

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
WRIT PETITION (CIVIL) NO. 325 OF 2025

IN THE MATTER OF:

Dravida Munnetra Kazhagam Rep. by its Deputy General Secretary A. Raja & Anr.	...Petitioners
versus	
Union of India & Anr.	...Respondents

I.A. No. OF 2025 APPLICATION FOR STAY

PAPER BOOK

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ANURADHA ARPUTHAM
ADVOCATE ON RECORD FOR THE PETITIONERS

RECORD OF PROCEEDINGS

S.NO. DT.OF RECORD OF PROCEEDINGS PAGE(S)

1. Court's Order dated _____

2. Court's Order dated _____

3. Court's Order dated _____

4. Court's Order dated _____

5. Court's Order dated _____

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Dravida Munnetra Kazhagam Rep. by its
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...Respondents

OFFICE REPORT ON LIMITATION

1. The Petition is/are within limitation
2. The Petition is barred by time and there is delay of days in filing the same against order dated and petition for Condonation of days delay has been filed.
3. There is delay of days in Refiling the petition and petition for Condonation of days delay in Refiling has been filed.

BRANCH OFFICER

NEW DELHI

Dated : 07.04.2025

PERFORMA FOR FIRST LISTING

SECTION : PIL

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

 Central Act : Under Article 32 of the Constitution of India Section : Article 32 Central Rule : NA Rule No(s) : NA State Act: NA Section : NA State Rule: NA

Rule No(s): NA

Impugned Interim Order: NA

Impugned Judgment and Final Order: NA

High Court : NA

Names of Judge : NA

 Tribunal/Authority : NA1. Nature of matter: Civil Criminal2. (a) Petitioner/Appellant No. 1: Dravida Munnetra Kazhagam Rep.
by its Deputy General Secretary A. Raja & Anr.

(b) email ID : NA

(c) Mobile phone number: NA

3. (a) Respondent : Union of India & Anr.

(b) email ID: N.A.

(c) Mobile Phone number: N.A.

4. (a) Main category classification: 18 : Ordinary Civil Matters

(b) Sub classification : 1807 : Others

5. Not to be listed before : NA
6. (a) Similar disposed of matter with citation, if any, & case
Details : No similar disposed of matter
(b) Similar pending matter with case details : WP (C) No.269 of 2025
Asaduddin Owaisi vs Union of India
WP (C) No.283 of 2025 Amanatullah Khan vs Union of India & Ors.
7. Criminal Matters: NA
(a) Whether accused/convict has surrendered Yes No
(b) FIR No. NA Date: NA
(c) Police Station : NA
(d) Sentence Awarded : NA
(e) Sentence Undergone : NA
(f) Whether any earlier case between the same parties is filed : NA
(g) Particulars of the FIR and Case : NA
(h) Whether any bail application was preferred earlier and decision thereupon : NA
8. Land Acquisition Matters NA
(a) Date of Section 4 Notification : NA
(b) Date of Section 6 Notification : NA
(c) Date of Section 17 Notification : NA
9. Tax Matters : State the tax effect : NA
10. Special Category (first petitioner/appellant only) : NA
 Senior Citizen > 65 years SC/ST Woman/Child Disabled
 Legal Aid case Custody
11. Vehicle Number (in case of Motor Accident Claim matters): NA
12. Whether there was / is litigation on the same point of law, if yes, details thereof : NA

Date : 07.04.2025



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SYNOPSIS

1. The Petitioner No.1 is the Dravida Munnetra Kazhagam (hereinafter referred to as 'DMK') and was founded in the year 1949 and has been a major political party in the State of Tamil Nadu. The party has a rich history and political legacy and has formed Government in the State of Tamil Nadu several times and has also been instrumental in forming Government at the Union a number of times. The party is presently the ruling party in the State of Tamil Nadu and the 5th largest party in the present Lok Sabha and 5th largest party in the Rajya Sabha having a combined total of 32 MPs. The DMK's core ideology is based on the principles of rationalism, social justice and equality. Since its inception, Petitioner No.1 Party has fought for the poor, down trodden and marginalized sections of society.
2. The DMK party has always fought to preserve the rights of the minorities enshrined under the constitution from majoritarian attacks. The DMK Governments of the past have implemented several measures to ensure the protection of the religious and cultural rights of the Muslim minority population within Tamil Nadu besides measures to uplift their socio-economic status.
3. The Petitioner No.2 is the Deputy General Secretary of Petitioner No.1 party and Member of Parliament (Lok Sabha) from the Nilgiris Constituency in Tamil Nadu. Petitioner No.2 was the member of the Joint Parliamentary Committee on the Waqf (Amendment) Bill, 2024 for considering the provisions of the Bill.
4. The Petitioners are approaching this Hon'ble Court invoking its writ jurisdiction under Article 32 of the Constitution of India seeking directions for issuance of a Writ of Declaration or any other appropriate writ, order or direction, declaring the provisions of the

Waqf (Amendment) Act, 2025 (hereinafter referred to as “**Impugned Amendment Act**”) and the provisions inserted/ omitted by it in the Waqf Act, 1995 as being unconstitutional, illegal and void on the following among other grounds:

I. CHARITY IS AT THE HEART OF PRACTICE OF ISLAM AND THE CONSTITUTIONAL PROTECTION GUARANTEED TO PRACTICE OF RELIGION IS ERODED

- a. Article 25 (1) guarantees that the right to profess, practice and propagate religion is subject only to public order, morality and health and to the other provisions of Part – III of the Constitution. Article 25 (2) provides that the State shall be entitled to make any law regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice and also make law providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. Subject to these restrictions, the right to profess, practice and propagate religion cannot have any fetters and none can be imposed by the State.

- b. Most theist religions are dependent on places of worship or religious institutions for religious activities - perhaps only religions like Confucianism do not require physical institutions to practice. Similarly, charity is preached as a vital virtue in almost all major religions. Swami Vivekananda said service to man is service to God. In Christianity, the Bible says “Whoever is kind to the poor lends to the Lord, and he will reward them for what they have done.” Equally in Islam, charity is at the heart of the practice of Islam. The goal of every Muslim is to enter paradise after death (Jannah) and

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one of the ways to secure a place in paradise is to be charitable during their lifetime. In fact, the Quran prescribes several rewards for a Muslim who is charitable – (i) They enter paradise, (ii) their sins are cleansed (iii) the charity they do intercedes for them on the day of judgement after death (iv) proves shelter on the day of resurrection and (v) elevation of status and rank in the eyes of Allah. Thus, the performance of charity is an essential religious practice of every Muslim.

- c. Recognising that the religious institutions including charitable religious institutions are vital in performing religious duties and key to religious beliefs, the Constitution provides in Article 26 that every religious denomination shall have the right to establish and maintain institutions for religious and charitable purposes, to manage its own affairs in matters of religion, to own and acquire movable and immovable property and to administer such property in accordance with law.
- d. The Respondents under the garb of “secularisation” of Waqfs, have erased the right to religious autonomy, right to perform an essential religious practice, and the right to acquire, administer and maintain immovable properties by portraying as if the dedication of properties to Waqf is not an essential practice or an integral part of the religion of Islam. By allowing non Muslims to be part of the administration of Waqfs, the impugned Legislation has eroded the constitutional guarantee under Article 26. This Hon’ble Court in **AS Narayana Deekshitulu (1996) 9 SCC 548** had distinguished between “secularism” and “secularisation” by opining that secularisation essentially is a process of decline in religious activity, belief, ways of thinking and in restructuring the

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institution. Though secularism means that the State itself does not have a religion and is part of the basic feature of our Constitution, secularism doesn't mean that the State should erase religious customs and practices by secularizing them unless the practice itself is contrary to constitutional values. Article 13 recognises custom as law and our constitution provides certain protection to religious practices in Articles 25 to 28. The State can certainly introduce reforms in religious practices if such practices are against public policy or in the interest of the State. However, if the State attempts to secularise matters of religion and administration of religious institutions which are essential and integral parts of a religion, it would lead to violation of constitutional guarantees. The Impugned Amendment Act is a glaring attempt by the Respondents in secularising the essential and integral practices of Islam.

- e. This Hon'ble Court has held that the religious freedom guaranteed by Articles 25 and 26 enables every person to act according to the cultural and social demands of his religion and lead a community life based on the principles of his religion. The impugned legislation erodes these freedoms.

II. PRESCRIPTION OF MANDATORY 5 YEAR WAITING PERIOD IS AKIN TO KEEPING A MUSLIM IN PROBATION & ABOLITION OF 'WAQF BY USER' OR 'ORAL DICTATION' UNDER SECTION 3(r) IS VIOLATIVE OF ARTICLES 25 AND 26 OF THE CONSTITUTION

- a. The amendments to Section 3(r) introduced vide Section 4(ix) of the Amending Act stipulate that only those Muslims who

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have been practising Islam for at least five years can create a Waqf, is an unreasonable and arbitrary restriction placed by the State on the practice of Islam. The provision is akin to placing a Muslim 'in probation' for 5 years before he/ she can be considered a true enough Muslim to dedicate a Waqf. This kind of State mandated qualification to be a Muslim is unconstitutional and tyrannical. Further, deletion of clause (i) of Section 3(r) completely abolishes historical modes of creation of a Waqf, such as Waqf by user or Waqf by oral dedication which have long been recognized under the Muslim personal law and is protected by Article 26 (c).

- b. The Constitution Bench of this Hon'ble Court in ***M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das, (2020) 1 SCC 1*** had held that Muslim law does not require an express declaration of a waqf in every case. The dedication resulting in a waqf may also be reasonably inferred from the facts and circumstances of a case or from the conduct of the wakif. In the absence of an express dedication, the existence of a waqf can be legally recognised in situations where property has been the subject of public religious use since time immemorial. This concept of a waqf by user has also found statutory recognition in Section 3(r) of the Waqf Act, 1995. These customs are also sources of law under Article 13 (3) of the Constitution of India. That our jurisprudence recognises the principle of waqf by user even absent an express deed or declaration. Whether or not properties are waqf property by long use is a matter of evidence. The test is whether the property has been used for public religious worship by those professing the Islamic faith. (***Refer Para 1125 and 1134***)

- c. The imposition of a five-year probation period for persons of Islamic faith discriminates against converts, denying them the opportunity to perform their religious obligations through charitable endowments, and therefore violates Article 25 of the Constitution.
- d. When such conditions are absent for donation of property by Hindu to a temple or a Christian to the Church, prescription of such condition for Muslims alone militates against the principles of equality and non-discrimination enshrined in Articles 14 and 15 of the Constitution.
- e. The State cannot be the judge of whether a person is pious enough to donate property to his religion's institutions as that would make the State the arbiter of piety, which is arbitrary and unreasonable infringement on religious freedom under Article 25.

III. THE RESTRICTION OF NON-MUSLIMS FROM DONATING TO A WAQF MILITATES AGAINST THE RIGHT TO PROPERTY OF PERSONS AND AGAINST CUSTOM

- a. Historically, even non-Muslims were permitted to create waqf, a principle that was codified under Section 104 of the Waqf Act, 1995. The Waqf (Amendment) Act, 2013 amendment had only given statutory recognition to this inclusive approach by allowing "any person" to make such a dedication, regardless of their religion. However, even before this statutory recognition, non-Muslims were permitted to dedicate Waqfs. The omission of Section 104 through Clause 40 of the Amendment Act reverses decades of legislative progress and

pluralistic interpretation, further reinforcing the regressive and exclusionary character of the new provisions.

- b. Further, the right to gift property is part of the bundle of property rights vested with the owner of a property. This right flows from Article 300-A of every person *de hors* the religion he/ she belongs to. While the manner of conveying the rights is regulated by legislation like the Transfer of Property Act, 1882, a restriction cannot be placed on the right to convey property as a gift to any person (or institution).
- c. Similarly, all religious institutions have a special right to acquire property under Article 26 (c) which cannot be curtailed through statutory law except on grounds of public order, morality and health. The Amending Act is not for the purpose of public order, morality and health, and therefore cannot curtail the right to acquire property of the religious institution.

IV. INSERTION OF INHERITANCE RIGHTS IN WAQF-ALAL-AULAD IS ARBITRARY AND AMOUNTS TO RE-OPENING TITLE OF WAQFS ALREADY DEDICATED

- a. Section 3A(2) inserted through Section 5 of the Impugned Amendment Act grants inheritance rights of the heirs, including women heirs of the waqif or any other rights of persons with lawful claims. This completely alters the cardinal principle that the dedication of a Waqf is absolute and that once a Waqf is created by a Waqif, the property vests with God and cannot be divested from his ownership. Hence, there cannot be any inheritance rights attached to such a Waqf that

is dedicated. The insertion of this provision is dilution of the principle that once a Waqf is created, it is permanent and irrevocable.

b. Section 3A(2) therefore, is not just against the fundamental character of a Waqf which is an essential practice in Islam, but also contrary to a catena of judgements passed by this Hon'ble Court and the Hon'ble High Courts mentioned hereunder:

i. **As soon as the waqf is created, the property at once passes to God and neither it can be revoked nor the God can be divested from the property** and the Waqf, even if there is any subsequent breaches of the terms of the Waqf or abuse by the Mutawalli of his office. It is also immaterial whether provisions of the Waqf are carried out or not for that it is a matter of breach of trust only. It is also immaterial whether in case of immovable property whether the property was mutated in the name of Waqf or personal name of the Mutawalli in the revenue record. *(Refer Para 40 of Assam Board of Wakf v. Khaliquor Rahman, 1993 SCC OnLine Gau 152)*

ii. Wakf is a permanent dedication of property for purposes recognized by Muslim law as pious, religious or charitable and the property having been found as wakf would always retain its character as a wakf. *(Refer Para 13 of Sayyed Ali vs. AP Wakf Board, Hyderabad (1998) 2 SCC 642)*

iii. When the waqif has unequivocally and categorically divested himself of the entire interest in the mosque and made it a public waqf. Once the mosque was constructed, it stood dedicated to the God and all the rights, title and interest of owner got completely distinguished. (*Refer Para 40 of Syed Mohd. Salie Labbai v. Mohd. Hanifa, (1976) 4 SCC 780*)

c. When the waqif has unequivocally and categorically divested himself of the entire interest in the mosque and made it a public waqf. Once the mosque was constructed, it stood dedicated to the God and all the rights, title and interest of owner got completely distinguished. (*Refer Para 40 of Syed Mohd. Salie Labbai v. Mohd. Hanifa, (1976) 4 SCC 780*)

V. SECTION 3B VIOLATIVE OF THE COOPERATIVE FEDERALISM AND AN ENCROACHMENT INTO THE CONCURRENT LIST

a. Section 3B of the amended Waqf Act mandates that all waqf and waqf property details must be filed on a centralised digital portal within six months of the Act coming into force. This provision, read with Section 108B, which authorizes the Central Government to frame rules on critical matters without mandatorily involving State Waqf Boards or State Governments, this results in an impermissible centralisation of powers in clear violation of the constitutional scheme of federalism. The subject of “charitable and religious endowments” falls under Entry 28 of the Concurrent List (List III) in the Seventh Schedule of the Constitution. However, “Land” is a State subject in entry 18 of List II of the Seventh Schedule. By imposing a centralised, top-down mandate over waqf administration, the Union Government has usurped the

functions constitutionally vested with the State and violates Article 246 which distributes legislative functions between the Union and the State. Furthermore, this centralized digitisation exercise has been initiated without adequate consultation with the State Waqf Boards, thereby undermining the role of constitutionally and statutorily created bodies tasked with managing waqf affairs at the state level. This Hon'ble Court in ***S.R.Bommai v. Union of India, (1994) 3 SCC 1***, reaffirmed that federalism is a part of the basic structure of the Constitution. Any legislative measure that bypasses state institutions on a State List subject not only violates the Seventh Schedule but also the core principle of cooperative federalism and decentralised governance enshrined in the Constitution. The Impugned Amendment Act is violative of the basic features of the Constitution.

VI. VESTING OF THE POWER IN THE DESIGNATED OFFICER/COLLECTOR TO DECIDE WHETHER A GOVERNMENT PROPERTY IS A WAQF PROPERTY OR NOT IS VIOLATIVE OF ARTICLES 14, 19, 21, 25, 26, 29 AND PRINCIPLES OF NATURAL JUSTICE

- a. Section 3C(1) and 3C(2) inserted by way of the Section 5 of the Impugned Act have the effect of retrospectively re-opening and questioning Waqfs that were dedicated prior to the commencement of the Act. In such cases, the original donor might be long dead and unable to defend his title and consequently, defend his right to dedicate the Waqf.
- b. When a question arises as to whether a property dedicated as a Waqf property is a government property or private property, it is necessary that the question be adjudicated by a civil court

of competent jurisdiction and not the district collector, who is not a judicial authority.

- c. The substantive provision of Section 3-C(1) declares waqf properties which a State Government may claim as Government property as “deemed not to be waqf property” and later gives a provision for summary enquiry by the Designated Officer, who is an officer above the rank of Collector. The provision is arbitrary and unreasonable as it delegates judicial power of adjudication of title to a non-legal authority. Further, the provision inverts the burden to prove upon such beneficiaries/occupiers and the muttawali to explain and state their case after deeming that the property is not waqf property. As such, Section 3-C is gross violation of Articles 14, 19, 21, 21A, 25, 26, 29 and 300-A of the Constitution of India.
- d. The proviso to Section 3-C(2) states that till such time the Designated Officer submits his report, the property shall not be treated as Waqf property, which is draconian and amounts to immediate divesting of Waqf property the second a doubt is raised, without giving due opportunity to defend the claim.
- e. It is well settled that the right to decide title cannot be divested from civil courts and given to revenue officials. If the State Government is claiming the property as Government property, any hearing or decision by a government servant would not be fair and impartial. This severely breaches the doctrine of separation of powers which is a basic feature of our constitution. It is also contrary to the principles of natural justice i.e. no one shall be a judge in his own cause.

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- f. The Collector, being a revenue authority and custodian of government records, is not a judicial body empowered to conclusively determine title or ownership, particularly when such decisions have the effect of extinguishing constitutionally protected religious endowments without due process. Furthermore, this system vests unfettered discretion in the hands of an executive officer without adequate procedural safeguards or judicial review, there by violating Article 14 (equality before law) and Article 300A (right to property). The result is an arbitrary and opaque mechanism where waqf properties are vulnerable to expropriation under the guise of inquiry, with no effective remedy left to the waqf institutions.
- g. It is well settled that adjudicatory functions cannot be performed by non-legal minds such as revenue officials. Prior to amendment, the powers were vested with the Waqf Tribunal which had a judicial member. However, the power now has been conferred on a revenue official to declare title. Such a provision is manifestly arbitrary and is unconstitutional as it violates the doctrine of separation of powers under the Constitution which is part of the basic structure of the Constitution.
- h. The provision does not prescribe any time limit for completion of enquiry or for the State Government to take a decision, which is arbitrary and unreasonable.

VII. INCLUSION OF NON-MUSLIM MEMBERS TO THE CENTRAL WAQF COUNCIL AND STATE WAQF BOARDS

**IS VIOLATIVE OF ARTICLE 26(b) AND ARTICLE 26(d) OF
THE CONSTITUTION**

- a. Article 26 guarantees that every religious denomination has the right to manage its own affairs in matters of religion, which includes the administration of waqf properties—Islamic endowments meant for religious or charitable use. Allowing non-Muslims to participate in these bodies could be seen as an infringement on this constitutional right, as it introduces external influence into what is fundamentally a religious practice. Article 25, which protects the freedom to profess, practice, and propagate religion, is also impacted, since the management of waqf is deeply rooted in Islamic religious duties and principles. Furthermore, such inclusion violates Article 14 by treating the Muslim community differently from other religious groups, whose religious bodies are typically governed internally without external, especially non-faith, interference. Article 15, which prohibits discrimination on the grounds of religion, is similarly impacted, as this move imposes an obligation on Muslims that is not imposed on other religious communities, amounting to indirect discrimination. The decision to include non-Muslim members in waqf institutions threatens the religious freedom, equality, and autonomy of the Muslim community, while also undermining the secular principle of non-interference in religious affairs by the State.

- b. The freedom to profess and practice one's religion under Article 25, and to administer institutions and properties dedicated to religion under Article 26, includes the right to preserve the religious character and internal governance of such institutions. In *Tilkayat Shri Govindlalji Maharaj v.*

State of Rajasthan, 1963 SCC OnLine SC 52, this Hon'ble Court reaffirmed that any legislative measure regulating religious endowments must not extinguish or destroy the denomination's right to manage its own institutions.

VIII. SECTION 36(10) OF THE AMENDED ACT EXTINGUISHES PROPERTY RIGHTS WITHOUT DUE PROCESS

- a. BECAUSE Section 36(10) of the amended Waqf Act imposes an unreasonable and arbitrary bar on legal recourse for waqfs that are not registered within six months of the Act's commencement. This results in the statutory extinguishment of property rights, without due process or compensation. The provision mandates that waqfs not registered within the prescribed period shall be deemed non-existent for the purposes of the Act, thereby depriving waqf properties of legal recognition and protection, even if they are centuries old or historically established through oral waqf. Such a blanket extinguishment, particularly without any transitional mechanism, notification, or hearing, constitutes an unconstitutional deprivation of property and religious endowment. In ***K.T. Plantation Pvt. Ltd. v. State of Karnataka, (2011) 9 SCC 1***, this Hon'ble Court held that even post the deletion of Article 19(1)(f), any law that acquires or extinguishes property rights must pass the test of being fair, just, reasonable, and in public interest. The present Impugned Amendment Act fails that test, as it indiscriminately nullifies waqfs on purely procedural grounds, without assessing the merit or intent of the endowment, and without offering compensation or alternative remedy to the mutawallis or the community at large.

IX. APPLICATION OF THE LIMITATION ACT, 1963 IS AGAINST THE PURPOSE OF THE WAQF ACT

- a. The Amendment Act substitutes Section 107 of the Waqf Act, 1995, thereby making the Limitation Act, 1963 applicable to waqf properties, which has far-reaching and deeply detrimental consequences. Waqf property, being a perpetual religious dedication to the Almighty, occupies a unique legal status that is fundamentally different from ordinary property. The doctrine of waqf, as recognised under Islamic law and long upheld by Indian courts, entails irrevocable dedication in perpetuity, and thus cannot be subject to temporal constraints such as limitation periods. By bringing waqf property disputes within the purview of the Limitation Act, the Impugned Amendment Act would unjustly prevent rightful recovery of properties that may have been misappropriated or fraudulently alienated by corrupt mutawallis or waqf board officials, acting in collusion with external actors. This enables legal validation of unlawful transfers through the mere passage of time, frustrating the very purpose and sanctity of the waqf as envisaged by the waqif (dedicator), and amounts to divesting a dedication made to the Divine. The removal of this protective exception is not only contrary to the intention of Islamic endowment law, but also results in a serious erosion of the religious and charitable purpose of waqf, potentially causing irreparable loss to the community.

X. OMISSION OF SECTION 108, 108A FROM THE PRINCIPAL ACT DILUTE THE SPECIAL RELIGIOUS CHARACTER AND FRAMEWORK OF THE WAQF

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- a. BECAUSE the omission of Section 108-A, which currently gives the Waqf Act an overriding effect over other laws, poses a serious threat to the integrity and governance of waqf properties. This provision was introduced via the 2013 Amendment with the explicit purpose of ensuring that State or Central laws, particularly those of a secular and general nature, do not dilute or override the special religious character and framework of waqf law. Its removal would expose waqf properties to conflicting State legislation, undermining a uniform national framework and subordinating waqf dedications to potentially adverse local statutes, which may not be equipped to safeguard the religious intentions of the waqif. The supremacy clause served to protect waqf assets from being eroded by statutory ambiguity or overlap, and its deletion represents an abdication of the State's duty to uphold constitutional protections for minority religious institutions under Articles 25, 26, and 30.

- b. BECAUSE the omission of Section 108, which currently bars the application of other statutes such as the Administration of Evacuee Property Act, 1950, to waqf properties, lacks any rational or legal justification. This provision reaffirms that waqf property, once dedicated, is subject to the unique religious jurisprudence and cannot be governed by secular property laws or classified under general categories like "evacuee property." To remove this safeguard would be to reduce a religious endowment into a secular estate, vulnerable to expropriation, reclassification, or administrative control under laws that do not recognise the sacrosanct and permanent nature of the waqf institution. Such a change would not only violate the doctrinal integrity of waqf law, but also breach the trust of the waqif and the constitutional commitment to protect

religious institutions of minorities from arbitrary State interference.

XI. THE IMPUGNED ACT IS VIOLATIVE OF THE OBJECT OF THE WAQF ACT, 1995

- a. BECAUSE the word “Waqf” is a form of charity under Islam that has Quranic roots and is part of the essential religious practice of the Muslims. It is a permanent dedication of movable or immovable property for any purpose recognized by Muslim law as pious, religious or charitable. To further protect this charitable dedication, it has been declared that the same will be permanent, hence the settled principle, once a waqf always a waqf (reliance in this regard is placed on the judgement of this Hon’ble Court in ***Sayyed Ali & Ors. v. Andhra Pradesh Wakf Board Hyderabad & Ors., 1998 (2) SCC 642***). To infringe upon this sacred principle by attempting to alter the nature of waqf properties is essentially an infringement and violation of the very essence of waqf.

- b. BECAUSE the Waqf Act, 1995 was enacted with the sole objective of providing for “better administration of Auqaf and for matters connected therewith”. However, the Impugned Amendment Act, not only fails to contribute to the better administration of Waqf properties but also takes away from the very essence of the concept of Waqf. It is thus submitted that the impugned 2025 Act is neither in keeping with nor for the advancement of the objectives of the 1995 Act. On the other hand, it serves the purpose of the defeating the very objective that it is purportedly meant to facilitate. It is a settled principle of law that an amendment to a statute must be in consonance with the basic structure and object of the

original legislation and if an amendment nullifies or defeats the very purpose of the parent act, it can be struck down as ultra vires or unconstitutional. Reliance in this regard is placed on the judgment of this Hon'ble Court in ***K. Nagaraj & Ors. v. State of Andhra Pradesh (1985) 1 SCC 523.***

5. That the Impugned Amendment Act is violative of the basic features/basic structure of the Constitution of India such as secularism, federalism, separation of power etc. and for this reason also, the Impugned Amendment Act is bad and liable to be struck down.
6. That it is respectfully submitted that the Impugned Amendment Act is violative of Articles 14, 15, 19, 21, 25, 26, 29, 30, 300A as well as the basic features of the Constitution and is liable to be struck down.
7. That therefore, the Petitioners seek urgent intervention of this Hon'ble Court for issuing an interim stay upon the operation of provisions inserted by the Waqf Amendment Act, 2025 and the provisions inserted/ omitted by it from the Wakf Act, 1995 due to the overriding public interest and prima facie unconstitutionality in the impugned legislation.

LIST OF DATES AND EVENTS

DATE	EVENT
May 1954	The Waqf Act, 1954 was passed to provide better administration and supervision of waqf properties.
November 1995	The Waqf Act, 1995 was passed to replace the 1954 Act with comprehensive legislation for the management of waqf properties, including the establishment of Central and State Waqf Boards.
September 2013	The Waqf (Amendment) Act, 2013 was passed to enhance improve mechanisms for removal of encroachments and streamlined processes for registration and survey of waqf properties.
09.08.2024	The Waqf (Amendment) Bill, 2024 was referred to Joint Parliamentary committee following the introduction on 8 th Aug 2024.
13.08.2024	31 Member Joint Parliamentary Committee was formed to examine the Waqf (Amendment) Bill, 2024. Notably, Petitioner No. 2 herein was a Member of the said Committee.
22.01.2025	Amendments proposed by the Petitioner No.2 before the Joint Parliamentary Committee.
27.01.2025	Members of Opposition parties in the Joint Parliamentary Committee issued a joint statement condemning the disregard for procedural safeguards in the committee and they highlighted that 95% of stakeholders opposed the bill, while the remaining 5% appeared under communal banners.

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Members were denied access to minutes of sittings held in Delhi and elsewhere, prevented from presenting their views on amendments, and not allowed clause-by-clause discussion, which is an essential part of the committee process.

- 29.01.2025 A. Raja, Petitioner No.2 herein, along with M.M. Abdulla, submitted a dissent note to the Chairman of the Joint Parliamentary Committee, asserting that the draft report and the proposed bill infringe upon Fundamental Rights etc.
- 03.04.2025 The Bill was taken up for consideration and passed at 1:56 AM by the Lok Sabha.
- 04.04.2025 The Bill was added in Supplementary List of Rajya Sabha Business for consideration only on 3rd April 2025 and passed by waiving off the requirement of two days' notice period under Rule 123 of Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) leaving no time for members to prepare and move an amendment.
- The Bill was passed at 2.32 AM on 4th April 2025.
- 05.04.2025 The Waqf (Amendment) Act, 2025 received the assent of the President.
- 07.04.2025 The Petitioners filed the present Writ Petition.

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)
WRIT PETITION (CIVIL) NO. OF 2025

IN THE MATTER OF:

1. Dravida Munnetra Kazhagam
Rep. by its Deputy General Secretary A. Raja,
Dravida Munnetra Kazhagam (DMK Party),
No.367/369, Anna Arivalayam,
Teynampet, Chennai-600018. Petitioner
No.1

2. A Raja S/o. SK Andimuthu,
Member of Parliament, Lok Sabha
 Petitioner
No.2

Versus

1. Union of India
Ministry of Law & Justice,
Rep. by its Secretary,
Room No.441, A Wing, Shastri Bhawan,
New Delhi – 110001. Respondent
No.1

2. Ministry of Minority Affairs
Rep. by its Secretary,
11th Floor, Pandit Deendayal
Antyodaya Bhawan, CGO Complex,
Lodhi Road, New Delhi-110003. Respondent
No.2

**WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF
INDIA**

TO,
THE HON'BLE CHIEF JUSTICE AND

HIS COMPANION HON'BLE JUDGES OF THE
HON'BLE SUPREME COURT OF INDIA

THE WRIT PETITION OF THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:-

1. That the Petitioners are constrained to approach this Hon'ble Court by invoking Article 32 of the Constitution of India praying for issuance of a Writ of Declaration or any other appropriate writ, order or direction, declaring Sections 3(da), (fa), (ka), (r), 3(r)(iv), 3(A), 3(B), 3 (C), 3(D), 3(E), 9, 23, 36, 37(3)(f), 107 of the Waqf Act, 1995 as inserted by the Waqf (Amendment) Act, 2025 as unconstitutional and *ab initio* void being in violation of *interalia* Articles 14, 15, 19, 21, 25, 26, 29, 30 and 300A as well as the Basic Structure of the Constitution of India; and also for a Writ of Declaration declaring The Waqf (Amendment) Act, 2025 as unconstitutional and *ab initio* void being in violation of Articles 14, 15, 19, 21, 25, 26, 29, 30 and 300A as well as the Basic Structure of the Constitution of India. The Waqf (Amendment) Act, 2025 (hereinafter the "**Impugned Amendment Act**") was published on 05.04.2025 vide Gazette Extraordinary No. 14 dt. 05.04.2025 after obtaining the assent of Her Excellency, the President of India.
2. That the Impugned Amendment Act erodes the constitutional guarantees that all persons will have the right to profess, practice and propagate religion and that all religious denominations will have the right to establish and maintain institutions for religious and charitable purposes and to own and acquire movable and immovable property. By enabling appointment of non-Muslims to the Waqf, the Impugned Amendment Act also violates the guarantee of

Article 26 that every denomination shall have a right to manage its own affairs in matters of religion. Charity is an essential religious practice in Islam and dedication of properties to Waqfs is an essential religious practice and hence is clothed with constitutional protection which cannot be fettered by statutory law.

A true copy of the Waqf (Amendment) Act, 2025 is annexed herewith and marked as **ANNEXURE P-1**. (Pg. Nos. 54-68)

3. That Petitioner No.1 is the current ruling party in the State of Tamil Nadu. The DMK party is the largest party in Tamil Nadu and has formed the Government six times in the State and several times at the Union in coalition with national parties. The DMK is the 5th largest party in the present Lok Sabha and 5th largest party in the Rajya Sabha having a combined total of 32 MPs. The DMK's core ideology is based on the principles of rationalism, social justice, self-respect and equality. Since its inception, Petitioner No.1 Party has fought for the poor, down trodden and marginalized sections of society. Similarly, the DMK party has always fought to preserve the rights of the minorities enshrined under the constitution from majoritarian attacks. The DMK Governments of the past have implemented several measures to ensure the protection of the religious and cultural rights of the Muslim minority population within Tamil Nadu besides measures to uplift their socio-economic status. The DMK led Governments have implemented the following measures for the benefit and upliftment of the Muslim community:

- Urdu-speaking Muslims were included in the list of backward classes and the Urdu Academy was founded.
- Provided a 3.5% internal reservation for backward Muslims.
- In 1971, Kalaignar set up a special training institute for IAS and IPS exams to ensure Muslim and minority participation in civil services.

- Minority Welfare Commission was established on 13.2.1989 to protect minority rights.
- In 1998, free diploma education in polytechnic institutions was introduced for the first student in a minority family.
- Tamil Nadu Urdu Academy was established in 2000.
- In 2006, free air hostess training with accommodation and food for minority girls was introduced in Chennai.
- In 2007, a scheme was launched to award top 3 male and 3 female students who scored highest in Urdu in 10th and 12th public exams.
- Department for Minority Welfare was created in 2007 for social, economic, and educational progress.
- A support association for deserted Muslim women was formed in every district in 2007.
- In 2007, technical training in IT, garment and footwear design/production was introduced for minority students.
- In 2008, five new hostels were built in Trichy, Dindigul, Tirunelveli, Coimbatore, and Vellore for Muslim students in 250 schools and colleges.
- In 2008, the pension for Islamic scholars was increased to Rs.2400/month.
- In 2009, a Welfare Board for Ulama (Islamic scholars) was established.
- A law recognizing the Tamil Nadu Minority Commission was enacted in 2010.
- DMK Government announced a public holiday for Milad-un-Nabi.
- At the request of Muslim organizations, the Muslim Women Rights Association was expanded to all districts from just Chennai.
- DMK founded the Tamil Nadu Minorities Economic Development Corporation, honoring Quaid-e-Millat.
- The Government Mohammedan College (now Quaid-e-Millat) lost its reservation post-independence. In 1974, DMK Government

made it a women's arts college and named it after Quaid-e-Millat.

- Land was allocated to establish Quaid-e-Millat Men's College in Chennai's suburbs.
- 18 minority welfare hostels have been established for Muslim girl students, with Classical Language Libraries worth Rs. 14 lakhs each.
- In 2023, an incentive scheme was launched for rural minority girl students in grades 3–6.
- After the Union Government stopped the Pre-Metric Scholarship (for classes 1–8), the Tamil Nadu Government resumed it through the Wakf Board, benefiting 1,26,256 students.
- Religious minority status certificates are now issued to minority institutions with a lifetime recognition policy effective from 02.02.2024.
- Minority school girls studying in Tamil medium (Grades 6–12) are now included in the Pudhumai Pen scheme.
- The Chief Minister's Breakfast Scheme was expanded to minority students (Grades 1–5) in government-aided schools.
- An online portal was launched on 07.02.2024 for easier application for minority status certificates.
- A proposed fee hike for Urdu, Arabic, and Oriental language exams at Madras University (from Rs.540 to Rs. 3000) was withdrawn after intervention.
- The age limit for direct teacher appointments was increased to 53 (general) and 58 (reserved), extended to minority-aided schools.
- University appointments for UGC-eligible minority college teachers have been facilitated.
- The Arabic distance education course discontinued last year has been reintroduced from 2024–2025.
- Since 2009, over 15,848 members have benefited from the Welfare Board for Ulama and Employees.
- In 2023, benefits under the welfare board were increased,

including bicycles worth Rs. 5.46 crores.

- A family pension has been sanctioned for deceased Ulama pensioners' families.
- For differently-abled, the pension eligibility age reduced to 40, service years to 10.
- Minority Welfare Offices were established in 5 major districts with high Muslim populations.
- Since 2021, 3,500 free sewing machines with electric motors have been distributed to Ulama and staff.
- District Kazis are now paid Rs. 20,000 monthly honorarium.
- The Muslim Women Support Associations, started in 2007, were expanded to 5 more districts.
- Rs. 658.44 crores allocated in 2023 for 123 infrastructure projects in minority-concentrated areas.
- Education loans up to Rs. 5 lakhs provided through co-operative banks via the Minority Economic Development Corporation.
- In the last financial year, Rs. 62 crores were distributed to 9,217 beneficiaries.
- Annual administrative grant of Rs. 2.5 crores provided to the Tamil Nadu Wakf Board, with 4 zonal offices under construction.
- Rs. 2 crores granted for the survey of Wakf properties to ensure protection.
- Order passed on 30.01.2024 to acquire land for cemeteries (kabristan) in district HQs without them.
- Rs. 10 crores allocated in 2022–2023 for renovating 134 mosques and dargahs.
- SOPs introduced to streamline approval and renovation of religious sites.
- Wakf land lease permitted for 30 years for education, medical, and social development purposes.
- Permission granted to construct a new Wakf Board office with modern infrastructure.

- Annual Haj subsidies continue. In 2023, Rs. 10 crores were given to 3,987 pilgrims; in 2024, 5,228 pilgrims received support.
 - On 04.03.2025, announcement made for new Haj terminal near Chennai Airport.
4. That Petitioner No. 1 has constantly worked for the upliftment of the Muslim community within the State.
 5. That Petitioner No.2 is the Deputy General Secretary of the Petitioner No.1 party and Member of Parliament (Lok Sabha) from the Nilgiris Constituency in Tamil Nadu. The Petitioner No. 2 was the member of the Joint Parliamentary Committee on the Waqf (Amendment) Bill, 2024 for considering the provisions of the Bill.
 6. That the Petitioners do not have any personal interest or any personal gain or private motive or any other oblique reasons in filing this Writ Petitioner in Public Interest. The Petitioners have not been involved in any other civil or criminal or revenue litigation, which could have legal nexus with the issues involved in the present Petition.
 7. That the Petitioners have not other equally efficacious remedy except to approach this Hon'ble Court by way of the present Writ Petition. All annexures annexed to the Writ Petition are true copies of their respective originals.
 8. That the Petitioners herein have never approached this Hon'ble Court or any other Court seeking a relief similar to the relief sought for in the present Writ Petition.

A. BRIEF HISTORICAL BACKGROUND TO GOVERNANCE OF WAQF IN INDIA

9. That Islam is an Abrahamic monotheistic religion and one of the oldest in the world. Currently, Islam is the second largest religion in the world behind Christianity and is also the second largest religion in India with approximately 180 million Muslims. Islam is based on the teachings of Prophet Muhammed as recorded in the Quran, their holy book. Muslims consider the Quran to be the verbatim word of God and the unaltered, final revelation.

10. That the concept of charity and letting go of material wealth and pleasure in finding a path to God permeates through the Quran as well as all Islamic teaching. In fact, the word 'Islam' itself means surrender to God in Arabic. Charity is so intrinsic to the practice of Islam that the Quran itself prescribes several types of charity – to be practiced by a Muslim at different times during his lifetime. Islam has five pillars:

- **Profession of Faith (*shahada*)**
- **Prayer (*salat*)**
- **Alms (*zakat*)**
- **Fasting (*sawm*)** and
- **Pilgrimage (*hajj*)**

That the third pillar – Zakat or charity is therefore of fundamental importance to the practice of Islam. Muslims believe that the spending of wealth for the sake of Allah purifies the heart of man from the love of material wealth. They believe that a man who spends performs zakat shows his love of Allah and that he is full prepared to sacrifice everything for his sake. Secondly, Muslims also believe that it is their pious duty to perform zakat to improve the economic condition of the have-nots. The primary motive of zakat is religious and spiritual, but the secondary motives are also social and economic. Zakat is not optional in Islam but mandatory per the following passage from the Quran:

(O Prophet), take sadaqa (zakat) out of their property-thou wouldst cleanse them and purify them thereby (Qur'an, ix. 103). And away from it (the Hell) shall be kept the most faithful to duty who gives his wealth, purifying himself (xcii. 17-18).

11. That such is the importance of zakat in Islam that it has been mentioned at eighty two places in the Qur'an in close connection with prayer. That the Quran and the teachings of prophet Muhammed itself tells Muslims the ways in which they can perform zakat, such as Zakat al-Fitr (given at the time of Ramadan), Waqf, Qurbani (sacrificing an animal), Qard Hasan (giving loans without interests) etc. All these types of charity is the performance of Zakat, which is an essential religious practice for the salvation of a Muslim.

12. That when it comes, to waqf, the concept is traced to the Prophet himself. A Jewish man named Mukhairiq stipulated in his will that Prophet Muhammad get his seven orchards in Madinah upon his death. In the fourth year of the Hijrah calendar, the man passed away, and the Prophet established them as a charity Waqf. The Prophet has also advised others to donate their properties as Waqfs. According to Abdullah ibn Omar, a companion of the Prophet, when he had obtained land in Khaibar, he went to the Prophet and asked him what he should do with it and he replied that "If you want, you can bequeath it, and give it as charity; provided that it should not be sold, bought, given as a gift or inherited." Thus, the way to dedicate a waqf in islamic belief is to give it absolutely and in perpetuity. The word Waqf is derived from an Arabic word meaning "to stop, confine, or dedicate." Hence, once a Waqf is dedicated, in performance of a pious obligation of a Muslim to perform Zakat, the dedication is permanent and absolute.

13. That the practice of Waqfs therefore is prevalent across the world in the Muslim communities. A waqf is defined by three elements: the waqif (the individual who established the endowment), the mawquf (the property being donated), and the mawquf-alaih (the waqf's beneficiary). Once a property is declared waqf, it is considered God's property, and its usage is restricted to the purpose for which it was designated, typically religious or public good.
14. That in India, the practice of Waqfs was institutionalized by the Delhi Sultanate (1206–1526). Qutub-Din Aibak, the founder of the Delhi Sultanate, is credited with establishing one of the earliest known waqf properties i.e Qutub Mosque in Delhi. Shah Jahan endowed the Jama Masjid in Delhi.

B. THE HISTORY OF WAQF LEGISLATION IN INDIA

15. That during the early phase of British rule in India, the colonial administration largely refrained from interfering with Hindu and Muslim endowments. However, as the need for oversight grew, specific regulations were introduced:
 - I. **BENGAL CODE REGULATION XIX OF 1810:** This regulation aimed to manage the revenues generated from lands granted for religious purposes, such as mosques, temples, and public utilities. It allowed the British government to oversee the proper use of these revenues and ensure they were directed towards their intended charitable and religious objectives. However, this regulation applied equally to both Hindu and Muslim endowments, without establishing separate provisions for either religion.

- II. **MADRAS CODE, REGULATION VII OF 1817:** Following the Bengal Code, the Madras Presidency introduced a similar Regulation. This Regulation covered the management of religious endowments, ensuring that revenues from these properties were properly appropriated for public purposes, such as the maintenance of mosques, temples, bridges, and other public utilities. Like its Bengal counterpart, the Madras Code imposed government supervision on religious endowments to prevent mismanagement.

16. That by 1839, opposition from Christian missionaries prompted the British to reduce their direct control over religious endowments. This relaxation, however, led to widespread mismanagement and embezzlement of temple and mosque funds. As a result, new laws were introduced, which are mentioned hereunder:

- iii. **RELIGIOUS ENDOWMENTS ACT, 1863:** This Act removed direct government involvement in managing religious and charitable endowments, particularly for Hindu and Muslim institutions. It relieved government bodies, like the Board of Revenue, from the responsibility of supervising these endowments. Instead, management was entrusted to local committees and managers, with provisions for civil courts to intervene if necessary. This Act marked a shift towards decentralizing the control of religious endowments while still allowing for judicial oversight.
- iv. **CHARITABLE ENDOWMENTS ACT, 1890:** Provided a legal framework for the vesting and administration of properties held in trust for charitable purposes. This Act introduced the role of "Treasurer of Charitable Endowments", who was

appointed by the Central and State Governments to oversee these properties. Treasurer has the power to ensure that the income generated from charitable endowments was appropriately managed and directed toward public welfare.

- v. **CHARITABLE AND RELIGIOUS TRUSTS ACT, 1920:** This Act allowed any person with an interest in a charitable or religious trust to apply to the District Judge for information about the trust's nature, value, and management. The law also enabled courts to examine and audit the accounts of these trusts, giving beneficiaries a legal route to ensure transparency and accountability in the management of endowments.

17. That thereafter, the landmark case of ***Abdul Fata Mahomed Ishak v. Russomoy Dhur (1894) SCC Online PC 24*** significantly impacted the legal treatment of waqf, particularly family waqfs (waqf-alal-aulad). The Privy Council ruled that if the primary purpose of a waqf was family benefit and the charitable element was illusory or minimal, such a waqf was invalid. This judgment rejected the legality of private waqfs made solely for family enrichment, requiring a substantial dedication to religious or charitable purposes for the waqf to be valid.

18. That the ruling also introduced a distinction between public waqf (for public religious or charitable causes) and private waqf (for family benefit), with the latter being subject to strict limitations under British law. The judgment was based on the rule against perpetuities, which prohibits the indefinite holding of property within a family, as outlined in the Transfer of Property Act (1882) and the Indian Succession Act (1925).

19. That this decision faced backlash from the Muslim community, eventually leading to the Mussalman Wakf Validating Act of 1913, which restored the legality of family waqfs, provided some income was dedicated to charitable causes, effectively reversing the ***Abdul Fata*** ruling.
20. That thereafter, the Mussalman Wakf Validating Act, 1913 was introduced restoring the legality of family waqfs by allowing waqf-alal-aulad, provided that a portion of the income was dedicated to religious or charitable causes. This legislation was a critical development in codifying Islamic endowment laws and addressing the grievances of the Muslim community in India. Mr. Mohammad Ali Jinnah advocated the Bill which later on became Act VI of 1913 to reproduce the Mussalman law regarding waqf-alal-aulad in a codified form and to restore the validity of such waqfs by providing them complete immunity. This Act made all waqfs (including the waqf- alal-aulad) as valid, even if the benefit to the poor or religious or charitable purpose was remote. Thus, the Act gave the right to Muslims to create waqf for maintenance and support of his family or of himself on the pretext of being charitable and religious.
21. That the Mussalman Wakf Act, 1923 was a key piece of legislation focused on the regulation of the waqf properties. It required mutawallis (waqf trustees) to keep proper accounts and mandated the publication of waqf property records. While it did not establish any independent body for waqf supervision, it empowered civil courts to oversee matters related to waqf management. The Act was significant in improving the transparency and accountability of waqf trustees and helped reduce mismanagement of waqf assets. Several provincial amendments followed to further refine its

provisions in different parts of India. The said Act has also now been repealed.

22. That however, after India's independence in 1947, the management of waqf properties remained under the Mussalman Wakf Act of 1923. However, post-independence there were new challenges, particularly relating to evacuee properties, leading to significant changes in the legal framework governing waqf administration. Several state-level enactments also applied alongside the 1923 Act, but the central government sought to create a unified approach to managing waqf properties.
23. That after India's independence in 1947, the Mussalman Wakf Act, 1923, continued to govern waqf properties. However, the government soon recognized the need for a new regulatory framework due to which the Waqf Act, 1954 was enacted. The 1954 Act centralized the administration of waqf properties and established Waqf Boards with significant authority. While it aimed at reform, it was criticised by various sections for allegedly favoring one religious community. The 1954 Act led to the repeal of multiple pre-independence laws and drastically altered waqf administration.
24. That in 1964, the Central Waqf Council was established under Section 9(1) of the Waqf Act, 1954, to supervise and coordinate with State Waqf Boards (SWBs). The Amendments followed in 1959, 1964, 1969, and 1984 to improve the administration further.
25. That thereafter, the Waqf (Amendment) Act, 1984 was enacted for introducing the following new provisions under the statutory framework:

- I. Reconstitution of Waqf Boards: The amendment reorganized the Waqf Boards and granted them additional powers over waqf properties.
- II. Waqf Tribunals: It established specialized Tribunals to resolve disputes related to waqf properties ruling out the jurisdiction of Civil Courts.
- III. Committees and Commissioners: The Act introduced new committees and expanded the powers of waqf commissioners to enhance oversight and improve administrative functions.

26. That over the decades, several significant changes have been introduced to waqf legislation in India, reshaping the administration, legal interpretation, and governance mechanisms surrounding waqf properties. One of the significant changes was the widening of the definition of waqf. The Waqf Act of 1954 introduced concepts such as '*waqf by user*', where a property used for religious or charitable purposes over time could be presumed to be waqf and also formally recognized *waqf-alal-aulad*, which allowed Muslims to create family waqfs as long as the ultimate benefit was charitable. This concept was further strengthened in the Waqf Act of 1995, which stated that even if the original usage of the property changed or ceased, it would still retain its waqf status, thereby safeguarding against potential loopholes for misuse.

27. That the jurisdictional framework for resolving waqf disputes also underwent a notable shift. While the 1954 Act permitted civil courts to adjudicate waqf-related matters, the 1995 Act introduced Waqf Tribunals, transferring jurisdiction from civil courts to these specialized bodies. These tribunals were vested with exclusive powers to decide disputes concerning waqf properties, and their decisions were made final and binding, with no provision for appeals in civil courts.

28. That regarding administrative responsibilities, the 1954 Act required the cost of property surveys to be borne by the *mutawalli* (caretaker), using the income from the waqf. This provision aimed to hold the mutawalli financially accountable for the maintenance of records and administration. The composition of Waqf Boards also saw important changes. Under the 1954 Act, initially, the boards could include Muslims from diverse professional backgrounds, including Members of Parliament and experts in Muslim law, finance, and administration. However, an amendment to the 1995 Act in 2012 mandated that board members be exclusively from the Muslim community, reinforcing religious representation in governance. However, the same has been diluted by the Impugned Amendment Act by mandating non-muslims to be members.

29. That the powers of the Waqf Board also evolved significantly. Under the 1954 Act, the board had powers such as determining waqf status, managing income, and appointing or removing mutawallis. The 1995 Act not only reaffirmed these powers but also expanded them allowing the board to claim properties registered under other entities (such as trusts or societies) if it had reason to believe that they were of waqf origin.

30. That the status of individuals involved in waqf administration also changed. Under the 1954 Act, only commissioners, auditors, and board officers were deemed public servants under the Indian Penal Code. The 1995 Act extended this designation to include mutawallis, members of managing committees, and all persons holding office in relation to waqfs though notably, trustees and managers continued to be excluded from this status. As for legal standing, the right to file suits regarding waqf properties remained largely the same between

the two Acts, allowing any “person interested therein” to approach the appropriate authority.

31. That another notable development was the inclusion of non-Muslim donations within the ambit of waqf properties. This was achieved through the 1964 amendment to the 1954 Act, which recognized endowments made by non-Muslims for Muslim religious or charitable purposes as valid waqfs. However, the same is impermissible under the Impugned Amendment Act. Lastly, the issue of encroachments was addressed more comprehensively in the 1995 Act. The 1954 Act did not contain specific provisions regarding encroachments on waqf land. In contrast, the 1995 Act empowered the Chief Executive Officer (CEO) of the Waqf Board with discretion to identify and remove encroachments, thereby strengthening institutional authority over the protection and recovery of waqf assets.

C. INTRODUCTION OF THE 2025 IMPUGNED AMENDMENT ACT AND THE PRE- LEGISLATIVE PROCESS

32. That the Waqf (Amendment) Bill, 2024 was introduced in Lok Sabha on 8th August, 2024. The Motion for reference of the Bill to a Joint Committee of both the Houses of Parliament was moved in Lok Sabha on 09.08.2024 by Shri Kiren Rijju, the Minister of Minority Affairs and concurred by the Rajya Sabha on the same day.

33. That as per the motion moved in the House, the Joint Committee was to make a report to the House till the last day of the first week of the Winter Session, 2024. The Committee was given extension of time for presentation of the Report till the last day of the Budget Session. A Motion of Extension in this regard was also moved in Lok Sabha on 28.11.2024.

34. That on 22.01.2025, Petitioner No.2 herein submitted a comprehensive list of amendments proposed by Petitioner No.2 to the Chairman of the Joint Parliamentary Committee regarding the Waqf Bill. A true copy of the representation dated 22.01.2025 made by Petitioner No.2 is annexed herewith and marked as **ANNEXURE P-2**. (Pg. Nos. 69-75)

35. That however, the proceedings of the Joint Parliamentary Committee ("JPC") under the Chairmanship of Shri Jagdambika Pal, MP were held in complete deviation of the Rules without considering the concerns and the views raised by the members of parliament belonging to the opposition parties. That after the conclusion of the 37th sitting of the JPC held on 27.01.2025, Members of Parliament of the Opposition of Parties including Petitioner No.2 issued a Joint Statement highlighting the arbitrary manner in which the Chairman was conducting the proceedings of the Joint Parliamentary Committee and how the Clause-by-Clause consideration purported to be undertaken on 27.01.2025 was carried out in an undemocratic manner. The Joint Statement read as follows:

"a) During the proceedings in entirety 95% of the stakeholders deposed against the bill and remaining 5% of the stakeholders appeared before the committee under the communal entity or umbrella.

b) Minutes of the sittings held in Delhi and other places were not supplied to the Members.

c) Members were stopped from placing their views on the amendments and

d) No discussion on clause by clause was permitted by the Chairman, which is the essential element in the process

On 18th, 20th & 21st of this month JWC went on tour to Patna, Kolkata and Lucknow respectively to hear the stake

holders of the respective states and having heard them, the chairman directed those stake holders to submit their views within 15 days. These documents are yet to reach the committee for perusal of the members. Meanwhile, another sitting of the committee was convened on 24th & 25th with the agenda for clause-by-clause consideration. Suddenly at the midnight of 23rd, for the reason best known to the Chairman the agenda was changed as stake holders for Jammu & Kashmir State for their views and 25th sitting was cancelled without assigning any reason. This issue was raised by us in the meeting held on 24th January for which we were suspended undemocratically.

Knowing fully well, out of our earlier experiences that the subsequent meeting might be called in short notice by the Chairman, we orally demanded on 24th meeting itself and even subsequently in writing that depositions / documents of the stake holders appeared before JWC on tour have to be placed before the Committee for perusal so that we can ascertain our participation effectively and legally. As we expect the autocratic behaviour of the Chairman at the behest of the Union Government, today's meeting (27/01/25) was called to discuss clause by clause consideration.

Today, in spite of our protest, that clause by clause considerations could not be held without those Documents/depositions as promised by the Chairman which will be a grave departure from the established rules. Ignoring our claims the Chairman himself called the names of the mover of the amendments (given by us) and he himself moved the amendments on our behalf and conducted the head counts on his own desire. And he announced the rejection of our amendments, there by our sincere efforts to

protect the constitutional assurances given to the minorities are being defeated. The awkward and solo acting of the Chairman himself for the all stakeholders of today's sitting made him as a painter to enable the union government to give saffron color to this secular nation by using its brutal majority in the parliament.”

A true copy of the Joint Statement dated 27.01.2025 is annexed herewith and marked as **ANNEXURE P-3.** (Pg. Nos.76-79)

36.That thereafter on 29.01.2025, Petitioner No.2 herein alongwith Shri M.M. Abdulla Member of Parliament (Rajya Sabha) jointly submitted a dissent note to the Chairman of the Joint Parliamentary Committee, asserting that the draft report and the proposed bill infringes upon Fundamental Rights of the Muslim community with clause-wise dissent/reply. A true copy of the Joint Dissent Note dated 29.01.2025 is annexed herewith and marked as **ANNEXURE P-4.** (Pg. Nos.80-102)

37.That on 13.02.2025, the Report of the Joint Committee on Waqf (Amendment) Bill, 2024 was presented before both the Houses of Parliament.

38.That the Tamil Nadu Legislative Assembly passed a Resolution dated 27.03.2025 to urge the Union Government to completely withdraw the proposed Waqf Amendment Bill. A true copy of the Resolution dated 27.03.2025 is annexed herewith and marked as **ANNEXURE P-5.** (Pg. No.103)

39.That thereafter, the discussion regarding the Waqf (Amendment) Bill, 2025 was scheduled on 02.04.2025 without giving any prior notice to the Members of Parliament at the Lok Sabha. Furthermore,

in an unceremonious manner, the discussion commenced by 1:45 PM and the Bill was passed at 1:56 AM on 03.04.2025 in a hurry to discourage any meaningful debate upon the Waqf (Amendment) Bill, 2025.

40. That on the very next day, i.e. 03.04.2025, the Waqf (Amendment) Bill, 2025 was added in the Supplementary List of Rajya Sabha Business for consideration and passed on 3rd April 2025 by waiving off the requirement of two days notice period under Rule 123 of Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) leaving no time for members to prepare and move an amendment. Subsequently, the Bill was passed in Rajya Sabha on 04.04.2025 at 2:32 AM.

41. That since other political parties, stakeholders, and aggrieved persons have already approached this Hon'ble Court, and since some of the State Governments have notified the provisions of the amended Waqf Act, the remedy before any Hon'ble High Court is not efficacious. The Petitioners have no other alternate, effective and efficacious remedy other than to approach this Hon'ble Court through the present Writ Petition preferred under the Article 32 of the Constitution of India, on the following amongst other grounds:

GROUND

I. SYSTEMATIC EROSION OF RELIGIOUS AUTONOMY AND EROSION OF MINORITY RIGHTS

- i. BECAUSE Article 25 (1) guarantees that the right to profess, practice and propagate religion religion is subject only to public order, morality and health and to the other provisions of Part – III of the Constitution. Article 25 (2) provides that the State shall be

entitled to make any law regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice and also make law providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. Subject to these restrictions, the right to profess, practice and propagate religion cannot have any fetters.

- ii. BECAUSE it is settled position that:
 - a. Articles 25 and 26 embody the principle of religious tolerances that has been the characteristic feature of Indian civilization from the start of history and Indian Civilization. **(Sardar Syedna Taher Saifuddin Saheb vs. State of Bombay 1962 Supp (2) SC 496, Para 48)**
 - b. The secular character of the Constitution was part of the basic structure. India is a secular State in which there is no State religion. **(His Holiness Kesavananda Bharati Sripadagalvaru vs. State of Kerala (1973) 4 SCC 225, Para 487, 582)**
 - c. Principles of federalism, secularism, reasonableness and socialism, etc. are beyond the words of a particular provision. They are systematic and structural principles underlying and connecting various provisions of the Constitution. **(M. Nagaraj and Ors. Vs. Union of India and Ors. (2006) 8 SCC 212, Para 24)**
- iii. BECAUSE most theist religions are dependent on places of worship or religious institutions for religious activities - perhaps only religions like Confucianism do not require physical institutions to practice.

Similarly, charity is preached as a vital virtue in almost all major religions. Swami Vivekananda said service to man is service to God. In Christianity, the Bible says “Whoever is kind to the poor lends to the Lord, and he will reward them for what they have done.” Equally in Islam, charity is at the heart of the practice of Islam. The goal of every Muslim is to enter paradise after death (Jannah) and one of the ways to secure a place in paradise is to be charitable during their lifetime. In fact, the Quran prescribes several rewards for a Muslim who is charitable – (i) They enter paradise, (ii) their sins are cleansed (iii) the charity they do intercedes for them on the day of judgement after death (iv) proves shelter on the day of resurrection and (v) elevation of status and rank in the eyes of Allah. Thus, it is not an exaggeration to say that performance of charity is an essential religious practice of every Muslim.

- iv. BECAUSE recognising that the religious institutions including charitable religious institutions are vital in performing religious duties and key to religious beliefs, the Constitution provides in Article 26 that every religious denomination shall have the right to establish and maintain institutions for religious and charitable purposes, to manage its own affairs in matters of religion, to own and acquire movable and immovable property and to administer such property in accordance with law.
- v. BECAUSE the Respondents under the garb of “secularisation” of Waqfs, have erased the right to religious autonomy, right to perform an essential religious practice, and the right to acquire, administer and maintain immovable properties by portraying as if the dedication of properties to Waqf is not an essential practice or an integral part of the religion of Islam. By allowing non Muslims to be part of the administration of Waqfs, the impugned Legislation has eroded the constitutional guarantee under Article 26. This Hon’ble Court in **AS**

Narayana Deekshitulu (1996) 9 SCC 548 had distinguished between “secularism” and “secularisation” by opining that secularisation essentially is a process of decline in religious activity, belief, ways of thinking and in restructuring the institution. Though secularism means that the State itself does not have a religion and is part of the basic feature of our Constitution, secularism doesn’t mean that the State should erase religious customs and practices by secularizing them unless the practice itself is contrary to constitutional values. Article 12 recognises custom as law and our constitution provides certain protection to religious practices in Articles 25 to 28. The State can certainly introduce reforms in religious practices if such practices are against public policy or in the interest of the State. However, if the State attempts to secularise matters of religion and administration of religious institutions which are essential and integral parts of a religion, it would lead to violation of constitutional guarantees. The Impugned Amendment Act is a glaring attempt by the Respondents in secularising the essential and integral practices of Islam.

- vi. That this Hon’ble Court has held that the religious freedom guaranteed by Articles 25 and 26 enables every person to act according to the cultural and social demands of his religion and lead a community life based on the principles of his religion. The impugned legislation erodes these freedoms guaranteed by the Constitution.
- vii. BECAUSE as held by this Hon’ble Court in **Bal Patil v. Union of India (2005) 6 SCC 690** that the group of Articles 25 to 30 of the Constitution, as the historical background of partition of India shows, was only to give a guarantee of security to the identified minorities and thus to maintain the religious plurality of the country. The Constitution through all its organs is committed to protecting the

religious, cultural and educational rights of all. Articles 25 to 30 guarantee cultural and religious freedoms to both majority and minority groups. Ideal of a democratic society, which has adopted right to equality as its fundamental creed, should be assimilation of majority and minority and so-called forward and backward classes. The Constitution has accepted one common citizenship for every Indian regardless of his religion, language, culture or faith. The only qualification for citizenship is a person's birth in India. The constitutional goal is to develop citizenship in which everyone enjoys full fundamental freedoms of religion, faith and worship and no one is apprehensive of encroachment of his rights by others in minority or majority. However, the Parliament through the Impugned Amendment Act has transgressed the principles of secularism, cooperative federalism and religious autonomy and minority rights.

- viii. BECAUSE similarly, this Hon'ble Court also stated that the religious freedom guaranteed by Articles 25 and 26, therefore, is intended to be a guide to a community life and ordain every religion to act according to its cultural and social demands to establish an egalitarian social order. Articles 25 and 26, therefore, strike a balance between the rigidity of right to religious belief and faith and their intrinsic restrictions in matters of religion, religious beliefs and religious practices and guaranteed freedom of conscience to commune with his Cosmos, Creator and realise his spiritual self.
- ix. That this Hon'ble High Court in ***John Vallamattom vs. Union of India (2003)6 SCC 611*** had categorically stated that Article 25 of the Constitution deals with freedom of conscience and the right to freely profess, practise and propagate religion. The contribution for religious and charitable purposes is a philanthropic act intended to serve humanity at large and is also recognised as a religious obligation. Therefore, be queathing property for religious and

charitable purposes cannot be controlled or restricted by the legislature as it would offend the fundamental rights of the testator under Articles 25 and 26 of the Constitution and therefore, the impugned provision is arbitrary and unconstitutional. It is also violative of Article 26 of the Constitution inasmuch as it is an essential and integral part of Islamic religious faith to give property for religious and charitable purposes. Applying the aforesaid ratio, every Muslim has the right to establish and maintain institutions for religious and charitable purposes, manage its own affairs, own and acquire movable and immovable properties and to administer such property in accordance with law. Moreover, Articles 29 & 30 of the Constitution of India guarantee the minorities the right to conserve their language, culture, religion etc. especially through the medium of minority educational institutions, which are generally waqf properties.

II. PRESCRIPTION OF MANDATORY 5 YEAR WAITING PERIOD IS AKIN TO KEEPING A MUSLIM IN PROBATION & ABOLITION OF 'WAQF BY USER' OR 'ORAL DICTATION' UNDER SECTION 3(r) IS VIOLATIVE OF ARTICLES 25 AND 26 OF THE CONSTITUTION

- J. The amendments to Section 3(r) introduced vide Section 4(ix) of the Amending Act stipulate that only those Muslims who have been practising Islam for at least five years can create a Waqf, is an unreasonable and arbitrary restriction placed on the practice of Islam by the State. The provision is akin to placing a Muslim 'in probation' for 5 years before he/ she can be considered a true enough Muslim to dedicate a Waqf. This kind of State mandated qualification to be a Muslim is unconstitutional and tyrannical. Further, deletion of clause (i) of section 3(r) completely abolishes historical modes of creation of a Waqf, such as Waqf by user or

Waqf by oral dedication which have long been recognized under the Muslim personal law and is protected by Article 26 (c) of the Constitution of India.

- K. The Constitutional Bench of this Hon'ble Court in ***M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das, (2020) 1 SCC 1*** had held that Muslim law does not require an express declaration of a waqf in every case. The dedication resulting in a waqf may also be reasonably inferred from the facts and circumstances of a case or from the conduct of the wakif. In the absence of an express dedication, the existence of a waqf can be legally recognised in situations where property has been the subject of public religious use since time immemorial. This concept of a waqf by user has also found statutory recognition in Section 3(r) of the Waqf Act, 1995. These customs are also sources of law under Article 13 (3) of the Constitution of India. That our jurisprudence recognises the principle of waqf by user even absent an express deed or declaration. Whether or not properties are waqf properties by long usage is a matter of evidence. The test is whether the property has been used for public religious worship by those professing the Islamic faith. ***(Refer Para 1125 and 1134).***
- L. The imposition of a five-year probation period for persons of Islamic faith discriminates against converts, denying them the opportunity to perform their religious obligations through charitable endowments, and therefore violates Article 25 of the Constitution.
- M. When such conditions are absent for donation of property by Hindu to a temple or a Christian to the Church, prescription of such condition for Muslims alone militates against the equality principle enshrined under Article 14 and non-discrimination principle under Article 15 of the Constitution.

- N. The State cannot be the judge of whether a person is pious enough to donate property to his religion's institutions as that would make the State the arbiter of piety, which is arbitrary and unreasonable infringement on religious freedom under Article 25.
- O. Section 3A(2) inserted through Section 5 of the Impugned Amendment Act grants inheritance rights of the heirs, including women heirs of the waqif or any other rights of persons with lawful claims. This completely alters the cardinal principle that the dedication of a Waqf is absolute and that once a Waqf is created by a Waqif, the property vests with God and cannot be divested from his ownership. Hence, there cannot be any inheritance rights attached to such a Waqf that is dedicated. The insertion of this provision is dilution of the principle that once a Waqf is created, it is permanent and irrevocable.
- P. BECAUSE Section 3A(2) therefore, is not just against the fundamental character of a Waqf which is an essential practice in Islam, but also contrary to a catena of judgements passed by this Hon'ble Court and the Hon'ble High Courts mentioned hereunder:
- i. **As soon as the wakf is created, the property at once passes to God and neither it can be revoked nor the God can be divested from the property** and the Wakf, even if there is any subsequent breaches of the terms of the Wakf or abuse by the Mutawalli of his office. It is also immaterial whether provisions of the Wakf are carried out or not and that it is a matter of breach of trust only. It is also immaterial whether in case of immovable property, whether the property was mutated in the name of Wakf or personal name of the Muta walli in the revenue record. (*Refer*

Para 40 of Assam Board of Wakf v. Khaliqor Rahman, 1993 SCC OnLine Gau 152)

- ii. Wakf is a permanent dedication of property for purposes recognized by Muslim law as pious, religious or charitable and the property having been found as wakf would always retain its character as a wakf. *(Refer Para 13 of Sayyed Ali vs. AP Wakf Board, Hyderabad (1998) 2 SCC 642)*

Q. When the waqif has unequivocally and categorically divested himself of the entire interest in the mosque and made it a public wakf. Once the mosque was constructed, it stood dedicated to the God and all the rights, title and interest of owner got completely distinguished. *(Refer Para 40 of Syed Mohd. Salie Labbai v. Mohd. Hanifa, (1976) 4 SCC 780)*

R. BECAUSE the sub-clauses(a)and(c)of the Section 3(r) introduced under the Section 4(ix) of the Impugned Act stipulate that only those Muslims who have been practising Islam for at least five years can create a Waqf, is a significant departure from traditional Islamic jurisprudence and the legislative history of Waqf regime in India. The condition completely abolishes historical and informal modes of creation of Waqf, such as Waqf by user or Waqf by oral dedication which have long been recognized under the Muslim personal law.

S. BECAUSE the concept of 'Waqf by user' recognises properties that have, from 'time immemorial, been used for religious or charitable purposes, as Waqfs, even if there has been no express dedication to that extent'. In fact, the principle of recognising are religious endowment by way of use is certainly allowed in other statutes governing religious and charitable endowments.

- T. BECAUSE as per Government data, there are 8.72 lakh properties that are Waqf properties out of which 4.02 lakhs are recognized by way of Waqf by user. The Government has admitted that approximately 50% of the waqf properties are recognized by way of Waqf by User, thereby highlighting its immutable historical status.
- U. BECAUSE the abolition of the waqf by user, as introduced in Section 4 (ix)(b) of the Impugned Amendment Act, is arbitrary and illegal. Waqf by user is a well-established concept in Islamic law, upheld repeatedly by Indian Courts, this principle recognizes waqf through long-standing public religious use, even without formal documentation. Removing this recognition exposes many ancient waqf properties—including mosques, dargahs, and graveyards—to the threat of encroachment, legal challenges, and dispossession. This not only undermines the cultural and religious heritage of the Muslim community, protected under Article 29 of the Constitution, but also violates the doctrine of non-retrogression, which this Hon'ble Court has declared to be an essential part of secularism and the Constitution's basic structure. Moreover, this derecognition conflicts with the Places of Worship (Special Provisions) Act, 1991, which was enacted to maintain the religious character of places of worship as they existed on August 15, 1947, thereby affirming the State's duty to protect such institutions under Article 25.
- V. BECAUSE the concept of Waqf by user was first recognised by the Bombay High Court in ***Court of Wards for the Property of Makhdum Hassan Bakhshv. Ilahi Bakhsh, 1912 SCC OnLine PC 45*** wherein the following was observed:

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

dedication, the land is waqf.”

- W. BECAUSE this Hon'ble Court in ***Faqir Mohd. Shah v. Qazi Fasihuddin Ansari, 1956 SCC OnLine SC 81*** it was opined that if land has been used from time immemorial for a religious purpose, then the land is by usage a wakf. ***(Refer Para 21)***
- X. BECAUSE the Constitutional Bench of this Hon'ble Court in ***M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das, (2020) 1 SCC 1*** had held that Muslim law does not require an express declaration of a waqf in every case. The dedication resulting in a waqf may also be reasonably inferred from the facts and circumstances of a case or from the conduct of the wakif. In the absence of an express dedication, the existence of a waqf can be legally recognised in situations where property has been the subject of public religious use since time immemorial. This concept of a waqf by user has also found statutory recognition in Section 3(r) of the Waqf Act, 1995. That our jurisprudence recognises the principle of waqf by user even absent an express deed or declaration. Whether or not properties are waqf property by long usage is a matter of evidence. The test is whether the property has been used for public religious worship by those professing the Islamic faith. ***(Refer Para 1125 and 1134)***
- Y. BECAUSE this statutory abolition alters the essential religious practice of waqf dedication, thereby infringing upon the community's autonomy protected under Article 25 (freedom of religion) and Article 26 (right to manage religious affairs) and in direct conflict with Sections 3 and 4 of the Muslim Personal Law (Shariat) Application Act, 1937, which only require that a Waqif be a Muslim, who is competent to contract and resides within the relevant territory and without any minimum duration of practising the faith.

- Z. BECAUSE the imposition of a five-year religious practice condition discriminates against recent converts, denying them the opportunity to seek spiritual merit through charitable endowments, and therefore violates Articles 14 and 15 of the Constitution, which guarantee equality and prohibits religious discrimination. Further, requiring the waqif to demonstrate their practice of Islam for a fixed duration, places a third-party authority in a position to judge personal faith and religious adherence, which is an invasive and unconstitutional infringement on religious freedom under Article 25. Historically, even non-Muslims were permitted to create waqf, a principle carried forward under Section 104 of the Waqf Act, 1995. The Waqf (Amendment) Act, 2013 amendment had reinforced this inclusive approach by allowing “any person” to make such a dedication, regardless of their religion. However, the omission of Section 104 through Clause 40 of the Amendment Act reverses decades of legislative progress and pluralistic interpretation, further reinforcing the regressive and exclusionary character of the new provisions.
- AA. BECAUSE the Section 4(ix) (a) and (d) of the Impugned Amendment Act are not only vague but manifestly arbitrary therefore, unconstitutional. These sections restrict the scope of a waqif who can create a waqf and also introduce an entirely subjective and undefined requirement of demonstrating that the waqf is not a “contrivance.” This vague standard gives unchecked discretion to authorities and enables them to invalidate dedications based on unclear criteria, a burden not imposed on religious endowments of any other faith. Such differential treatment, again, violates the principles of equality and non-discrimination under Articles 14 and 15.
- BB. BECAUSE historically, even non-Muslims were permitted to create waqfs, a pluralistic principle enshrined in Section 104 of the Waqf

Act, 1995, which allowed “any person” to create a waqf. This provision was consistent with India’s secular and inclusive traditions and allowed charitable dedications inspired by interfaith goodwill. The repeal of Section 104, without any rational basis, represents a retrogressive and exclusionary turn in waqf law. This is especially egregious in light of India’s constitutional guarantee to protect minority rights under Articles 29 and 30.

CC. BECAUSE in totality, these impugned sections are unconstitutional encroachments on the rights of religious and cultural minorities. They interfere with the Muslim community’s ability to manage their religious endowments, dilute the religious composition of waqf governance bodies, and centralise control in the hands of secular authorities. By doing so, they threaten the very fabric of India’s pluralistic and secular constitutional order, violating Articles 14, 15, 19, 21, 25, 26, 29, 30, and 300A as well as the basic features of the Constitution.

III. THE RESTRICTION OF NON-MUSLIMS FROM DONATING TO A WAQF MILITATES AGAINST THE RIGHT TO PROPERTY OF PERSONS AND AGAINST CUSTOM

DD. BECAUSE historically, even non-Muslims were permitted to create waqf, a principle that was codified under section 104 of the Waqf Act, 1995. The Waqf (Amendment) Act, 2013 amendment had only given statutory recognition to this inclusive approach by allowing “any person” to make such a dedication, regardless of their religion. However, even before this statutory recognition, non-Muslims were permitted to dedicate Waqfs. The omission of Section 104 through Clause 40 of the Amendment Act reverses decades of legislative progress and pluralistic interpretation, further reinforcing the regressive and exclusionary character of the new provisions.

EE. Further, the right to gift property is part of the bundle of property rights vested with the owner of a property. This right flows from Article 300-A of every person *de hors* the religion he/ she belongs to. While the manner of conveying the rights is regulated by legislation like the Transfer of Property Act, 1882, a restriction cannot be placed on the right to convey property as a gift to any person (or institution). A person owning property has the absolute right to deal with it in a manner provided under the Transfer of Property Act, 1882 which includes gifting of property. Any restrictions placed on this right is a violation of Article 300-A of the owner of the property.

FF. Similarly, all religious institutions have a special right to acquire property under Article 26 (c) which cannot be curtailed through statutory law except in cases of public order, morality and health. The Impugned Amendment Act is not for the purpose of public order, morality and health, and therefore cannot curtail the right to acquire property of the religious institution. This right under Article 26(c) is independent of Article 300-A which is a constitutional right to acquire and own property. Article 300-A is subject to a wider restrictive covenant “save by authority of law” whereas Article 26(c) can be restricted only in cases of public order, morality and health.

IV. INHERITANCE RIGHTS IN WAQF-ALAL-AULAD COMPLETELY CONTRARY TO FUNDAMENTAL CHARACTERISTIC OF AWAQF

GG. BECAUSE the Section 3A (2) purported to be inserted through Section 5 of the Impugned Act grants inheritance rights of the heirs, including women heirs of the waqif or any other rights of persons with lawful claims. This completely alters the cardinal principals of Waqfs, i.e. once a Waqf is created by a Waqif, the property vests

with God and cannot be divested from his ownership. Hence, there cannot be any inheritance rights attached to such a subject.

HH. That the beneficiaries of Waqf-alal-aulad, include the descendants of the Waqif (till such time the line of succession fails). Once the line of succession of the Waqif fails, the income of the Waqf properties is utilized for public welfare, education, development and other pious purposes under the tenets of Islam.

II. BECAUSE Section 3A(2) therefore, is not just against the tenets of Islam, but also contrary to a catena of judgements passed by this Hon'ble Court and the Hon'ble High Courts mentioned hereunder:

- i. As soon as the wakf is created, the property at once passes God and neither it can be revoked nor the God can be divested from the property and the Wakf, even if there is any subsequent breaches of the terms of the Wakf or abuse by the Mutawalli of his office. It is also immaterial whether provisions of the Wakf are carried out or not for that it is a matter of breach of trust only. It is also immaterial whether in case of immovable property whether the property was mutated in the name of Wakf or personal name of the Muta walli in the revenue record. (*Refer Para 40 of Assam Board of Wakfv. Khaliqor Rahman, 1993 SCC OnLine Gau 152*)
- ii. Wakf is a permanent dedication of property for purposes recognized by Muslim law as pious, religious or charitable and the property having been found as wakf, would always retain its character as a wakf. (*Refer Para 13 of Sayyed Ali vs. AP Wakf Board, Hyderabad (1998) 2 SCC 642*)
- iii. When the waqif has unequivocally and categorically divested himself of the entire interest in the mosque and made it a public

wakf. Once the mosque was constructed, it stood dedicated to the God and all the rights, title and interest of owner got completely distinguished. (*Refer Para 40 of Syed Mohd. Salie Labbai v. Mohd.Hanifa,(1976) 4SCC780*)

JJ. Therefore, the insertion of the Section 3A is completely arbitrary as it is wholly contrary to the fundamental tenets of Islam and further renders the entire purpose of the Waqf nugatory in absolute violation of Articles 25 and 26 of the Constitution and is thus, liable to be struck down.

v. SECTION 3B VIOLATIVE OF THE COOPERATIVE FEDERALISM

KK. BECAUSE Section 3B of the amended Waqf Act mandates that all waqf and waqf property details must be filed on a centralised digital portal within six months of the Act coming into force. This provision, read with Section 108B, which authorizes the Central Government to frame rules on critical matters without mandatorily involving State Waqf Boards or State Governments, this results in an impermissible centralisation of powers in clear violation of the constitutional scheme of federalism. The subject of “charitable and religious endowments” falls under Entry 28 of the Concurrent List (List III) in the Seventh Schedule of the Constitution. However, “Land” is a State subject in entry 18 of List II of the Seventh Schedule. By imposing a centralised, top-down mandate over waqf administration, the Union Government has usurped the functions constitutionally vested with the State and violates Article 246 which distributes legislative functions between the Union and the State. Furthermore, this centralized digitisation exercise has been initiated without adequate consultation with the State Waqf Boards, thereby undermining the role of constitutionally and statutorily created

bodies tasked with managing waqf affairs at the state level. This Hon'ble Court in ***S.R.Bommai v. Union of India, (1994) 3 SCC 1***, reaffirmed that federalism is a part of the basic structure of the Constitution. Any legislative measure that bypasses state institutions on a State List subject not only violates the Seventh Schedule but also the core principle of cooperative federalism and decentralised governance enshrined in the Constitution.

VI. VESTING OF THE POWER TO DECIDE WHETHER A GOVERNMENT PROPERTY IS A WAQF PROPERTY OR NOT TO THE DESIGNATED OFFICER/COLLECTOR IS VIOLATIVE OF ARTICLES 14, 19, 21, 25, 26, 29 AS WELL AS THE PRINCIPLES OF NATURAL JUSTICE

LL. BECAUSE Section 3C (1) and 3C (2) inserted by way of the Section 5 of the Impugned Act have the effect of retrospectively re-opening and questioning Waqfs that were dedicated prior to the commencement of the Act. In such cases, the original donor might be long dead and unable to defend his title and consequently, his right to dedicate the Waqf. Section 3C(1) and 3C(2) completely snatches away the "Waqf" characteristic of a Waqf Property created from a Government Property without granting any opportunity to the beneficiaries of the property to state their case. The burden to prove is upon such beneficiaries/occupiers and the muttawali to explain and state their case. That furthermore, if such beneficiaries are evicted from the land due to the operation of Section 3C, it would trigger gross constitutional violence of the Articles 14, 19, 21, 21A, 25, 26 and 29 as the fundamental rights of each beneficiary of the Waqf, at an individual level would be violated.

MM. BECAUSE when a question arises as to whether a property dedicated as a Waqf property, is a government property or private

property, it is necessary that the question be adjudicated by a civil court of competent jurisdiction and not the district collector, who is not a judicial body.

- NN. The substantive provision of 3-C(1) declares waqf properties, which a State Government may claim as Government property as “deemed not to be waqf property” and later gives a provision for summary enquiry by the Designated Officer who is an officer above the rank of Collector. The provision is arbitrary and unreasonable as it delegates judicial power of adjudication of title to a non-legal authority. Further, the provision inverts the burden to prove upon such beneficiaries/occupiers and the muttawali to explain and state their case after deeming that the property is not waqf property. As such, section 3-C is a gross violation of Articles 14, 19, 21, 21A, 25, 26, 29 and 300-A of the Constitution of India.
- OO. The proviso to section 3-C(2) states that till such time the Designated Officer submits his report, the property shall not be treated as Waqf property, which is draconian and amounts to immediate divesting of Waqf property, the moment a doubt is raised, without giving the Waqif being given a due opportunity to defend their claim.
- PP. It is well settled that the right to decide title cannot be divested from civil courts and given to revenue officials. If the State Government is claiming the property as Government property, any hearing or decision by a government servant would not be fair and impartial. This severely breaches the doctrine of separation of powers which is a basic feature of our constitution.
- QQ. The Collector, being a revenue authority and custodian of government records, is not a judicial body empowered to

conclusively determine title or ownership, particularly when such decisions have the effect of extinguishing constitutionally protected religious endowments without due process. Furthermore, this system vests unfettered discretion in the hands of an executive officer without adequate procedural safeguards or judicial review, thereby violating Article 14 (equality before law) and Article 300A (right to property). The result is an arbitrary and opaque mechanism where waqf properties are vulnerable to expropriation under the guise of inquiry, with no effective remedy left to the waqf institutions.

- RR. It is well settled that adjudicatory functions cannot be performed by non-legal minds such as revenue officials. Prior to the impugned amendment, the powers were vested with the Waqf Tribunal which had a legal member. However, the power has been conferred on a revenue official to declare title. Such a provision is manifestly arbitrary and is unconstitutional as it violates the doctrine of separation of powers under the Constitution which is part of the basic structure of the Constitution.
- SS. The provision does not prescribe any time limit for completion of enquiry or for the State Government to take a decision, which is arbitrary and unreasonable.
- TT. BECAUSE additionally the Section 3C(1) and 3C(2) statutorily exclude and extinguish potential waqf claims over land that may have been used historically for religious or charitable purposes by the Muslim community, particularly where endowments were made orally—as permitted under the original Waqf Act. The result is a selective negation of one community’s religious and property rights, with no similar restriction imposed on other religious endowments or trusts which is in teeth of the principle of “*substantive equality*” as held by this Hon’ble Court in ***Indian Young Lawyers Association***

v. State of Kerala, (2018) 10 SCC 1, where this Hon'ble Court emphasized that equality under Article 14 is not formalistic, but requires an examination of historical disadvantage and substantive impact.

- UU. BECAUSE the Impugned Amendment Act fails this test by arbitrarily restricting the Muslim community's ability to assert claims over religiously endowed lands, even where such use is well-documented or historically continuous. Further, the substitution of the Collector as the adjudicating authority, instead of a judicial or quasi-judicial forum, deprives the affected parties of due process and impartial adjudication, compounding the constitutional infirmity.
- VV. That under Section 3C(2) of the Impugned Act vests the power to decide whether the particular Waqf property was Government Property or not upon a Designated Officer being above the rank of Collector for conducting such an inquiry thereby completely transferring the adjudicatory powers and the organizational structure of the Waqf Board to the Designated Officer. That by doing so, the Section grants the Designated Officer, an unfettered power and authority to decide on whether a property is Waqf or Government property.
- WW. BECAUSE furthermore, the position of the Designated Officer has not been defined under the Impugned Amendment Act. However, it has to be presumed that such a Designated Officer would be an officer holding a post in the Revenue Department of the State Government thereby, making the Designated Officer, a judge in its own case.
- XX. BECAUSE it is pertinent to note herein that the Designated Officer is mandated under the amended Section 36(7) of the Act to enquire

into the genuineness and validity of the application of Waqfs and correctness of any particulars therein and submit a report to the Board. Under Section 36(7A), the Collector has the authority to recommend that a property not be registered as a Waqf, if they are of the opinion that the property is, wholly or in part, in dispute or a government property.

- YY. BECAUSE the Collector, being a revenue authority and custodian of government records, is not a judicial body empowered to conclusively determine title or ownership, particularly when such decisions have the effect of extinguishing constitutionally protected religious endowments without due process. Furthermore, this system vests unfettered discretion in the hands of an executive officer without adequate procedural safeguards or judicial review, thereby violating Article 14 (equality before law) and Article 300A (right to property). The result is an arbitrary and opaque mechanism where waqf properties are vulnerable to expropriation under the guise of inquiry, with no effective remedy left to the waqf institutions.
- ZZ. BECAUSE resultantly, the summarized effect of the unfettered powers granted to the Designated Officer under the above sections would be that (i) any one can allege a Waqf to be a government property, and such property would immediately cease to be part of the Waqf; (ii) a Collector on his own whims can initiate an inquiry into the validity of a Waqf; and in the mean time as the Waqf ceases to be a Waqf, the said Collector becomes the de facto owner of the property to use it in any manner it deems fit, while granting him immunity from any legal proceedings being initiated against the Collector. Such unrestricted interference by the State machinery in Waqf is illegal.

AAA. BECAUSE furthermore, the Designated Officer or a Collector being an officer with the Revenue Department and the in charge of maintaining revenue records cannot grant a title which is in teeth of the well settled principles of the natural justice i.e. *Nemo debet esse judex propria cause* i.e. no one can be the judge of his own case.

BBB. BECAUSE it has to be borne in mind that the aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules can operate only in areas not covered by any validly made law. In other words, they do not supplant the law of the land but supplement it. The concept of natural justice has undergone a great deal of change in recent years. In the past, it was thought that it included just two rules namely: (1) no one shall be a judge in his own case (***Nemo debet esse judex propria causa***) and (2) no decision shall be given against a party without affording him a reasonable hearing (*audi alteram partem*). (Refer Para 20 of ***A.K. Kraipak v. Union of India, (1969) 2 SCC 262***).

VII. INCLUSION OF NON-MUSLIM MEMBERS TO THE CENTRAL WAQF COUNCIL AND STATE WAQF BOARDS IS VIOLATIVE OF ARTICLE 26(b) AND ARTICLE 26(d) OF THE CONSTITUTION

CCC. BECAUSE Sections 9 and 14 allow inclusion of two non-Muslim of the Central Waqf Council and State Waqf Board. The introduction of non-Muslim members to the Central Waqf Council and State Waqf Board is the apparent invasion upon the autonomy of these statutory institutions therefore, violative of the Article 25, 26 and 29 of the Constitution.

DDD. BECAUSE the Sections 9 and 14 create a classification that is not based on intelligible differentia, nor does it have a rational withthe

object of religious property administration.

EEE. Article 26 guarantees every religious denomination the right to manage its own affairs in matters of religion, which includes the administration of waqf properties—Islamic endowments meant for religious or charitable use. Allowing non-Muslims to participate in these bodies is an infringement of this constitutional right, as it introduces persons belonging to other faiths into what is fundamentally a religious practice. Article 25, which protects the freedom to profess, practice, and propagate religion, is also violated, since the management of waqf is deeply rooted in Islamic religious duties and principles. Furthermore, such inclusion violates Article 14 by treating the Muslim community differently from other religious groups, whose religious bodies are typically governed internally without external, especially non-faith, interference. Article 15, which prohibits discrimination on the grounds of religion, is similarly impacted, as this move imposes an obligation on Muslims that is not imposed on other religious communities, amounting to indirect discrimination. The decision to include non-Muslim members in waqf institutions threatens the religious freedom, equality, and autonomy of the Muslim community, while also undermining the secular principle of non-interference in religious affairs by the state.

FFF. The freedom to profess and practice one's religion under Article 25, and to administer institutions and properties dedicated to religion under Article 26, includes the right to preserve the religious character and internal governance of such institutions. In ***Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan, 1963 SCC OnLine SC 52***, this Hon'ble Court reaffirmed that any legislative measure regulating religious endowments must not extinguish or destroy the denomination's right to manage its own institutions

GGG. BECAUSE this Hon'ble Court in ***Assistant Commr., Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, (1954) 1SCC 412*** opined that under Article 26(d), it is the fundamental right of a religious denomination or its representative to administer its properties in accordance with law; and the law, therefore, must leave the right of administration to the religious denomination itself subject to such restrictions and regulations as it might choose to impose. A law which takes away the right of administration from the hands of a religious denomination altogether and vests it in any other authority would amount to a violation of the right guaranteed under clause (d) of Article 26. (Refer Para 26).

HHH. BECAUSE further in ***Ratilal Panachand Gandhi v. State of Bombay (1954) 1 SCC 487***, it was further held that under Article 26 any religious denomination or a section of it has the guaranteed right to establish and maintain institutions for religious and charitable purposes and to manage in its own way, all affairs in matters of religion. Rights are also given to such denomination or a section of it to acquire and own movable and immovable properties and to administer such properties in accordance with law. The language of the two clauses (b) and (d) of Article 26 would at once bring out the difference between the two. 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. This means that the State can regulate the administration of trust properties by means of laws validly enacted; but here again it should be remembered that under Article 26(d), it is

the religious denomination itself which has been given 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. (*Refer Para 16*).

- III. BECAUSE it would thus be clear that the right to establish a religious institution or endowment is a part of religious belief or faith, but its administration is a secular part which would be regulated by law appropriately made by the legislature. The regulation is only in respect of the administration of the secular part of the religious institution or endowment, and not of beliefs, tenets, usages and practices, which are an integral part of that religious belief or faith. The right to establish a religious and charitable institution is a part of religious belief or faith and, though law made under clause (2) of Article 25 may impose restrictions on the exercise of that right. However, *the right to administer and maintain such institution cannot altogether be taken away and vested in other party; more particularly, in the officers of a secular Government. (Paras 20 and 26, Pannlal Bansilal Pitti vs. State of AP (1996) 2 SCC 498)*
- JJJ. BECAUSE the freedom to profess and practice one's religion under Article 25, and to administer institutions and properties dedicated to religion under Article 26, includes the right to preserve the religious character and internal governance of such institutions. In *Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan, 1963 SCC OnLine SC 52*, this Hon'ble Court reaffirmed that any legislative measure regulating religious endowments must not extinguish or destroy the denomination's right to manage its own institutions.

KKK. BECAUSE the insertion of non-Muslim members in to the statutory composition of the Waqf Boards and the Central Waqf Council is not merely an administrative change but a substantive interference in the religious and constitutional rights of the Muslim community. It undermines the spiritual integrity, doctrinal fidelity, and religious trust placed in these institutions, and is thus liable to be struck down as violative of the basic structure of secularism, religious autonomy, and equality under the Constitution.

VIII. SECTION 36(10) OF THE AMENDED ACT EXTINGUISHES PROPERTY RIGHTS WITHOUT DUE PROCESS

LLL. BECAUSE Section 36(10) of the amended Waqf Act imposes an unreasonable and arbitrary bar on legal recourse for waqfs that are not registered within six months of the Act's commencement. This results in the statutory extinguishment of property rights, without due process or compensation. The provision mandates that waqfs not registered within the prescribed period shall be deemed non-existent for the purposes of the Act, thereby depriving waqf properties of legal recognition and protection, even if they are centuries old or historically established through oral waqf. Such a blanket extinguishment, particularly without any transitional mechanism, notification, or hearing, constitutes an unconstitutional deprivation of property and religious endowment. In ***K.T. Plantation Pvt. Ltd. v. State of Karnataka, (2011) 9 SCC 1***, this Hon'ble Court held that even post the deletion of Article 19(1)(f), any law that acquires or extinguishes property rights must pass the test of being fair, just, reasonable, and in public interest. The present act fails that test, as it indiscriminately nullifies waqfs on purely procedural grounds, without assessing the merit or intent of the endowment, and without offering compensation or alternative remedy to the mutawallis or the community at large.

MMM. APPLICATION OF THE LIMITATION ACT, 1963 IS AGAINST THE PURPOSE OF THE WAQF ACT

NNN. BECAUSE the Impugned Amendment Act substitutes Section 107 of the Waqf Act, 1995 and thereby, making the Limitation Act, 1963 applicable to waqf properties which has far-reaching and deeply detrimental consequences. Waqf property, being a perpetual religious dedication to the Almighty, occupies a unique legal status that is fundamentally different from ordinary property. The doctrine of waqf, as recognised under Islamic law and long upheld by Indian courts, entails irrevocable dedication in perpetuity, and thus cannot be subject to temporal constraints such as limitation periods. By bringing waqf property disputes within the purview of the Limitation Act, the Impugned Amendment Act would unjustly prevent rightful recovery of properties that may have been misappropriated or fraudulently alienated by corrupt mutawallis or waqf board officials, acting in collusion with external actors. This enables legal validation of unlawful transfers through the mere passage of time, frustrating the very purpose and sanctity of the waqf as envisaged by the waqif (dedicator), and amounts to divesting a dedication made to the Divine. The removal of this protective exception is not only contrary to the intention of Islamic endowment law, but also enables a serious erosion of the religious and charitable purpose of waqf, potentially causing irreparable loss to the community.

OOO. OMISSION OF SECTION 108, 108A FROM THE PRINCIPAL ACT DILUTE THE SPECIAL RELIGIOUS CHARACTER AND FRAMEWORK OF THE WAQF

PPP. BECAUSE the omission of Section 108-A, which currently gives the Waqf Act an overriding effect over other laws, poses a serious

threat to the integrity and governance of waqf properties. This provision was introduced via the 2013 Amendment with the explicit purpose of ensuring that State or Central laws, particularly those of a secular and general nature, do not dilute or override the special religious character and framework of waqf law. Its removal would expose waqf properties to conflicting State legislation, undermining a uniform national framework and subordinating waqf dedications to potentially adverse local statutes, which may not be equipped to safeguard the religious intentions of the waqif. The supremacy clause served to protect waqf assets from being eroded by statutory ambiguity or overlap, and its deletion represents an abdication of the State's duty to uphold constitutional protections for minority religious institutions guaranteed under Articles 25, 26, and 30 of the Constitution.

QQQ. BECAUSE the omission of Section 108, which currently bars the application of other statutes such as the Administration of Evacuee Property Act, 1950, to waqf properties, lacks any rational or legal justification. This provision reaffirms that waqf property, once dedicated, is subject to the unique religious jurisprudence and cannot be governed by secular property laws or classified under general categories like "evacuee property." To remove this safeguard would be to reduce a religious endowment into a secular estate, vulnerable to expropriation, reclassification, or administrative control under laws that do not recognise the sacrosanct and permanent nature of the waqf institution. Such a change would not only violate the doctrinal integrity of waqf law, but also breach the trust of the waqif and the constitutional commitment to protect religious institutions of minorities from arbitrary State interference.

RRR. THE IMPUGNED AMENDMENT ACT IS VIOLATIVE OF AND INCONSISTENT WITH THE OBJECT OF THE WAQF ACT, 1995

SSS. BECAUSE the word “Waqf” is a form of charity under Islam that has Quranic roots. It is a permanent dedication of movable or immovable property for any purpose recognized by Muslim law as pious, religious or charitable. To further protect this charitable dedication, it has been declared that the same will be permanent, hence the settled principle, once a waqf always a waqf (reliance in this regard is placed on the judgement of this Hon’ble Court in ***Sayed Ali & Ors. v. Andhra Pradesh Wakf Board Hyderabad & Ors., 1998 (2) SCC 642***). To infringe upon this sacred principle by attempting to alter the nature of waqf properties is essentially an infringement and violation of the very essence of waqf.

TTT. BECAUSE the Waqf Act, 1995 was enacted with the sole objective of providing for “better administration of Auqaf and for matters connected therewith”. However, the Impugned Amendment Act 2025 not only fails to contribute to the better administration of Waqf properties but also takes away from the very essence of the concept of Waqf. It is thus submitted that the impugned 2025 Act is neither in keeping with nor for the advancement of the objectives of the 1995 Act. On the other hand, it serves the purpose of the defeating the very objective that it is purportedly meant to facilitate. It is a settled principle of law that an amendment to a statute must be in consonance with the basic structure and object of the original legislation and if an amendment nullifies or defeats the very purpose of the parent act, it can be struck down as ultra vires or unconstitutional. Reliance in this regard is place on the judgment of this Hon’ble Court in ***K. Nagaraj & Ors. v. State of Andhra Pradesh (1985) 1 SCC 523***.

UUU. That this Petition has been filed *bonafide* and in public interest and the Petitioners crave the leave of this Hon’ble Court to amend the present Writ Petition as and when required.

- VVV. That this Hon'ble Court has jurisdiction to decide this writ petition in public interest under Article 32 of the Constitution of India.
- WWW. That no similar Petitioner seeking similar relief has been filed by the Petitioner before this Hon'ble Court or any other Court.
- XXX. The Petitioner seeks leave of this Hon'ble Court to raise any other grounds during the time of the hearing and seek liberty to file any additional documents which may be required for the proper adjudication of the present case in the interest of justice.

PRAYER

It is therefore, in the interest of justice and in the facts and circumstances of the present case, most humbly and respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a) Issue a Writ of Declaration or any other appropriate writ, order or direction, declaring Sections 3(da), (fa), (ka), (r), 3(r)(iv), 3(A), 3(B), 3 (C), 3(D), 3(E), 9, 23, 36, 37(3)(f), 107 of the Waqf Act, 1995 as inserted by the Waqf (Amendment) Act, 2025 as unconstitutional and *ab initio* void being in violation of *interalia* Articles 14, 15, 19, 21, 25, 26, 29, 30 and 300A as well as the basic features of the Constitution of India;
- b) Issue a Writ of Declaration or any other appropriate writ, order or direction, declaring The Waqf (Amendment) Act, 2025 as unconstitutional and *ab initio* void being in violation of Articles 14, 15, 19, 21, 25, 26, 29, 30 and 300A as well as the basic features of the Constitution of India; and
- c) Pass any other or further orders as this Hon'ble Court may deem fit and proper in the interest of justice and in the facts and circumstances of the present case.

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

DRAWN BY:

Richardson Wilson, Advocate
Apoorv Malhotra, Advocate
Lokesh Krishna, Advocate

SETTLED BY:

P.Wilson, Senior Advocate

Filed on : 07.04.2025

Place : New Delhi

FILED BY:



ANURADHA ARPUTHAM
Advocate on Record for the Petitioners

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

IN THE MATTER OF:

Dravida Munnetra Kazhagam

Represented by its Deputy General Secretary,

A Raja and Anr.

....PETITIONERS

Versus

Union of India & Anr.

....RESPONDENTS

AFFIDAVIT

I, A Raja [REDACTED]

[REDACTED] Tamil Nadu currently the Deputy General Secretary of the Petitioner No.1 Party and Member of Parliament from Nilgiris Constituency, Tamil Nadu, presently at Chennai, Tamil Nadu do hereby solemnly affirm and state on behalf of the Petitioner No.1 Party and myself being Petitioner No.2 as follows:

1. That I am the Deputy General Secretary of the Petitioner No.1 Party and the Petitioner No.2 in the present Writ Petition and I am well conversant with the facts and circumstances of the case and thus I am competent to swear this affidavit on my behalf and Petitioner No.1.
2. That I have read and understood the contents of accompanying synopsis and list of dates pages B-U writ petition paras 1-41 pages 1-53 and total pages 51 & IAs which are true and correct to my knowledge and belief.
3. That the annexures are true copies of their respective originals and form parts of the record.
4. That I have not filed any other petition either in this Hon'ble Court or in any other Court seeking same or similar directions as prayed.

x 



5. That I have no personal interests, individual gain, private motive, or oblique reasons in filing this petition. It is not guided for gain of any other individual person, institution, or body. The only motive is public interest.
6. That there is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus, with issue involved in this petition.
7. That there is no requirement to move concerned authority for relief sought in this petition. There is no other remedy available except approaching this Hon'ble Court.
8. That I have gone through the Article 32 and the Supreme Court Rules and do hereby affirm that the present petition is in conformity thereof.
9. That I have done whatsoever enquiry, which was in my power, to collect the data or material, which is available and relevant for Hon'ble Court to entertain the petition.
10. That I have not concealed any data/material/information in this petition, which may have enabled this Hon'ble Court to form an opinion, whether to entertain this petition or not and/or whether to grant any relief or not.
11. That the averments made in this affidavit are true and correct to my personal knowledge and belief. No part of this Affidavit is false or fabricated, nor has anything material been concealed there from.


 DEPONENT



VERIFICATION

I, the Deponent do hereby verify that the contents of the above affidavit are true and correct to my personal knowledge and belief. No part of this affidavit is false nor has anything material been concealed therefrom. Verified at _____ on this ___ Day of April 2025.




A. DEVANATHAN, B.A., B.L.,
 ADVOCATE, NOTARY PUBLIC
 COMMISSIONER OF OATHS
 Law Association, City Civil Court,
 No.189, Addl. New Law Chambers,
 High Court Campus, Chennai - 600 104


 DEPONENT



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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.

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

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

Short title and commencement.

Amendment of section 1.

Amendment of
section 2.

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

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

Amendment of
section 3.

4. In section 3 of the principal Act,—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(viii) clause (p) shall be omitted;

(ix) in clause (r),—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) the deed of waqf, if available;

(d) the present mutawalli and its management;

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

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

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

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

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

(ii) purely religious purposes;

(iii) charitable purposes; and

(iv) any other purposes;

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

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

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

Certain conditions of waqf.

Filing of details of waqf on portal and database.

Wrongful
declaration of
waqf.

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

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

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

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

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

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

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

7 of 1904.
24 of 1958.

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

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

Amendment of
section 4.

6. In section 4 of the principal Act,—

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

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

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

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

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

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

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

Amendment of
section 5.

7. In section 5 of the principal Act,—

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

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

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

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

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

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

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

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

8. In section 6 of the principal Act,—

Amendment of section 6.

(a) in sub-section (1),—

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

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

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

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

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

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

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

Amendment of section 7.

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

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

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

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

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

Provided also that”.

Amendment of
section 9.

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

“(2) The Council shall consist of—

- (a) the Union Minister in charge of waqf—Chairperson, *ex officio*;
- (b) three Members of Parliament of whom two shall be from the House of the People and one from the Council of States;
- (c) the following members to be appointed by the Central Government from amongst Muslims, namely:—
 - (i) three persons to represent Muslim organisations having all India character and national importance;
 - (ii) Chairpersons of three Boards by rotation;
 - (iii) one person to represent the mutawallis of the waqf having a gross annual income of five lakh rupees and above;
 - (iv) three persons who are eminent scholars in Muslim law;
 - (d) two persons who have been Judges of the Supreme Court or a High Court;
 - (e) one Advocate of national eminence;
 - (f) four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine;
 - (g) Additional Secretary or Joint Secretary to the Government of India dealing with waqf matters in the Union Ministry or department—member, *ex officio*;

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

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

Amendment of
section 13.

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

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

Amendment of
section 14.

12. In section 14 of the principal Act,—

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

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

- (a) a Chairperson;
- (b) (i) one Member of Parliament from the State or, as the case may be, the National Capital Territory of Delhi;
- (ii) one Member of the State Legislature;
- (c) the following members belonging to Muslim community, namely:—
 - (i) one mutawalli of the waqf having an annual income of one lakh rupees and above;
 - (ii) one eminent scholar of Islamic theology;

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

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

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

(e) Joint Secretary to the State Government dealing with the waqf matters, *ex officio*;

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

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

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

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

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

Provided also that the elected members of Board holding office on the commencement of the Waqf (Amendment) Act, 2025 shall continue to hold office as such until the expiry of their term of office.

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

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

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

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

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

13. In section 16 of the principal Act,—

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

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

(aa) in case of a member under clause (c) of sub-section (1) of section 14, he is not a Muslim.”;

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

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

Amendment of section 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.

Amendment of section 48.

26. In section 48 of the principal Act,—

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

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

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

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

Insertion of new section 50A.

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

Disqualification of mutawalli.

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

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

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

(c) is an undischarged insolvent;

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

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

(f) has been on a previous occasion—

(i) removed as a mutawalli; or

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

1 of 1894.
30 of 2013.

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

Amendment of section 51.

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

Amendment of section 52.

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

Amendment of section 52A.

(a) in sub-section (1),—

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

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

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

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

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

Amendment of section 55A.

32. In section 61 of the principal Act,—

Amendment of section 61.

(a) in sub-section (1),—

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

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

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

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

“(1A) If a mutawalli fails to—

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

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

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

(iv) provide statement of accounts under section 46;

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

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

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

2 of 1974.
46 of 2023.

33. In section 64 of the principal Act,—

Amendment of section 64.

(a) in sub-section (1),—

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

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

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

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

37 of 1967.

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

Amendment of section 65.

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

Amendment of section 67.

35. In section 67 of the principal Act,—

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

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

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

Amendment of section 69.

36. In section 69 of the principal Act,—

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

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

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

Amendment of section 72.

37. In section 72 of the principal Act,—

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

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

Amendment of section 73.

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

Amendment of section 83.

39. In section 83 of the principal Act,—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40. In section 91 of the principal Act,—

Amendment of section 91.

1 of 1894.

30 of 2013.

(a) in sub-section (1), for the words and figures “the Land Acquisition Act, 1894”, the words and figures “the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” shall be substituted;

1 of 1894.

30 of 2013.

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

(c) in sub-section (4),—

1 of 1894.

30 of 2013.

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

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

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

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

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

Amendment of section 100.

Amendment of section 101.

42. In section 101 of the principal Act,—

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

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

45 of 1860.

45 of 2023.

Omission of section 104.

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

Substitution of new section for section 107.

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

“107. On and from the commencement of the Waqf (Amendment) Act, 2025, the Limitation Act, 1963 shall apply to any proceedings in relation to any claim or interest pertaining to immovable property comprised in a waqf.”.

Application of Act 36 of 1963.

Omission of sections 108 and 108A.

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

Insertion of new section 108B.

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

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

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

(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.

Power of Central Government to make rules.

(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.



//True Copy//

A. RAJA

Member of Parliament
Lok Sabha
Chief Whip
DMK Parliamentary Party



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Dated : 22/01/2025

To

**The Chairman,
JPWC on Waqf,
Lok Sabha secretariat.**

Sir,

Please find the enclosed annexure of this letter which contains the amendments hereby proposed by me to move in the JPC.

With Regards,

(A.RAJA)

Serial Number	Clause and Sub-clause Number	Page Number	Paragraph Number	Existing Provision	Amendment Proposed
1.	2	1	6	1	Omit
2.	3(iv)	2	11	3(f)	Omit
3.	3(v)	2	21	3(i)	Omit
4.	3(vii)	2	27	3(l)	Omit
5.	3(viii)	2	30	3(p)	Omit
6.	3(ix)(a)	2	32	3(r)	Omit
7.	3(ix)(b)	2	36	3(r)(i)	Omit
8.	4 [3A]	3	1	New clause	Omit
9.	4 [3B]	3	8	New clause	Substitution of the words "within a period of six months from such commencement" with the words "within a prescribed period from such commencement which shall not be less than five years."
10.	4 [3C]	3	31	New clause	Omit
11.	5	4	1	4	Omit
12.	6	4	18	5	Omit
13.	7	4	42	6	Omit
14.	8	5	6	7	Omit
15.	9	5	20	9	Omit
16.	11	6	8	14	Omit
17.	12	7	20	16	In the principal Act, After the words "moral turpitude", the following words be inserted: "and sentenced with imprisonment for not less than five years"
18.	13	7	24	17	In the principal Act, after the words "shall meet", the words "at least twice in every four months" shall be inserted

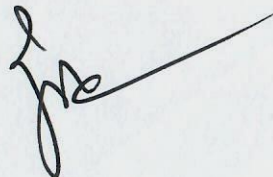
J. S. S. S.

19.	14	7	26	20A	Omit
20.	15	7	27	23	Omit
21.	16	7	32	32	Omit
22.	17	7	37	33	Omit
23.	18(b)(i)	7-8	2 on p.8	36(3)	In 18(b)(i), substitution for the following "to the Board through the portal and database, and in addition, in such manner and form as provided by regulations of the Board."
24.	18(b)(ii)	8	5	36(3)	Clause 18(b)(ii) shall be omitted.
25.	18(c)	8	9	36(4)	Clause 18(c) shall be omitted.
26.	18(d)	8	13	36(7)	Clause 18(d) shall be omitted.
27.	18(e)	8	27	36(8)	Clause 18(e) shall be omitted.
28.	19(a)	8	39	37(1)	Clause 19(a) shall be omitted.
29.	19(b)	8	44	37(3)	Clause 19(b) shall be omitted.
30.	20	9	1	40	Omit
31.	21(b)	9	5	46	Clause 21(b) shall be omitted.
32.	23(b)	9-10	4 on p.10	48	Clause 23(b) shall be omitted.
33.	24	10	16	New section 50A	50A(d) may be amended as follows "has been convicted of any offence involving moral turpitude and sentenced to imprisonment for not less than five years. Provided that the conviction has not been reversed by a Court of law or he has not been granted full pardon in respect of such offence."
34.	25	10	24	52	Omit
35.	26	10	26	52A	Omit


36.	27	10	34	55A	Omit
37.	29(b)	11	31	64	Omit
38.	31	11	35	67	Omit
39.	32	11	42	69	Omit
40.	33	12	7	72	Omit
41.	34	12	12	73	Omit
42.	35(a)	12	15	83(1)	Clause 35(a) shall be omitted.
43.	35(b)	12	19	83(2)	Clause 35(b) shall be omitted.
44.	35(c)	12	24	83(4)	Clause 35(c) shall be omitted.
45.	35(e)	12	42	83(7)	Clause 35(e) shall be omitted.
46.	35(f)	12	43	83(9)	Clause 35(f) shall be omitted.
47.	37	13	9	91	Omit
48.	38	13	35	100	Omit
49.	39	13	37	101	Omit
50.	40	13	40	104	Omit
51.	41	13	41	107, 108 and 108A	Omit
52.	42	13	42	Insertion of new clause 108B	Omit
53.	43	14	36	109	Omit
54.	44	14	45	110	Omit
55.	45	New clause	--	Insertion of new Section 35A	After section 35 of the principal Act, the following section 35A shall be inserted: 35A. State Waqf Officer Cadre. (1) Each state government, through the respective State Public Service Commission, shall establish a cadre to be known as the Waqf Officer Cadre

					<p>(2) Such cadre must be equivalent to Group-A Officers in respective states</p> <p>(3) Upon the request of the Central Government, such number of officers may be sent on deputation to assist the Central Waqf Council or such other related departments or projects.</p> <p>(4) In order to be recruited to the cadre, officers should have knowledge of Islamic law and Urdu, along with any regional language.</p>
56.	46	--	--	24	<p>After sub-section (2) of section 24, the following sub-sections (3) and (4) shall be inserted:</p> <p>(3) The District Collector shall, ex-officio, be the District Wakf Officer, and the Sub-Divisional Officer shall be the ex-officio Subdivisional Wakf Officer.</p> <p>(4) The ex-officio officers under (3) and (4) shall be subject to the superintendence of the Board, and shall be responsible for the protection of auqaaf in their jurisdictions and the implementation of the purposes of this Act</p>
57.	47	--	--	54	<p>For section 54 of the Waqf Act, 1995, (hereinafter referred to as the principal Act), the following section shall be substituted, "54.</p> <p>(1) It shall be the duty of the Chief Executive Officer to evict encroachers from Auqaaf in a time-bound manner</p> <p>(2) Notwithstanding anything contained in section 4 or section 5, if the Chief</p>

					<p>Executive Officer, after making such inquiry as he deems expedient in the circumstances of the case, is satisfied that a person is an encroacher, he may, for reasons to be recorded in writing, make an order for the eviction of such person forthwith and thereupon, if such person refuses or fails to comply with the said order of eviction, he may evict him from the waqf property and take possession thereof and may, for that purpose, use such force as may be necessary.</p> <p>(3) The Chief Executive Officer, before making an order of eviction under subsection (2), shall provide an opportunity to be heard to the alleged encroacher in a form and manner prescribed by rules and provide the grounds on which the eviction is proposed to be made</p> <p>(4) If any person refuses or fails to comply with the order of eviction on or before the date specified in the said order or within fifteen days of the date of its publication under subsection (1), whichever is later, the Chief Executive Officer or any other officer duly authorised by the Chief Executive Officer in this behalf may, after the date so specified or after the expiring of the period aforesaid, whichever is later, evict that person from, and take possession of the waqf property</p>
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					<p>and may, for that purpose, use such force as may be necessary</p> <p>(5) Subject to rules made in this regard, the Chief Executive Officer shall have the power to</p> <p>(a) summon and enforce attendance of any person and examining him on oath</p> <p>(b) requiring the discovery and production of documents</p> <p>(c) order demolition of unauthorised construction by an encroacher on auqaaf</p> <p>(d) seal unauthorised construction</p> <p>(e) require payment or rent or damages in respect of waqf properties</p> <p>(f) to require any person to furnish information relating to the names and other particulars of the person in occupation of the waqf property and every person so required shall be bound to furnish the information in his possession.</p> <p>(g) any other matter which may be prescribed</p> <p>(6) A person aggrieved by an order of the Chief Executive Officer may prefer an appeal before the Waqf Tribunal within one month of the eviction order</p> <p>(7) The order of the Waqf Tribunal shall be binding</p>
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MEMBER OF PARLIAMENT
(LOK SABHA)



**Joint statement issued by the Members of Parliament of the
Opposition Parties on 27th January, 2025**

Hon'ble Speaker Lok Sabha constituted the Joint Working Committee for Waqf Amendment Bill 2024 on 09.08.2024 and the same has been deliberating the issues referred to it under the chairmanship of Mr. Jagdambika Pal MP.

As the committee has arrived to its closure part of the deliberation, we the members of the opposition registered our protest then and there both in the nature of conducting the proceedings of the JWC by the chairman as well the gross and serious deviations from the rules and procedures contemplated thereon. We have already brought-on such ignominious incidents happened in the JWC to the Speaker and public as well.

In addition to this we want to highlight a few willful and wanton disregards by the Chairman in sharing the details of deliberations of the Committee;

a) During the proceedings in entirety 95% of the stakeholders deposed against the bill and remaining 5% of the stakeholders are appeared before the committee under the communal entity or umbrella.

b) Minutes of the sittings held in Delhi and other places where not supplied to the Members.

c) Members were stopped from placing their views on the amendments and

d) No discussion on clause by clause was permitted by the Chairman, which is the essential element in the process

On 18th, 20th & 21st of this month JWC went on tour to Patna, Kolkata and Lucknow respectively to hear the stake holders of the respective states and having heard them, the chairman directed those stake holders to submit their views within 15 days. These documents are yet to reach the committee for perusal of the members. Meanwhile, another sitting of the committee was convened on 24th & 25th with the agenda for clause by clause consideration. Suddenly at the midnight of 23rd, for the reason best known to the Chairman the agenda was changed as stake holders for Jammu & Kashmir State for their views and 25th sitting was cancelled without assigning any reason. This issue was raised by us in the meeting held on 24th for which we were suspended undemocratically.

Knowing fully well, out of our earlier experiences that the subsequent meeting might be called in short notice by the Chairman, we orally demanded on 24th meeting itself and even subsequently in writing that depositions / documents of the stake holders appeared before JWC on tour have to be placed before the Committee for perusal so that we can ascertain our participation effectively and legally. As we expect the autocrat behavior of the Chairman at the behest of the Union Government, today's meeting (27/01/25) was called to discuss clause by clause consideration.

Today, in spite of our protest, that clause by clause considerations could not be held without those Documents/depositions as promised by the chairman which will be a grave departure from the established rules. Ignoring our claims the chairman himself called the names of the mover of the amendments (given by us) and he himself moved the amendments on our behalf and conducted the head counts on his own desire. And he announced the rejection of our amendments, there by our sincere efforts to protect the constitutional assurances given to the minorities are being defeated. The awkward and solo acting of the chairman himself for the all stakeholders of today's sitting made him as a painter to enable the union government to give saffron color to this secular nation by using its brutal majority in the parliament.

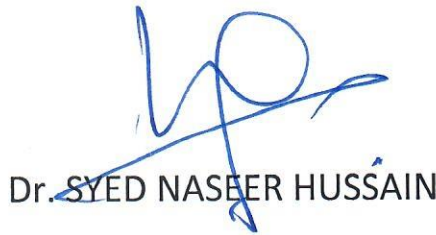
We, the members of the opposition appeal to the people of India who stands for the constitutional values to come forward to preserve the labour and conviction put by our forefathers Gandhi, Nehru, Ambedkar, Vallbhai Patel and others in the national building process with secular credentials and to protect the rights of minorities ensuring the social harmony of this sub-continent.


A. RAJA


KALYAN BANERJEE



GAURAV GOGAI


ASADUDIN OWAISI


Dr. SYED NASEER HUSSAIN


MOHIBULLAH


IMRAN MASOOD


M. M. ABDULLA


Dr. Mhd. JAWED


ARVIND SAWANT


Mhd. NADIMUL HAQUE



//True Copy//



Dated: 29.01.2025

To

Shri Jagdambika Pal
Chairperson,
Joint Parliamentary Committee on the Waqf Amendment Bill, 2024
Parliament House,
New Delhi.

Re: Note of Dissent on the Draft Report and Bill Circulated

Sir,

Copies of the Draft Report of the JPC on the aforesaid Bill have been received by us. At the very outset, we state that such Report is wholly unconstitutional, fails to address the real issues, is divisive in nature and can destroy the secular fabric of our country.

It is with regret that we state that the functioning of the JPC has been held in a most undemocratic manner. A sense of arbitrariness was on display and the intention to bring about purposeful amendment was seemingly overshadowed by a clear attempt to undermine the intention of Waqifs and their dedication for all times to come.

There was and is an attempt to sabotage the Object and Reason of enacting the Waqf Act, 1995. The Sachar Committee Report and the intent behind the 2013 Amendments have been given a complete go bye. Removing the Waqf by User Concept, re-introducing the Limitation Act, omitting the overriding effect of the Waqf Act are wholly detrimental to the concept of Waqf. To our mind, the Bill should be titled as the "**Waqf Annihilation Bill**" given the stealthy manner in which there is an attempt to anyhow change the nature and character of dedicated properties, vesting in the Almighty for all times to come. **This Bill is nothing but a surreptitious attempt to remove the clauses which were**


thoughtfully added after the due deliberations in the Parliament through the Bills in the year 1995 and 2013 as the Nation had come across some flaws in the erstwhile legislation of 1954.

The Pre-Legislative Consultation Policy has been absent and a strange band of "Stakeholders" has been allowed to participate i.e. those who have no connection with Waqfs, were not part of a denomination and had apparent interest to ensure that Waqf Properties would lose their nature and character.

It is with deep regret that we do hereby attach our Note of Dissent, by recalling the words of Sardar Vallabhai Patel in the Constituent Assembly on February 27, 1947, "Often you must have heard in various debates in British Parliament that have been held on this question recently and before when it has been claimed in behalf of the British Government that they have a special responsibility--a special obligation-for protection of the interests of the minorities. They claim to have more special interest than we have. It is for us to prove that it is a bogus claim, a false claim, and that nobody can be more interested than us in India in the protection of our minorities Our mission is to satisfy every interest and safeguard the interests of all the minorities to their satisfaction."

A copy of Dissent / Clause-wise Reply is annexed along with this Note of Dissent which may be read as a part of this Note.

Yours sincerely,


(A. RAJA)


(MOHAMED ABDULLA)

A. BRIEF OVERVIEW OF CONCEPT OF WAQF

The concept of Waqf has its foundation since the time of the Holy Prophet (peace be upon him). Scholars of eminence in Islamic Theology have relied upon this concept and which finds relevance in Ameer Ali's Commentaries on Mohammedan Law-5th Edition revised by Justice S.H.A. Raza Page 773-788 [Copy enclosed as **ANNEXURE-A**]. A mere declaration is sufficient to constitute a Waqf i.e. no need of a written deed. The Constitutional Courts of India have recognized this concept in several judgments which have become law declared in terms of Article 141 of the Constitution of India.

The concept of "denomination" is also relevant in as much as such permanent dedication is for purposes recognized and sanctioned by Mohammedan Law i.e. essentially for persons practicing Islam.

The property vests in the Almighty Allah for all times to come and cannot be divested. Attempts of unscrupulous members of any Waqf Board, while conniving with authorities having possession of municipal records and errant Mutawallis cannot change the nature of permanent dedication or cause alienation. Hence, there cannot be any effect of the Limitation Act to recover Waqf Properties in as much as the same can never be transferred. The overriding effect of the Waqf Act is inherent in the Act itself and is a characteristic feature which is in-built in the very concept of the dedication.

The concept of Wakf has its foundation in the **Religious Endowment Act, 1863**. This was an Act ***“To enable the Government to divest itself of the management of religious endowments”***. The preamble to this Act indicates that it was to relieve the Boards of Revenue from duties imposed on them in respect of rents and produce of land granted for the support of mosques, temples etc. Sections 3 and 8 of the said Act indicate that Committees formed for management of such religious institutions would be from **(Section 8 of the Act)**:-

“.....among persons professing the religion for the purpose of which the mosques, temple or other religious establishment were founded or is now maintained and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such mosques, temple or other religious establishment.” This Section also **speaks of election to be held and therefore, negates nominations.** **The present Bill seeks to have members only by the process of nomination which is an anathema to democratic process.**

The aforesaid indicates that the **wishes of a religious denomination** were sacrosanct even from 1863 and the same can be read into Article 26 of the Constitution of India. **The Bill seeking to give an alleged secular colour in the management of the Wakf Board is contrary to Article 26 of the Constitution of India.**

The historical background as to the **concept of Wakf** right from the promulgation of the Mussalman Wakf Validating Act, 1913 and the Mussalman Wakf Act, 1923 is succinctly stated in a judgment reported in **2022 (4) SCC 414 Paras 10-20 [Rashid Wali Beg vs Farid Pindari]**.

The 1923 Act also required particulars to be furnished i.e. Wakf Properties to be sufficiently identified/described. (Sections 3 and 4 thereof). **In fact, Section 3 of the 1923 Act is almost pari materia to Clause 3B (2) of the Bill. Notably the 1923 Act was repealed by the 1954 Act and hence, Clause 3-B (2) would be a retrograde step taking us back 101 years into history.**

B.CLAUSE-WISE DISSENT / REPLY

- a. There have been **no reasons shown as to why the Statement of Object and Reasons to the Amendment Act**

27 of 2013 was not followed. The said Amending Act was watertight in respect of survey, encroachment, giving extensive powers to the CWC. It is a matter of regret that the survey contemplated under Section 4(1-A) of the Amending Act was not completed and shows the apathy of the Union Government. This has led to further encroachment and multiple litigation as well as substantial monetary losses to various Waqf Estates.

- b. The **Waqf by User Concept** is recognized from the time of the Holy Prophet and is protected under Article 26 of the Constitution of India. To obliterate the freedom to establish, manage, own and administer Waqf by the religious denomination is violative of the Constitution of India [Refer to Ameer Ali's Commentaries on Mohammedan Laws-5th Edition revised by Justice S.H.A. Raza Page 773-788]. **The Waqf by User Concept has been upheld as to be valid even in absence of a dedication-**Reference may be made to the Babri Masjid Ram Janm Bhumi Judgment (2020) 1 SCC Page 1 which held that:- ***“Law recognizes worship offered at a mosque since a long***

time to be presumed to have been so dedicated and even in absence of a dedication is a Waqf by User. The same is a matter of evidence and inference of Court.”

- c. **Newly inserted terms viz. 3(fa) and 3(fb) i.e. “Government Organization” and “Government Property” are contrary to Section 104-B inserted by the 2013 Amendment.** What was actually required was to ensure that said Section 104-B was allowed full play. **There is nothing on record or data provided as to what Waqf Properties in occupation of Government Agencies were restored to the respective Waqf Boards.** The aforesaid two definitions viz. 3(fa) and 3(fb) are therefore at variance with the 2013 Amendment and Section 104-B. **It is clear that by introducing these two definitions the attempt is to change the character of an existing Waqf by an insidious methodology.**
- d. Omitting sub-sections (1-A), (2) and (3) from Section 4 are again contrary to the Amending Act of 2013. **The requirement was to ensure that the survey was completed within the one year period as contemplated.** There is no reason given as to why such survey has not been completed. Instead of solving the problem, the attempt is to introduce a new official

i.e. 'Collector' instead of 'Survey Commissioner' and **thereby skirt the issue** for which the Government is responsible to answer viz. reason for survey extending beyond the one year period. The Collector though being the head of the District Administration he is also more connected with the 'Revenue Land records' as such replacing the 'Survey Commissioner' by the 'Collector' is against the tenets of principle of natural justice *i.e. no one can be a judge for his own cause* . It is strange and dubious that in clause 4 in section 3A (2), 3A(3), 3A(4) , the word 'Collector' replaced by a 'Designated Officer' whereas the same is not replaced herein.

- e. **The vital aspect is with respect to deleting Section 107 of the Waqf Act viz. making the Limitation Act, 1963 applicable to the Waqf Act.** This would put Waqf Properties at peril in as much as a corrupt Mutawalli in connivance with any Waqf Board Member may make unlawful gains by illegal transfer/alienation of Waqf Property. making the Limitation Act applicable would therefore be totally contrary to the intention of the Waqif and would divest the dedication to the Almighty.

There cannot be such a fetter to recover a Waqf Property transferred by an errant Mutawalli/Board Member.

- f. **Omitting Section 108-A**, which the Bill seeks, i.e. overriding effect of the Waqf Act **will make Waqf Properties susceptible to any State Law** and thereby defeat the purpose of the dedication. Section 108-A was inserted by the 2013 Amendment and the purpose of such insertion is to be reflected and deliberated upon vis-à-vis the reason for omitting the same, which the Bill envisages.
- g. **Omitting Section 108** is not justifiable since it is the dedication which is supreme and cannot be regulated by any Act including the Administration of Evacuee Property Act, 1950.
- h. **Section 3(i)** deleting the words **“either verbally or”** is with an oblique motive **as the same would efface the concept of “Waqf by User”**.
- i. The purported explanation viz. **inserting Section 36 (1A)** – making the requirement of a Waqf Deed compulsory i.e. a written execution thereof is contrary to the tenets of Islam. **The overlapping of such Rule making powers will bring in conflict and multiple litigation.**

- j. **Section 3(p)** should remain and not be omitted since the Survey Commissioner has always been the authority responsible since prior to the Waqf Act, 1954. No reason has been indicated in the Justification/Explanation Column.
- k. **Section 3(ka)** defining “portal and database” is already updated as per the WAMSI Report and forming part of Government Records. The Union of India has also filed an affidavit in the Hon’ble Supreme Court of India contending that nearly 99% of all Waqf Properties are part of the database.
- l. **Section 3(l)** omits the words “**except in Chapter III**” without **any rational basis** and in the justification column it is stated that the Central Government would make Rules under Section 108 B (as per the Bill to be inserted) and State Government to make Rules in terms of Section 109 of the Bill- as to be amended i.e. by deleting Clause i-a and iv of existing Section 109.
- m. **Section 3(r)(i)** should not be omitted as **Waqf by User** is from the time of the Holy Prophet (Peace be upon him) and would violate the Fundamental Rights of the Muslim Community. Hence, the same is always a matter of evidence. See **2023 SCC Online S.C. 656**.

- n. **Section 3(r)(a)** introduces certain words viz. “**any person practicing Islam for at least five years**”. Such substitution is **contrary to the basic structure of the Constitution of India** and affects the Fundamental Rights of citizens of this country. **Article 25 of the Constitution of India is offended.**
- o. **Section 3(r)** changing “**any person**” to “**any such person**” does not clarify the reference more particularly by deleting Waqf by User concept.
- p. New **Sections 3A, 3B and 3C** are sought to be inserted and justification given for the same is not appropriate. However, past transactions whereby the dedication is apparent by usage, cannot now be questioned.
- q. **Section 3-B is a repetition of Section 3 of the Mussalman Waqf Act, 1923 which was already repealed by the 1954 Act with some additions.**
- r. **The justification for substituting Section 4(1) is without any rationale purpose.** The Commissioner was always the authority since the 1954 Act and was to function under the aegis of the State Governments.
- s. **Further, Section 5(3) was also inserted with a purpose by the Amending Act of 2013 as was Section 9 (4).** Hence,

there was a complete check and balance
accountability between 4 different authorities viz. Survey
Commissioner,

Waqf Board, Revenue Authorities and the Central Waqf Council.

- t. Section 5(1) as existing is in the nature of a check and balance measure and obliterates any chance of illegal entry or irregular categorization.
- u. **Section 6** as now existing was the primary court/tribunal to decide specific matters only (Please see judgment of Rashid Wali Beg – 2022 (4) SCC 414). A revision always lay before the High Court. Removing the words “decision of tribunal shall be final” **is a step in the right direction since an appeal would have a larger scope than a petition under Article 227 of the Constitution of India.** Removing the second proviso is incorrect and **Section 4(6) should not be omitted** since the **primary object is to ensure that Waqf Properties are properly identified and protected for all times to come and there is good reason for second or subsequent surveys as per Section 4(6).**
- v. In respect of establishment and Constitution of Central Waqf Council, the **justification for inclusivity and diversity is a**

misnomer. It directly offends Article 26 of the Constitution of India and Section 96 of the Act cannot be read in favour of such insertion. The secular activities indicated would always have to follow the tenets of Islam and religious and pious objects of public utility assanctioned and recognized by Muslim Law (Please see Section 3(a) in this context). Any other meaning offends Article 26 of the Constitution of India.

- w. There is a wholesome change in the Constitution of the Central Waqf Council and **conspicuous omission** is seen by **removing the word “Muslim”** from various existing provisions. All along there have been Muslims who have predominantly held posts in the Central Waqf Council and there is good reason for the same as provided in the Constitution of India and for this purpose, a **reference may be made to different endowments finding place in the Tamil Nadu Hindu Religion Charitable Endowment Act, 1959, Orissa Hindu Religion Endowment Act, 1951, Andhra Pradesh Charitable and Hindu Religious Institution and Endowment Act, 1956 and Travancore – Cochin Hindu Religious Institution Act, 1950 etc.**

- x. **The justification of two Non-Muslims in Section 14 of the Bill is offending Article 26 of the Constitution of India.**
Section 96 of the present Act cannot be read to be of any assistance while amending Section 14 of the 1995 Act. There cannot be members who are wholly nominated since the Board is a democratic setup meaning thereby that **elected representation should always be more than nominated membership and reference to the same may be seen in judgment reported in 2021 (14) SCC Page 42-State of Tamil Nadu vs. K. Fazlur Rahman.** Nominated members are always subject to “**doctrine of pleasure**”.
- y. **Several endowments of Hindu faith forbade management by persons other than their denomination.**
- z. **There is no reason to omit a Muslim from the Board in Section 16.** A religious denomination is supposed to be governed by persons practicing the same religion.
- aa. **Section 20-A was inserted to ensure a democratic setup.**

Kindly refer to the Amending Act of 2013. The justification that since a chairperson would be a nominated member and hence, cannot be removed by a vote of no confidence is **alien to a democratic setup and can cause such chairperson to**

act in an arbitrary manner as his removal is solely on the doctrine of pleasure.

- bb. **The justification to amend Section 23 by removal of the word “Muslim” is violative of Article 26 of the Constitution of India.** The purported justification to promote diversity and professional management on the reasoning of applicability of Section 96 **has to be read with the right of a religious denomination to be governed by members of the same sect.**
- cc. Section 23(1) was substituted by the Amending Act of 2013 and the reasoning for such amendment has to be analyzed prior to the purported justification in the present Bill and Parliamentary Debates are to be considered when the 2013 Amending Act was passed.
- dd. **Order of the Tribunal was always subject to scrutiny by the Hon’ble High Court and omitting Section 33(6) was not required.**
- ee. **The Bill proposing insertion of Clause 1-A to Section 36 is contrary to the tenets of Islam and there are oral dedications made by members of other**

communities/denominations i.e. the methodology is notunique to Muslims.

- ff. Inserting sub-section 10 to Section 36 and fixing a period of limitation of six months is **wholly contrary to the concept “once a waqf is always a waqf”**.
- gg. The **omission of words in Section 36(4)** which the Bill seeks, **rules out a right of hearing** and the chance to lead evidence to ensure the validity of the dedication. Such omission is completely arbitrary.
- hh. Similarly, the changes sought in Section 36(7) stops the Board from making inquiries and only allows the Board to forward the application for registration to the Collector. **The Board becomes subject to decision of the Collector** and the combined wisdom of the Board Members.
- ii. Similarly, **Section 36(7-A) as sought to be introduced is arbitrary and disallows the Board from making a scrutiny of the report of the Collector.**
- jj. The Bill seeking to amend Section 37(1) is **misdirected** in as much as all particulars are already stated in the subsequent clauses and the **power to make regulations as envisaged**

under Section 111 of the 1995 Act has been curtailed in an unlawful manner.

- kk. Omitting Section 40 of the Waqf Act, 1995 as the Bill envisages is **unconstitutional and makes the Board practically a spectator even when the Board has reason to believe that such property is Waqf.** The justification is to “rationalize the power of the Board”. In effect, it stops the Board from taking a particular course of action on available material.
- ll. The Bill seeks to amend Section 46 by giving powers only to the Central Government and offends Section 109 and 111 of the Waqf Act, 1995.
- mm. There is no rational or justification given to omit the proviso to Section 47 (3).
- nn. Inserting sub-section 2-A to Section 48 as the Bill envisages, makes orders of the Board subject to Central Government’s control and not subject to State Government action. This is to be read with Section 109 and 111 and **requires Parliamentary Debate.**
- oo. There is **no reason to substitute rigorous imprisonment with simple imprisonment and the same is not in consonance of Section 52(A)(3).**

- pp. Section 52(A)(3) cannot limit action to be taken only by the Board. Omitting Sections 52(A) (2) is without justification and shall embolden an errant Mutawalli and unscrupulous Board Members. Kindly refer to the objects and reasons of the 2013 Amendment Act and Para 3(ii) thereof.
- qq. The decision of the Tribunal was always subject to a challenge before the Hon'ble High Court or the Hon'ble Supreme Court of India.
- rr. Omissions in Section 61 makes the Board a toothless tiger and the justification to make the Mutawalli more accountable **without being regulated of his action by the Board** makes the Bill questionable to this extent. By removing the term of imprisonment of 6 months and making a penalty by mere fine will **cause Mutawallis to make unlawful gain** and get away with payment of mere fine.
- ss. The justification to make Mutawallis accountable under the UAPA Act has to be tested as to how many Mutawallis have been members of a declared such association since 1967. It seems that there is a **targeted reason** for such justification. **No**

similar provision is in respect of endowments of other religions.

- tt. The amendment to Section 65 is not required since in any event, **a check and balance measure was already adopted in the present Act in as much as Section 79-81 already contained** provision regarding annual accounts of the Board and the same are to be submitted to the Central Waqf Council under Section 9(4). It therefore appears to be new wine in old bottles.
- uu. Reducing annual contribution from 7% to 5% may be **subject to legislative wisdom**. A thorough check on the financial statements of each Waqf is very important. Most of the Waqf Boards have not sent their Annual Financial Statements to the Central Waqf Council and documentary evidence should be produced by all Waqf Boards in this regard i.e. compliance of Section 9(4) of the Waqf Act.
- vv. In respect of Section 85, persons having knowledge of Muslim Law should be preferred in the 2Member proposed Tribunal particularly in category-4b.
- ww. **A matter of concern is that several Tribunals across the country have remained dormant for months together and in**

some cases, for more than 18 months. This is what is required to be addressed.

- xx. By merely inserting a proviso that decisions to be taken by the Tribunals within 6 months is not sufficient. Giving the fact that now i.e. after Rashid Wali Beg judgment, even eviction matters are to be heard by the Tribunals, the timeframe cannot be adhered to. A single Tribunal in each State does not take the matter any further and the Hon'ble Supreme Court has made observations to this effect in SLP (C) No.32044 of 2016-Shah Alam vs. Union of India. Timeframes have been given under the Arbitration Act as well under the Negotiable Instruments Act but the same timeline has not been followed. Each State requires at least five Tribunals and a single District Judge or judge having at least 10 years of judicial service (preferably a Muslim) can also form a Tribunal.
- yy. The 5-year impediment for a non-Muslim to wait before dedicating his property is against the basic structure of the Constitution of India and completely arbitrary. **Judgments referred to hereinabove and more particularly in 2019 (11) SCC Page 1 explain Articles 25 and 26 of the Constitution of India.**

zz. **Section 107 serves a salutary purpose. A property once vested in the Almighty cannot be divested.** Waqf Properties cannot be made subject matter of alienation i.e. no sale, gift, transfer, mortgage etc. There are instances when the Waqf Boards have connived with Mutawallis. This is reflected in the Statement of Objects and Reasons of the 2013 Amendment – Clause 3(ii) of the Statement of Objects and Reasons.

aaa. **The law of limitation cannot apply to properties which are vested for all times to come in the Almighty, making the same applicable to the Waqf Act would provide opportunity to authorities and builders etc. to form an unholy nexus to rob properties vested in the Almighty.**

bbb. **The justification to omit Section 108 is arbitrary.** Properties which were part of Waqf prior to coming into effect of the Evacuee Property Act, 1950 would continue to remain Waqf since the dedication made at a particular point of time **would remain for all times to come i.e. the nature and character of such property cannot change merely because the aforesaid 1950 Act was repealed in 2005.**

ccc. **The Bill, proposing to omit Section 108-A – Act to have overriding effect is wholly unjustified. The amendment of 2013 specifically inserted Section 108-A and there was good reason for the same.** The omission of this section will also a deliberate legal assault on the Waqf concept since the States can enact their laws inconsistently and parallely to this Act and thereby the purpose of the Waqf will be emasculated.

ddd. **Sections 107, 108, 108-a cannot be omitted being wholly detrimental to the interest of the muslim community, beneficiaries and have the potential to completely eradicate the dedication made by the waqif.**

eee. Inserting Section 108-B as is sought will have overlapping effect with Section 109 as well as Section 110. The ultimate loss would be of a particular Waqf.

fff. **Section 9(4) had immense scope and several disputes could have been resolved under Section 9(5) without resorting to litigation as there was a Board of Adjudication to be presided over by judges of the Hon'ble Supreme Court.**

ggg. There is **no justification** in omitting clause i-a of Section 109. The other changes sought in Section 109 are subject to parliamentary debate.

hhh.The Waqf Board being a statutory authority under the Ministry of Minority Affairs requires to make Regulations and the Rules made under Section 109 by the State Government and the Regulations framed by the Board are required to be placed before the State Legislature and hence, **the omission of Section 110 (f) and (g) is not correct.**



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RESOLUTION

"People of all religions live together in harmony with religious amity in the nation of India. The Constitution grants every citizen the right to follow their respective religions, and it is the duty of the elected Governments to uphold and protect this right. However, contrary to this, in a manner that severely harms the minority Muslim community, the Union Government introduced the Waqf (Amendment) Bill, 2024, in the Lok Sabha during August, 2024 to amend the 1995 Waqf Act. This House unanimously resolves to urge the Union Government to completely withdraw the proposed Amendment Bill."

The above Resolution was put and carried unanimously in the Tamil Nadu Legislative Assembly on 27.3.2025.

K. Srinivasan
27.3.2025

PRINCIPAL SECRETARY,
TAMIL NADU LEGISLATIVE ASSEMBLY
CHENNAI - 600 009.



//True Copy//

2. It is humbly submitted that the Petitioners have set out in detail the infirmities in the Amendment Act, 2025 that the same if implemented, would have very serious adverse consequences for the Muslim Community and therefore it is in the interests of Justice that during the pendency of the Writ Petition, the operation of the impugned provisions may kindly be stayed.
3. That the balance of convenience is in favour of the Petitioners and in favour of granting stay. If the stay as prayed for is granted, no harm will be caused to the Respondents. If the stay as prayed for is not granted, the Muslim community will suffer irreparable hardship and loss. In view of the same it is humbly prayed that this Hon'ble Court may be pleased to grant stay as prayed for.

PRAYER

In the above premises, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a. Grant Interim stay of the operation of the Sections 3(da), (fa), (ka), (r), 3(r)(iv), 3(A), 3(B), 3 (C), 3(D), 3(E), 9, 23, 36, 37(3)(f), 107 of the Waqf Act, 1995 as inserted by the Waqf (Amendment) Act, 2025;
- b. Grant Interim injunction restraining the Respondents or any other authority, body, etc. from in any way implementing or taking any steps pursuant to Sections 3(da), (fa), (ka), (r), 3(r)(iv), 3(A), 3(B), 3 (C), 3(D), 3(E), 9, 23, 36, 37(3)(f), 107 of the Waqf Act, 1995;
- c. Grant an order of interim stay on the operation of the Waqf (Amendment) Act, 2025 and confirm the same after notice to the Respondents;

- d. Pass any such further a orders that this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

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

DRAWN BY:

Richardson Wilson, Advocate

Filed on : 07.04.2025

Place : New Delhi

FILED BY:



ANURADHA ARPUTHAM
Advocate on Record for the Petitioners

Anuradha Arputham

Advocate on Record
Supreme Court of India

107

Date : 15.04.2025

To,
The Registrar,
Supreme Court of India,
New Delhi.

LETTER

**Sub: WP (C) Diary No. 18368 of 2025
Dravida Munnetra Kazhagam & Anr.
-vs-
Union of India & Anr.**

Sir,

Please refer to defect No. 3 notified on 15.04.2025 in the above matter. In this regard, I would like to clarify as under:-

With regard to defect No. 3 it is clarified that the above Writ Petition is not a PIL.

Petitioner No.2 in the above matter has filed the supporting Affidavit in support of the Writ Petition and IAs and the facts and averments therein and the Annexures filed alongwith Writ Petition. In addition, in the Affidavit, Petitioner No.2 has made further averments. In as much as the Affidavit in question supports the factual averments in the Writ Petition and the annexures filed alongwith the Writ Petition and IAs, it is humbly requested that the Affidavit as filed may kindly be accepted as sufficient compliance and may be taken on record, and the Writ Petition may kindly be registered.

That there is urgency in the matter as the same requires urgent interim relief therefore, it is humbly requested that the Registry may kindly register the above Writ Petition and the same may kindly be listed alongwith WP (C) No.269 of 2025 listed on 16.04.2025 before Court No.1 as Item No.13.

Thanking you,



ANURADHA ARPUTHAM
Advocate on Record for the Petitioners

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

IN THE MATTER OF:

Dravida Munnetra Kazhagam

Rep. by its Deputy General Secretary A. Raja & Anr. ...Petitioners

versus

Union of India & Anr. ...Respondents

INDEX

S. No.	Particulars	Copies	Court Fees
1.	Synopsis & List of Dates	1+3	--
2.	Writ Petition with Affidavit	1+3	1020/-
3.	Annexure P-1 to P-5	1+3	--
4.	Application(s)	1+3	-200
5.	Vakalatnama	1	10/-
	Total		1230/-

Filed on : 07.04.2025

Filed by:



ANURADHA ARPUTHAM
Advocate for the Petitioners
Code No. 3394

Ch: 242 New Lawyers Chamber
Supreme Court of India, New Delhi – 110001
Off: 25 Bazar Lane, Bengali Market,
New Delhi – 110001, Ph: 011-43542683
Mob : 9871422641
Email: aoranuradha@gmail.com

Satish Kumar (IC No.5879)
Mob. No. 9716988403

IN THE SUPREME COURT OF INDIA

109

(ORIGINAL WRIT JURISDICTION)
WRIT PETITION (CIVIL) NO. OF 2025

BETWEEN

Dravida Munnetra Kazhagam
Represented by its Deputy General Secretary
A Raja & Anr.

... PETITIONERS

VERSUS

Union of India & Anr.

... RESPONDENTS

VAKALATNAMA

That, Dravida Munnetra Kazhagam through A Raja, Deputy General Secretary, the Petitioner No.1 & 2 in the above Writ Petition do hereby appoint and retain.

ANURADHA ARPUTHAM

ADVOCATE ON RECORD
SUPREME COURT OF INDIA

to act and appear for me/us in the above Suit/Appeal/ Petition/Reference and on my/our behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same of 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 my/our behalf in the said Suit/Appeal/Petition/ Reference and in applications of Review, and to represent me/us and to take all necessary steps on my/our behalf in the above matter. I/We agree to ratify all acts done by the aforesaid Advocate in pursuance of this authority.

Dated this the 6th day of April, 2025.

(A. Raja, P-2)

ACCEPTED

ANURADHA ARPUTHAM
Advocate on Record

Off: 25 Bazar Lane, Bengali Market,
New Delhi – 110001
Ch: 242 New Lawyers Chamber
Supreme Court of India, New Delhi – 110001
Ph: 43542683, 23353718
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For **DRAVIDA MUNNETRA KAZHAGAM**

(P-1)

Appellant/Petitioner/Respondent
Deputy General Secretary

(On behalf of both Petitioners)



MEMO OF APPEARANCE

To,
The Registrar,
Supreme Court of India
New Delhi

Sir,

Kindly enter our appearance in the above mentioned case on behalf of the Petitioner/Respondent.

Thanking you,

Filed on : 07.04.2025

A. DEVANATHAN, B.A., B.L.,
ADVOCATE, NOTARY PUBLIC
COMMISSIONER OF OATHS
Law Association, City Civil Court,
No.189, Addl. New Law Chambers,
High Court Campus, Chennai - 600 104

Yours faithfully,

ANURADHA ARPUTHAM
Advocate of the Petitioner(s)/
Appellant (s)/Respondents(s)
AOR CODE - 3394

DRAVIDA MUNNETRA KAZHAGAM¹¹⁰

(CENTRAL OFFICE)

M.K. STALIN
President

DURAIMURUGAN
General Secretary

T.R. BAALU
Treasurer

"ANNA ARIVALAYAM"
367 & 369, Anna Salai,
Teynampet, Chennai - 600 018

06.04.2025

TO WHOMSOEVER IT MAY CONCERN

I, Duraimurugan, General Secretary of the Dravida Munnetra Kazhagam ("DMK") do hereby authorise Thiru. A.Raja, Deputy General Secretary, Dravida Munnetra Kazhagam to file a Writ Petition, Miscellaneous Petition or any other petition or application before the Hon'ble Supreme Court of India challenging the Waqf (Amendment) Act, 2025 (Act 14 of 2025) on behalf of the DMK party and also to sign necessary vakalath, petitions, affidavit, produce documents etc in this regard and for this purpose to do all necessary acts.



A handwritten signature in blue ink, appearing to read "Duraimurugan".

(Duraimurugan)
General Secretary
Dravida Munnetra Kazhagam