

Wakf Act, 1995

Section 32 - Powers and Functions of the Board

(1) Subject to any rules that may be made under this Act, the general superintendence of all wakfs in a State shall vest in the Board established or the State; and it shall be the duty of the Board so to exercise its powers under this Act as to ensure that the wakfs under its superintendence are properly maintained, controlled and administered and the income thereof is duly applied to the objects and for the purposes for which such wakfs were created or intended:

Provided that in exercising its powers under this Act in respect of any wakf, the Board shall act in conformity with the directions of the wakf, the purposes of the wakf and any usage or custom of the wakf sanctioned by the school of Muslim law to which the wakf belongs.

Explanation. For the removal of doubts, it is hereby declared that in this sub-section, "wakf includes a wakf in relation to which any scheme has been made by any court of law, whether before or after the commencement of this Act.

(2) Without prejudice to the generality of the foregoing power, the functions of the Board shall be

- (a) to maintain a record containing information relating to the origin, income, object and beneficiaries of every wakf;
- (b) to ensure that the income and other property of wakfs are applied to the objects and for the purposes for which such wakfs were intended or created;
- (c) to give directions for the administration of wakfs;
- (d) to settle schemes of management for a wakf:

Provided that no such settlement shall be made without giving the parties affected an opportunity of being heard;

(e) to direct

- (i) the utilisation of the surplus income of a wakf consistent with the objects of a wakf;
- (ii) in what manner the income of a wakf, the object of which are not evident from any written instrument, shall be utilized;
- (iii) in any case where any object of wakf has ceased to exist or has become incapable of achievement, that so much of the income of the wakf as was previously applied to that object shall be applied to any other object, which shall be similar, or nearly similar or to the original object or for the benefit of the poor or for the purpose of promotion of knowledge and learning in the Muslim community:

Provided that no direction shall be given under this clause without giving the parties affected an opportunity of being heard.

Explanation. For the purposes of this clause, the powers of the Board shall be exercised

- (i) in the case of a Sunni wakf, by the Sunni members of the Board only; and
- (ii) in the case of a Shia wakf, by the Shia members of the Board only:

Provided that where having regard to the number of the Sunni or Shia members in the Board and other circumstances, it appears to the Board that the power should not be exercised by such members only, it may co-opt such other Muslims being Sunnis or Shias, as the case may be, as it thinks fit, to be temporary members of the Board for exercising its powers under this clause;

- (f) to scrutinise and approve the budgets submitted by mutawallis and to arrange for the auditing of account of wakfs;
- (g) to appoint and remove mutawallis in accordance with the provisions of this Act;
- (h) to take measures for the recovery of lost properties of any wakf;
- (i) to institute and defend suits and proceedings relating to wakfs;
- (j) to sanction any transfer of immovable property of a wakf by way of sale, gift, mortgage, exchange or lease, in accordance with the provisions of this Act:

Provided that no such sanction shall be given unless at least two thirds of the members of the Board vote in favour of such transaction;

- (k) to administer the Wakf Fund;
- (l) to call for such returns, statistics, accounts and of her information from the mutawallis with respect to the wakf property as the Board may, from time to time, require;
- (m) to inspect, or cause inspection of, wakf properties, accounts, records or deeds and documents relating thereto;
- (n) to investigate and determine the nature and extent of wakf and wakf property, and to cause, whenever necessary, a survey of such wakf property;
- (o) generally do all such acts as may be necessary for the control, maintenance and administration of wakfs.

(3) Where the Board has settled any scheme of management under clause (d) or given any direction under clause (e) of sub-section (2), any person interested in the wakf or affected by such settlement or direction may institute a suit in a Tribunal for setting aside such settlement or directions and the decision of the Tribunal thereon shall be final.

(4) Where the Board is satisfied that any wakf land, which is a wakf property, offers a feasible potential for development as a shopping centre, market, housing flats and the like, it may serve upon the mutawalli of the concerned wakf a notice requiring him within such time, but not less than sixty days, as may be specified in the notice, to convey its decision whether he is willing to execute the development works specified in the notice.

(5) On consideration of the reply, if any, received to the notice issued under sub-section (4), the Board, if it is satisfied that the mutawalli is not willing or is not capable of executing the works required to be executed in terms of the notice, it may, with the prior approval of the Government, take over the property, clear it of any building or structure thereon, which, in the opinion of the Board is necessary for execution of the works and execute such works from wakf funds or from the finances which may be raised on the security of the properties of the wakf concerned, and control and manage the properties till such time as all expenses incurred by the Board under this section, together with interest thereon, the expenditure on maintenance of such works and other legitimate charges incurred on the property are recovered from the income derived from the property:

Provided that the Board shall compensate annually the mutawalli of the concerned wakf to the extent of the average annual net income derived from the property during the three years immediately preceding the taking over of the property by the Board.

(6) After all the expenses as enumerated in sub-section (5) have been recouped from the income of the developed properties, the developed properties shall be handed over to mutawalli of the concerned wakf.
