

THE WAQF AMENDMENT BILL - 2024

Suggestions to JPC



VOICE FOR JUSTICE

Fourth Floor, No. 326, Thambu Chetty Street,
Chennai - 600001

Web : www.voiceforjustice.in



SUGGESTIONS TO JPC ON THE WAQF AMENDMENT BILL-2024

1. The Waqf Board is the second largest Land-Owner in the country. Most of these Waqf land has been created by the Mughals, Badshahs Nizams and Nawabs. The Britishers continued this for their vested interest to divide the Hindus and Muslims. The Muslim league was not popular even amongst Muslims after the formation of the Muslim league.
2. To strengthen the Muslim league the Britishers enacted various Waqf laws and created statutory force to all these Waqfs between the year 1934 to 1936. The Orissa Waqf Act, Bengal Waqf Act and Bombay Waqf Act were created with the 1934 to 1936. Eventually they imposed the Shariyat Act 1937. After the Government of India Act, 1937, the Muslim League did not do well in the elections. But, the Waqfs created under the various acts afore said and those activities had strengthened the Muslim league eventually creating Pakistan.
3. After independence the Government brought in the first Waqf Act in the year 1954. The Waqf in India are properties endowed by murideen (followers) of saints (embodiment of Hindu-Muslim unity) for the upkeep of shrines, madrasas, khanqahs (hospices) and masjids (places of worship) and for the welfare of the succeeding generation.
4. During the year 1969 a Waqf Enquiry Committee was constituted and the report of the set committee was received in the year 1976. Based mainly on the recommendations of this committee and amendment to the Waqf Act was brought in



the year 1984. Finally, the present Waqf Act was brought in the year 1995 by the weak Prime Minister Shri.P.V.Narasimha Rao.

Under this Act more powers were vested with the Waqf Board which was more than the Britishers enactment of the year 1934. The provisions of 1995 Waqf Act threw to the winds all principles of natural justice. It is by nature a one sided legislation, elevating the Waqf Board to a Demi God like status, granting unilateral action, extra judicial authority, treating the person on the opposite side as a second class citizen.

5. The Waqf Act 1995 is supposed to have two stage verification one by the Waqf Board and another by the State Government. But, due to the political pressures the Government abandoned the verification process and whatever is declared to be Waqf property by the Waqf Board became Waqf property recognised by the State Governments. In Tamil Nadu, about 53,834 properties are claimed ownership by 7452 Waqf Institutions.

6. The Waqf Act 1995 has conferred the Waqf Boards, uncontrolled and enormous powers to declare any property to be Waqf property. For instance, the Village Tiruchendurai near Tiruchirapalli in Tamilnadu has a Shiva temple built during the Chola period and the temple has been in existence for more than 1400 years. Several properties in the village were also dedicated to the temple. However, recently the Tamil Nadu Waqf Board had declared the entire Tiruchendurai Village including the 1400 years old Shiva temple and the temple properties as Waqf properties. The Shiva Temple was built by Parantaka Chola 1, around 1000 to 1100 AD, when Islam had not even entered India. The reasoning by the Tamil Nadu Waqf Board is that the entire



Tiruchendurai village including the lord Shiva temple was dedicated as Waqf property by the Arcot nawab

7. Historically the Arcot Nawab invaded the Pandiya Nayaka queen of Rani Meenakshi when she was ruling from Tiruchirapalli. But the Arcot Nawab could not sustain the Tiruchirapalli fort as the adopted son of Queen Meenakshi joined hands with Robert Clive to defeat Arcot Nawab. Even otherwise the name referred to by the Tamil Nadu Waqf board is not even the Arcot Nawab who invaded Tiruchirapalli. Thus a fake history has been created by the Tamilnadu Waqf board to claim the entire Tiruchendurai Village, a village about 20 kms from Trichy, to be a Waqf property. Unfortunately the state did not verify the fake claim of the Tamil Nadu Waqf Board and allowed the notification of the entire Tiruchendurai Village as a Waqf property. Finally, in the month of August, the District Collector, passed an order enabling all registrations (partly due to the introduction of the Amendment Act in the Parliament). In Trichy District, Thiruchendurai, Mekkudi, Kadilakurichi, Vengankudi, Rasampalayam, Kalpalayam, Thalakuduy, Magizhampady, Arasangudi, Kattur, Ariyamangalam, Puthanatham, Thuvarankurichi are affected.

8. The Circular 36928/C3/2021/dt 08.10.2021 from Registration Department (Hq), Chennai, Government of Tamil Nadu states that even if Pattas were present in individual names, the ownership vests with the Board only. The Circular totally disregards the TN legislation where all Inam and Estates were abolished in the State of Tamil Nadu. The Waqf Act has a Non-Obstante clause where it disregards all legislation passed after it. It gets its supreme powers from that provision and hence claims ownership despite any legislation passed. The Circular further seeks shelter



under Public Premises (Eviction of Unauthorised Occupants) Act, 1975 and considers anybody in the premises of the supposed Waqf Properties as ENCROACHERS and seeks legal and state remedy in evicting them.

9. The Circular further says that any NOC by Inspectors or Superintendents of Waqf Board are not valid, and NOC should be obtained from CEO, Tamilnadu Waqf Board are valid. It further asks the genuineness of the NOC be verified by the Registration department before effecting registrations. The length to which the TN Registration department goes to protect Waqf properties, disregarding all canons of law and justice are per se violation of the fundamental rights guaranteed under chapter III of the Constitution.

10. The Waqf Board is empowered to issue a letter to TN Registration Department on mere suspicion that they may own a land. The normal legal procedure that ought to have been adopted is not followed. Even if they suspect that a piece of land is theirs, they ought to inform their suspicion to the TN Registration Department, and the Registration department after verifying the claims should inform the respective Sub Registrar Office to not allow any alienation of properties after double verification process. This should be the normal democratic process. But in practice, the Waqf Board straight away shoots letters to the respective Sub Registrar Office itself (letter dated 21.02.2022 by CEO Waqf Board, Chennai to the Sub Registrars of Ammapettai, Anthiyur, Bhavani, Chennimalai, Erode Joint I, Gobichettipalayam Joint I, Gobichettipalayam Joint II, kavundapadi, Kodumudi, Nambiyur, Perundurai,



Punchaipuliyapatti, Sathyamangalam, Sivagiri, Surampatti, Thalavadi, Thingalur, Thookanaickenpalayam). They almost take the colour and powers of the Registration Department when they do this, usurping the powers of the State Government.

11. Under the present law Waqf Board is the final authority and the sole rights to declare whether a property belongs to Waqf Board, is vested with the Waqf Board itself by virtue of Sec 40 of Waqf Act. Waqf Board has sent a circular to Director General of Registration, all District Registrars and sub Registrars with survey numbers, of supposed Waqf Board properties which they should reject registrations under Registration Act, 1908. The owner may produce Registered Legal Documents like Title Deed, Revenue Records like Patta, Chitta, RSR and other Title and Revenue Department Documents. But all these are disregarded and the Waqf Board Circular is honoured by TN State Registration Department. The Waqf Board has not produced any documents in their favour or only minimal documents. No boundaries, areas in square feet are produced by Waqf Board. There is no conclusive evidence from Waqf Board for their claims, but Registration Departments still support them. In Several places, the TN Registration Department has made the Guideline Value as 0 (ZERO) thereby disabling all registration. Erode, Perundhurai, Avinashi, Bhavani, Gobichettipalayam, Palladam, Oothukuli, Coimbatore, Palani Balasamudram, Ranipet, Vriddhachalam, Sular, and several other places all over the State are affected.



12. In Balasamudram, a picturesque village about 20 kms from Palani, in Dindugal District about 94 acres, almost the entire village is claimed ownership by Waqf Board. The Entire village was claimed ownership, while one portion was released by RDO orders. The entire Natham (poromboke land for public purposes) of survey no 53/1A1, 53/1A2, 53/1B have been claimed ownership. RC N o.786/2022/138/MDU : 21.02.2022. The Registrar also by way of their communication, has refused to register any transfer or mortgage of these lands. For about 10,000 families, they have been transacting these lands, have Patta in their names, have been paying Water Tax, Property Tax.

13. No papers have yet been provided by the Waqf Board. Registration has been suspended, and NOC is sought from Waqf Board. Why should NOC be given by the TN Waqf Board when no papers of ownership are provided by them to substantiate their claim? The villages of Markampatti, Lakkayancottai, Balasamudram, Chatrapatti, Javadupatti, Keeranur, Korikadavu, Boduvarapatti in Dindugal District are all affected.

14. In Oothukuli Village, Vadukapalayam Village, Avinashi in Tiruppur District, Waqf Board claims ownership over land, Government land where 6 Tanks are situated (capacity of 10,000 litres to 30,000 litres). A Government Community Hall is even present in the land claimed. In another piece of land, where a DTCP approved site is situated, for which ownership documents from 1929 is available, all transactions are suspended by Registration Department, due to communication from Waqf Board.

Several Agriculturists are unable to bequeath their land. About 42 acres in Oothukuli Village are affected (by way of Waqf Board letter dated 12.12.2022). The District



VOICE FOR JUSTICE

Collector of Tiruppur District by way of his letter dated 18.12.2023 (Letter no.9594/2023/A4) has understood the situation and has recommended lifting of ban on registrations of Survey numbers (9/2, 20/2, 47/1,47/3, 48, 52/3,52/4, 75/2). He has recommended to the RDO, marking copy to the Waqf CEO and Inspector. However, no follow up action has been taken on this letter.

15. In Koduveri Village, Gobichettipalayam, Nasiyanur, Jambai, Kanakkanpalayam, Semmandipalayam, Mangalam, in Erode District, the status is equally pathetic. In Bhavani, a place famously known as Mukkoodal (where three rivers conjoin – Triveni Sangamam), a holy place, where 1000 years old Sangameshwara Temple is situated, the Waqf Board has announced that even the temple areas are coming under their property. Similarly, TN Waqf Board has claimed ownership of the Sellandiamman Temple in Perundhurai Taluk Erode.

16. In Bhavani, Erode District, there is a place called Warnerpuram. The British Collector Warner had allotted the site of 6.50 acres in 1920, at a nominal price to the poor people. Even consideration was collected in instalments. TN Waqf Board claimed this area also. In another parcel of land, court order has been obtained, but still Waqf Board claims ownership.

17. In Morapalayam, in Tiruchengode to Sangagiri Route, Namakkal District Government has given patta for about 27 to 30 acres. But TN Waqf Board has claimed ownership. It is said that Waqf Board has even transferred this property. In Palladam, Tiruppur District, a 8.60 acre parcel of land (Naranapuram Village, Survey No 472/3 vide Doc no. 127/1911) belonging to one Mr Jagannathan, has been pledged to State



bank of India. SBI has verified ownership through their Legal Opinion and granted loan, after perusing through all documents. Encumbrance Certificate is available from 1865 and there is no evidence of any mosque or alternate title. But TN Waqf Board has claimed ownership. Thus even Banks are not spared.

18. In Chengalpattu, a whole village is claimed ownership by Waqf Board. Here ownership has passed through British Period, Dutch Period etc. In Ranipet, Veppur, about 52 acres, acquired through Court, in 1933, during British Rule. TN Waqf Board claims ownership. Many families were displaced. Some restoration has happened. In Vriddhachalam, Cuddalore District, many residential areas are affected. In Parangipet (Cuddalore District), entire village is claimed ownership by Waqf. Similarly, in Kottaikuppam, Villupuram District.

19. The Waqf Amendment Bill 2024 should take note of the aforesaid historical facts vis-a-vis the mandate of the constitution that is not to discriminate various religions in the Country. The 1995 Waqf Act is exactly discriminating against the citizens on the religious lines of Muslims and Hindus which is a straight violation of Article 14 of the Constitution of India. If the ownership claim of the Waqf Board on Hindu temples and lands of Hindus and Christians continues unabated, it will create a social discard and disharmony leading to riots.

20. Further there is no provision in the Act for the background checking of persons before being appointed to such powerful positions as members of the Board. A provision needs to be brought in for obtaining the approval of the Central Government as it is a highly sensitive post.



VOICE FOR JUSTICE

21. In fact, the present Section 96 empowers the Central Government to regulate the secular activities of Auqaf (Not Waqf Board). This provision may be amended to supervise and regulate the appointments to the State Waqf Boards to sensitive posts like State Waqf Board chairman, members and other Sensitive posts.

22. Some suggestion to improve the functioning of the Waqf Boards.

(i) Democratisation of the process of the constitution of the Waqf board should happen. Adhoc committees are formed in the process of nomination to the Waqf Boards making the very constitution of the Waqf boards an undemocratic one.

(ii) Elections must be conducted within the period of the previous Boards. Necessary amendment needs to be brought in the 2024 bill.

(iii) Election or nomination should be completed within a specific time frame preferably 3 months.

(iv) Payments of rent for the Waqf properties should be made only through online and physical collection of money should be prohibited.

(v) Funds should be allocated for the benefit of widows and destitute women amongst the Muslims.

(vi) 7% contribution by the Waqfs to the Waqf Board has been reduced to 5%. In Tamil Nadu Hindu religious institutions are paying the Hindu Religious and Charitable

Endowments Department 16%. Again a huge discrimination and violation of Article

14. External audit by the state and Central Government should be made mandatory.



VOICE FOR JUSTICE

(vii) Officers like Deputy Commissioners under the Bombay Trust Act should be created under the Waqf Act for the verification process of the Waqf properties. In any event the District Collectors or the District Magistrates will not have enough time to attend to the Islamic Principles of dedication of properties to charity. They will be delegating their powers to the lower level offices who will not be competent to do the verification process. Constitution of Special Officers like the Deputy Commissioners at regional level would meet the ends of Justice and would reduce the burden of the High Courts.

(viii) Whenever, there is an issue with the title of the property, parties must have the opportunity to approach the civil court for deciding the title and it should be left open

It is high time the Act is amended. On behalf of the people of Tamilnadu, we request that the Amendment be carried out without any deviation or dilution.

S Kalyaan

Trustee