अण्डमान तथा निकोबार राजपत्र
Andaman And Nicobar Gazette

असाधारण
EXTRAORDINARY
प्राधिकार से प्रकाशित
Published by Authority

सं. 143, पोर्ट ब्लेयर, बुधवार, 01 जुलाई, 2015
No. 143, Port Blair, Wednesday, July 01, 2015

अण्डमान तथा निकोबार प्रशासन
ANDAMAN AND NICOBAR ADMINISTRATION
सचिवालय / SECRETARIAT

NOTIFICATION

Port Blair, dated the 01st July, 2015

No. 125/2015/ F.No.2-7/Rules/2008 (Waqf)/SW.— In exercise of power under Section 109 of the Waqf Act, 1995 (43 of 1995) and the Waqf (Amendment) Act, 2013 (27 of 2013) read with the Government of India, Ministry of Home Affairs Notification No. S.O.(E) – F.No.U-11030/2/96-UTL dated 5th June, 1997, the Lieutenant Governor (Administrator), Andaman and Nicobar Islands, supersedes the Andaman & Nicobar Waqf Rule, 2002, notified in the Gazette No. 122 dated 25/06/2002 and hereby makes the following Rules, namely:-

Chapter – I
Preliminary

1. **Short Title and Commencement**:-
   a. These Rules may be called the Andaman and Nicobar Islands Waqf Board Rules, 2015.
   b. They shall come into force from the date of publication in the Official Gazette.
2. **Definitions**:- In these Rules unless the context otherwise requires:-
   a. "Act" means the Waqf Act, 1995 and the Waqf (Amendment) Act, 2013.
   b. "Council" means the Central Waqf Council, New Delhi.
   c. "Board" means the Board of Auqaf, hereinafter shall be called the Waqf Board.
   d. "Administrator/Lieutenant Governor" means the Lieutenant Governor of the Andaman & Nicobar Islands.
   e. "State Govt." means the Andaman & Nicobar Administration.
   f. "Survey Commissioner and Additional or Assistant Survey Commissioners" means the Survey Commissioner and Additional or Assistant Survey Commissioners appointed by the State Govt. under Sub-Section (1) of Section 4 of the Act.
   g. "Tribunal" means the Tribunal constituted by the State Govt. under Section 83(1) of the Act.
   h. "Members" means a person appointed as a member of the Board by the Central Govt. under Sub-Section 7 of Section 14 of the Act.
   i. "Chairperson" means the Chairperson of the Board elected from amongst the members under Sub-Section 8 of Section 14.

j. "Chief Executive Officer" means the Chief Executive Officer of the Board appointed under Sub-Section (1) of Section 23 of the Act.

k. "Encroachment in relation to any Waqf premises or Waqf land" means Waqf premises and Waqf land occupied without authority by any person or institution and includes continuance in occupation by any person or institution of the Waqf premises or land after the authority (by way of tenancy or any other mode) under which he was allowed to occupy the premises or land has expired or has been determined for any reason whatsoever and includes such tenants who defaults in making payment of rent continuously for more than three months and includes person, tenant and institution who carries out repair, construction, alteration and addition to the premises of the Waqf property or raised construction on the Waqf land without authority or sublet the whole or part of such premises (Waqf Premises) without permission of the concerned Waqf and the Board..

l. "Encroacher" means such person or institution, public or private occupying Waqf premises or Waqf land without authority of law and includes a person or institution in continuance occupation of premises or land after the authority under which he was allowed to occupy the premises or land has expired or has been terminated for any reason whatsoever and includes a tenant who defaults in making payment of rent for more than three months and includes a tenant, person or institution who carries out repair, construction, alteration and addition to the premises of the Waqf property or builds any structure on the land or building of the Waqf or sub-let the premises of the Waqf without prior sanction of the Managing Committee of the Waqf or the Board and includes tenant, person and institution whose tenancy, lease or licence has been terminated by the Mutawalli or the Board.

m. "Waqf property" means any Waqf premises or property including moveable dedicated by a person for use for any purposes recognised by the Muslim law as pious, religious or charitable and includes (1) Premises notified as Waqf property in the official gazette (2) premises registered as Waqf in the Registration record of the Board and (3) premises treated as Waqf by users.

n. "Premises" means any land or any building or part of the building of Waqf property and includes (1) the garden and grounds, if any appertaining to such building or part of a building (2) any fitting affixed to such building or part of the building for more beneficial enjoyment thereof and (3) Dargah, Graveyard, Khanqah, Mosque and Courtyard etc. appurtenant thereto.

o. "Andaman & Nicobar Islands" means the Union territory of Andaman & Nicobar Islands.

p. "District" means the District of the Union Territory.

q. "Section" means section of the Waqf Act.

r. "Form" means forms appended to this Rules.

s. Legal Practitioner shall have the same meaning as assigned to it under the Advocates Act, 1961 (25 of 1961).

t. "Rules" means a rule of these rules.

u. "Presiding Officer" means the Chairman of the Tribunal constituted by the A&N Administration.

v. "Executive Officer" means the Executive Officer appointed by the Board under section 38(1) of the Act.

w. "Mutawalli" means the Secretary or any other office bearer of the Waqf elected or appointed by the Managing Committee to manage and administer the Waqf and Waqf properties and includes any person who is a Mutawalli of a Waqf by virtue of any custom more specifically defined in the Act.

x. "Tenant" means who rents Waqf premises either on lease or on rental basis.

3. Words and expressions used herein and not defined in these rules but defined in the Act shall have the same meaning as respectively assigned to them in the Act.

Chapter- II

Qualification of Mutawalli

(Section 3(i))

4. a. He should be a Citizen of India and a member of the Waqf.

b. He should be an office bearer of the Managing Committee of the Waqf.

c. He should have preferably passed 12th Class which is essentially required to maintain accounts and other valuable records of the Waqf in a proper and systematic manner.

d. He shall be able to write cash book and prepare and furnish true statement of accounts of the Waqf to the Board every year for auditing under Sections 46 and 47 of the Act.

e. He should be able to provide better administration to Waqf and for matter connected therewith or incidental thereto.

Chapter –III

Survey of Auqaf – Publication of list of Auqaf and Dispute Relating to Auqaf

(Sections 4, 5 and 6 of the Act)

5. **Survey of Auqaf :**

(a) The State Govt. may appoint an officer not below the rank of the Deputy Commissioner of the respective District as Survey Commissioner of Auqaf and Assistant Commissioners of the area as Assistant Survey Commissioners of Auqaf for the purpose of making survey of Auqaf in their District in the State by issue of Notification.

(b) All the Assistant Survey Commissioners shall perform their function under the general supervision and control of the Survey Commissioner of Auqaf.

(c) The Survey Commissioner shall submit the Survey report of Auqaf in the prescribed **Form -ANIWB-I** to the State Govt. under Section 4(3) of the Act.

6. **Publication of list of Auqaf:-**

(a) The State Govt. shall forward a copy of survey report to the Board.

(b) The Board will examine the report and send it back to the State Govt. with its comments within six months for publication in the Official Gazette. The list of Auqaf shall be published in **Form -ANIWB-II.**

(c) The revenue authority shall include the list of Auqaf published in the Gazette while updating the land records and take into consideration the list of published Auqaf while deciding mutation in the land record.

7. **Disputes relating to Auqaf :-**

(a) In case any dispute arise for a particular property specified as Waqf property in the list of Auqaf property or in the notification published in the Gazette or the property is shown in the list as "Shia" or "Sunni", the aggrieved person or Mutawalli may institute a suit before the Tribunal for a decision in the matter. The decision of the Tribunal shall be final.

(b) The suit may be filed by the aggrieved person within one year from the date of publication of list of Auqaf. No suit shall be entertained by the Tribunal after the expiry of one year from the date of publication of list and no suit shall be instituted before the Tribunal in respect of properties notified in a second or subsequent survey.

(c) The list of Auqaf shall be final and conclusive unless it is modified in pursuant of the decision of the Tribunal under Sub-Section (1) of Section 6.

Chapter – IV

Composition of Board:- Election , Nomination, Appointment of Members and Election of Chairperson.

(Section 14 of the Act)

8. Composition of Board :-

(a) The Board for the Union territory shall consist of not less than five and more than seven members of which two members shall be women and atleast one Mutawalli of Waqf.

(b) One or two members will be elected from each of the following category of electoral colleges consisting of:-

i. Muslim members of Parliament from the State.

ii. Muslim members of the State Legislature.

iii. Muslim members of the Bar Council of the concerned State or Union Territory.

iv. Mutawallies of Auqafs having annual income of rupees one lakh and above in the preceding financial year and qualifying eligibility criteria under Rule 12.

The State Govt. shall nominate one person from amongst Muslim from each of the following category:-

(c) Person having professional experience in town planning or business management, social work, finance or revenue, agriculture and development activities.

(d) Recognised scholar in Shia and Sunni Islamic theology.

(e) Officer of the State Govt. not below the rank of Joint Secretary.

9. Election of Members:-

(a) The Principal Secretary (Rev./Waqf) shall be the Election Authority for the purpose of conduct election of members of the Board under clause (b) of Sub-Section (1) of Section 14 of the Act.

(b) The Election Authority may authorise any officer of the Administration under these rules to perform the duty of Election Authority subject to over all control by him.

(c) The Election Authority shall appoint a Returning Officer to conduct the Election.

(d) The Returning Officer shall appoint a Manager for the Election to assist him in conducting the election.

(e) The Manager shall be competent to perform all or any of the functions of the Returning Officer subject to the control of the Returning Officer except scrutiny of nomination papers of candidates.

(f) The scrutiny of nomination papers of candidates shall be the responsibility of the Returning Officer.

(g) Subject to other provisions of these rules, the Election Authority shall be responsible for the conduct of elections of members of the Board and shall have following powers and responsibilities:--

i. To fix date, place and time of election and notify it in **Form ANIWB -III.**

ii. To fix last date for receipt of nominations.

iii. The date, time and place of scrutiny of nominations and publication of list of valid nominations.

iv. Date and time of withdrawal of nominations and publication of final list.

v. Timings of the poll.

vi. Date, time and place of voting and counting of votes.

vii. To decide in cases of doubt the validity and invalidity of each ballot paper or each vote recorded thereon.

viii. To declare the result of election.

ix. The election may be conducted either by raising hand or by secret ballot.

(h) The Chief Executive Officer of the Waqf Board shall give press release by 15 days in advance prior to conduct of election providing opportunity to the Mutawalli to get them registered with the Waqf Board to become eligible voter in the electoral list.

(i) The Chief Executive Officer of the Board shall furnish the electoral roll of eligible voters to the Election Authority.

(j) The list of eligible voters shall be displayed on the notice board of the Election Authority and in the Board office.

(k) Any person aggrieved by such publication of list may file objection petition before the Election Authority within seven days of such publication for addition, deletion or modification of any name.

(l) The Election Authority after obtaining further information on the objection petition from any source as he may deem fit will give a personal hearing to the objector, if the Election Authority feels necessary, and shall pass orders on the objection petition.

(m) In the light of the orders passed by the Election Authority, if the electoral roll requires any modification, such modification will be incorporated in the electoral and modified electoral shall be published which shall be final and conclusive list of electors for the election.

(n) The Returning Officer shall satisfy himself that the name and serial number of candidates as entered in the nomination paper is the same as entered in the electoral roll. He may overlook merely clerical or printing errors and shall record his interpretation with reasons while making the formal acceptance or rejection of nomination paper at the time of scrutiny.

10. Nomination paper :- Prescribed nomination paper for contesting election shall be obtained from the Board office. Form prescribed for each category are appended with these rules (**Form ANIWB- IV**).

11. Scrutiny of Nomination Paper:- **(a)** The Returning Officer shall examine the nomination papers and shall decide on all objections made at the time of scrutiny or on his own motion after such enquiry as he thinks necessary, and shall reject any nomination on the following grounds of dis-qualification, namely:-

i. That the candidate is found not eligible to contest election from that particular category to which he filed nomination.

ii. That the name of candidate is not registered in the electoral.

iii. That the signature of the candidate in the nomination paper is not genuine.

iv. That the candidate has not submitted the nomination form within the appointed date and time.

v. That the name of the candidate is not same as entered in the electoral roll provided that the nomination of a candidate shall not rejected merely on ground of incorrect description, if the identity of the candidate is otherwise established beyond reasonable doubt.

vi. That the candidate is not a Muslim.

vii. That the candidate has not attained the age of 21 years.

viii. That the candidate is found to be a person of unsound mind.

ix. That the candidate has been convicted of an offence of moral turpitude.

x. That the candidate is an encroacher or tenant of Waqf property.

xi. That the candidates should not have any direct or indirect interest in any Waqf Properties or he should not be a member of any such Institution/Organization whose interest is clashed with the interest of the Board.

xii. The candidate who attracts any other disqualifications specified in the Act and these rules.

xiii. Report of the Board shall be obtained in respect of Sub-Clause 'X' 'XI' & 'XII' of Clause - 11 before finalising the nomination of candidates.

12. **Eligibility of Mutawalli :-** **(a)** Mutawallies or any representative (office bearer) of the Managing Committees of Auqafs shall be eligible to contest and vote in the election provided that:

i. The Waqf is registered with the Board under Section 36 of the Act.

ii. Mutawalli of Waqf submit yearly statement of accounts of the Waqf to the Board under Section 46 of the Act.

iii. The Waqf Pay the annual contribution to the Board under Section 72 of the Act.

iv. The Mutawalli is not tenant or encroacher of Waqf property or having direct or indirect interest in any Waqf Property.

v. The Mutawalli should not be a member of such Institution/Organization whose interest is clashed with the interest of the Board.

vi. The Mutawalli does not attract any other disqualification specified in the Act and the Rules.

vii. Report of the Board shall be obtained in respect of Sub-Clause i to v before finalizing the nomination of candidates.

13. **Eligibility of Women Candidates:-**

Any Muslim women who is born in these Islands and have been residing in the Islands for the last 15 years so as to have knowledge about the Waqf in the Islands.

14. **Declaration of Result & Grant of Certificate: -** The Returning Officer shall forthwith declare such candidate as duly elected un-opposed after finalising the list of contesting candidates. The result of un-opposed and contesting candidates shall be declared in **Form –ANIWB - V**. The Returning Officer shall grant Certificate to the winning candidate **in Form - ANIWB– VI.**

15. **Casual Vacancy:-** In the event of death or resignation of a member, the vacancy caused shall be filled by that category of person in accordance with the procedure laid down above for the remaining period of the term 6 months before expiry.

16. **Appointment of Members:-** The State Govt. on receipt of result of the election shall constitute the Board by appointing the elected and nominated members by issue of notification in the Official Gazette for a term of five years under Sub-Section (9) of Section 14 and Section 15 of the Act.

17. **Election of Chairperson:-**

(a) After constitution of the Board the State Govt. under the Chairmanship of the Principal Secretary (Rev./Waqf) or Secretary (Rev/Waqf) shall convene 1st meeting of the members of the Board to elect a Chairperson from amongst themselves.

(b) The name of the candidate to the post of Chairperson shall be proposed by a member which shall be seconded by another member.

(c) In case of more than one candidate to the post of Chairperson, election shall be held and candidate who secures highest number of votes shall be declared elected.

(d) In case of tie, the name of candidate shall be decided by draw of lot.

Chapter- V

Appointment of Chief Executive Officer

(Section 23)

18. **Appointment:-** The State Govt. shall appoint a Govt. Servant not below the rank of Deputy Secretary to the post of Chief Executive Officer in the following category under Section 23(1) of the Act in consultation with the Board or from the panel of four names suggested by the Board and shall issue notification of appointment in the Official Gazette.

i). transfer on deputation of a Govt. servant, or

ii). diverted capacity of Govt. servant, or

iii). appointment of a Govt. servant on additional charge, or

iv). contract basis appointment.

19. Eligibility:-

(a) The eligibility for appointment of a candidate to the post of Chief Executive Officer shall be :-

i. Must be a Citizen of India.

ii. Must be Muslim.

iii. Must have knowledge in Hindi and English. Knowledge of Urdu is desirable.

iv. Must possess Bachelor's Degree of any of the recognised Indian University.

The qualification shall not apply in case of appointment made on deputation basis on or diverted capacity or a Government servant is appointed to hold the additional charge of Chief Executive Officer or appointment made on contract basis of persons retired from the post of Deputy Secretary or Assistant Secretary.

(b) Where the Chief Executive Officer is appointed under sub-clause, i, ii & iii of Rule 18 above he shall not be below the rank of Deputy Secretary to the State Government.

In case of non-availability of candidate to the rank of Deputy Secretary or in case the candidate is not suitable to be appointed as Chief Executive Officer, any suitable Muslim Officer of equivalent rank or of the rank of Assistant Secretary may be appointed to hold the additional charge of the Chief Executive Officer or may be appointed in diverted capacity. The term of appointment of the Chief Executive Officer shall be indicated in the order of appointment.

(c) Where a retired Deputy Secretary or Assistant Secretary is appointed on contract basis to the post of Chief Executive Officer, educational qualification shall not apply in their cases and no such person beyond the age of 65 years shall be appointed. His appointment shall be for a period of six months in the 1st instance which shall be extended to two years, not exceeding 6 months at a time. Such appointment shall be made by inviting applications.

20. Pay & Allowances :-

(a) Where a Deputy Secretary is appointed to the post of Chief Executive Officer in the Board on deputation basis, he shall draw Pay & Allowances at the same rate what he has been drawing prior to his appointment on deputation basis in the Scale of Rs. 9,300 - 34,800 + Grade Pay Rs. 5,400. This Scale is subject to revision as and when the Pay Scale and Grade Pay is revised by the Central Government. He shall also be entitled to draw deputation allowance, if found admissible.

(b) The other staff of the Board shall draw their Salary and Allowances in the Scale admissible to the similar category of staff in the Administration. They shall be eligible all kind of monetary and other benefits admissible to their category of staff in the Andaman & Nicobar Administration.

(c) Where a Deputy Secretary or Assistant Secretary is appointed to hold the additional charge of the Chief Executive Officer in the Board or appointed on diverted capacity, he shall continue to draw his salary from his parent department.

(d) Where a retired Deputy Secretary or Assistant Secretary is appointed on Contract basis, he shall be paid consolidated Pay of Rs. 15,000/- p.m. as applicable to such category of appointee in the Andaman & Nicobar Administration or as determined and fixed by the Administration.

(e) Periodical increment in the time Scale of Pay shall be sanctioned by the Chairperson.

(f) Leave rules applicable to Govt./Board employees shall apply to the Chief Executive Officer. Leave shall be sanctioned by the Chairperson of the Board.

21. Retirement:- The date of retirement or superannuation of the Chief Executive Officer appointed under clause (i), (ii) & (iii) of sub-rule (1) of rule 18 shall be the date as may be applicable to him in his parent department.

22. Penalties:- (1) The following penalties for good and sufficient reasons may be imposed on the Chief Executive Officer by the Chairperson or by the Board or by the State Govt. as the case may be.

i. Censure

ii. Withholding or stoppage of increment

(a) The Chairperson shall be the authority to impose above penalties on the Chief Executive Officer appointed by direct recruitment or on contract basis and the Board shall be the authority to impose above penalties on the Chief Executive Officer appointed on deputation or on divert capacity etc. In case of Govt. servant holding additional charge of the Chief Executive Officer, the matter shall be reported to the appointing authority for imposing penalties under intimation to the Board.

(b) The State Govt. shall be the authority to impose following penalties to the Chief Executive Officer appointed on deputation basis, diverted capacity or on holding additional charge. The Chairperson shall be the authority in respect of the Chief Executive Officer appointed directly from open market or engaged on contract basis.

i. Recovery from pay of the whole or part of any pecuniary loss caused to the Board or any Waqf by negligence or breach of order.

ii. Reduction to lower stage in the time scale of pay.

iii. Compulsory retirement.

iv. Removal from service which shall not be a disqualification for future.

v. Employment.

vi. Dismissal from service which shall ordinarily be disqualification for future employment.

23. Appellate Authority:- In case of penalties imposed by the Chairperson, the appellate authority shall be Board. For penalties imposed by the Board on the Chief Executive Officer appointed on deputation basis or on diverted capacity etc., the appellate authority shall be the State Govt. In case of any penalties is imposed by the State Govt., the appeal shall lie with the Central Govt. All appeal shall be made within sixty days from the date of receipt of punishment order.

24. Procedure of Penalties:- Before awarding any of the penalties mentioned above the procedure prescribed in the Central Civil Services (Classification, Control and Appeal) Rules shall be followed.

(1) Service record and personal file of the Chief Executive Officer shall be maintained by the Board.

25. Removal of Chief Executive Officer:-

(a) The State Govt. shall remove the Chief Executive Officer if he is a Govt. servant on deputation to the Board, or posted in diverted capacity or holding the additional charge of the Chief Executive Officer in case the Board passed a resolution in the special meeting for removal the Chief Executive Officer by majority of not less than 3/4th of the total members.

(b) The State Govt. may remove the Chief Executive Officer at any time if in the opinion of the Govt. the Chief Executive Officer is not capable of performing his duties or has been guilty of neglect or misconduct in discharge of such duties which renders his removal expedient.

26. Ex - Officio Secretary: - The Chief Executive Officer shall be Ex-Officio Secretary of the Board and shall be under the Administrative control of the Board.

Chapter – VI

Duties & Powers of Chief Executive Officer

(Section 25)

27. (1) Subject to the provisions of the Act, Rules and Regulation, made thereunder and direction of the Board the Chief Executive Officer shall function under the control and general superintendence of the Chairperson. The function of the Chief Executive Officer shall include:-

(a) Discharge all duties and exercise all powers specifically imposed or conferred on him by or under the Act and Rules and Regulations made thereunder.

(b) Attend the meeting of the Board and of the Committee of the Board and may take part in the discussions purely on advisory capacity but shall have no right to move any resolution or vote.

(c) Control officers and employees working under the Board or Waqf under the administration of the Board subject to general superintendence and the control of the Board.

(d) Initiate disciplinary action against all officers and employees of the Board or Waqf under the administrative control of the Board.

(e) Carry into effect the resolution of the Board.

(f) Inspection of Waqf/Waqf Properties, Accounts, Records & Documents relating thereto.

(g) Inspection of Records, Documents relating to Waqf in Public office.

(h) Exercise such act as may be necessary for the Control, maintenance & superintendence of Auqaf.

(i) Exercise such other powers & functions as may be assigned or delegated to him by the Board.

(j) Shall be the drawing and disbursing officer of the Board.

Chapter – VII

Power of District Magistrate, Additional District Magistrate or Sub-Divisional Magistrate to implement decisions of the Board – Inspection of Records/Documents – Determination of loss – Restoration of lost Property – Recovery of Amount

(Sections 28, 29, 33 & 34)

28. Power of District Magistrate, Additional District Magistrate or Sub-Divisional Magistrate –

(a) The District Magistrate or in his absence the Additional District Magistrate or Sub-Divisional Magistrate shall be responsible for implementation the decision of the Board which may be conveyed through the Chief Executive Officer in respect of eviction of encroachment from Waqf Properties, suspension of work of addition or alternation in Waqf Properties without the sanction of the Waqf or the Board by the tenant or building of any structure on the land or in the building of Waqf Properties or subletting of Waqf Properties. The Board may wherever considers necessary, seek directions from the Tribunal for implementation of its decision.

The Chief Executive Officer of the Waqf Board will be the part of encroachment team with speaking order of removal of encroachment. Manpowers and machineries required for removal of encroachment shall be provided by the Board.

Inspection of Records of Public Office:-

(a) The Chief Executive Officer or any officer of the Board duly authorised by him in this behalf shall subject to payment of such fees, if any, as may be leviable under any law for the time being in force be entitled at all reasonable time to inspect in any public office , any records, registers or other documents relating to Waqf or its moveable or immoveable properties or are claimed to be Waqf properties.

(b) The Officer-in-charge of such public office shall provide all facilities and assistance as may be necessary or reasonably required in regard for inspection provided that the Chief Executive Officer or any officer authorised by him request in writing to the officer-in-charge of the office expressing his intention for inspection of records, documents and registers of Waqf properties maintained or are in possession/custody of the concerned office.

(c) The officer-in-charge shall allow such inspection within ten days of the receipt of such application and shall intimate the fee payable for such inspection, which shall be paid/deposited in cash.

(d) After inspection, if a copy of any document is required by the inspecting officer, the same shall be supplied duly certified by the officer-in-charge within ten working days on payment of prescribed fee, provided a request is made in writing to the effect.

(e) Prior approval of the Board shall be obtained for conducting inspection of records in public office.

29. Inspection of Waqf Records and Documents:-

(a) The Chief Executive Officer or any officer of the Board duly authorised by the Chief Executive Officer with the approval of the Board in this behalf may inspect any Waqf, Waqf Properties and all records, accounts, correspondences and all other documents relating to the Waqf at all reasonable time with a view to examine whether by reason of any failure or negligence on the part of Mutawalli in the performance of his executive or administrative duties any loss or damage has been caused to the Waqf or Waqf Properties.

(b) Whenever such inspection is made, Mutawalli, Members of the Committee and every person connected with the Administration of the Waqf shall extend all such assistance and facilities as may be necessary and reasonably required to carryout such inspection.

(c) The Mutawalli and the Members of the Managing Committee shall produce all relevant records of the Waqf for inspection such as cash book and other documents as may be required and shall furnish all such information relating to the Waqf to the inspecting officer.

(d) The Chief Executive Officer or the Authorised Person may call for any record register or document in the possession of the Waqf or any Waqf under the administrative control of the Waqf under inspection.

(e) The Mutawalli or any person having the custody of any document related to Waqf Properties etc. shall produce the same before the Chief Executive Officer or any Officer duly authorised by the Chief Executive Officer within ten working days on being called upon to do so in writing.

(f) The Chief Executive Officer or the Authorised Person during the course of inspection if noticed or found that the Mutawalli or any other Members of the Committee or employee of the Waqf had mis-appropriated, mis-applied or fraudulently retained any money or had incurred irregular, un-authorised or improper expenditure from the fund of the Waqf, the Chief Executive Officer or the Authorised Person shall serve a show cause notice to the Mutawalli or the person concerned for recovery of amount or restoration of property, to have been mis-applied/mis-appropriated or retained.

(g) On receipt of reply of show cause notice the Chief Executive Officer shall examined the matter and in case he is not satisfied with the reply, he may issue an order directing the Mutawalli or the person concerned to make payment of the amount so determined and to restore the said property to the Waqf within a period of 30 days.

(h) The Mutawalli (Secretary) or any other person aggrieved by such order of the Chief Executive Officer, may within 30 days of the receipt of the order appeal to the Tribunal, provided.

(i) The Tribunal shall not entertained the appeal unless the appellant first deposits with the Chief Executive Officer the amount which has been determined under Section 33 (3) of the Act as being payable by appellant and the Tribunal shall have no power to make any order staying the operation of the order made by the Chief Executive Officer under Sub-Section (3) of Section 33 of the Act.

(j) The Tribunal may after examining such evidences as it may think fit, confirm, reverse or modify the order of the Chief Executive Officer or may remit, either in whole or in part the amount specified in such order and may make such order as to costs as it may think appropriate in the circumstances of the case. The order made by the Tribunal shall be final.

30. Recovery of Amount :

(a) Where any Mutawalli or the person who has been ordered Under Section 33 (3) or Section 33 (5) to make payment or to restore the possession of any property omit or fails to make such payment or restoration within the specified time, the Chief Executive Officer with the approval of the Board shall take such steps as he may think fit for the recovery of amount and the possession of the property.

(b) The Chief Executive Officer shall also send a certificate to the collector of the District in which the property of the Mutawalli or the person is situated stating therein the amount that has been determined by him or by the Tribunal as the case may be as being payable by the Mutawalli or other person for recovery as arrear of Land Revenue.

(c) The collector shall recover the amount specified in the certificate as arrear of Land Revenue and pay the amount to the Chief Executive Officer who shall credits the amount to the fund of the concerned Waqf.

Chapter- VIII

Appointment of Executive Officer

(Section 38)

31. (a) The general superintendence of all Waqfs shall vest in the Board established and it shall be the duty of the Board to exercise its power under the Act to ensure that Waqf under its superintendence are properly maintained, controlled and administered. Whenever the Mutawalli or the managing committee of the Waqf is not functioning properly and satisfactorily or that the Waqf is being mismanaged and that in the interest of its proper management, the Board may for reasons to be recorded in writing appoint Executive Officer for any Waqf on whole-time or part-time basis or in an honorary capacity with such supporting staff the Board considered necessary for the proper and smooth functioning of the Waqf provided that the Waqf is having a gross annual income of not less than five lakh rupees per year.

(b) The Chief Executive Officer and staff should be Muslim.

(c) The appointment of Executive Officer shall be for such duration or period the Board considered necessary or till such time the new Managing Committee is constituted for the proper and smooth functioning of the Waqf.

(d) Whenever the new Managing Committee of the Waqf is constituted the office bearers of the erstwhile Committee who had failed to discharge their obligation of proper and smooth function of the Waqf shall not be included in the formation of new Managing Committee of the Waqf.

(e) The Executive Officer shall discharge duties relating to the Administration of the Waqf and its properties under the direction, control and supervision of the Board.

(f) The Executive Officer shall ensure that the budget of the Waqf is submitted, accounts are regularly maintained and yearly statement of accounts are submitted to the Board in time.

(g) The Executive Officer shall not interfere with any religious duties or any usage or custom of the Waqf sanctioned by the Muslim law.

(h) The salaries and allowances of the Executive Officer and his staff shall be fixed by the Board taking into account their nature of duties ensuring that the amount of salaries and allowances fixed are not disproportionate to the income of the Waqf fund and do not put financial burden on the Waqf.

(i) The Board may withdraw, remove or terminate the Executive Officer and his staff at any time for sufficient reason to be recorded in writing.

(j) The Mutawalli and the Managing committee of the Waqf shall be bound to provide all facilities to the Executive Officer and shall work under his guidance and direction.

(k) The Executive Officer shall be responsible to conduct election for the constitution of new Managing Committee of the Waqf before the expiry of terms of existing Committee.

Chapter - IX

Power of Board to hold enquires in respect of property ceased to exist

{ Section 39 (1) }

32. (a) The Board shall if satisfied, cause an inquiry through the Chief Executive Officer in respect of a Waqf or part thereof which have ceased to exist to ascertain the property and fund pertaining to such Waqf.

(b) Notice of an enquiry shall be served to all interested and concerned parties informing them the date, time and place fixed for holding the enquiry.

(c) All persons who appeared in response to the notice shall be heard and the Enquiry Officer may grant adjournment from time to time for filing written statement containing objections and suggestions.

(d) Any party to the proceedings shall have the right to appear in person or through a pleader to adduce oral or documentary evidence and to apply for summoning witnesses or documents.

(e) The Enquiry Officer shall record oral evidence of the witnesses and shall follow the procedure laid down in the Code of Civil procedure for the appearance of pleader, filing of affidavits, production of documents, examination of witnesses, recording of oral evidence, issue of summon and return of documents.

(f) The Enquiry Officer shall have the power of issuing summon and pass interim order.

(g) The failure on the part of parties to appear for enquiry after issue of three summons the Enquiry Officer shall decide the matter ex-part.

(h) The Enquiry Officer shall submit the report to the Board within thirty days from the date of completion of the enquiry.

Chapter- X

Budget and Audit of Accounts of Auqaf

{ Sections 44, 45, 46 & 47(1) }

33. Budget of Auqaf :-

(a) Every Mutawalli or Secretary of the Managing Committee of the Waqf having a gross annual income exceeding fifty thousand rupees shall submit a budget to the Board showing its probable receipts and expenditure for ensuing financial year in **Form – ANIWB - VII.**

(b) The budget shall be submitted to the Board at least thirty days before the beginning of the financial year.

(c) The Board shall scrutinise the budget proposal and ensure that provision has been made therein for obligatory expenditure referred to in Sub-Section (2) of Section 44.

(d) The Board shall have the power to suggest modification in the budget as may be necessary to secure the objects of Waqf or provisions of Waqf Act or Rules.

(e) The Mutawalli on direction from the Board shall incorporate the suggestion and modify the budget before beginning of the financial year to which its relates and shall re-submit the budget to the Board.

(f) In case the Mutawalli intends to utilise the amount allocated under a specific head for any other useful purpose he may submit to the Board a supplement or revised budget for sanction.

(g) Failure to submit the budget within the prescribed time even after issue of reminders/notices may entail the removal of mutawalli/dissolution of the committee by the Board.

34. Budget of Auqaf under direct Management of the Board:-

(a) The Chief Executive Officer shall prepare the budget of Auqaf under the direct Management of the Board in **Form – ANIWB - VIII** showing estimated receipt and expenditure of the next ensuing financial year in the month of February every year of the closing financial year and shall place before the Board for approval.

(b) In the course of the year if the Chief Executive Officer finds it necessary to alter the figure shown in the budget with regard to receipt and expenditure or intends to utilise the allocated amount under a specific head for any other useful purposes he may submit a proposal accordingly to the Board for sanction.

(c) The accounts of the Waqf under the management of the Board shall be audited annually by an Auditor appointed by the Board from out of panel of Auditors prepared by the State Govt.

(d) The Chief Executive Officer shall keep regular accounts of Auqaf and be responsible for proper Management of every Waqf under the direct Management of the Board.

(e) Administrative charges exceeding ten percent shall be collected from every Waqf under the direct Management of the Board.

35. Submission and Audit of Accounts of Auqaf:-

(a) Every Mutawalli shall prepare and furnish to the Board a full and true statement of accounts of the Waqf in the prescribed **Form – ANIWB - IX** before 1st day of July of every year.

(b) Two percent accounts of Waqf having no income or a net annual income not exceeding fifty thousand, shall be audited annually by an Auditor appointed by the Board.

(c) The accounts of Waqf having annual income exceeding rupees fifty thousand shall be annually audited or at such intervals as may be required, by an Auditor appointed by the Board from out of the panel of Auditors prepared by the State Govt.

(d) The accounts of Waqf shall be submitted for audit by the Mutawalli/Managing Committee within three months of the closing of financial year to which the accounts relates.

(e) The State Govt. under intimation to the Board may cause the account of any Waqf audited at any time by any agency or officer designated for the purpose.

(f) Failure on the part of the Mutawalli (Secretary) or the Members of the Managing Committee of the Waqf to furnish true statement of accounts to the Board under Sub-Rule (a) and getting the accounts audited within the time prescribed in Sub-Section (d) without any valid reasons after issue of reminders and notices may render removal of the Secretary or dissolution of the Managing Committee.

Chapter – XI

Transfer and Recovery of Waqf Properties

(Sections 51 and 52)

36. Transfer of Property:-

(a) Any sale, transfer, lease, gift, exchange or mortgage of immovable property of Waqf, otherwise contained in the Waqf deed, by the Mutawalli/Managing Committee of the Waqf shall be void without prior sanction of the Board.

(b) Proposal for transfer of Waqf Property in any shape shall be submitted to the Board by the Mutawalli or the Managing Committee of the Waqf and the Board on its own motion shall prepare the proposal in respect of property under its direct management for consideration of the Board. The proposal should be self contained and fully justify such transaction with valid reasons for consideration of the Board.

(c) No Mosque, Dargah, khanqah, Graveyard or Imambarah shall be leased, gifted, sold, exchanged or mortgaged.

(d) If the Board is satisfied, the Board may take up development of any Waqf properties, after recording reasons in writing and intimating the concerned Waqf to which the property belongs, through such agency and in such manner the Board may determine by adopting a resolution for development of such Waqf Property.

(e) The Board may accord sanction for transaction of Waqf property in any shape as specified in Sub-Section (a) if in the opinion of the Board such transaction is:-

i. Necessary or beneficial to the Waqf.

ii. Consistent with the objects of the Waqf.

iii. The consideration thereof is a reasonable and adequate.

(f) All transaction of Waqf properties in manner referred to in Sub-Section (a) and resolution for development of Waqf properties referred to in Sub-Section (d) shall be passed by a majority of two-third members of the Board.

(g) All transactions shall be effected with the prior sanction of the Board.

37. Recovery of Waqf Property:-

(a) Any immoveable property entered as such in the Waqf register maintained under Section 36 has been transferred without the prior sanction of the Board in contravention of provisions of Section 51 or Section 56 of the Act, the Chief Executive Officer shall conduct an enquiry into the matter in prescribed manner and shall submit a detail report in the matter to the Board.

(b) The Board shall consider the report of the Chief Executive Officer and may conduct further inquiry, if considered necessary from such persons as considered reasonable and pass order to send a requisition to the Collector of the respective District under whose jurisdiction the property is situated to obtain and deliver the property to the Board.

(c) The Collector on receipt of requisition shall pass an order directing the person in possession of the property to deliver the property to the Board within thirty days from the date of service of the order.

(d) Every order passed by the Collector shall be served to the concerned person in manner specified in Sub-Section (3) of Section 52 of the Act.

(e) Any person aggrieved by the order of the Collector may prefer an appeal to the Tribunal within thirty days from the date of the service of the order.

(f) Where the order passed by the Collector has not been complied with and the time for appealing against the order of the Collector has expired without preferring an appeal or the appeal if any preferred within time has been dismissed by the Tribunal, the Collector shall obtain possession of the property in respect of which the order has been passed and deliver it to the Board.

(g) The Collector may use such force as may be necessary to acquire the possession of the property to implement the order passed by him.

Chapter – XII

Removal of Encroachment

(Section 54)

38. (a) Whenever any encroachment comes to the notice of the Board/CEO, or any complaint is made in this regard or the Board on his own motion came to know that there has been encroachment on any land, building, space or other property of registered Waqf, the Chief Executive Officer shall serve a notice to the encroacher specifying the particular of the encroachment etc. and calling upon him to show cause as to why such encroachment should not be removed fixing a date for submission of reply thereby endorsing a copy of the notice to the Mutawalli of the concerned Waqf.

(b) The notice in **Form – ANIWB – X or X (A)** shall be served in manner specified in the Act and in this Rules provided the time for submission of reply should not be less than ten days. The notice may be served

(i) by Post, or

(ii) by affixing a copy on the outer door or same conspicuous part of such premises, or

(iii) By publishing in one of the local paper.

(c) In case the encroacher seek more time for submission of his/her reply another 10 days may be given and this time limit would be final.

(d) Where no reply is submitted by the encroacher and the time limit for submission of reply has expired, the CEO may make an application to the Tribunal by himself or through a lawyer under intimation to the Board for grant of order of eviction/removal of encroachment and deliver possession of the land, building, space or other property encroached upon to the Mutawalli of Waqf.

(e) In case, the encroacher submit his reply within specified period, the CEO then shall conduct an enquiry in manner prescribed in the Act and Rules 31 above and if he is satisfied that the property in question is a Waqf property and that it has been encroached upon, he shall make an application to the Tribunal for grant of order of eviction for removal of such encroachment.

Chapter –XIII

Report of Waqf under Direct Management of the Board

{ Section 65(3) }

39. (a) The Board may by notification in the Official Gazette assume direct management of the Waqf where no suitable person is available for appointment as a Mutawalli or where filling up of the vacancy in the office of Mutawalli is prejudicial to the interest of the Waqf for a period not exceeding five years.

(b) The Board after the close of every financial year shall submit following report to the State Govt. in regard to every Waqf under its direct management.

i. Audit report of the Waqf.

ii. Steps taken to improve the management and income of the Waqf.

iii. A detail report with reasons for not handing over the management of the Waqf to the Mutawalli or any Committee during the year.

iv. Any other matters relating to the function and management of the Waqf.

Chapter – XIV

Supervision and Supersession of Managing Committee

(Section 67)

40. (a) The Managing Committee appointed by the Waqf shall function under the direction, control and supervision of the Board and abide by such directions as the Board may issue from time to time and shall continue to function until the expiry of its term or superseded by the Board whichever is earlier.

(b) It shall be the duty of the Board to ensure that the Waqf under its superintendence are properly maintained, controlled and administered. In case the Managing Committee of the Waqf is not functioning properly and satisfactorily or that the Waqf is being mismanaged and that in the interest of proper management it is necessary to supersede the Committee, the Board if satisfied by an order supersede the Committee after recording reasons to do so, provided.

(c) That the Board shall before making any order superseding any Committee issue a notice setting forth therein the reasons for the proposed action and calling upon the Committee to show cause within thirty days (one month) as to why such action shall not be taken.

(d) The Board may extend the time for submission of reply to the show cause notice for ten days on valid reasons on request.

(e) The Board shall examine the reply to the show cause notice and shall provide the Committee an opportunity of hearing in person.

(f) In case no reply is received within the specified time or on examination of reply and personal hearing of the Committee Members the Board is satisfied that in the interest of proper management of the Waqf, the Committee is required to be superseded, the Board may by an order supersede the Committee

(g) The order superseding the Committee shall be published in any local news paper and on such publication, it shall be binding on the Mutawalli and all persons having any interest in the Waqf.

(h) The Board shall supply a copy of order to all affected persons.

(i) The Board may remove any member of the Committee instead of superseding the Committee if the Board is satisfied that such member has abused his position or had knowingly acted in a manner prejudicial to the interests of the Waqf provided he is given a reasonable opportunity of showing cause against the proposed action.

(j) Whenever any Committee is superseded the Board shall constitute a new Committee for the management of the Waqf simultaneously with the order of supersession.

Chapter – XV

Scheme for Administration of Waqf

(Section 69)

41. (a) The Mutawalli or the managing committee of Waqf shall frame scheme (Bye-laws) for the proper administration of the Waqf in conformity with the provisions of Waqf Act, Rules and Regulations, and shall submit the same to the Board for approval.

(b) The scheme (bye-laws) amongst other things shall include.

i. Registration of Waqf.

ii. Composition of committee.

iii. Term of office and Election of Managing Committee.

iv. Qualification of Mutawalli.

v. Auditing of account and submission of returns.

vi. No confidence motion against office bearers and members.

vii. Duties & power of the Mutawalli.

viii. Preparation of budget.

ix. Removal of Mutawalli.

x. Bar on tenants, encroachers of Waqf Property and persons having any interest directly or indirectly in any Waqf property to become members of the Managing Committee of the Waqf.

(c) Pending framing of Scheme (Bye-laws) by the Mutawalli, the Board after giving him reasonable opportunity may appoint a suitable person to perform all or any of the function of the Mutawalli, who may be responsible for framing of Scheme (Bye-laws) for the smooth functioning of the Waqf, provided.

(d) The Board on its own motion or on application of not less than five persons interested in any Waqf may by an order frame a scheme for proper administration of the Waqf, provided.

(e) The Board before framing scheme shall issue a notice to the Mutawalli of Waqf and the applicants intimating them the framing of Scheme (Bye-laws) by the Board and call for their suggestions relating to points to be covered in the Bye-laws and may call the Mutawalli and applicants, if any for further consultation in the matter.

(f) The scheme framed by the Board may provide for the removal of Mutawalli/Committee holding office immediately before the date on which the scheme is enforced by an order, provided.

(g) The scheme shall also provide appointment of a member of the Committee for proper administration of the Waqf until the new managing committee is constituted.

(h) Every order made under Section 69 (2) read with Rules 30 (e) & (f) shall be published in at least in one local news paper and on such publication of order it shall be final and binding on the Mutawalli/Committee and all persons interested in the Waqf.

(i) The Board shall frame scheme for proper administration of all Waqfs under its direct management.

(j) Managing Committee of the Waqf shall be bound to provide all facilities to the Mutawalli appointed under Sub-Rule (c) for the smooth functioning of the Waqf and framing of Bye-laws.

(k) The Board may at any time by an order whether made before or after the scheme has come into force, cancel or modify the scheme (Byelaws).

Chapter – XVI
Manner of holding Inquiry
(Section 71)

42. The Board may authorise the Chief Executive Officer or any officer/ person to hold enquiry under Sub-Section (1) of Section 71. The enquiry shall be held in the same manner as prescribed in Rule 31 of Chapter-IX.

Chapter – XVII
Annual Contribution
(Section 72)

43. (a) The Mutawalli of every Waqf, the net annual income of which is not less than five thousand rupees shall pay annually to the Board not exceeding seven per cent of such annual income as annual contribution.

(b) The Mutawalli shall submit a return of annual income or audit report to the Board before 1st day of July every year showing assessment of net annual income to determine the annual contribution.

(c) The Chief Executive Officer shall examine the annual income return of the Waqf and shall assess or revise the net annual income return submitted by the Mutawalli, provided that.

(d) No assessment of the net annual income or revision of return shall be made by the Chief Executive Officer except after giving a notice to the Mutawalli calling upon him to show cause within specified time and every such assessment or revision shall be made after considering the reply, if any given by the Mutawalli.

(e) Any Mutawalli aggrieved by the decision of the Chief Executive Officer in fixing the net annual income or revising the assessment may prefer an appeal to the Board within fifteen days from the date of receipt of intimation of revising the assessment.

(f) The Board may after giving the Mutawalli a reasonable opportunity of being heard, confirm, reverse or modify the assessment or revision of the return.

(g) The Board may in the case of any mosque or orphanage or any particular Waqf reduce or remit such contribution for such time as it think fit after making an investigation into the circumstances of each case and satisfy itself that such reduction or remission is necessary.

(h) If a Mutawalli realises the income of the Waqf and refuse to pay or does not pay annual contribution or any dues to the Govt. or local bodies etc. he shall be personally liable for such contribution which may be realised from his person or property as an arrear of land revenue after giving him an opportunity of being heard.

Chapter – XVIII

Waqf Fund

(Section 77)

44. (a) Grant, Donations and Annual Contributions etc. received by the Board shall form Waqf Fund.

(b) The Board shall authorise one of its officer to receive all payments to the Waqf fund and to issue receipt for the amount received and make payment from the fund on behalf of the Board.

(c) The authorised officer shall deposit the amount into the Bank in the name of the Board.

(d) The Chairperson and any other member or officer of the Board authorised in this behalf by the Board shall have the power to withdraw such deposit or any part thereof and operate the bank accounts on such conditions the Board may specify.

(e) All payments shall be made by way of cheque only.

(f) All claim for payment by the Board shall be preferred in shape of pre-receipted bill which shall be verified before making payment.

(g) No money shall be withdrawn from the Bank unless it is required for immediate payment and all money received by the Board shall immediately be deposited in the Bank provided the cash in hand should not exceed Rs. 1000/- at a time.

(h) The authorised officer to handle the money shall be responsible for safe custody of cash and for reimbursing to the Board in case of loss of cash by theft or fraud or negligence or other natural calamities etc. provided the Board after making inquiry is satisfied that the loss was un-avoidable and was not due to negligence on the part of the officer responsible for proper custody of the amount, the Board may recommend write off of loses to the Administration in pursuant to Schedule VII of the DFPR.

(i) Amount not required for expenditure during the year shall be invested in fixed deposit etc. for a period not exceeding three years. This investment shall not be pledged, encashed or withdrawn without the sanction of the Board.

(j) The authorised officer shall cause to maintain such books of accounts and ledgers etc. which are necessary for maintaining and auditing of the accounts of Board.

(k) The authorised officer shall discharge all its above obligations under the control of the Board through its Chairperson.

(l) All expenditures of the Board shall be met out Waqf fund.

Chapter – XIX

Budget of the Board & Audit of Accounts of the Board

(Sections 78, 80 & 81)

45. (a) The Chief Executive Officer shall in every year prepare a budget proposal in form prescribed by the Administration in respect of next ensuing financial year showing estimated receipts and expenditure during the financial year and shall send it to the State Govt. every year in August duly approved by the Board.

(b) The Chief Executive Officer shall also prepare revised estimate or supplementary budget for the current financial year and shall submit the same in time to the State Govt. duly approved by the Board.

(c) The State Govt. shall examine the Budget and Revised Estimates etc. of the Board and suggest such alterations, corrections or modifications to be made in the BE & RE as it may think fit and forward such suggestions to the Board for consideration.

(d) The Board in case does not agree with any modifications, corrections or alterations in the BE & RE suggested by the State Govt. may make written representation to the State Govt.

(e) The State Govt. after considering the representation of the Board, communicate within three weeks from the date of receipt of representation, its final decision to the Board and the decision of the State Govt. shall be final.

(f) On receipt of decision of the State Govt. under Sub-Section (4) of Section 78 read with rule (e) above, the Board shall correct, alter, and modify the budget accordingly.

(g) The Board during the course of the year if finds necessary to utilise the sanctioned amount of the budget under a particular head for any part thereof under any other head or for any other purposes, in such case the Board shall intimate the State Govt. and may send a proposal for revising the estimate accordingly.

(h) The Accounts of the Board shall be audited and examined annually by the Auditor appointed by the State Government.

(i) The Auditor shall submit his report to the State Government containing accounts of every Waqf under the direct management of the Board.

(j) The Account of the Board shall be opened for inspection by the sanctioning authority and audit both by Comptroller & Auditor General of India and the internal audit by the Principal Account Office.

(k) The audit shall specify all cases of irregularity, illegal or improper expenditure or of failure to recover of money or other property cause by neglect or misconduct and any other matter which the Auditor consider necessary and determined the extent of loss.

(l) The State Government shall examined the Auditor Report and call for explanation of any person in regard to any matter mentioned in the Audit Report and shall pass such order on the report as if thinks fit.

(m) Any some certified to be due from any person by an Auditor in his Report will be paid by such person within 60 days after the services of demand notice by the Board.

(n) The sum payable is not settled by any person shall be recovered as an arrears of land revenue under the provisions of the Act.

(o) The Board shall furnished "Utilization Certificate" of fund to the Administration alongwith Budget Estimate (B.E) & Revised Estimate (R.E) when submitted to the Administration for sanction of Grant.

(p) The unspent balance of provisions grant shll be intimated to the Administration in the Utilization Certificate furnished to Administration in Form GFR -19 A.

Chapter- XX

Constitution of Tribunal - Terms & Condition of Appointment of Chairman & Members and their Salaries & Allowances.

{ Section 83}

46. (a) The State Govt. shall constitute a Tribunal by notification in the official Gazette for the Andaman and Nicobar Islands for the determination of any dispute, question or other matter relating to a Waqf or Waqf property, eviction of a tenant or determination of rights and obligations of lesser and the lessee of such property.

(b) The Tribunal shall consist of:-

i. A member of the State Judicial Service of the rank of District, Session or Civil Judge Class I, who shall be the Chairman.

ii. An officer of the State Govt. equivalent to the rank of Additional District Magistrate, who shall be a member.

iii. One person having knowledge of Muslim Law and jurisprudence, who shall be a member.

Appointment of members shall be made by designation except the person mentioned at sub-rule b (iii), if he is not an officer of the State Govt. shall be appointed by name.

(c) The terms of appointment of members of the Tribunal shall continue until the State Govt. consider to revoke and re-constitute the Tribunal. In case of vacancy arises in respect of person appointed by name under sub-rule b (iii), on account of his resignation or death, the State Govt. shall appoint another person and such vacancy shall not render any proceeding of the Tribunal invalid.

(d) Presence of two members shall always be necessary for determining any dispute mentioned in Rule 45(a) and drawing of proceeding of the Tribunal.

(e) The members of the Tribunal shall meet once in a month on pre-fixed date or more frequently in case the circumstances of the dispute so warranted. In case the fixed date is fallen on a holiday. the Tribunal shall meet on the next working day.

(f) The Tribunal shall conduct cases in the Court Room of the Chairman.

(g) All disputes/cases, as far as possible, shall be disposed within a period of six months.

47. The salaries and allowances payable to Chairman and members under Section 83 (4A) shall be determined and prescribed by the State Govt. from time to time.

48. The Tribunal shall be deemed to be a Civil Court and shall have the same power as prescribed under the Code of Civil Procedure, 1908 (5 of 1908).

49. In deciding any question relating to the procedure not specifically provided by the Act or these Rules, the Tribunal shall as far as possible be guided by the norms and provisions contained in the Code of Civil Procedure, 1908 and High Court Rules.

Chapter – XXI

Judicial Proceedings

{ Section 83(2)}

50. (a) A Mutawalli or any person interested in Waqf or aggrieved by an order made under the provisions of the Act or Rules framed thereunder may file a petition to the Tribunal within specified time mentioned in the Act or Rules framed thereunder for determination of any dispute, question or other matter relating to Waqf provided that.

(b) Where no time limit has been prescribed to make application to the Tribunal, within such time as may be prescribed while issuing order.

(c) The petition to the Tribunal shall be signed by the petitioner and shall be presented to the Presiding Officer or an authorised officer in this behalf in person or through his authorised representative.

(d) The petition shall be accompanied by documents upon which the petitioner seek to rely.

(e) The petitioner shall file alongwith petition as many copies of the petition and documents as the number of respondents are named in the petition.

(f) The tribunal may in its discretion, accept a petition for hearing which is not accompanied by all or any documents.

(g) Every petition shall set forth a clear statement of facts concisely and under distinct and separate heads of petition on which the petition has been filed and such grounds of facts of the petition and relief claimed therein shall be numbered consecutively.

(h) A copy of the petition or application as the case may be shall be served upon the other party prior to filing the same before the Tribunal.

(i) The filing of all petitions and applications before the Tribunal shall be subject to compliance of mandatory provision of Section 89 of the Act.

(j) If mandatory provision of Section 89 or any other provision of the Act or the Rules is not complied with, the Tribunal shall dismiss the said petition or application summarily.

Chapter – XXII

Miscellaneous

{Section 109(2)(xxv)}

51. Power & Responsibility of the Chairperson:-

(a) The Chairperson of the Board shall be the Chief Administrative Officer (HOD) of the Board and shall be responsible for proper functioning of the Board.

(b) The Chairperson shall execute and implement all decision of the Board through the Chief Executive Officer.

(c) The Chairperson shall be responsible to the Board in all matters relating to function and performance of the Board.

(d) The Chairman shall have the power to nominate a member of the Board to discharge his duty during his absence from headquarter exceeding seven days.

(e) The Chairperson shall act as drawing and disbursing officer in the absence of the Chief Executive Officer or pending appointment of the Chief Executive Officer.

52. Competency of the Chairperson & the Chief Executive Officer:-

(a) The Chairperson or the Chief Executive Officer shall be competent to sanction filing of suit, writ petition or cases connected with Board or Waqf matters before the Tribunal/Court or any other authority.

(b) The Chairperson and the Chief Executive Officer shall defend suit, writ, appeal or cases connected with the Board or Waqf matters before Tribunal/Court or any other authority.

(c) The Chairperson or the Chief Executive Officer shall be competent to appoint advocate to file or defend cases.

(d) The Chairperson or the Chief Executive Officer or any other person of the Board authorised by the Chairperson or the Chief Executive Officer shall be competent to sign suit, writ, appeal and affidavit etc. or counter reply or proceedings connected with the case in respect of Board or Waqf before Tribunal/Court or any other authority.

(e) The Chairperson or the Chief Executive Officer shall be competent to authorise any employee of the Board to tender evidence or produce record on their behalf or on behalf of the Board before the Tribunal etc.

53. Tenancy, Addition/Alteration in Waqf Property :-

(a) Any creation of tenancy agreement or transfer of tenancy or Waqf Property by the Mutawalli or Managing Committee of the Waqf shall be void without the approval of the Board.

(b) A Mutawalli or Managing Committee of any Waqf shall not make any addition and alteration in Waqf Property and shall not allow any tenant to conduct repair of his premises without the approval of the Board.

(c) Urgent and minor nature of repair of Waqf Property can be undertaken by the Managing Committee of the Waqf by intimating the nature of such repair and estimated expenditure to the Board.

(d) For all major repair prior approval of the Board shall be obtained by furnishing detail estimate.

(e) No tenant shall undertake any repair to his (Waqf) premises or make any addition or alteration in the Waqf property or builds any structure on the land or building or sub-let the premises without the prior written approval from the concerned Managing Committee or the Board.

(f) The tenant shall make a proposal to the Mutawalli describing the detail of the repair/addition/alteration he intends to make in the premises of his tenancy including the cost involved in such repair.

(g) The Managing Committee shall examine the proposal and in case the Managing Committee is satisfied that such repair/addition/alteration is necessary and un-avoidable, the Managing Committee may make a reference to the Board for approval otherwise the proposal may be rejected by recording reasons.

(h) All repairs/addition/alteration in Waqf Properties shall be undertaken by the Waqf as far as possible.

(i) Any repair/addition/alteration carriedout by the tenant in violation of Sub-clause (e) above shall be void. It shall be termed as encroachment in term of sub-clause (k) & (l) of Rule 2 read with clause (ee) of Section 3 of the Act and his tenancy shall be liable to be terminated by due notice and he shall be evicted from the premises.

Chapter - XXIII

Books of Accounts and Register

(Section 79)

The Board shall maintain following books of Accounts and Register:-

I. Cash Book
II. Grant-in-Aid Register
III. Loan Register
IV. Stock Book
V. General Ledger
VI. Stationary Purchase & Issue Register
VII. Cheque Issue Register
VIII. Minutes Book
IX. Advance Register
X. Annual Contribution Register etc.
XI. Any other book of account maintenance of which is felt necessary.

Chapter- XXIV
Accounting procedure

(a) The Chief Executive Officer shall be the custodian of all records.

(b) The Chief Executive Officer shall ensure that Cash Book and all valuable documents and books of accounts are written up-to-date and kept in safe custody under lock and key.

(c) All money received by the Board shall be deposited in the Bank.

(d) Cash Book shall be closed daily if there is transaction.

(e) All supporting vouchers shall be numbered serially and filed in a systematic manner.

(f) Accounts of every month shall be closed by 10th day of the succeeding month.

(g) Entries in the Cash Book shall be reconciled with the statement of Bank.

(h) Receipt shall be issued for all money received by the Board.

(i) All payments except petty expenditure shall be made by cheque.

(j) Every payment made by the Board shall be sanctioned by the Chairperson of the Board.

Chapter XXV
Utilization of fund of Grant-in-Aid

The fund for the Grant-in-Aid shall be utilised for bonafide purposes projected in the Budget and Revised Estimates such as:-

1. Payment of Salary
2. Payment of Telephone & Electric Charges
3. Payment of Purchase of Stationery
4. Payment of Litigation Fee
5. Payment of Hire Charges of Vehicle
6. Payment of Income Tax
7. Payment of maintenance of repair of Computer, Scanner, Xerox Machine and Air Conditioner etc.
8. Payment of miscellaneous expenditure etc.

54. Power to Relax: The State Govt. may on the recommendation of the Board with absolute majority relax any provision of the rules for the better functioning of the Waqf.

55. Saving:- All things done or actions taken by the Board and the State Govt. before the commencement of these rules shall be deemed to be things done or actions taken under these rules.

Lieutenant Governor (Administrator),
Andaman & Nicobar Islands.

By order and in the name of the Lieutenant Governor,

Sd./-
Deputy Secretary (Waqf)

FORM ANIWB – I {Rule 5 (c)}
(REPORT TO BE SUBMITTED BY THE SURVEY COMMISSIONER TO THE GOVERNMENT UNDER SECTION 4 (3) OF THE ACT)

1) The number of Waqfs in the State (A & N Islands) showing separately:-

   a) Sunni Waqf

   b) Shia Waqf

2) The nature and the objects of each Waqf.

3) The gross income of the property in each Waqf.

4) The amount of land revenue, cess, rates and taxes payable in respect of each Waqfs.

5) The expenses incurred in the realization of income from Waqf and the pay or other remuneration paid to Mutawalli.

6) Particulars of each Waqf :-

   a) Name of the Waqf;

   b) Name of the Waqif (Donated or dedicated by), if any;

   c) Date or the year of the creation of the Waqf;

   d) Name of the Mutawalli (Secretary) and his pay or remuneration, if any;

   e) Location and Description of each immovable property and value there of showing separately Mosque, Madarassa Building, Vacant Land and Graveyard etc. with Survey No. ;

   f) Manner of Administration of Waqf;

   g) Whether Waqf has got surplus/vacant land with clear title.

Form ANIWB –II {Rule – 6 (b)}

(List of Waqf to be published under Section 5 (2) of the Waqf Act)

1. Name of Waqf with the description of Waqf Property (e.g. Mosque, Land, Building, Madarassa, Graveyard etc.): -
2. Location of Waqf Property showing Village, Ward, Road & Survey No. of each Property: -
3. Object of the Waqf: -
4. Details of Waqf Properties, if immovable: -
   a) Location and name of property showing Survey No. and Area for each Property: -
   b) Value of each Property: -
5. Date or Year of creation of each Property: -
6. Nature and Objects of Waqf: -
7. Gross income of Property in each Waqf: -
8. Amount of Land Revenue, Cess, Rates and Taxes payable in respect of such Property: -
9. Expenses incurred in Realization of the Income: -
10. Manner of Administration of Waqfs:-
11. Name and Address of Mutawalli: -
12. Pay or Remuneration paid to Mutawalli: -
13. Any other particular the Board considers necessary to include : -

Note: - Separate list shall be prepared for Sunni and Shia Waqfs.

Form ANIWB –III {Rule 9 (g) (i)}
(Notice for Election)

Notice is hereby given that election of Mutawallies (Secretaries) of Waqf and Members of Bar Council to become Member of the Waqf Board will be held on ..... in the premises of the Waqf Board office as per programme given below:-

1. Date & Time of issue of Nomination Form:-
2. Date & Time of Receipt of Nomination Form:-
3. Date & Time of Scrutiny of Nomination Paper:-
4. Date & Time of Withdrawal of Nomination Paper:-
5. Date & Time of Publication of Final List:-
6. Date, Time & Place of Election:-
7. Date, Timings & Place of Counting of Votes:-
8. Date, Time & Place of declarations of Results:-

Note: - All process of Election will be conducted from the premises of the Waqf Board.

Returning Officer

Place:

Date:

Form ANIWB - IV {Rule 10}
(Nomination Paper Form member of Bar Council/Mutawalli under Section 14 (i) (b) (iii) & (iv))

1. Name of the Candidate:-
2. Father/ Husband Name:-
3. Category:-
   a) Mutawalli :-
   b) Member Bar Council:-
4. Sl. No. of Candidate in the Electoral:-
5. Age:-
6. Sex:-
7. Occupation Address:-

Declaration

I declare that I am willing to stand for election and my age as shown is correct. I also declared that:-

1. I am a Muslim.
2. I am not an undercharged insolvent.
3. I have not been convicted of an offence involving moral turpitude.
4. I have not been in any previous occasion removed from office as a Mutawalli or Member of Bar Council for Mis-Management/Corruption.
5. That the above declaration is true to the best of my knowledge and belief.

Signature of Candidate

Form ANIWB - V {Rule 13}

(Declaration of Result of Election)

The following candidate has been elected un-opposed/duly elected for the office of the member of the Waqf Board, Andaman & Nicobar Islands in the following category:-

Sl. No.	Name	Category	Address

Place:

Returning Officer

Date:

Form ANIWB - VI {Rule 13}

(Certificate of Election)

I declare Shri ..... S/o ..... to have been duly Elected/ Elected un-opposed as the member of the Waqf Board in the election held on ..... in the category of ..... as specified under Sub-Section 1 (b) of Section 14 of the Waqf Act, 1995 and in token thereof I grant him this Certificate of Election.

Returning Officer

Place:
Date:

Form ANIWB - VII {Rule 33}

(Budget of Auqaf)

Receipt	Expenditure
B/F a) Opening Balance (Bank Deposit):- Rs. b) Cash in Hand:- Rs.	
1. Expected Income:- 2. Rent:- 3. Subscription:- 4. Donation:- 5. Juma Collection/ Idd Collection:- 6. Box collection:- 7. Misc Income:- 8. Any other Income:-	1. Salary:- 2. Electric Charges:- 3. Water Charges:- 4. Telephone Charges:- 5. Repair & Maintenance:- 6. Construction Expenses:- 7. Printing & Stationery:- 8. Tabaruk etc.:- 9. Property tax:- 10. Land Revenue:- 11. Incentives for collection of Subscription:- 12. Contribution to Waqf B...

Form ANIWB - VIII {Rule 34}

(Budget of Auqaf under the Management of Board)

Expected Income	Expected Expenditure
O/B – a) Bank Deposit:- Rs. b) Cash in Hand:- Rs.	
1. Rent of Room:- 2. Box Collection:- 3. Hadia:- 4. Rent of Utensils:- 5. Donation:- 6. Sale Proceeds:- 7. Recovery of Loan:- 8. Any other Income:-	1. Salary:- 2. Nazrana:- 3. Maintenance & Repair:- 4. Water Charges:- 5. Land Revenue:- 6. Litigation Charges:- 7. Urs Expenses:- 8. Contribution to Waqf Board:- 9. Purchase of Utensils:- 10. Misc Expenditure:- 11. Religious Expenses:-

Form ANIWB - IX {Rule – 35 (A)}

(True Statement of Accounts)

Receipt	Expenditure
B/F c) Opening Balance (Bank Deposit):- Rs. d) Cash in Hand:- Rs.	
1. Expected Income:- 2. Rent:- 3. Subscription:- 4. Donation:- 5. Juma Collection/ Idd Collection:- 6. Box collection:- 7. Misc Income:- 8. Any other Income:-	1. Salary:- 2. Electric Charges:- 3. Water Charges:- 4. Telephone Charges:- 5. Repair & Maintenance:- 6. Construction Expenses:- 7. Printing & Stationery:- 8. Tabaruk etc.:- 9. Property Tax:- 10. Land Revenue:- 11. Incentives for collection of Subscription:- 12. Contribution to Waqf Board:- 13. Litigation Charges:- 14. Any other exp. with details:-
Total Receipt:- Rs.	Total Expenditure:- Rs. Closing Balance:- Rs. Total:- Rs.

Cash in Hand:- Rs.
Cash in Bank:- Rs.
Total: - Rs.

Form ANIWB – X {Rule 38 (b)}

Notice

Under Section 54 (1)

Whereas, a complain is received or it is intimated to the Board or it was detected that Shri/Smti ..... has encroached .....Sq. Mtr. land in the Waqf premises situated at ..... belonging to .....(Waqf) described in the schedule below:-

Now, therefore, Shri/Smti ..... is hereby order to vacate the said encroachment within the 20 days from the date of receipt of this notice or show cause as to why the said encroachment should not be got vacated from his/her un-authorized possession under the provision of the Waqf Act.

Schedule

Name of Waqf:

Name of Encroacher:

Survey No.:

Area encroached:

Chief Executive Officer

To

Shri/Smti.....

Copy to:-

The Mutawalli ..... for information.

Chief Executive Officer

Form ANIWB – X-A {Rule 38 (b)}

Notice

(Section 54 (1))

Whereas, it has been reported by the Secretary/Mutawalli of ..... that you are in occupation of ..... rooms/shops in the Waqf building at ..... on rental basis.

And, Whereas, you are not paying rent lawfully due from you from ..... to ..... in respect of the rooms/shops occupied by you.

And, Whereas, the rent of the rooms was fixed Rs. ...../- and an amount of Rs. ..... has become outstanding as per statement enclosed.

And, whereas, now Shri/Smti ..... is un-authorized occupation of the rooms/shop described in the schedule.

And, Whereas, Shri/Smti ..... has acted in contravention of the terms of payment of rent timely under which he/she was un-authorized to occupy room/shop in the Waqf premises.

Whereas, you have sublet the whole or part of the premises under your Occupation/Possession on rental basis without permission from the Competent Authority. The premises are described in the Schedule.

Whereas, by sub-letting the premises without permission of the Authority you have acted in contravention of the terms under which you were authorized to occupy the premises.

Now, therefore, in exercise of the power conferred on me under Section 54 (1) of the Waqf Act. I hereby order Shri/Smti ..... to pay the above outstanding of amount of Rs. ..... /- to ..... within 20 days or show cause within the specified period of 20 days as to why his/her tenancy should not be terminated and he/she be evicted from the un-authorized occupation of the Waqf premises and the entire amount of outstanding rent be recovered from him/her as arrears of Land Revenue.

Now, therefore, I call upon you to show cause within 20 days from the date of receipt of this notice as to why order for vacation of the above said premises should not be made.

Schedule

Chief Executive Officer

To

Shri/Smti .....

Copy to:-

The Mutawalli ..... for information.

Chief Executive Officer

Note:- Delete the para whichever is not applicable.

Sd./-
(Abdul Latif)
Deputy Secretary (Waqf)

MGPPB—143/Gazette/2015 — 65 Copies. (SB-HCL-XII)