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RESEARCH ARTICLE

“Waqf Amendment Bill, 2024- A CRITICAL ANALYSIS”

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Abstract

The significance of Waqf could be understood in a way that one of the seven wonders of the world, Taj Mahal is also considered to be a Waqf property according to many Muslim jurists. Waqf simply means making endowments where the primary purpose is to do philanthropic works either related to religion, education and many others. However, it should be restricted to the welfare of Muslim Community only. The concept of Waqf is very unique but it was codified in the year of 1994 for the first time. Recently, the aspect of Waqf has been in news as the current government has tried to amend the legislation dealing with this age-old concept. It is for this reason the author in this research paper would analyse the aspect of Waqf and the impact of the recent amendment in great detail. Under the second chapter the author has explained the jurisprudential aspect of Waqf under the Muslim Law. The author has discussed the essential requisites for the creation of Waqf as well as kinds of Waqf which could be created legally under the Muslim Law. In Chapter 3 the author has discussed the Indian Legal framework related to Waqf. Further in Chapter 4 the author has discussed the Structure and Administration of Waqf Boards followed by the issues and challenges related to Waqf Properties in India under Chapter 5. Additionally, the author has discussed the recent Waqf Amendment Bill 2024 along with its critical analysis under Chapter 7 and lastly the author has concluded the present topic.

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Introduction:-

The significance of Waqf could be understood in a way that one of the seven wonders of the world, Taj Mahal is also considered to be a Waqf property according to many Muslim jurists. Waqf simply means making endowments where the primary purpose is to do philanthropic works either related to religion, education and many others. However, it should be restricted to the welfare of Muslim Community only. The concept of Waqf is very unique but it was codified in the year of 1994 for the first time. Recently, the aspect of Waqf has been in news as the current government has tried to amend the legislation dealing with this age-old concept. It is for this reason the author in this research paper would analyse the aspect of Waqf and the impact of the recent amendment in great detail.

Under the second chapter the author has explained the jurisprudential aspect of Waqf under the Muslim Law. The author has discussed the essential requisites for the creation of Waqf as well as kinds of Waqf which could be created legally under the Muslim Law. In Chapter 3 the author has discussed the Indian Legal framework related to Waqf. Further in Chapter 4 the author has discussed the Structure and Administration of Waqf Boards followed by

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CHAPTER II

CONCEPT OF WAQF PROPERTY IN INDIA

In the entire human history, there has never been a single period when all the human beings were equal in terms of prosperity and property. Thus, it was important to ensure that the poor and marginalised section of the society should be provided with adequate means through the means of charity and philanthropic works and this purpose forms the basis of Waqf as a concept.

The word 'Waqf' derives from an Arabic word which means "To hold up or to detain. "The aspect of Waqf Property basically means "the detention of the property in the ownership of GOD, the total extinction of the ownership of Wakif or the founder and appropriation of the usufruct for the objects recognized by Islamic law as pious, religious and charitable."¹ Thus, it can be said that it is a property managed by the institution for the philanthropic purpose as well as upliftment of marginalised sectors of the society.

The origin of Waqf is as old as the religion of Islam. This could be understood from an excerpt of the writings of Dr. Ahmadullah Khan who wrote that-

*"It does not seem to hold good as Kaba itself is considered to be the first structure dedicated to the worship of Allah, the Almighty. As such Kaba is regarded as the First Waqf"*²

Thus, it can be said that the concept Waqf is very old, having its roots in the time of prophet Mohammad. There is a close inter-connection between the concept of Waqf and Muslim personal law. It became so prominent with the passage of time that it became one of the strongest pillars of the Islamic religions and it had a lasting impact on the social, economic, cultural, scientific and political aspect of this religion. In its early days, the aspect of Waqf was growing in the prominent Islamic countries only, however, as their empire extended, the concept of Waqf also extended to non-Muslim countries.

BASIC CONDITIONS FOR FORMATION FOR WAQF

As per the Muslim sacred texts, there are certain basic principles, rules and characteristics for the formation of Waqf property. For instance, there should exist an element of Perpetuity for the creation of a valid Waqf. This comes in direct conflict with "Section 14 of the Transfer of Property Act, 1882"³ which provides rule against perpetuity. However, Section 2 of the same Act also provides that "nothing in the second chapter of this Act shall be deemed to affect any rule of Muhammadan law."⁴ Therefore, it can be said that Waqf is an exception to the rule against perpetuity and the same was held in the case of *"Sadat Kamel v. A.G. Palestine."*⁵

Another condition which is necessary for the creation of a valid Waqf is the aspect of Irrevocability. Thus, once a property is declared to be Waqf the same cannot be revoked by any subsequent act as the same falls within the ownership of Allah.⁶ In addition to this the third essential aspect for creation of valid Waqf is inalienability of the property. It simply means that "after a valid declaration is made, the subject matter of the Waqf passes out of the ownership of the Wakif and it cannot be alienated or transferred either by the Wakif or the Mutawalli nor do their heirs can take it by way of inheritance."⁷

TYPES OF WAQF

As per the various jurists of Muslim personal law Waqf can be divided into its various kinds for instance "Religious Waqf" where the property is given for Waqf for the purpose of construction of various religious structures like Masjid, Seminary and other pious purposes. It was under this kind of Waqf only the first Waqf was created by

¹"Mushtaq Ahmad, "The Institution of the Waqf and its Historical Evolution: With Special Reference to the Dargah of Ajmer" in Syed Khalid Rashid (ed.), Protection, Maintenance and Development of Awkaf in India (with special reference to the State of Rajasthan) 1(2005)."

²"William F. Fratcher, The Islamic Waqf, 36 Missouri Law Review 155 (1971)."

³ "Section 14 of the Transfer of Property Act, 1882."

⁴ "Section 2 of the Transfer of Property Act, 1882."

⁵ "AIR 1939 PC 185."

⁶ "Mohammad Tahir Sabit and Abdul Hamid Mar Iman, "Obstacles of the Current Concept of Waqf to the Development of Waqf Properties and the Recommended Alternative", 1 Malaysian Journal of Real Estate 27-38 (2006)."

⁷ "Mulla, Principles of Mahomedan Law in M. Hidayatullah (ed.) 178 (1972)."

Prophet Mohammad known as “Masjid-e-Quba.” Another type of Waqf is dedicated to Philanthropic purposes which is intended towards helping the poor and marginalised section of the Muslim community. The primary purpose of this kind of Waqf is the construction of “public utilities for the poor and needy, libraries, scientific research, education, health services, care of animals and environment, lending to small businessmen, parks, roads, bridges, dams etc.”

A new kind of Waqf was seen after the death of Prophet Mohammad wherein the amount of revenue generated from the Waqf must first be provided to the legal heir and descendants of the owner or founder of the Waqf and after that if there remains any surplus then the same must be provided to the marginalised section of the society. With the advent of these two new types of Waqf were formed like “Waqf in form of Cash and Waqf of Intellectual Property.” In the former instead of donating land and other things for Waqf, Cash was provided for the same. The money received for the purpose was used only for certain permissible areas and the profit generated from the same was distributed to the poor section of the society. Examples for later form of Waqf is protecting the intellectual aspect of the property for instance patent or copyright.

CHAPTER III

LEGAL FRAMEWORK OF WAQF IN INDIA

As the aspect of Waqf deals with one of the most important elements of human life i.e., property it was important for the government to codify the same which spans all the way to more than 100 years. The first attempt to codify Waqf property was done through “*Mussalman Waqf Validating Act, 1913*” followed by the “*Mussalman Waqf Act, 1923*.” Till this time various State Waqf Boards were established in different parts of the state and various State Waqf Acts like “*Bihar Waqf Act, 1947*” and “*Bombay Public Trust Act, 1950*” were enacted. It was followed by “*Waqf Act, 1954*” which was the first central post-amendment act. However, the same was repealed a year later and currently the aspect of Waqf is dealt under the “*Waqf Act of 1955*.”

“THE WAQF ACT OF 1955”

“The Waqf Act of 1955” currently governs the Waqf institution in the country. This Act aims to provide a thorough framework for the management of Waqf institutions as well as a comprehensive plan for their maintenance and protection. The Act gives Waqf Boards a major and active role in promoting and preserving Awqaf throughout the nation. The Act consists of a total of 113 sections which have been further bifurcated into 9 different chapters. Section 112 of the Act repeals the “*Waqf Act of 1954*.”

Section 3(r) of the Act defines the term Waqf as “the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable.”⁸ Apart from this Section 3(a) of the Act defines the term beneficiary as “a person or object for whose benefit a Waqf is created and includes religious, pious and charitable objects and any other objects of public utility sanctioned by the Muslim law.”⁹ Other important definitions are of ‘Board’¹⁰ and ‘Mutawalli’.¹¹

Chapter II of the Act deals with “Survey of Auqaf” which is the most significant chapter as it deals with the aspect of survey, publication of list, disputes resolution and powers of the tribunal to determine the issues under the Act.¹² Further, Chapter III of the Act deals with the establishment of Central Waqf Council, whereas Chapter IV deals with the Establishment of Boards and their Functions. In this chapter the composition, term of the members, grounds of disqualification, committees constituted by the Board, Process of Removal as well as appointment of the members have been dealt in great detail.¹³

Chapter V deals with the “Registration of Auqaf”,¹⁴ Chapter VI and VII deals with the aspect of “Maintenance of Accounts as well as Finance of the Board.”¹⁵ Chapter VIII is an important chapter as it deals with Judicial Proceedings wherein the constitution of Tribunals and other related proceedings are dealt in great details.¹⁶ Lastly, Chapter IX deals with miscellaneous aspect of the Act.¹⁷

⁸ “Section 3(r) of The Waqf Act, 1995.”

⁹ “Section 3(a) of The Waqf Act, 1995.”

¹⁰ “Section 3(r) of The Waqf Act, 1995.”

¹¹ “Section 3(c) of The Waqf Act, 1995.”

¹² “Sections 4-8 of The Waqf Act, 1995.”

¹³ “Chapter III of The Waqf Act, 1995.”

¹⁴ “Chapter V of The Waqf Act, 1995.”

¹⁵ “Chapter VI of The Waqf Act, 1995.”

¹⁶ “Chapter VII of The Waqf Act, 1995.”

¹⁷ “Chapter VIII of The Waqf Act, 1995.”

While this legislation is very detailed in itself, still from long-time certain amendments were required in the same and this demand was fulfilled by the legislature through the “The Waqf (Amendment) Act of 2013.”

“THE WAQF (AMENDMENT) ACT OF 2013”

The Amendment Act seeks to address the major problem of many States lacking “basic asset records” within a specified time limit. Encroaching on Waqf property is now a punishable offence under the new provisions of the Amendment Act, carrying a maximum two-year jail sentence and no possibility of getting bail, thus, making it a serious non-bailable offence. Further, the Act assigns State governments the duty of creating and guaranteeing the efficient operation of Waqf Boards.¹⁸

“The Central Waqf Council, State Waqf Boards, and State Governments” are required under the Act to exchange information, and steps have been taken to improve the accountability of the Boards. Stricter guidelines for reclaiming Waqf properties that have been alienated over time are also included in the amended statute. Through this amendment, the term ‘encroachment’ has also been defined and definition of ‘Waqf’ has been further elaborated. Further, the powers of the Board and Tribunals has been increased under the amendment Act.¹⁹

ROLE OF THE JUDICIARY

It can be seen that there remains a constant tussle between the enforcement of Waqf Act and individual interest as well as public interest. Here the judiciary plays a very significant role to ensure a balance between the aforesaid. In a recent case of “*Salem Muslim Burial Ground Protection Committee v. State Of Tamil Nadu And Ors.*,”²⁰ the Supreme Court held that before declaring any property as a Waqf property it is a prerequisite to conduct a survey under Section 4 of the Act. In the absence of the same it would not be deemed to be a valid Waqf. Likewise in the case of “*Zian Yaar Jung v. Director of Endowment*”²¹ the Apex Court held that the primary object of creating Waqf is to benefit the Muslim community.

One of the most celebrated cases where the aspect of Waqf was discussed by the court was of “*Karnataka Board of Waqfs v. Modh. Nazeer Ahmad*”²² where it was held that mere declaring a residential property by a person of Muslim community to be used for the travellers of all religion and status was not to be considered as a Waqf property. The court clarified that the purpose of creation of Waqf is to devote the same for Muslim community. Therefore, if property is of secular nature, it would not be treated as Waqf under the Act.

Further, there are several judgments where the courts show their pro-active role in the enforcement of Waqf Act. For instance, in April 2024 in the case of “*Viceroy Hotels Limited and Ors. v. Telangana State Waqf Board, Hyderabad*”²³ the claim of Waqf Board that the 5-Star Marriot Hotel in Hyderabad is also a Waqf property was rejected and held that such initiation of proceeding by the Waqf Board is in the excess of jurisdiction which cannot sustain legally under “Section 54 of the Waqf Act, 1995.” Likewise, in October 2022, the Supreme Court in the case “*Maharashtra State Board of Waqfs v. Shaikh Yusuf Bhai Chawla*,”²⁴ held that “every public trust need not to be a Waqf.” It was further observed that the Waqf Board cannot exceed its prescribed jurisdiction under the Act to govern every kind of public trust.

Thus, it can be said that judiciary has and is playing a very active role in the effective enforcement of the Waqf Act and at the same time the courts are also trying to control the far-reaching actions of the Waqf Board under the Act.

CHAPTER IV

STRUCTURE AND ADMINISTRATION OF WAQF BOARDS

Waqf in India found its genesis under the Ministry of Minority Affairs, however, waqf boards established at the state level and central level enjoy considerable autonomy. By sections 13 and 14 of the Waqf Act, of 1995, the

¹⁸ “President’s Assent to the Waqf (Amendment) Bill, 2013, India, available at: <https://www.gktoday.in/presidents-assent-Waqf-amendment-bill-2013/> (Last visited on: September 05, 2024).”

¹⁹ “Proposed amendments to Waqf Act; aimed at enhancing inclusivity, ensure registration of Waqf properties: Sources, Hindustan Times, available at: <https://www.hindustantimes.com/india-news/proposed-amendments-to-Waqf-act-aimed-at-enhancing-inclusivity-ensure-registration-of-Waqf-properties-sources-101723074480779.html> (Last visited on: September 05, 2024).”

²⁰ “2023 LiveLaw (SC) 454.”

²¹ “AIR 1963 SC 955.”

²² “1982 SCC OnLine Kar 94.”

²³ “W.P. No. 11730 of 2014.”

²⁴ “Civil Appeal Nos. 7812-7814 of 2022.”

corresponding state governments create the State Waqf Boards (SWBs). Through the creation of local committees, these regulate, safeguard, and manage the waqf holdings. There are thirty-two waqf boards throughout the nation at the moment. The Waqf Act, of 1954, created the Central Waqf Council, a statutory entity, in 1964 through the Government of India.

1. State Waqf Boards

According to the Waqf Act, the State Waqf Boards have a five-year term of office and are recognized by their respective State governments for general superintendence of all waqfs in a State. A separate Waqf Board for Shias may be constituted if the proportion of Shia waqf properties in a state, either by number or revenue, exceeds fifteen percent. The Board is a body corporate with perpetual succession, a common seal, the ability to own, transfer, and acquire property, as well as the right to bring and receive lawsuits.

Both elected and nominated members make up the Board. One or two representatives from each of the electoral colleges which are made up of Muslim members of the State Legislature, Bar Council, Parliament, and Mutawallis are chosen by the State Government. One Muslim with professional expertise in "town planning, business management, social work, finance, revenue, agriculture, and development activities" is also nominated by the State Government.²⁵

Additionally, there should be one Muslim official in the State Government who has a position higher than the Joint Secretary and one Muslim scholar of Shia and Sunni theology. The Central Government should designate a minimum of five and a maximum of seven members to the Board for Union territories other than Delhi's National Capital Territory. Each Board must include a minimum of two female members.²⁶

2. Central Waqf Council

To advise the Central Government, State Governments, and the Boards on issues about the operation of the Boards and the proper administration of auqaf, the Act calls for the establishment of a Central Waqf Council. A state's Waqfboard, which includes the Union Territory of Delhi, must consist of seven to thirteen members, the majority of whom must be elected from among the Muslim members of Parliament. The Central Waqf Fund will be the name of the Council's fund. It will include funds that the Council has been given as grants, benefactions, and contributions.²⁷

Each Board is required to make an annual payment from its Waqf Fund, equal to one percent of the Waqfs' total yearly income. Section 11 further mandates that the Council keep its account under any applicable guidelines. From 1974-1975, the Central Waqf Council conducted this project with a yearly grant-in-aid from the Central Government to protect unoccupied Waqf land from encroachers and develop it on commercial lines to produce more cash in order to extend charity operations. The Program provides loans to different Waqf Institutions around the Nation so they can build business complexes and marriage halls among other economically feasible structures on Waqf property.²⁸

CHAPTER V

ISSUES AND CHALLENGES ASSOCIATED WITH WAQF

There are now 30 Waqf boards in India,²⁹ each of which is in charge of overseeing a certain auqf within its Union Territory. Excessive corruption is frequently associated with the Waqf boards. Because of the Waqf Boards lengthy history of controversy, they are frequently viewed as daylight robbers in modern times. The waqf was established in Allah's name with the intention of sheltering orphans, and widows and providing educational and charitable

²⁵ Anwar Aziz, "A Comparative Study of Waqf Institution Governance in India and Malaysia", 26 *Intellectual Discourse* 1229 (2018).

²⁶ Waqf Board- Composition & Powers, available at: <http://www.zakatindia.org/images5/Sri-Shaikh-Abdur-Rauf-Ex-CEO-Maharashtra-Waqf-Board-WAQF-BOARD-COMPOSITION-POWERS.pdf> (last visited September 7, 2023).

²⁷ Restructuring of Central Waqf Council, available at: <https://minorityaffairs.gov.in/WriteReadData/RTF1984/1658388387.pdf> (Last visited September 10, 2024).

²⁸ Central Waqf Council, available at: https://www.minorityaffairs.gov.in/show_content.php?lang=1&level=0&ls_id=219&lid=224 (last visited September 15, 2024).

²⁹ Waqf Assets Management System, available at: <https://waqf.gov.in/wakf/wakfboards.html#:~:text=Waqf%20Mangement%20System%20of%20India&text=State%20FUT%20Waqf%20Boards%20are,and%20economic%20life%20of%20Muslims> (last visited September 15, 2024).

solutions. Nevertheless, in recent times, police, bureaucrats, and politicians have used it as a weapon to intrude on their property. The Waqf land is typically offered on a lease because it cannot be sold.³⁰ Maharashtra Waqf Board is one such scandal, whereby Billionaire Mukesh Ambani was allocated 4,535 sqmts in Upscale Atta Hill Road for his 27-story apartment. This is one instance that demonstrates the extreme corruption of the Waqf Board. Additionally, the Windsor Manor Hotel in Bangalore, which is valued at over 600 crores, is being rented for a fee of Rs. 12K. The Sachar Committee Report noted that most boards are run by untrained individuals who fill the position on a part-time basis. As a result, significant reforms must be made to the waqf board. Waqf Boards face several difficulties and problems as a result.

1. Survey

Since the survey exposes the characteristics and possibilities of the property, it is necessary before taking any action regarding waqf properties. In its ninth report, the Joint Parliamentary Committee on Waqf referred to the survey as the "heart and soul" of the Act because of its significance. For the purpose of surveying auqf in a State, the State Government may designate a Survey Commissioner and additional or assistant commissioners in accordance with Sections 4-8 of the Act.

The Survey Commissioner is required to provide a report to the State Government that includes information on the number of Sunni and Shia waqfs in the state, their characteristics and purposes, taxes, cess, land revenue, and gross income, that are due in each waqf.

However, if no Survey Commissioner is designated, the survey needs to be finished within a year of the "Waqf Amendment Act, 2013" taking effect, and a Survey Commissioner needs to be named within three months of that date. Ten years is the new duration for the second or subsequent survey. Twenty years used to be the deadline for the second or subsequent survey. The whole cost of conducting the poll and releasing the list or lists of auqf is the state government's responsibility.³¹

2. Establishment of Waqf Board

State governments have the power to establish Waqf Boards owing to the Waqf Act. It is ineffectual, meanwhile, because several state governments either failed to establish the Board or did not designate all of the necessary members. Similarly, state administrations have demonstrated little enthusiasm in appointing Chief Executed Officers on a full-time basis. The CEO is the most important employee who carries out the Board's directions, thus when they are absent, the entire system breaks down. Political parties now receive political favoritism from Waqf Boards. Every member, whether nominated or selected, belongs to a political party. In carrying out their duties, affiliations with politics have frequently taken precedence over constitutional obligations.

The Joint Parliamentary Committee determined in its ninth report that between 70 and 80 percent of auqf had been occupied unlawfully. Two forms of encroachment were recognized by the "Sachar Committee", "takeover of property without any payments made for rentals or other expenses, and the second occurs when an occupier pays a low rent that hasn't been updated in decades." The complete process becomes more frustrating when the governmental machinery, which is supposed to be in control of waqf assets, is taking part as well.

3. Litigation

The identification of Waqf to be listed and Sunni or Shia is the foremost ground of litigation. The findings of the Tribunal are often regarded as final. However, pursuant to Section 83 of the Wakf Act, 1995, a High Court can review the case on grounds of reasonableness or constitutionality and may affirm, overturn, or change the ruling of the Tribunal. The State Waqf Boards do not have the funds to retain competent legal counsel to refute the cases. This has grown to be a significant barrier to the Waqf's smooth operation.³² It is advised that the State Government give the Board the financial support it needs to establish a robust legal department.

4. Financial Problems

³⁰ Mohd Owais Qasmi, "Issues and Challenges in management of Waqf in Delhi Province of India, 9 *International Journal of Research in Social Science* 605 (2019).

³¹ Administration of Waqf Board in India: Issues and Challenges in Management, *available at*: <https://www.legalserviceindia.com/legal/article-8640-administration-of-waqf-board-in-india-issues-and-challenges-in-management.html> (last visited September 8, 2024).

³² Mohammad Abdullah, "Fate of Waqf in India: A Critical Appraisal" *ISFIRE* (2012).

As was already noted, the Waqf Board's financial situation is unstable. Under section 72, Waqf Boards accept contributions from mutawallis whose net annual earnings are at least five thousand rupees annually. The amount that the Waqf Property contributes is little because much of it is revenue-neutral. It is tough for some Waqf Boards to only pay their workers' wages. They can't protect themselves in court, and they can't benefit from the development of waqf assets.³³

CHAPTER VI

WAQF AMENDMENT BILL, 2024

To address the abovementioned challenges, Parliament on August 8, 2024, introduced a Bill to amend the Waqf Act of 1995, namely the Waqf (Amendment) Bill, 2024. One of the foremost amendments proposed was the amending of the name of the Act, itself. The Bill renames the Act to "United Waqf Management, Empowerment, Efficiency and Development Act, 1995". The Bill once passed, is expected to resolve the long-standing issues related to management of property and representation in the Board. The bill proposed around 40 amendments to the existing Act. The Bill focuses on ensuring transparency, inclusivity, and accountability within the functioning of the Waqf. The Bill seeks to curb the extensive power in the hands of the Board ensuring a more systematic functioning.

Some of the crucial amendments proposed by the Bill are-

1. Formation of waqf- According to the Act, a waqf could be formed by any declaration, or endowment when the line of succession comes to an end popularly known as "Waqf-alal-aulad" and long-term use by the Waqf. However, the bill completely amends the formation of Waqf. Bill provides that waqf can only be declared by a person who has been practicing Islam for 5 years. Further, the said person must be the owner of that property. The Bill ends the formation of Waqf by long-term use. The Bill also adds that the donor's heir including the women heir must not be denied their inheritance rights due to Waqf-alal-aulad. In the Act, the inquiry and determination of property to be waqf was done by the Waqf Board. The bill has removed such a provision. Further, the collector has also been empowered to survey the waqf which was earlier done by the Survey Commissioner and Additional Commissioner. The Bill also allows separate waqf boards for Aghakhani and Bohra sects.³⁴
2. Property of Government as Waqf- The Bill provides that any government property which earlier has been identified as waqf would cease to be so. The Collector of the district has been empowered to determine the ownership and report to the state government in case of uncertainties. If he finds the property to be of government, the same shall be updated in the revenue records.
3. Central Waqf Council- According to the Act, Central and State Government and Waqf boards were to be advised by the Central Waqf Council, and the Union Minister in charge of the Waqf was appointed as the ex-officio chairperson. It was mandated that all members of the council be Muslim and at least two of the members be women. The Bill amending the constitution of the Council provides that, two members of the council must be Non-Muslims.³⁵
4. Central Waqf Council- The Act constitutes the Central Waqf Council to advise the central and state governments and Waqf Boards. The Union Minister in charge of Waqf is the ex-officio chairperson of the Council. The Act requires that all Council members be Muslims, and at least two must be women. The Bill instead provides that two members must be non-Muslims. MPs, former judges, and eminent persons appointed to the Council as per the Act need not be Muslims. However, the scholars, chairperson, and representative of the Muslim Organisation must be Muslim.
5. Representation of Women into the Board- The Bill mandates the inclusion of women into State Waqf Boards and Central Waqf Councils. It provides that two members of the council must be women. Further, the bill allows Orphans, widows, and divorced women to be beneficiaries of the process from the waqf assets.
6. Tribunal- The Act provides for the constitution of the Tribunal of the dispute resolution over the waqf. According to the Bill, a new member of the tribunal, the Chairman who can be a current or former District Judge and the current or former officer of rank joins the secretary to the state government. The bill also proposes that a resolution to the dispute must be completed within 6 months with a further extension of 6 months. The Bill also allows intervention in waqf disputes. The judgment of the tribunal as per the Bill would not be final and the aggrieved can appeal in High Court within 90 days.
7. Financial Oversight- Centre is empowered to "direct the audit of any waqf at any time by an auditor appointed by the

³³ Tabasum Rassol, "Waqf Administration in India: Issues and Challenges of State Waqf Board" *Journal of Islamic Thought and Civilization* (2017).

³⁴ The Waqf (Amendment) Bill, 2024, available at: <https://prsindia.org/billtrack/the-waqf-amendment-bill-2024> (Last visited September 10, 2024).

³⁵ *Ibid.*

Comptroller and Auditor-General of India, or by any officer designated by the Central Government for that purpose” by the Bill. The Board is required to annually audit their accounts. The auditor is to be selected from a panel constituted by the State Government. Further, the Mutawallis would be liable for the penalty if they do not maintain proper records.³⁶

8. Rule Making power- The Bill gives the central government the authority to establish regulations for (i) registration, (ii) publishing waqf accounts, and (iii) publishing waqf Board proceedings. The state government may, at any time, request an audit of a waqf's accounts under the Act. The Bill gives the federal government the authority to request that the CAG or another approved official audit these.

CHAPTER VIII

CONCLUSION

There is no shadow of a doubt that the “Waqf (Amendment) Bill, 2024” is brought by the current government to streamline the administration and management of Waqf properties in the country. However, it is currently facing various backlashes from the Muslim Community across the country. It has always been seen in our country that whenever the government attempts to bring any change in law related to the Personal Laws of any Religion it has to face many difficulties.

Moreover, here the quote from a recent judgment of May 2023 delivered by Justice BV Nagarathna can be taken into consideration where it was observed that “*State Does Not owe loyalty to any one Religion in this country. The Constitution does not allow Preferential Treatment to any Religion.*” Thus, it can be concluded that this amendment under the Waqf Act should be welcomed by the Muslim Community so that the regulation of Waqf property could be done in an effective manner.

Further the social media as well as print and electronic media also holds a prime responsibility regarding communication of the correct interpretation and implementation of the Amendment Bill. Now-a-days social media has become a crucial platform from where the opinion of masses could be changed within a short period of time. Thus, the media platform should not mis-guide the public regarding this amendment and it should be ensured that the actual rationale and motive behind the implementation of the amendment act should be taken into consideration by the people.

Further it would be really interesting to see the report of the Joint Parliamentary committee which will determine the future course of this amendment bill in the country.

³⁶ The Waqf (Amendment) Bill, 2024, available at:

[https://sansad.in/getFile/LSSCOMMITTEE/Joint%20Committee%20on%20the%20Waqf%20\(Amendment\)%20Bill,%202024/Introduction/INTRODUCTION.pdf?source=loksabhadocs](https://sansad.in/getFile/LSSCOMMITTEE/Joint%20Committee%20on%20the%20Waqf%20(Amendment)%20Bill,%202024/Introduction/INTRODUCTION.pdf?source=loksabhadocs) (Last visited, September 10, 2024).