



CENTRAL WAQF COUNCIL
(Ministry of Minority Affairs Govt. of India)

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Central Waqf Bhawan
P-13&14, Pushp Vihar,
Sector-6, Saket,
Opposite Family Court,
New Delhi – 110017

F. No. 45(2)/2014-CWC /Advices

Dated: 7th September, 2015

All the Secretaries
(Incharge of Waqfs Affairs)
State Govt.

Subject: *Follow up action on the enforcement of the Wakf (Amendment) Act, 2013-Regarding.*

Sir,

We may draw your kind attention on the aforesaid subject and to say that letter of even number dated 27.02.2014, 05.02.2015 and 19.03.2015 have been sent to the State Waqf Boards. I would further like to say that the Wakf (Amendment) Act, 2013 has been enforced w.e.f 01.11.2013. It has cast heavy burden on the State Waqf Boards to take follow up actions, especially in the following matters:-

1. As per sub-section (1A) of section 4 of the Waqf Act, 1995(for short "the Act") Survey Commissioner was to be appointed by 31.01.2014, where Survey Commissioner was not functioning and survey is to be completed by 31.10.2014. As per section 8 of the Act now the cost of survey is to be borne by the State Government. Immediate steps may be taken for appointment of Survey Commissioner, where no Survey Commissioner has been appointed.
2. As per the section 5 of the Act, after the receipt of the report from the Survey Commissioner through the State Government, it is to be examined by the Boards and forward it back to the State Government within a period of six months for publication in the Official Gazette.
3. After the notification, lists of auqaf and the existing lists are to be sent to respective revenue authorities and ensure that the auqaf are entered in the revenue record and the revenue authorities consider them while deciding mutation.
4. Annual report as per sub-section (4) of section 9 of the Act is to be sent to Central Waqf Council regularly.

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5. As per section 13, of the Act, the Waqf board is to be established by 30.04.2014, where it has not been constituted under the amended provision of section 14 of the Act or where the Administrator is functioning.
6. As per section 23 of the Act, full time Chief Executive Officers is to be appointed by the State Government out of a panel of two Muslim officers, not below the rank of Deputy Secretary to the Government, suggested by the State Waqf Board.
7. Section 27 of the amended Act has authorized State Waqf Board to delegate its power to any person subject to certain conditions, and restrictions. Such delegation shall ensure smooth functioning of the Board in the absence of the Chief Executive Officers
8. As per section 29 of the Act, the mutawallies and the Government agencies are bound to supply such information as required by the Board.
9. As per the section 37 of the Act, the details of properties entered in the register of auqaf are to be sent to the concerned land record office, having jurisdiction of the Waqf property. If no communication is received within a period of six months from the revenue authorities the entries shall be deemed to have been made in the revenue record.
10. As per section 51 of the Act, no mutawalli is permitted to lease any immovable property without the approval of the Board. If it is done is shall be void irrespective of the provision of the lease deed or permissive provision in the Waqf Deed.
11. No mosque, dargah, khanqah, graveyard or imambara can be leased out. Lease of the said properties cannot be renewed automatically, after the expiry of the lease period the lessee shall become encroacher as per clause (e) of section 3 of the Act and shall be evicted as per provision of section 52A and section 54 of the Act.
12. Section 52A of the Act, provides for registration of FIR against unauthorized purchaser, seller and encroachers of waqf properties. it has become cognizable and non-bailable offense. For this complaint is to be filed by an officer authorized by the Board. The State Waqf Boards can make use of this provision frequently. For making this provision more effective attention of the police authorities may be drawn to proviso to sub-section (6) of section 7 of the Act, which is reproduced below.

Provided that whatsoever, being a public servant, fails in his lawful duty to prevent or remove an encroachment, shall on conviction be punishable with fine which may extend to fifteen thousand rupees for each such offence.

13. Section 54 of the Act has been made more stringent and help of the Tribunal may be taken to remove encroacher and for follow up action after the order passed by the Tribunal, the matter is to be referred to the Executive Magistrate for removal of encroachment. His attention of may be drawn to the proviso of sub-section (6) of section 7 of the Act.
14. Lease of the waqf properties shall be given as per section 56 of the Act and Waqf Properties Lease Rules 2014.
15. Under the un-amended section 56 of the Act, any lease for a period upto thirty years may be given. It will be renewed as per Waqf properties Lease Rules on fresh terms.
16. Graveyards leased before the commencement of the Act are to be retrieved immediately.
17. The Waqf Boards should approach the State Government to constitute three members Tribunal to decide matters relating to auqaf and waqf properties under section 83 of the Act.
18. Every Waqf Board should prepare a list of waqf properties occupied by the Government agencies, send one copy of such properties to the Central Waqf Council and initiate action for their recovery in accordance with section 104 B of the Act.
19. Special feature of the Waqf (Amendment) Act, 2013 is that as per section 108A, the provisions of the Waqf Act, 1995 shall have over riding effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or on any instrument having effect by virtue of any law other than this Act.

We request for your kind intervention for the implementation of Waqf Act, 1995 please.

With regards,

Yours sincerely,


(Ali Ahmed Khan)
Secretary