

Wakf (Amendment) Act, 2013, (Central)

Section 5 - Amendment of Section 3

In section 3 of the principal Act,--

(i) after clause (e), the following clause shall be inserted, namely:--

'(ee) "encroacher" means any person or institution, public or private, occupying waqf property, in whole or part, without the authority of law and includes a person whose tenancy, lease or licence has expired or has been terminated by mutawalli or the Board;'

(ii) for clause (g), the following clause shall be substituted, namely:--

'(g) "list of auqaf" means the list of auqaf published under sub-section (2) of section 5 or contained in the register of auqaf maintained under section 37;'

(iii) in clause (i), after the proviso, the following provisos shall be inserted, namely:-

"Provided further that the mutawalli shall be a citizen of India and shall fulfil such other qualifications as may be prescribed:

Provided also that in case a waqf has specified any qualifications, such qualifications may be provided in the rules as may be made by the State Government;";

(iv) in clause (K), in sub-clause (i), for the words "worship" and "khangah", the words "offer prayer" and "khanqah, peerkhana and karbala" shall, respectively, be substituted;

(v) for clause (r), the following clause shall be substituted, namely:--

'(r) "waqf" means 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 and includes--

(i) a waqf by user but such waqf shall not cease to be a waqf by reason only of the user having ceased irrespective of the period of such cesser;

(ii) a Shamlat Patti, Shamlat Deh, Jumla Malkkan or by any other name entered in a revenue record;

(iii) "grants", including mashrat-ul-khidmat for any purpose recognised by the Muslim law as pious, religious or charitable; and

(iv) a waqf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable, provided

when the line of succession fails, the income of the waqf shall be spent for education, development, welfare and such other purposes as recognised by Muslim law,

and "waqif" means any person making such dedication;'.

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