



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.44(1)/2002-CWC(Impl.)

Dated: 17th September, 2015

To

Secretaries, (Incharge of Waqfs)

All the State Governments

(As per List attached)

Subject: **Constitution of Tribunals as per Chapter III Section 83 of the Waqf Act, 1995 as amended by the Wakf (Amendment) Act, 2013 — Regarding**

Sir,

I would like to draw your kind attention to this office letters of even number dated 14.08.2014, 01.12.2014, 06.02.2015, 10.03.2015 and 19.06.2015 on the aforesaid subject. As per the provision of section 83 of the Waqf Act, 1995, Tribunal was constituted by the State Government for determination of disputes, questions or other matter relating to Waqf or Waqf properties. The Waqf Act, 1995 has been amended by the Wakf (Amendment) Act, 2013 which has come into force on 1st November, 2013. According to sub-section (4) of section 83 of the Wakf (Amendment) Act, 2013 the constitution of Tribunal has been changed to the **three members body** as under:

Every Tribunal shall consist of-

- (a) one person, who shall be a member of the State Judicial Service holding a rank, not below that of a District, Sessions or Civil Judge, Class I, who shall be the Chairman;
 - (b) one person, who shall be an officer from State Civil Services equivalent in rank to that of the Additional District Magistrate, Member;
 - (c) one person having knowledge of Muslim law and jurisprudence, Member;
- and the appointment of every person shall be made either by name or by designation.

Thus the State Government in exercise of power conferred under this section shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit.

On 11/9/2015 in Civil Revision Application No.395/2015 (case titled as Magnum Developers and ors V/s Lal Shah Baba Dargah Trust and another), the Bombay High Court of Judicature at Bombay (Coram R.G. Ketkar Justice) has observed that the Waqf Suit instituted after 1/11/2013 before a single member Tribunal is not maintainable and to

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be decided by the Civil Court. Prior to that Andhra Pradesh High Court, Kerala High Court and Gujarat High have uniformly taken a view that so long as State has not constituted Tribunal consisting of Three members in terms of amended section 83 (4), a single member Tribunal is competent to decide questions referred in section 83 (1) of the Waqf Act, 1995.

In view of the above judicial finding it may be suggested that the delay in constitution of Waqf Tribunal will lead to conflict of judgements and multiplicity of proceedings, putting heavy financial burden on the State Waqf Boards toward litigation expenses and result in inordinate delay in early disposal of the cases pending in Tribunal or Courts.

Therefore it is once again requested to constitute the Waqf Tribunals as three member's body at the earliest under intimation to the Ministry of Minority Affairs, Government of India.

Yours faithfully,



(Ali Ahmed Khan)
Secretary

Copy to:

The Chief Executive Officers,
All State Waqf Boards - With a request to pursue the concerned Department of the State Government and to intimate this office.


Secretary

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