneous to suggest, as the Union of India has attempted to, that the presence of non-Muslims is mandated only for administrative purposes relating with waqf properties, without implicating any religious activities. This is because in Islamic law, the ownership of waqf properties is vested with the Almighty Allah – any decisions taken with respect to the administration or management of these properties should ideally be vested with members of the Muslim community, even if the said functions are secular in nature to some degree.

- 8.2. This is light of this Hon'ble Court's dicta adopted in the context of appointment of *archakas* in temples, in ERJ Swami v. State of Tamil Nadu, AIR 1972 SC 1586. In this judgment, the Hon'ble Court delved into Hindu religious tenets, noting that the mode of *archakas*' appointment in temples was a secular practice – on the other hand, this Hon'ble Court categorically stated that the 'denomination, sect or group' of such appointed *archakas* must be the same as that of the temple in question, as prescribed by the treaties of ceremonial law governing such temples.
- 8.3. To this end, the unamended Section 9 of the Act respected this sentiment and clearly stipulated that aside from the Minister of in-charge of waqf (being an *ex officio* member), the Central Government shall appoint all other members to the Central Waqf Council only from amongst Muslims. Similarly, Section 14 also stipulated only Muslim membership of the State Waqf Board, aside from the post of its Chairperson. However, the amended Act clearly limits the categories of members who shall be appointed from the Muslim community, and also mandatorily

stipulates the appointment of two non-Muslims in the Central Waqf Council as well as State Waqf Boards, that too over and above the *ex officio* members (who need not belong to the Muslim community to begin with).

- 8.4. However, Section 19(a) of the Waqf (Amendment) Act, 2025, severely compromises on the sectarian autonomy enjoyed by the State Waqf Boards. It removes the Explanation and proviso to Section 32 of the Waqf Act, thereby repealing the rule which distinctly requires Sunni Waqf Boards to be managed by members of the Sunni Muslim sect, while Shia Waqf Boards were earlier required to be managed by Shia members. It is a direct infringement both religious denominations' right to freely manage religious affairs guaranteed under Article 26, without unreasonable interference. It is also tantamount to treatment of equals unequally, violating the reasonable classification test stipulated under Article 14 of the Constitution.
- 8.5. Furthermore, whilst doing away with a reasonable classification, the Act unreasonably classifies members of the Central Waqf Council and State Waqf Boards, by prescribing a category of members who shall belong only to the Muslim community, while the rest can belong to the non-Muslim communities. The said classifications are made without any intelligible differentia, and do not have a rational nexus with the attaining the legislative object of promoting effective management of waqf properties. In turn, the Act in its present form has been deliberately promulgated to retain the hypothetical possibility in which the Central Waqf Council and the State Waqf Boards shall have a majority of non-Muslim members, simply because it does not



prescribe any maximum or minimum number of non-Muslim members to be appointed therein.

8.6. In *Ratilal Panachand Gandhi (supra)*, this Hon'ble Court held that the State is not entitled to regulate religious practices: it may regulate only those activities which are of economic, commercial, or political character. In the context of Article 26, this Hon'ble Court was pleased to observe:

"...in regard to affairs in matters of religion, the right of management given to a religious body is a guaranteed Fundamental Right which no legislation can take away. On the other hand, as regards administration of property which a religious denomination is entitled to own and acquire, it has undoubtedly the right to administer such property, but only in accordance with law...the State can regulate the administration of trust properties by means of laws validly enacted: but here again it should be remembered under article 26(d), it is the religious denomination or general body of religion itself which has been give the right to administer its property in accordance with any law which the State may validly impose. A law which takes away the right of administration altogether from the religious denomination and vests it in any other or secular authority, would amount to violation of the right which is guaranteed by article 26(d) of the Constitution."

8.7. Further, in *Pannalal Bansilal Pitti v. State of Andhra Pradesh*, AIR 1996 SC 1023, this Hon'ble Court was pleased to observe that in the name of regulation, the State cannot totally deprive a charitable or religious endowment of its right of administration by causing it to be taken over to be administered by State officials.

8.8. Under the Amended Act, the State Waqf Board shall, in its entirety, be nominated by the State Government concerned. Such a body shall be responsible for handling not only secular, but also other religious, pious, and charitable purposes associated with a waqf property, the ownership of which is said to vest with the Almighty Allah in Islamic law. This highlights how the amended law falls foul of the above quoted interpretation of Article 26(d) adopted by this Hon'ble Court – for all practical purposes, the Waqf (Amendment) Act, 2025, is taking away the right of administration from the religious denomination altogether.

8.9. Furthermore, in *Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan*, AIR 1963 SC 1638, this Hon'ble Court emphasised on the need to ensure 'adequate and fair' representation to the denomination on the management committee of a temple. It discussed the contours of Article 26(d) as follows:

"In other words, this clause emphatically brings out the competence of the legislature to make a law in regard to the administration of the property belonging to the denomination. It is true that under the guise of regulating the administration of the property by the denomination, the denomination's right must not be extinguished or altogether destroyed."

8.10. The sheer fact that non-Muslims can enjoy a potential majority, or even a substantial say in the new scheme of constitution of the Central Waqf Council and the State Waqf Boards, is tantamount to unreasonable interference with the rights guaranteed to Muslim religious denominations under Article 26 of the Constitution. It denies Muslims 'adequate' and 'fair' representation in management of waqf properties, as this

Hon'ble Court has emphasised in Tilkayat Shri Govindlalji Maharaj (*supra*).

- 8.11. To this end, it is important to note that non-Muslims, under the new composition of the Central Waqf Council and State Waqf Boards irrespective of whether in the majority or minority, shall not take charge of only secular aspects of administration of waqf properties. Rather, they will have a direct say in ensuring the use and application of waqf property for charitable, pious, religious, and other purposes: essentially, they will have a significant hand in determining non-secular matters associated with a property whose ownership has been vested in the hands of the Almighty Allah in Islamic law.
- 8.12. In *State of Rajasthan v. Sajjanlal*, AIR 1975 SC 706, this Hon'ble Court upheld the validity of a law vesting the management of Jain religious trusts in committees of management, subject to the explicit condition that the members of such committees should belong to the same denomination as that of the particular trust concerned. The State was categorically prohibited from nominating persons of one denomination to manage trusts belonging to another. Only the person authorised to nominate persons of such managing committees was allowed to not belong to such denomination. This judgment implies that there would be no violation of Article 26(d) if the State exercises its power to appoint eligible persons, after ascertaining the views of a religious denomination's members.
- 8.13. In this light, any attempts at manufacturing at even a near-majority of non-Muslims in either the Central Waqf Council or the State Waqf Boards, without ascertaining the wishes of the members of the religious denomination concerned (i.e. believers

in Islam), shall amount to an unreasonable restriction on Muslims' Fundamental Right under Article 26 of the Constitution.

8.14. The present case concerning the management of all waqf properties in India can also be distinguished from what was before the Hon'ble Supreme Court in *Durgah Committee v. Hussain Ali*, AIR 1961 SC 1402. The Supreme Court upheld the *Durgah Khwaja Saheb Act, 1955*, which vested with the administration of property attached to the Ajmer Durgah in a nominated committee comprising persons other than the sect of Chisti Muslims. However, this was done because the management of such property had always been placed with officers appointed by the State, and it had never been vested with the Chisti sect. To this end, this Hon'ble Court ruled that Article 26(c)-(d) does not create any rights which a denomination never had – instead, it only safeguards the continuance of rights already acquired by a religious denomination.

8.15. To this end, it is submitted that this Hon'ble Court ought to safeguard Muslims' rights which are already vested to them by the tenets of Islamic law and as statutorily recognised in the un-amended *Waqf Act, 1995*, as protected under Article 26 of the Constitution: the appointment of non-Muslims, as well as a potential majority in the statutory bodies responsible for administration of waqf properties in India shall deprive Muslim religious denominations of their right to administer property freely. The amended law, in this context, would fail to meet the tests of 'public order, morality, or health' so as to justify interference with the Fundamental Right under Article 26 of the Constitution.

- 8.16. It is not disputed that the State retains the right to regulate matters associated with the administration of property held by a religious denomination. However, it is submitted that numerous provisions of the Waqf (Amendment) Act, 2025, end up extinguishing and altogether destroying the right of Muslim religious denominations, under the guise of regulating the administration of waqf properties.
- 8.17. To elaborate, under Section 11 of the Waqf (Amendment) Act, 2025, all members of the State Waqf Boards shall be nominated by the respective State Governments. However, the amended law does not provide any indicia to channelise the exercise of a State Government's discretion (except for enlisting the categories of people from amongst whom Muslims can be appointed). Independently, and when read in context of the possibility of a non-Muslim majority in the Central Waqf Council and the State Waqf Boards, these provisions in the Waqf (Amendment) Act, 2025, constitute an unreasonable interference with Muslim denominations' freedom to manage their own religious affairs under Article 26 of the Constitution.
- 8.18. Additionally, the law, in its present form, substitutes autonomy in the management of religious affairs with absolute control of the State: this is also reflected by Section 14 of the Waqf (Amendment) Act, 2025, which repealed Section 20A of the Act (which enabled removal of a State Waqf Board's Chairperson by a vote of no-confidence).
- 8.19. Furthermore, the exclusion of government properties from the scope of being dedicated as waqf properties under Section 3C of the Waqf Act (as inserted by Section 5 of the Waqf (Amendment) Act, 2025), is at odds with this Hon'ble Court's

judgment in Mahant Ram Kishan Dass v. State of Punjab, AIR 1981 SC 1576. Herein, the Supreme Court ruled that the State can compulsorily acquire a religious denomination's property, only insofar as it does not destroy or completely negative its right to own and acquire property for even the bare survival of the religious institution in question. To this end, this provision wholly excludes those perceived to be 'government properties' within the subjective satisfaction of government officials from the scope of being eligible for dedication as waqf properties. It vests arbitrary power with the State to consider/declare any property as 'government property' as defined under new Section 3(fb) of the Act. This is further compounded by how the said provision also draws an adverse presumption against such eligibility by declaring that pending an inquiry on this matter, such property shall not be treated as waqf property.

9. How the Waqf (Amendment) Act, 2025, insofar as it treats waqf properties differently from endowments of other religious denominations, is discriminatory in nature:

9.1. It should also be noted that the legislation treats Muslims' waqf properties on a totally different basis as compared with properties owned, established, and managed by members of other religions (as subject to State regulation). The un-amended Waqf Act, 1995, insofar as it prescribed that members of the State Waqf Boards must profess Islam, was not unique in its structure: rather, similar provisions exist in other statutes as well.

9.2. To illustrate non-exhaustively, Hindu Endowment Acts governing places of worship such as the Kashi Vishwanath temple in Varanasi and the Mata Vaishno Devi shrine in Jammu and Kashmir, etc. do not provide for the entry of non-Hindus into the

management of any property in any capacity whatsoever. Similarly, laws enacted by States such as Bihar, Odisha, Karnataka, and Tamil Nadu concerning Hindu religious endowments clearly stipulate that particular office-holders in these trusts/endowments must be Hindus only.

- 9.3. It is submitted that while Hindu religious institutions retain the freedom to appoint/elect/nominate only members of their own community in bodies responsible for the administration of their properties, Muslims in India shall not only be denied such autonomy in choosing/nominating/electing the membership of the bodies governing waqf properties, but also be deprived of fair representation from members of their own faith, all in the name of 'State regulation' and 'reform'. Such step-motherly treatment accorded to members of the Islamic faith is discriminatory on grounds of religion under Article 15 of the Constitution, and falls foul of the equal protection of law provided by Article 14.
- 9.4. This unjustified and differential treatment of Islamic religious endowments is also meted out by way of Section 40A of the Waqf (Amendment) Act, 2025, which substitutes the erstwhile Section 107 of the Waqf Act, 1995, with a new clause. Hereby, the Limitation Act, 1963, shall apply to proceedings relating to any claim/interest concerning immovable properties comprised in a waqf. The Limitation Act is made inapplicable to religious endowments in a bid to protect them from claims of adverse possession by potential encroachers, upon the expiry of limitation period of 12 years.
- 9.5. However, the new version of Section 107 of the Waqf Act deprives already existing 'waqf by user' properties from protections they enjoyed earlier by virtue of the inapplicability of

the Limitation Act, despite the Waqf (Amendment) Act, 2025, purportedly not having a retrospective effect. Additionally, the treatment meted out to waqf properties vis-à-vis endowments of other religious denominations (to whom the Limitation Act shall continue to remain inapplicable), is discriminatory and falls foul of Article 15 of the Constitution. It exposes properties used by Muslim religious denominations to encroachment, and denies to them the freedom to own and acquire immovable property under Article 26(c) of the Constitution.

### **GROUNDS**

10. Hence, the Petitioner moves before this Hon'ble Court by way of this Petition on, *inter alia*, the following grounds:
  - A. Because the Amendment to Section 3(r) of the Waqf Act, 1995 (by Section 3(ix)(a) of the Waqf (Amendment) Act, 2025) violates Article 14 insofar as it creates an unreasonable classification between Muslims with and without 5 or more years of practice.
  - B. Because the Amendment to Section 3(r) of the Waqf Act, 1995 (by Section 3(ix)(a) of the Waqf (Amendment) Act, 2025) violates the freedom of conscience of non-Muslims (and recent converts) to dedicate waqf properties under Article 25.
  - C. Because the Amendment to Section 3(r) of the Waqf Act, 1995 (by Section 3(ix)(a) of the Waqf (Amendment) Act, 2025) suffers from vagueness (insofar as the word 'contrivance' is concerned).
  - D. Because the Amendment to Section 3(i) (by Section 3(ix)(b) of the Waqf (Amendment) Act, 2025), Section 36(1A) (by Section 18(a) of the Waqf (Amendment) Act, 2025), and Section 36(4) (by Section 18(c) of the Waqf (Amendment) Act, 2025) of the Waqf Act, 1995, violates Articles 25, 26, and 29 of the



Constitution, insofar as they restrict oral forms of hiba, which is a duly recognised form of gifting property in Islamic law.

- E. Because the Amendment to Section 3(r)(i) of the Waqf Act, 1995 (by Section 3(ix)(b) of the Waqf (Amendment) Act, 2025) violates Articles 14, 15, 25, 26, and 29 insofar as it omits the provision for declaring properties as 'waqf by user', and fails the test of proportionality laid down by this Hon'ble Court.
- F. Because the Amendment to Section 3(i) (by Section 3(ix)(b) of the Waqf (Amendment) Act, 2025) and Section 36(4) (by Section 18(c) of the Waqf (Amendment) Act, 2025) of the Waqf Act, 1995, violates Articles 14, 15, 25, 26, and 29 of the Constitution, insofar as they omit the provision for declaring properties as 'waqf by user'.
- G. Because the Amendment to Section 9 (by Section 9 of the Waqf (Amendment) Act, 2025) and Section 14 (by Section 11 of the Waqf (Amendment) Act, 2025) of the Waqf Act, 1995, violates Articles 14 and 15 of the Constitution insofar as it creates an unreasonable classification between Muslim and non-Muslim members of the Central Waqf Council and the State Waqf Boards respectively.
- H. Because the Amendment to Section 32 of the Waqf Act, 1995 (by Section 19(a) of the Waqf (Amendment) Act, 2025), violates Articles 14 and 26 of the Constitution, insofar as it comprises on the sectarian autonomy enjoyed by Shia and Sunni State Waqf Boards.
- I. Because the Amendment to Section 9 (by Section 9 of the Waqf (Amendment) Act, 2025) and Section 14 (by Section 11 of the Waqf (Amendment) Act, 2025) of the Waqf Act, 1995, violates Articles 14, 15, 25, and 26 of the Constitution insofar as it

provides for the appointment of non-Muslim members to the Central Waqf Council and the State Waqf Boards respectively, and provides for the hypothetical possibility of non-Muslims being in a majority in these bodies.

- J. Because Section 3C of the Waqf Act (as inserted by Section 5 of the Waqf (Amendment) Act, 2025), insofar as it excludes government properties from the scope of being dedicated as waqf properties, violates Article 26(c) of the Constitution.
  - K. Because the Amendment to Section 107 of the Waqf Act, 1995 (by Section 40A of the Waqf (Amendment) Act, 2025) violates Articles 14, 15, 25, and 26 of the Constitution, insofar as it provides for the application of the Limitation Act to proceedings relating to claims/interests pertaining to immovable properties comprised in a waqf.
11. It is submitted that the Petitioner has no other efficacious remedy except before this Hon'ble Court to seek the reliefs as prayed for herein.
  12. The Petitioner respectfully seeks leave to supplement, amend, or modify the foregoing grounds, as may be necessary, and to raise additional grounds at the time of hearing, with the kind permission of this Hon'ble Court.
  13. The present Petition raises a substantial question of law, including, but not limited to, whether the impugned amendments to the Waqf Act, 1995, constitute discrimination and deny religious freedoms under the Constitution of India. These questions must be considered in light of the Fundamental Rights guaranteed under Part-III of the Constitution, particularly Articles 14, 15, 19, 21, 25, 26, and 29, along with the well-established constitutional principles of secularism and fraternity. These substantial questions of law necessitate an

authoritative determination from this Hon'ble Court, to ensure compliance with the constitutional mandate which seeks to safeguard the religious and secular fabric of our nation.

14. No proceedings either in the form of writ or otherwise, for the prayers sought herein, is filed by the Petitioner either here or before any other Court. The Petitioner has not approached the authorities concerned for seeking any appropriate relief, and craves relief to be awarded by this Hon'ble Court in the present matter.
15. The present Petition is made *bona fide* and for the ends of justice.

**PRAYER**

16. Therefore, in the facts and circumstances narrated above, it is humbly prayed that this Hon'ble Court may graciously be pleased to:
  - a. Issue a writ of *mandamus*, or any other appropriate writ, order, or direction, declaring the Waqf (Amendment) Act, 2025, as unconstitutional for violating Articles 14, 15, 19, 21, 25, 26, and 29 of the Constitution of India;
  - b. Declare that Section 3(ix)(a) of the Waqf (Amendment) Act, 2025, violates Articles 14, 15, 19, 25, 26 and 29 of the Constitution;
  - c. Declare Sections 3(ix)(b) and 18(c) of the Waqf (Amendment) Act, 2025, as violative of Articles 14, 15, 19, 25, 26, and 29 of the Constitution;
  - d. Declare that Section 19(a) of the Waqf (Amendment) Act, 2025, violates Articles 14, 15, 19, 25, 26, and 29 of the Constitution;
  - e. Declare that Sections 9 and 11 of the Waqf (Amendment) Act, 2025, violate Articles 14, 15, 19, 25, 26, and 29 of the Constitution;

- f. Declare that Section 5 of the Waqf (Amendment) Act, 2025, violates Articles 14, 15, 19, 25, 26, and 29 of the Constitution;
- g. Declare that Section 40A of the Waqf (Amendment) Act, 2025, violates Articles 14, 15, 19, 25, 26, and 29 of the Constitution;
- h. Pass any other order/direction that this Hon'ble Court may deem fit.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER, AS IS DUTY BOUND, SHALL EVER PRAY.

FILED BY:



YASH S VIJAY

Advocate for the Petitioner

Place: New Delhi

Date: 12.04.2025

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

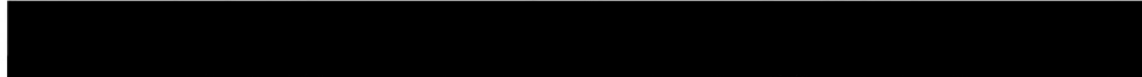
**IN THE MATTER OF :**

TAMILAGA VETTRI KAZHAGAM                      ...PETITIONER

Versus

UNION OF INDIA                      ...RESPONDENT

AFFIDAVIT

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

1. That I am the General Secretary of 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   B   to   N   have been read out and explained to me in vernacular, and the contents of paras 1 to 8 on pages   1   to   30   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   47   to   54   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

SIGNED BEFORE ME

**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   Chennai   on this   11   day of April, 2025.

  
DEPONENT

SIGNED BEFORE ME



*N.S. Ziauddeen*  
11/3/25  
**N.S. ZIAUDDEN**  
ADVOCATE & NOTARY PUBLIC  
COMMISSIONER OF OATHS  
220, T.T.K. Road, Alwarpet  
Chennai - 600 018  
Ph : 2432 2306 / Cell : 94440 65032



# भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-05042025-262316  
CG-DL-E-05042025-262316

असाधारण

**EXTRAORDINARY**

भाग II — खण्ड 1

**PART II — Section 1**

प्राधिकार से प्रकाशित

**PUBLISHED BY AUTHORITY**

सं० 14] नई दिल्ली, शनिवार, अप्रैल 5, 2025/चैत्र 15, 1947 (शक)  
No. 14] NEW DELHI, SATURDAY, APRIL 5, 2025/CHAITRA 15, 1947 (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 5th April, 2025/Chaitra 15, 1947 (Saka)*

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

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

**No. 14 OF 2025**

[5th April, 2025.]

An Act further to amend the Waqf Act, 1995.

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

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

Short title and commencement.

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

43 of 1995.

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

Amendment of section 1.

Amendment of  
section 2.

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

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

Amendment of  
section 3.

4. In section 3 of the principal Act,—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(viii) clause (p) shall be omitted;

(ix) in clause (r),—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) the deed of waqf, if available;

(d) the present mutawalli and its management;

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

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

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

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

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

(ii) purely religious purposes;

(iii) charitable purposes; and

(iv) any other purposes;

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

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

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

Certain conditions of waqf.

Filing of details of waqf on portal and database.



Wrongful  
declaration of  
waqf.

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

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

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

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

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

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

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

7 of 1904.  
24 of 1958.

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

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

Amendment of  
section 4.

6. In section 4 of the principal Act,—

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

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

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

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

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

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

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

Amendment of  
section 5.

7. In section 5 of the principal Act,—

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

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

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

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

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

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

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

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

8. In section 6 of the principal Act,—

Amendment of section 6.

(a) in sub-section (1),—

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

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

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

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

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

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

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

Amendment of section 7.

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

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

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

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

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

Provided also that”.

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:

(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 17.

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

Omission of section 20A.

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

Amendment of section 23.

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

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

Amendment of section 28.

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

Amendment of section 30.

18. In section 30 of the principal Act, in sub-section (2), for the words and figures “section 76 of the Indian Evidence Act, 1872”, the words and figures “section 75 of the Bharatiya Sakshya Adhiniyam, 2023” shall be substituted.

1 of 1872.  
47 of 2023.

Amendment of section 32.

19. In section 32 of the principal Act,—

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

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

Amendment of section 33.

20. In section 33 of the principal Act,—

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

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

Amendment of section 36.

21. In section 36 of the principal Act,—

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

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

(b) in sub-section (3),—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) in sub-section (1),—

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

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

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

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

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

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

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

**25.** In section 47 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a),—

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

Amendment of section 37.

Omission of section 40.

Amendment of section 46.

Amendment of section 47.

(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.

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.

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

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

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

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

(c) is an undischarged insolvent;

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

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

(f) has been on a previous occasion—

(i) removed as a mutawalli; or

Amendment of section 48.

Insertion of new section 50A.

Disqualification of mutawalli.

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

1 of 1894.  
30 of 2013.

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

Amendment of section 51.

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

Amendment of section 52.

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

Amendment of section 52A.

(a) in sub-section (1),—

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

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

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

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

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

Amendment of section 55A.

**32.** In section 61 of the principal Act,—

Amendment of section 61.

(a) in sub-section (1),—

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

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

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

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

“(1A) If a mutawalli fails to—

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

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

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

(iv) provide statement of accounts under section 46;

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

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

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

2 of 1974.  
46 of 2023.

**33.** In section 64 of the principal Act,—

Amendment of section 64.

(a) in sub-section (1),—



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

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

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

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

37 of 1967.

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

Amendment of section 65.

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

Amendment of section 67.

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

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

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

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

Amendment of section 69.

**36.** In section 69 of the principal Act,—

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

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

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

Amendment of section 72.

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

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

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

Amendment of section 73.

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

Amendment of section 83.

**39.** In section 83 of the principal Act,—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**40.** In section 91 of the principal Act,—

Amendment of section 91.

1 of 1894.

(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 of 2013.

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.”.

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

Amendment of section 100.

Amendment of section 101.

42. In section 101 of the principal Act,—

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

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

45 of 1860.

45 of 2023.

Omission of section 104.

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

Substitution of new section for section 107.

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

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.

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:—

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

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

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

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

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

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

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

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

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

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

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

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

Amendment of  
section 109.

(a) clause (ia) shall be omitted;

(b) clause (iv) shall be omitted;

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

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

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

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

Amendment of  
section 110.

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

IN THE SUPREME COURT OF INDIA  
EXTRAORDINARY JURISDICTION

I.A. NO. \_\_\_\_\_ OF 2025

IN

WRIT PETITION (CIVIL) NO. \_\_\_\_\_ 2025

**IN THE MATTER OF:**

TAMILAGA VETTRI KAZHAGAM ...PETITIONER

VERSUS

UNION OF INDIA ...RESPONDENT

**AN APPLICATION SEEKING STAY OF OPERATION**

TO

THE HON'BLE CHIEF JUSTICE

AND HIS COMPANION JUSTICES OF THE

HON'BLE SUPREME COURT OF INDIA

THE HUMBLE APPLICATION OF  
THE APPLICANT ABOVE-NAMED

**MOST RESPECTFULLY SHOWETH THAT:**

1. This petition is filed under Article 32 of the Constitution of India, to challenge the constitutionality of various provisions of the Waqf (Amendment) Act, 2025, which amended several Sections of the Waqf Act, 1995, on the grounds of violating Articles 14, 15, 19, 21, 25, and 26 of the Constitution. The Act, having been passed by both

Hon'ble Houses of the Parliament of India, received the assent of the Hon'ble President of India on 05.04.2025.

2. The detailed facts and circumstances leading to the filing of the present Petition, along with the averments made on the Petitioner's behalf, have already been mentioned at great length in the accompanying Petition. For the sake of brevity, the facts and circumstances stated therein are not being repeated. However, the Petitioner craves liberty to refer to and rely upon the averments, submissions, contentions, etc., made in the accompanying Writ Petition as a part of the instant Application.
3. By the instant Application, the Petitioner seeks an *ad-interim ex parte* stay of the impugned amendments to the Waqf Act, 1995, on the following grounds, which, *inter alia*, are being taken without prejudice to one another:
  - A. BECAUSE as per the amended Act, a person can be appointed as a mutawalli only under a deed or instrument by which a waqf is created. Additionally, no waqf shall be created without executing a waqf deed, on and from the commencement of the Waqf (Amendment) Act, 2025. These provisions rule out any scope for oral/verbal forms of creation of waqf, constituting an unreasonable restriction on the right enjoyed by members of the Muslim community under Articles 25 and 26. The amendments impinge upon the fundamental principle of gifts in Islamic law ('hiba'), which can be executed orally as a matter of custom and can be registered only as a matter of choice (without affecting the legality of the said hiba in any manner). The Waqf (Amendment) Act, 2025 disqualifies all forms of waqf dedications made without executed documentation, denying to all persons their right to make religious charity as per their conscience.

- B. BECAUSE the emphasis on formal documentation creates enormous practical difficulties for smaller waqf institutions, being extremely onerous for those having low access to resources, procedural and legal awareness, and has the potential to create more property litigation and flood our administrative setup and judiciary with disputed claims over waqf properties. This would, in effect, defeat the very objects for which the Waqf Act had been promulgated in 1995, whilst impeding Muslims' freedom to manage their religious affairs, including the acquisition and management of movable and immovable property under Article 26. It marks a retrogression from the positive developments witnessed in the statutory framework and jurisprudence governing waqfs in India.
- C. BECAUSE the Waqf (Amendment) Act, 2025, does away with 'waqf by user'. By excluding religious sites from availing the status of 'waqf by user' (even if with prospective effect), the amended law exposes waqf properties to potential State appropriation as well as encroachment, particularly by way of onerous provisions such as the newly-inserted Section 3C.
- D. BECAUSE the new version of Section 107 of the Waqf Act deprives already existing 'waqf by user' properties from protections they enjoyed earlier by virtue of the inapplicability of the Limitation Act, 1963, despite the Waqf (Amendment) Act, 2025, purportedly not having a retrospective effect. Additionally, the treatment meted out to waqf properties vis-à-vis endowments of other religious denominations (to whom the Limitation Act shall continue to remain inapplicable), is discriminatory and falls foul of Article 15 of the Constitution. It exposes properties used by Muslim religious denominations to encroachment, and denies

to them the freedom to own and acquire immovable property under Article 26(c) of the Constitution.

- E. BECAUSE the said provisions also do not constitute the least restrictive measure intended to attain the legislative objects defined in the Statement of Objects and Reasons accompanying the Waqf (Amendment) Bill, 2025. The least restrictive measure, instead, could have been to subject 'waqf by user' properties to some degree of regulation and to institute supportive and transitional measures from the informal waqf practices currently in place to the newly mandated formal documentation requirements. The amendment is not constitutional, because it does not undertake this approach: consequently, it fails the test of 'proportionality' laid down by this Hon'ble Court in judgments such as *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1, and as applied in *Association for Democratic Reforms v. Union of India*, 2024 INSC 113.
- F. BECAUSE, in so doing, the Waqf (Amendment) Act, 2025, also deprives Muslims of the Fundamental Right to conserve their distinct culture under Article 29 of the Constitution. Even though the said provision is said to carry prospective effect, it does not recognise how the concept of 'waqf by user' is deeply enshrined in Islamic law, and explicitly forbids its continuance and benefit for those intending to create 'waqf by user' in the future. Many graveyards, mosques, shrines, and other sites of sacred importance to Muslims have been established through community practices as well as oral declarations, with their waqf status being affirmed on the basis of consistent public usage from generations to generations. To expect that such practices can be changed by the use of law as a tool (under the guise of



'reform') would essentially violate Muslims' freedom to freely practise their religion under Article 25 of the Constitution, as well as their freedom to manage their own religious affairs under Article 26. This is especially relevant when a Constitution Bench of this Hon'ble Court, in *M. Siddiq v. Mahant Suresh Das*, (2020) 1 SCC 1, has categorically upheld the status of 'waqf by user' as a valid form of dedication of properties as waqf, as having its roots in Islamic *sharia* law (which does not insist upon an oral declaration of waqf in each case).

- G. BECAUSE the said provisions also override the direct effect of this Hon'ble Court's numerous judgments on 'waqf by user', thereby being *ultra vires*. Since 'waqf by user' is rooted in Islamic tenets, Parliament cannot suitably alter the basis upon which this Hon'ble Court has rendered its observations in *M. Siddiq* (*supra*) upholding the status of 'waqf by user' sites – to this end, Parliament lacks the legislative competence to undo the effect of recognition of 'waqf by user' granted by this Hon'ble Court, as it is rooted in the tenets of Islamic law.
- H. BECAUSE the Waqf (Amendment) Act, 2025, severely impedes upon Muslims' freedom to manage their religious affairs, by stipulating the entry of non-Muslims into the Central Waqf Council and State Waqf Boards under Sections 9 and 14 of the Act respectively. It is erroneous to suggest that the presence of non-Muslims is mandated only for administrative purposes relating with waqf properties, without implicating any religious activities. This is because in Islamic law, the ownership of waqf properties is vested with the Almighty Allah – any decisions taken with respect to the administration or management of these properties should ideally be vested with the Muslim community,

even if the said functions are secular in nature to some degree. Further, the Act, in its present form, has been deliberately promulgated to retain the possibility in which the Central Waqf Council and the State Waqf Boards shall have a majority of non-Muslim members, simply because it does not prescribe any maximum or minimum number of non-Muslim members to be appointed therein. It denies 'adequate' and 'fair' representation to Muslims, falling foul of the interpretation of Article 26 taken by this Hon'ble Court in a catena of rulings.

- I. BECAUSE numerous provisions of the Waqf (Amendment) Act, 2025, end up extinguishing and altogether destroying the right of Muslim religious denominations, under the guise of regulating the administration of waqf properties. Under Section 11 of the Waqf (Amendment) Act, 2025, all members of the State Waqf Boards shall be nominated by the respective State Governments. However, the amended law does not provide any indicia to channelise the exercise of a State Government's discretion (except for enlisting the categories of people from amongst whom Muslims can be appointed). Independently, and when read in context of the possibility of a non-Muslim majority in the Central Waqf Council and the State Waqf Boards, these provisions in the Waqf (Amendment) Act, 2025, constitute an unreasonable interference with Muslim denominations' freedom to manage their own religious affairs under Article 26.
4. This Application is *bona fide* and is being made in the interests of justice.

#### **PRAYER**

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

- a. Grant an *ad interim ex parte* stay on the operation of Sections 3(ix)(a), 3(ix)(b), 5, 9, 11, 18(c), 19(a), and 40A of the Waqf (Amendment) Act, 2025
- b. Pass such other orders as this Hon'ble Court may deem fit and proper in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER, AS IS DUTY BOUND, SHALL EVER PRAY.

FILED BY:



YASH S. VIJAY

Advocate for the Petitioner

Date: 12.04.2025

Place: New Delhi

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

**IN THE MATTER OF :**

TAMILAGA VETTRI KAZHAGAM

...PETITIONER

Versus

UNION OF INDIA

...RESPONDENT

## AFFIDAVIT

Secretary of the Petitioner in the above-captioned petition do hereby solemnly affirm on oath as under:-

1. That I am the General Secretary of 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 1 to 4. 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 read out and explained to me in vernacular.

[REDACTED]  
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 Chennai on this 11 day of April, 2025

[REDACTED]  
DEPONENT

*N.S. Ziauddeen*  
11/3/25

**N.S. ZIAUDEEN**  
ADVOCATE & NOTARY PUBLIC  
COMMISSIONER OF OATHS  
220, T.T.K. Road, Alwarpet  
Chennai - 600 018  
Ph : 2432 8306 / Cell : 94440 65032



**IN THE SUPREME COURT OF INDIA  
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**FILING INDEX**

<b>Sr.No.</b>	<b>Description</b>	<b>Copies</b>	<b>Court Fees</b>
1.	Listing Proforma		
2.	Synopsis and List of Dates		
3.	Writ Petition (Civil) with affidavit		
4.	Annexure P-1		
5.	An application seeking stay of operation		
6.	Vakalatnama with Memo of Appearance		
<b>Total -</b>			

Date: 13.04.2025

Place: New Delhi

YASH S VIJAY  
Advocate for the Petitioner

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



IN THE MATTER OF :  
TAMILAGA VETTRI KAZHAGAM  
Versus  
UNION OF INDIA

...PETITIONER

...RESPONDENT

VAKALATNAMA

above petition, do hereby appoint and retain Yash S Vijay, Advocate-On-Record, H-19 LGF Lajpat Nagar III New Delhi 110024, (Reg. 3775) for the aforesaid Petitioner to act and appear in the abovesaid petition and on behalf of the abovesaid Petitioner to conduct and prosecute the same and all proceedings that may be taken in respect of our applications connected with the same or any decree or order passed therein, including proceedings in taxation and application for review, to file and obtain return of documents and to deposit and receive money on behalf of the said Petitioner in the said petition and in application for review and to take all necessary steps on behalf of the said Petitioner in the above matter.

Dated this the 11th day of April 2025.

stamp:

<p>Accepted, <i>Yash</i> YASH S VIJAY</p>	<p><i>N. Anand</i> [Signature] name: <u>N. ANAND</u> Identified, accepted, certified by: <b>SIGNED BEFORE ME</b></p>
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MEMO OF APPEARANCE

The Registrar  
Supreme Court of India  
New Delhi

certified by  
MAH/3059/14 *Yash*

Sir,

Please enter my appearance for the Petitioner in the above mentioned petition.

Yours faithfully,  
*Yash*

Accepted:  
YASH S VIJAY  
Add: H-19 LGF Lajpat Nagar III New  
Delhi 110024  
Reg: 3775  
[chambers@yashsvijay.com](mailto:chambers@yashsvijay.com)  
9953300973

DATED: 11.04.2025





# TAMILAGA VETTRI KAZHAGAM

பிறப்பொக்கும் எல்லா உயிர்க்கும்!

Plot No. 275, Seashore Town, 8<sup>th</sup> Avenue, Panaiyur,  
East Coast Road, Chennai - 600119.



**VIJAY,**  
PRESIDENT,  
TAMILAGA VETTRI KAZHAGAM.

Date: 06.04.2025

## AUTHORITY LETTER

To whomsoever it may concern,

I, Joseph Vijay, as the President of Tamilaga Vettri Kazhagam, by way of this letter of authority hereby authorize Shri.N. Anand, General Secretary, Tamilaga Vettri Kazhagam, to act as true and lawful authorized representative of the Tamilaga Vettri Kazhagam, its members and office bearers, to file /commence/ prosecute suits, criminal applications, complaints, writ petitions, appeals, defend, answer, oppose, or appear or appeal in, and withdraw any filing of the same before the Hon'ble Supreme Court of India and/or the Hon'ble Delhi High Court or any other judicial or quasi-judicial authorities; and to take all activities in relation to any/all such legal proceedings and actions including signing, authorizing, and verifying of complaints, applications, petitions, affidavits, Vakalatnamas, or any other document in relation to the initiation of such proceedings.

Thank you,

FOR TAMILAGA VETTRI KAZHAGAM

*(Handwritten Signature)*  
PRESIDENT.

