

THE PUNJAB WAQF RULES

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CHAPTER 1

PRELIMINARY

1. **Short title and commencement-** (1) These rules may be called the Punjab Waqf Rules, 2014
2. They shall come into force from the date of their publication in the Official Gazette.

Section 3

3. **Definitions-** (1) In these rules, unless the context otherwise requires.
 - a. "Act" means the Waqf Act, 1995 (Central Act 43 of 1995): Waqf (Amendment) Act, 2013.
 - b. "authorized representative" means a person duly authorized to act for and on behalf of a person as his attorney by duly executed power of attorney or in the case of a legal practitioner by execution of a 'Vakalatnama':
 - c. "Board" means the Punjab Waqf Board, established under sub-section (1) of section 13;
 - d. "ballot box" includes any box, bag or other receptacle used for the insertion of ballot papers by voters;
 - e. "Chairperson" means the Chairperson of the Punjab Waqf Board, elected under sub-section (8) of section 14;
 - f. "Count" means all the operations involved in the counting of the votes recorded for candidates;
 - g. "election" means an election to fill a vacancy in the office of the members of the Board, under subclasses (i), (ii), (iii) and (iv) of clause (b) of sub-section (1) of section 14;
 - h. "Election Authority" means the Secretary/Additional Secretary to Punjab Government.
 - i. "elector" in relation to election to any category of member of the Board means any person whose name is specified in the electoral roll of that category unless disqualified by the Returning Officer;
 - j. "electoral roll" means the separate list of members of each of the four electoral colleges specified in sub-clauses (i), (ii), (iii) and (iv) of clause (b) of sub-section (1) of section 14;
 - k. "encroachment" in relation to any waqf premises means occupation by any person or institution of the waqf premises without for such occupation, and includes the continuance in occupation by any person or institution of the waqf premises after the authority (whether by way of grant, tenancy or any other mode) under which he was allowed to occupy the premises, has expired or has been determined for any reason whatsoever, and includes any construction, alteration, addition carried out to the building without authority of the Board;
 - l. "Form" means a form appended to these rules:
 - m. "Government" means Government of Punjab

- n. "legal practitioner" shall have the same meaning as is assigned to it in the Advocates Act, 1961 (25 of 1961);
- o. "premises" means any land or any building or part of building and includes:
- (i) the garden, tree and grounds, if any, appertaining to such building or part of the building;
 - (ii) any fittings affixed to such building or part of the building for the more beneficial enjoyment thereof; and
 - (iii) Dargah, Grave, Graveyard, Khanqah, Peerkhana, Karbala, Maqbara, Mosque, Tomb and the Courtyard appurtenant thereto;
- (q) "Registrar" means the Registrar of the Tribunal and includes Assistant Registrar or any other person to whom the Registrar may, with the approval of the Tribunal, delegate any function to be exercised by the Registrar.
- (r) "Returning Officer" means an officer authorized or appointed by Election Authority to do any act or to perform any function in connection with the conduct of election under these rules;
- (s) "section"; means the section of the Act;
- (t) "Tribunal" means the Tribunal constituted under sub-section (1) of section 83;
- (u) "waqf premises" means-
- (i) any premises dedicated by a person of movable or immovable property orally or by an instrument in writing and used for any purpose recognized by Muslim law as pious religious or charitable;
 - (ii) premises notified as waqf property in the Official Gazette; or
 - (iii) premises registered as waqf in the Register of Auqaf maintained by the Board; or
 - (iv) property treated as waqf by user;
 - (v) "waqf property" means waqf premises as defined in clause (4) and shall include movable waqf property.
- (2) Words and expressions used and not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.

Section 3(i) Second proviso

- (3) **Qualification of mutawallies-** (1) The mutawalli shall be a citizen of India.
- (2) Qualification of mutawalli of a waqf would be such as specified in a waqif in the waqf deed.
- (3) Where no such qualification as are specified, a mutawalli or the President and the Secretary of the managing committee shall have
- (a) knowledge of Hindi, Urdu, Punjabi, Arabic & English
 - (b) working knowledge of Sharia with specific knowledge of waqf law.

CHAPTER II

SURVEY OF AUQAF, ETC.

Section 4(1)

- (4) **Appointment of Survey Commissioner etc.** - The Government may appoint an officer not below the rank of Deputy Secretary to Government as Survey Commissioner and a Gazetted Officer as Additional Survey Commissioner.

Section 4(3) (f)

- (5) **Particulars which the report of Survey Commissioner may contain-** The report to be submitted by the Survey Commissioner to the Government under sub-section (3) of section 4 shall be in Form --- WB-1.

Section 4(4)

- (6) **Powers of Survey Commissioner while making inquiries-** In addition to the powers conferred on the Survey Commissioner under sub-section (4) of section 4, the Survey Commissioner shall also have the powers in respect of the following matters, namely:-
- (a) grant of temporary injunctions and interlocutory orders; and
 - (b) appointment of receivers.

Section 5(2)

7. **Particulars which list of auqaf published may contain** - The list of auqaf published under sub-section (2) of section 5 shall be in Form ...WB-II.

Section 5(3)

8. **Entry of auqaf in revenue record-** (1) The Government, after receipt of the list of auqaf referred to in sub-section (2) of section 5 publish in the official Gazette and within a month send it to the revenue authorities.
- (2) On receipt of such lists, revenue authorities shall include them while updating take into consideration while decided mutation in the land record and inform the Board with a copy of such entries within six months.
- (3) If no intimation is sent by the revenue authorities to the Board within six months, the entry in the land record in mutation thereof shall be deemed to have been made.

Section 8

9. **Government to bear cost of survey-** the Government shall bear cost of survey, including the cost of publication of lists of Auqaf.

CHAPTER III

ELECTION OF MEMBERS OF THE BOARD

Section 14

10. **Administrative machinery for the conduct of elections, powers and functions-** (1) The Principal Secretary to the Government shall be the Election Authority for the purpose of conduct of election under the Act. The superintendence, direction, control in the conduct of election of members of the Board under clause (b) of sub-section (1) of section 14 in ordinary and casual vacancies shall be his responsibility. The Secretary (Home Department) to the Government shall be the Deputy Election Authority for purpose of conduct of election under the Act. The functions of the Election Authority under these rules may also be performed by the Deputy Election Authority, subject to the control of the Election Authority.

(2) The Election Authority shall designate or nominate a Returning Officer who shall be Gazetted Officer of the Government.

(3) The Election Authority may appoint one or more persons as Assistant Returning Officers to assist the Returning Officer:

Provided that the Assistant Returning Officer shall be a Muslim and an officer of the Government or the Punjab Waqf Board.

(4) Every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer subject to the control of the Returning Officer

(5) No Assistant Returning Officer shall perform any function of the Returning Officer which relates to the scrutiny of nominations unless the Returning Officer is unavoidably prevented for performing the said functions.

(6) Subject to other provisions of these rules, the Election Authority shall be responsible for the conduct of elections of the members of the Board and shall have power-

- (a) to fix date, place and time of election;
- (b) to specify the form of notice, nomination, letter of intimation, declaration paper, ballot paper, ballot paper cover and the envelopes for the election, the form of any other record to be prepared or maintained in relation to an election and the instructions to be contained in the notification;
- (c) to decide, in case of doubt, the validity or invalidity of each ballot paper of each vote recorded thereon;
- (d) to declare the result of each election; and
- (e) to fix –
 - (i) the date of notification;
 - (ii) the last date for receipt of nomination;
 - (iii) the date of security of nomination and publication of list of candidates validly nominated;
 - (iv) the last date and hours for withdrawal of candidature;
 - (v) the date of publication of the final list;
 - (vi) the date and hour for poll;
 - (vii) the date and hour of scrutiny and counting of votes.

11. Electoral Roll- (1) The Election Authority shall obtain the list of persons eligible to vote in the categories mentioned in sub-clauses (i), (ii), (iii) & (iv) of clause (b) of sub-section (1) of section 14 from the officers specified in sub-rule (2) of this rule and the list of such persons subject to any modification as per rule 12 shall form the Electoral College for that category and persons whose names find place in the list, shall be electors for that category of members.

(2) The category-wise lists shall be obtained as follows:-

- (a) Muslim members of Parliament and in case Muslim member of Parliament is not available, ex-Muslim member of Parliament, from the Secretary General, Lok Sabha/ Rajya Sabha;
- (b) Muslim member of the State Legislature and in case Muslim member of State Legislature is not available ex-Muslim member of State Legislature, from the Secretary Legislative Assembly/Council;

(c) Muslim member of State Bar Council and in case Muslim member of State Bar Council is not available, ex-Muslim member of State Bar Council from the Secretary of State Bar Council;

(d) Mutawalli having income of rupees one lakh and above in the preceding year from the Chief Executive Officer of the Board;

12. Election by mutawalls For the purpose of preparing the electoral roll under clause (d) of sub-rule 2 of Rule 11 which shall constitute the electoral college, the Chief Executive Officer shall give one week's time to the mutawalli(s) or as the case may be, to the managing committee(s) to elect-

(a) one from among themselves, to be the representative of such waqf institution in case where a waqf institution is having more than one mutawalli; and

(b) one office bearer of such committee, as the representative of such waqf institution in case a waqf is being administered by a managing committee;

Provided that if the waqf institution fails to so select and communicate to the Chief Executive Officer the name of senior mutawalli, in the case of a waqf institution having more than one mutawalli and the President of the managing committee where a waqf institution is being administered by such committee, shall be deemed to have been elected; and the same shall be incorporated in the electoral roll for the purpose of constituting the electoral college:

Provided further that only those mutawallis or the representatives of the managing committees shall be eligible to vote who are registered with the Board, having annual income of rupees one lakh in the preceding year and have paid annual contribution payable to the Board under section 72 upto the preceding year.

13. Displaying of lists- The lists obtained under rule 11, shall be displayed on the notice board of the Election Authority and in the office of the Punjab Waqf Board and also on the website of the Punjab Waqf Board; not less than seven days before the date notified for election under sub rule 2 of Rule 15 and shall be notified in one Urdu, Hindi & English/Punjabi newspapers having circulation in the area.

14. Filing of objections-(1) Any person aggrieved by such publication may file the objection petition before the Election Authority with seven days of such publication, for addition, deletion or modification of any name.

(2) The Election Authority, after going through the objection petition, and after obtaining any further information from any source, as it may deem fit and after giving personal hearing to the objector or petitioner or to any other person, if it feels necessary, shall pass orders on the objection petition.

(3) In the list of the orders passed, under sub-rule (2) if the electoral roll requires any modification, the Election Authority, after incorporating such modification, shall publish the final electoral roll not less than seven days before the date of election notified under sub-rule (2) of rule 15 and such electoral roll shall be final and conclusive list of electors for election.

15. Public notice of intended election- (1) After the commencement of the Act, regular election for the constitution of the Board under sub-section (2) of section 14 shall be conducted to elect the members in categories as provide in sub-clauses (i) to (iv) of clause (b) of subsection (1) of section 14, and on the expiry of the terms of the Board, or on its supersession or dissolution

under section 99 of for filing up for any causal vacancy caused in a particular category under section 16 or section 64 as the case may be.

(2) For the above purpose the Election Authority shall, subject to such directions as may be issued by the Government, by notification in Form----WB-III published in the Official Gazette, call upon on such date of dates as may be specified therein, to elect members of the Board in accordance with the provisions of the Act and the rules made there under.

(3) The notification shall specify the last date for making nominations, the date for scrutiny of nominations, the last date of withdrawal of candidature, the place and date on which and the time during which the plot shall, if necessary, be held.

(4) On the issue of the notification, the Returning Officer shall give public notice of the Intended election for the members of t he Board in **FormWB-IV** in Urdu, Hindi and English/Punjabi newspapers having circulation in the area.

16. Special election programme- Notwithstanding anything contained in these rules, where the election process is interrupted or the election programme has to be altered on account of the orders of any Court of Law or for any other valid reason, to be recorded, it shall be competent for the Election Authority either generally or in respect of specified category of members to alter the election programme notified under sub-rule (2) of rule 15 re-notify the election programme as it deems fit in the circumstances of the case:

Provided that where the election programme is re-notified under this rule commencing from the making of nominations, the nominations already made shall be disregarded.

17. Nomination of candidates- (1) Any person may be nominated as a candidate to fill the office of the member of the Board if he is qualified to be chosen to fill the seat under the provisions of the Act. Every nomination paper shall be Form –WB-V. This shall be presented on or before the appointment date by the candidate in person, between the hours specified, to the Returning Officer at the place specified, and signed by the candidate or by a person duly authorized by him in this behalf. The candidate shall sign in the declaration on the nomination paper expressing his willingness to stand for the election.

(2) (a) a candidate for the office of the member of the Board from any of the categories specified in clause (b) of sub-section (1) of section 14 shall be a person whose name is registered in the electoral roll of that category;

(b) each candidate shall be nominated on a separate nomination paper;

(c) a candidate may be nominated for more than one categories specified in sub-section (1) of section 14.

18. Presentation of nomination paper and requirement of valid nomination- (1) On receipt of the nomination paper, the Returning Officer shall forthwith number the nomination papers serially in the order in which it is presented and give a receipt as provided in FormWB-VI. The Returning Officer or such other authorized person shall satisfy himself that the name and number of the candidate, as entered in the nomination paper, is the same as entered in the electoral roll and wherever necessary, he shall direct that the nomination form be amended so as to be in accordance with the electoral roll.

(2) The Returning Officer may, while interpreting an entry in the electoral Roll overlook merely clerical or printing errors, but he shall record the interpretation adopted by him, together with the reasons therefore, while making the formal acceptance or rejection or scrutiny of a nomination.

19. Publication of nominations received- Immediately after expiration of the time specified for receipt of nomination papers on the dates fixed for that purpose, the Returning Officer or such other authorized person shall publish at his office in Urdu, Hindi and English/ Punjabi a list in Form ...WB-VII of all the nominations received, with a notice that the nomination papers shall be taken up by the Returning Officer for scrutiny at the specified place, the date and the time.

20. Scrutiny of nomination papers- (1) On the date appointed for scrutiny of the nominations, the candidate, and one other person duly authorized in writing by each candidate, may attend at such time and place as may be specified under rule 19. The Returning Officer may, however, admit such other persons as he thinks fit to assist him. He shall give such person all reasonable facilities to examine the nomination papers of all the candidates, which have been received as aforesaid.

(2) The Returning Officer shall examine the nomination papers and shall decide on all objections, which may be made at the time of any nomination and may, either on such objection or on his own motion after such summary inquiry as he thinks necessary, reject any nomination on any of the following grounds namely:-

- (a) that the candidate is ineligible for election as a member of that particular category of the Board;
- (b) that the candidate incurred any of the disqualifications specified in section 16 or these rules;
- (c) that the name of the candidate is not entered in the electoral rolls;
- (d) that the candidate has failed to comply with any of the provisions of rules 17; or
- (e) that the signature/thumb impression of the candidate in the nomination paper is not genuine;

Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of any other particulars relating to the candidate as entered in the electoral roll, if the identity of the candidate is otherwise established beyond reasonable doubt.

(3) The Returning Officer shall endorse on each nomination paper, his decision, accepting or rejecting the same and, if the nomination paper is rejected, he shall, record a brief statement of the reasons for such rejection. The scrutiny shall, as far as practicable, be completed on the date appointed in this behalf and no adjournment of the proceedings shall ordinarily be permissible, except at the discretion of the Returning Officer, to provide an opportunity to a candidate to rebut any contention raised against his candidature.

(4) For the purposes of this rule, a certified copy of an entry in the electoral roll for the time being in force of any of the categories of member of the Board shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that category of member of the Board, unless it is proved that he is subject to any disqualification mentioned in the Act or these rules.

(5) Immediately after the nomination papers have been scrutinized and the decisions, accepting or rejecting the same have been recorded, the Returning Officer shall prepare a list of

nominations found valid under each category and display it on the notice board of his office in FormWB-VIII.

21. Withdrawal of nomination - Any candidate may withdraw his nomination in writing in FormWB-IX signed by him and delivered to the Returning Officer either in person or by his authorized agent not later than five O'clock in the evening of the appointed last date of withdrawal. The Returning Officer shall give a receipt for the same on being satisfied as to the genuineness of the notice of withdrawal and the identity of the person delivering it.

22. Publication of list of contesting candidates- (1) On the following day, after the withdrawal of nominations, the Returning Officer shall prepare in Urdu, Hindi, Punjabi and English languages a list in Form ...WB-X of the persons whose nominations have been found valid and display it on the notice board of his office and the office of the Board.

(2) The list of all contain the names of the candidates as described in their nomination papers in Urdu, Hindi, Punjabi and English languages duly arranged in English alphabetical order.

23. Declaration of result of uncontested candidate- (1) If the number of contesting candidates is equal or less than the number of vacancy in a particular category, the Returning Officer shall forthwith declare such candidate as duly elected in Form WB-XI and send the same to the Election Authority.

(2) If the number of contesting candidates is more than the number of vacancy/vacancies in a particular category, poll shall be conducted.

24. Death of candidate before poll- If a contesting candidate dies and a report of his death is received before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and election proceedings shall be started afresh in all respects as if for a new election:

Provided that no fresh nomination, shall be necessary in the case of a candidate who stood validly nominated at the time of countermanding of the poll.

25. Voting- (1) If poll is to be conducted, the Returning Officer shall take necessary action for the conduct of poll and shall see that the election is fairly conducted at the polling station, and regulate the number of electors to be admitted at one time, and shall exclude all persons other than the following:-

- (a) the candidate;
- (b) the police officer or other public servants on duty;
- (c) such persons as the Returning Officer may from time to time admit for the purpose of identifying electors;
- (d) persons authorized by the Government;
- (e) a child in arms accompanying an elector; and
- (f) a person accompanying a blind or infirm elector who cannot move without help.

(2) Where a woman elector cannot be identified by the Returning Officer by reason of her observing purdah, she may be required to be identified by any mode to the satisfaction of the Returning Officer.

26. Right to Vote- (1) Voting is to be in person. All electors voting at an election shall do so in person at the polling station provided for them under the rules.

(2) Counting shall be arranged at the end of the polling for the election of each category of members specified in clause(b) of sub-section (1) of section 14.

(3) The Returning Officer shall provide at each polling station, sufficient number of ballot boxes, together with copies of the electoral roll containing the names of electors entitled to vote and such other papers and articles necessary for electors mark the ballot papers, stationery and forms, as may be necessary.

(4) Immediately before the commencement of the poll, the Returning Officer shall demonstrate to the candidates or their polling agents that the ballot box is empty.

27. Form of ballot paper- (1) Every ballot paper shall contain serial number of list of contesting candidates in Urdu, Hindi, Punjabi & English/local language in the serial order of English alphabets.

(2) Every ballot paper shall, before issue to an elector, be-

(a) stamped or shall be written on its back

(i) the name and category of member;

(ii) the place of election.

(b) signed in full on its back by the Returning Officer.

28. Issue of ballot paper- Immediately after a ballot paper is issued to an elector, the Returning Officer shall obtain the signature of elector in token of having received the ballot paper, on the office copy of electoral roll to be retained by the polling for record.

29. Maintenance of secrecy of voting by electors and voting procedure –

(1) Every elector to whom a ballot paper has been issued under rule 28 shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter laid down.

(2) The elector on receiving the ballot paper, shall forthwith-

(a) proceed to the voting compartment

(b) record his first, second, third and on preference by writing numerical 1, 2, & 3 and so on against the names of the contestants, he intends to give the preference; and

(c) insert the folded ballot paper into the specified ballot box.

(3) Every elector shall vote without any delay.

30. Blind and infirm voters- (1) If owing to blindness or other physical infirmity, an elector is unable to recognize the names of the contestants on the ballot paper or to write preference thereon, the Returning Officer shall record the vote on the ballot paper in accordance with the wishes of the elector, fold it and insert it into the ballot box.

(2) While acting under this rule, the Returning Officer shall observe secrecy and shall keep a brief record of each such instance, but shall not indicate therein the manner in which any vote has been exercised.

31. Challenge to identity- (1) Any candidates may challenge the identify of a person claiming to be a particular elector by first depositing, a sum of five hundred rupees in case with the Returning Officer for each such challenge.

(2) On such a deposit being made, the Returning Officer shall-

(a) warn the person challenged, of the penalty for impersonation; and

(b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in the entry or not.

(3) The Returning Officer shall there after hold a summary inquiry into the challenge and may for that purpose-

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence in proof of his identify;

(b) put the person challenged any question necessary for the purpose of establishing his identify and require to answer them on oath; and

(c) administer an oath to the challenger and any other person offering to give evidence.

(4) If, after the inquiry, the Returning Officer considers that the challenge has not been established, he shall allow the person challenged to vote and if he considers that the challenge has been established, he shall debar the person.

(5) If the Returning Officer is of the opinion that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) to be forfeited to the Government and in any other case, he shall return it to the challenger at the conclusion of the inquiry.

32. Spoilt and returned ballot papers- (1) An elector who has inadvertently dealt with his ballot paper may, by delivering it to the Returning Officer and on satisfying him of the inadvertence, be given another ballot paper and the ballot paper so returned and the counterfoil or such ballot paper shall be

(a) count the maximum number of first preference votes polled, by a candidates, then count the maximum number of second preference votes polled by a candidate and so on and arrange the name of candidates in that order;

(b) after such counting, the candidate having obtained maximum number of first preference votes shall be declared elected if the number of vacancy is one and in case of vacancies being two, candidates having obtained maximum number of first and second preference votes shall be declared elected for the second vacancy.

(2) When at the end of counting each of the contesting candidates has the same value of votes and no surplus remains capable of transfer, the Returning Officer shall decide by lot which of them shall be excluded, and after the exclusion of one of the candidates, by drawing lots, the

(a) count the maximum number of first preference votes polled, by a candidate, then count the maximum number of second preference votes polled by a candidate and so on and arrange the name of candidates in that order;

(b) after such counting, the candidate having obtained maximum number of first preference votes shall be declared elected if the number of vacancy is one and in case of vacancies being two, candidates having obtained maximum number of first and second preference votes shall be declared elected for the second vacancy.

(2) When at the end of counting each of the contesting candidates has the same value of votes and no surplus remains capable of transfer, the Returning Officer shall decide by a lot which of them shall be excluded, and after the exclusion of one of the candidates, by drawing lots, the candidate shall be declared elected.

33. Provision of recount- (1) Any candidate or in his absence, his authorized agent may, at any time during the counting of votes, either before or after the completion of the counting of votes, request the Returning Officer to re-examine and re-count the votes of all or any candidate and the Returning Officer may re-examine and re-count the same accordingly.

(2) The Returning Officer may, in his discretion, re-count the votes either one or more than once in any case in which he is not satisfied as to the accuracy of any previous count:

Provided that nothing in this sub-rule shall make it obligatory on the Returning Officer to re-count the same votes more than once.

34. Declaration of result and return by Returning Officer- (1) Upon the completion of counting, the Returning Officer shall, subject to the foregoing provisions, declare the result under sub-clauses (i), (ii), (iii) and (iv) of clause (b) of sub-section (1) of section 14 in Form..... WB-XI as may be appropriate and signed copies thereof, to the Election Authority.

(2) The Returning Officer shall thereafter---

(a) place the valid ballot papers in one packet and the rejected ballot papers in another;

(b) seal with the seal of the Returning Officer and of such of the candidates, their election agents or counting agents as may desire to affix their seals on each of packets referred to in clause (a).

(c) record on each of the sealed packets the description of its contents and the date of election.

35. Grant of certificate of election to returned candidates – As soon as may be, after a candidate has been declared elected, the Returning Officer shall grant to such candidate a certificate of election in FormWB-XII and obtain from the candidate an acknowledgment of its receipt duly signed by him.

36. Material to be submitted after election – (1) After completion of the election, the Returning Officer shall submit the following to the Election Authority for being kept in safe custody for record:-

(a) packet of ballot papers mentioned in rule 34;

(b) office copy of the electoral roll and counterfoils of ballot papers issued with signature of the electors having received the ballot paper;

(c) brief report about fair and peaceful conduct of poll mentioning important incidents, if any, during the poll, including challenges made about the identify of any elector and the decision of Returning Officer thereon;

(d) office copy of certificate of election issued to elected candidates and acknowledgment receipts of the same; and

(e) any other relevant paper.

(2) The record submitted to the Election Authority shall be preserved for a period of one year of till the final disposal of petitioner relating to election, if any, whichever is later.

37. Making of necessary nominations- (1) Government shall make necessary nominations for filing up of the vacancies under categories (c), (d) and (e) of sub-section (1) and sub-section (3) of section 14 as follows-

- (2) (a) a person each from amongst Muslims who has professional experience in general administration, town planning or business management, social work, finance or revenue, agriculture and development activities;
- (b) one or two person from amongst Muslims, from recognized scholars in Shia & Sunni Islamic Theology .
- (c) one person from amongst Muslims by the State Government from amongst the officers of the Government not below the rank of Joint Secretary.
- (3) Notwithstanding anything contained in this section, where the State Government is satisfied, for reasons to be recorded in writing that it is not reasonably practicable to constitute an electoral college for any of the categories mentioned in sub-clause(i) to (iii) of clause (b) of sub-section (1), the State Government may nominate such persons as the members of the Board as it deems fit.
- (4) Where there is no Muslim member or ex-Muslim member of the Bar Council of a State or Union territory, the Government or the Union territory administration as the case may be, may nominate any senior Muslim Advocate, having minimum ten years practice at the Board.

38. Appointment of members of the Board- (1) After receipt of the result of the election under clause (b) of subsection (1) of section 14 and the nominations under clause (c), (d) and (e) of sub-section (1) and sub-section (3) of section 14, read with rule 37 of these Rules, the Government shall issue a notification under sub-section (9) of section 14 appointing the members of the Board. In the said notification, the date, place and time of election of Chairperson shall also be specified giving the members, one week's notice.

(2) At least two members appointed in the Board in any category shall be women.

39. Filling-up of casual vacancy- If the election has been conducted for any casual vacancy under section 14, on receipt of the result of the election from the Returning Officer, the Government shall issue notification in the Official Gazette under sub-section (9) of section 14 appointing such person as member of the Board.

40. Election of Chairperson – (1) After the appointment of the members of a newly constituted Board, notified under section 13, the Government shall notify the first meeting of the Board, for the election of the Chairperson as provided in rule 38. The Notification shall state that at such meeting the Chairperson shall be elected.

(2) The meeting shall be presided over by the representative of the State Government who shall conduct the proceedings for the election of the Chairperson.

(3) The name of the candidate to the post of Chairperson shall be proposed by a member who shall be seconded by another member. The voting shall be as per the decision of the Presiding Officer.

(4) A member shall have only one vote. The candidate securing the highest number of votes shall be declared to have been elected as Chairperson.

(5) In case of a tie the names of the candidates shall be put to lot and the Chairperson shall be selected from the lot.

(6) (a) Where a dispute arises as to the validity of election of the Chairperson or any member of the Board, any person interested may within thirty days of the declaration of the result of the election file an application before the Punjab and Haryana High Court;

(b) no suit or other legal proceedings shall lie in any civil court in respect of any dispute/question or other matter relating to the election of Chairperson or member of the Board.

(7) The election petition shall be accompanied by a court fee of five thousand rupees.

(8) Expenses for the conduct of election of the members and the Chairperson of the Board shall be borne by the Government.

41. Meeting of the Board:

(i) The meeting will be called by the CEO/Secretary of the Board in agreement with the Chairperson;

(ii) if the Chairperson does not agree with the suggestion of CEO/Secretary, the CEO/Secretary may request to the Government to call the meeting of the Board.

(iii) On receipt of such a request, the Government may take a decision as it deems fit.

(iv) Agenda of the meeting may be finalized by the CEO/Secretary in agreement with the Chairperson.

(v) if the Chairperson does not agree with the agenda, the CEO/Secretary may request to the Government to call the meeting of the Board to discuss the agenda suggested by him but not agreed with the Chairperson.

(vi) on receipt of such request from the CEO/Secretary, the Government may take a decision as deems fit.

CHAPTER IV

CHIEF EXECUTIVE OFFICER OF THE BOARD

Section 23

42. Terms and conditions of service of the Chief Executive Officer of the Board- (1) The appointment to the post of Chief Executive Officer under subsection (1) of section 23 shall be made by the Punjab Government from a panel of two Muslim Officers suggested by the Board:-

(a) in order to suggest two names of Muslim Officers of not below the rank of Dy. Secretary to the Government, the Punjab Wakf Board shall seek names from the Department of Personnel of the Government to send a list of eligible and willing Muslim Officers to serve the Punjab Wakf Board as CEO.

(b) In case of non-availability of eligible and willing Muslim officers in the State, the Punjab Wakf Board shall request the Punjab Govt. to seek the list of eligible and willing Muslim officers to serve the Punjab Wakf Board as CEO on deputation from other states or the Central Government.

(c) After receipt of such list by the Punjab Wakf Board, the Board after necessary interview and selection, shall recommend two names to the State Government to appointed as CEO as per prescribed procedure.

(d) In case no eligible and willing Muslim Officer is available, the Punjab Wakf Board may recommend the serving or the ex-CEO or any other senior officer of the Board to be appointed as CEO.

(e) in case all the above options are exhausted and no eligible and willing candidate is made available the State Government may appoint any eligible Muslims person as it deems fit.

43. Functions of the Chief Executive Officer- Subject to the provisions of the Act and the rules made there under the Chief Executive Officer shall-

(a) As the CEO of Punjab Wakf Board has been dully declared as Mutawalli of all the Aukafs under the Punjab Wakf Board he shall enjoy all the powers of the Mutawalli as prescribed by law.

(b) attend the meetings of the Board and of the committee and may take part in the discussions in an advisory capacity, but shall have no right to move any resolution or to vote;

(c) attend meeting of a committee of the Board is required to do so by the person presiding thereon;

(d) control the officers and employees working under the Board or auqaf under the administration of the Board subject to the general superintendence and the control of the Board;

(e) carry into effect the resolution of the Board;

Provided that he shall work under the control and supervision of the Punjab Wakf Board.

CHAPTER V

INSPECTION OF BOARD'S RECORD AND GRANTING OF COPIES THEREOF

Section 30(1)

44. Conditions for inspection and issuance of copy (1) All applications for inspection of Board's record to the Chief Executive Officer shall be made in FormWB-XIII which can be had from the office of the Board on payment.

Provided that the provision of sub-rule(1) shall not apply to applications submitted in response to notices calling for applications unless otherwise stated in the notice or to the applications made of scholarship and stipends.

(2) Permission on application for inspection of record or proceedings of the Board or any committee may be granted by the Chief Executive Officer on payment of twenty rupees per hour or fraction thereof, which shall be deposited by the applicant in advance with the office of the Board.

(3) Certified copy of record or proceedings of the Board, or any committee may be granted by the Chief Executive Officer on payment of twenty rupees per hundred words or fraction thereof.

Provided that the application in FormWB-XIV is accompanied by the receipt of the Board for twenty rupees:

Provided further that the applicant shall have the right to appeal to the Chairperson, against the order of the Chief Executive Officer.

(4) The appeal in such cases shall be accompanied by a receipt of the Board for twenty rupees.

Section 37(2) and (3)

45. Entries of waqf properties inland record- (1) The Board shall forward the details of all the properties entered in the register of auqaf to the concerned land record officer having jurisdiction of the property.

(2) On receipt of the details of properties entered in the register of auqaf the land record office shall either make necessary entries in the land record or communicate, within a period of six months from the date of receipt of communication from the Board and convey its objections to the Board.

(3) In case no objection is received from the land record officer, the entry shall be deemed to have been made in the land record.

46. Authentication of orders of the Board – (1) The Chairperson or the Chief Executive Officer or any other person authorized by the Board in writing shall authenticate the orders and decisions of the Board.

(2) The common seal shall remain in the custody of the Chief Executive Officer.

(3) All correspondence emanating from the Board shall be in the name of the Chairperson or the Chief Executive Officer or any other person authorized by the Board in writing and all correspondence with the Board shall be addressed to the Chairperson or the Chief Executive Officer or any other person authorized by the Board in writing.

CHAPTER VI

POWERS OF BOARD AND OF CHIEF EXECUTIVE OFFICER

TO HOLD INQUIRIES

Section 39(1)

47. The manner in which an inquiry may be held by the Chief Executive Officer-

(1) Notice or an inquiry under sub-section (1) of section 39 shall be sent to interested parties informing them the date, time and place fixed for holding the same.

(2) All persons who appear in response to the notice shall be heard on the time fixed for hearing and the inquiry officer may grant adjournment from time to time for filing written statement containing objections and suggestions.

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

(4) The inquiry officer shall record oral evidence of the witnesses and shall follow 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 commission and return of documents and to pass interim order.

(5) In the case of occupation on waqf premises, the inquiry officer shall seek legal documents authoring him to occupy the premises.

(6) In the absence of production of valid documents, the occupant shall be declared encroacher.

(7) The inquiry Officer shall complete inquiry within six months and submit report to the Board within thirty days from the date on which the inquiry is concluded.

CHAPTER VII
BUDGET AND AUDIT OF ACCOUNTS OF AUQAF MANAGED BY
MUTAWALLI MANAGING COMMITTEE

Section 44 (1)

48. Time and manner for preparation of budget-(1) Every mutawalli or Secretary of the Committee managing the Waqf, having a gross annual income exceeding twenty five thousand rupees, shall submit a budget at least thirty days before the beginning of the financial year to the Board showing its probable receipts and expenditure for the ensuing financial year in FormWB...XV.

(2) Failure to submit the budget within the prescribed time, even after notice, may entail the removal of the mutawalli/dissolution of, the Committee by the Board.

(3) The Board shall scrutinize the budget proposal and ensure that provision has been made therein for the obligatory expenditure referred to in sub-section (2) of section 44 and for carrying out the purpose which may have been specifically enjoined on the waqf by deed of waqf.

(4) The Board may give such directions to modify the budget in case any item is considered to be contrary to the objects of the waqf or the provisions of the Act.

(5) If the Board is satisfied that adequate provision for certain items has not been made in the budget, it shall have power to modify it in such manner as maybe necessary to secure such provision and return it to the mutawalli concerned.

(6) Every mutawalli shall consider the suggestions and incorporate the modifications made by the Board in the budget and pass the budget before the beginning of financial year to which it relates.

(7) Notwithstanding anything contained in these rules the Board may direct a mutawalli to modify its estimates to be in keeping with the provisions of the Act and the waqf deed and such mutawalli shall comply with the direction of the Board.

(8) As soon as budget is passed every mutawalli shall forthwith submit copies thereof to the Board.

(9) No sum shall be expended by or on behalf of a waqf unless such sum is included in the budget estimates sanctioned u/s 44 and in force at the time of incurring the expenditure.

(10) If in the course of the year, a mutawalli finds it necessary to alter the figures shown in the budget with regard to receipts or the distribution of the amounts to be expended on the different services undertaken by him on behalf of the waqf, a supplemental or revised budget may be framed and got sanctioned.

Section 45(1)

49. Form in which and the time within which, a separate budget of waqf under the direct management of the Board to be prepared- (1) The Chief Executive Officer shall prepare it Form.....WB-XV before the third week of January every year, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of each of the waqf, under the direct management of the Board, therein the estimated receipts and expenditure and submit it to the Board for its approval.

(2) Every budget submitted by the Chief Executive Officer shall comply with the requirements of section 45 and 46 for this purpose; reference therein to the mutawalli of the waqf shall be constructed as reference to the Chief Executive Officer. Along with the Budget, the Chief Executive Officer shall also prepare and forward a statement giving details of the increase, if any, in the income

of each waqf under the direct management of the Board and the steps which have been taken for its better management and the results accruing therefrom during the year.

(3) The Board shall scrutinize the budget proposals and ensure that provision has been made therein for the obligatory expenditure to be incurred under the Act and the administrative charges that shall be payable by waqf to the Board.

(4) If the Board is satisfied that adequate provision has not been made in the budget it shall have power to modify it in such manner as may be necessary to secure such provision and pass the budget before the beginning of the financial year to which it relates.

(5) If in the course of the year, the Chief Executive Officer finds it necessary to alter the figures shown in the budget with regard to the receipts or the distribution of the amounts to be expended on the different undertaken by the Board on behalf of the waqf, a supplemental or revised budget may be framed and got sanctioned.

Section 47(1)

50. Internal at which accounts of auqaf may be audited- (1) The accounts of the waqf under the management of mutawalli/managing committee having net annual income exceeding fifty thousand rupees shall be submitted by such mutawalli/managing committee for audit within three months of the close of the financial year.

(2) The case of waqf having net annual income, not exceeding fifty thousand rupees, submission of statement of accounts shall be sufficient and two percent of such auqaf shall be audited of the Board.

(3) Such accounts shall be audited within one year of the close of the financial year or within two years with the approval of the Chairperson for reasons to be recorded.

Section 72(1)

51. Annual contribution payable by a mutawalli of waqf to the Board and determination thereof- (1) The mutawalli of every waqf, the net annual income of which is not less than five thousand rupees shall pay annually to the Board seven percent of such annual income as annual contribution.

(2) The mutawalli of a waqf shall within such time as may be fixed by the Board and in such form as may be determined by the Board, submit a return of the net income of the waqf to the Chief Executive Officer.

(3) On receipt of a return under sub-rule(1) the Chief Executive Officer shall verify the return submitted by the mutawalli and if he is satisfied of the correctness of the return may fix the annual contribution in accordance with such return. If no return is filed within time the Chief Executive Officer shall suo motu fix the annual contribution to be paid by the mutawalli.

In case the Chief Executive Officer is of the opinion that the return submitted under sub-rule (1) is incorrect with the provisions of the Act or the rules made or any order issued by the Board, he may, after calling upon the mutawalli to show cause within the time specified in the notice as to why such assessment of the return shall not be revised.

(4) The Chief Executive Officer, after considering the reply if any, received from the mutawalli concerned may assess the net annual income of the waqf to the best of his judgment or revise the net annual income as shown in the return submitted by the mutawalli and the net annual income as assessed or revised shall be deemed to be net annual income of the waqf.

(5) Any mutawalli who is aggrieved by the decision of the Chief Executive Officer in fixing or revising the assessment may prefer an appeal to the Board within fifteen days from the date of receipt of the assessment or revision of return and the Board may after giving the mutawalli a reasonable opportunity of being heard, confirm, reverse or modify the assessment or revision of the return.

(6) Failure to submit the accounts and remittance of money in time, without proper explanation may render the removal of the mutawalli/dissolution of the managing committee.

52. Circumstances and conditions subject to which Board may reduce or remit contribution-

(1) No contribution payable by a mutawalli under section 72 shall be remitted or reduced except with the previous sanction of the Board.

(2) The reduction or remission sanctioned by the Board shall be operative only for the year for which it is sanctioned. Where it continuance in subsequent year is found necessary, the Board shall given fresh sanction.

(3) The Board may, on application from a mutawalli, by order sanction remission or reduction of the contribution to be paid by mutawali in the following cases, namely-

(a) loss of money, stores of articles of the waqf not due to the negligence of the mutawalli or other employee of the waqf;

(b) loss of income due to failure of crop on account of drought or other unforeseen causes like flood;

(c) paucity of funds due to the mismanagement of the previous mutawalli;

(d) paucity of funds due to non-recovery of loans, advances and debt;

(e) where the waqf supports an orphanage whose resources are insufficient for its due management ; and

(f) other causes, approved by the Board with three fourth majority.

(4) Before a reduction or remission of contribution is sanctioned, the Board shall make a thorough investigation into the circumstances of each case and satisfy itself that such reduction or remission is necessary.

Section 77

53 Payment of moneys into Waqf Fund and investment of such money- (1) The Board shall authorize one of its officers (hereinafter referred to as "the authorized officer") to receive all payments to the Waqf Fund; to issue receipts and to make payments on behalf of the Board.

(2) The authorized officer shall be required to furnish to the Board, securities or sureties for such amount as the Board may specify in that behalf. Solvency of sureties shall be got verified by the Sub-Division Magistrate of the area where the official is residing at the beginning of each year.

(3) The authorized officer shall grant receipts for all moneys received by him to the credit of the Waqf Fund. Counterfoil receipt bearing printed receipt numbers shall be maintained for the purpose.

(4) All such moneys shall immediately be deposited in –

(a) a Scheduled Bank as defined in the Reserve Bank of India, Act, 1934 (2 of 1934), or

(b) a Post Office Savings Bank Account.

(5) All such deposits shall be made in the name of the Board. The Chairperson and any other member or officer of the Board authorized in this behalf by the Board shall have the powers to withdraw such deposit or any part thereof and operate on the bank account subject to such conditions as the Board may think proper.

(6) No money shall be withdrawn from the bank unless it is required to immediate payment for the purpose of the Board.

(7) The appropriation of receipts to expenditure shall, as a rule, be avoided.

(8) Payments from the Waqf Fund shall be made by cash or cheque. Cheque shall not be issued for sums less than five hundred rupees.

(9) Moneys indisputably payable shall not be left unpaid and money paid shall not be kept out of the account a day longer than absolutely necessary.

(10) Any person having a claim against the Board shall present a voucher duly verified and stamped. All vouchers shall be filled and signed in ink. The amount shall be written in figures as well as in words. All corrections and alterations in the vouchers shall be attested by the dated initials of the person signing the voucher.

(11) Receipts for all sums exceeding five thousand rupees either by cash or cheque shall bear the revenue stamp of the requisite value.

(12) An officer authorized to handle the moneys of Waqf Fund shall be responsible for their custody and also for re-imbruing to be Board, in case of any loss by theft, fraud, fire or any other cause:

Provided that if in any case, after such inquiry as the Board may make, the Board is satisfied that the loss was unavoidable and was not due to any negligence on the part of officer responsible for the proper custody of the amount, the Board may not insist on reimbursement of the amount of the loss by officer concerned, but may write if off.

(13) Amount not required for expenditure during the year shall be invested by the Board-

(a) in one or other of the following securities-

(i) promissory notes debentures, stocks or other securities of the Central Government.

(ii) stock or debentures of, or shares in companies, in interest wherein shall have been guaranteed by the State Government or the Central Government ;

(iii) debentures or other securities for money issued by or on behalf of any Municipal body under the authority or any Act;

Or

(b) in fixed deposits for a not exceeding three years in-

(i) a Scheduled Bank as defined in the Reserve Bank of India Act 1934 (2 of 1934) ; or

(ii) for the purchase or for the first mortgage of Immovable property with the previous sanction of the Government

(14) The investment under sub-rule (13) shall not be pledged, encashed or withdrawn without the prior sanction of the Board.

(15). The Board shall cause of the maintained such books, of account and other books in relation to its accounts in such form and in such manner as may be provided by the Regulation. The pages in the account books, registers, receipts, etc. shall be serially numbered and each page shall be affixed with the seal of the Board. The number of pages that each book or register contain shall be noted on the first page after actual verification by the Chief Executive officer

(16) It shall be the responsibility of the Chief Executive Office to ensure that the contributions, fees, rents and other amounts due to the Board are promptly demanded, realized and credited to the Waqf Fund.

(17) The Chief Executive Officer shall be in charge of the work relating to the finance, budget and accounts of the Board.

(18) The Chief Executive Officer shall discharge the following duties and functions in relation to the budget, account, and audit of the Board, namely:

(a) he shall be responsible for ensuring that the budget estimates of the Board are properly framed keeping in view the instructions issued by the Board and the Government in this behalf and submitted to the Board within the time schedule;

(b) he shall scrutinize the budget proposals submitted by the mutawallis thoroughly and assist the Board in scrutinizing the budget proposals;

(c) he shall examine and advise on all scheme of new expenditure for which it is proposed to make a provision in the budget;

(d) he shall ensure the monthly and annual accounts of the Board are compiled properly and promptly;

(e) he shall obtain necessary periodical returns of progress of expenditure, watch and review the progress against sanctioned amounts and issue such instructions as may be found necessary to the officers and employees of the Board;

(f) he shall scrutinize the proposals for supplementary grants and advise the Board suitably;

(g) he shall keep himself in regular touch with the audit objections and inspection reports of the audit and for their early settlement;

(h) he shall keep a close watch on the recoveries of dues to the Board and repayment of loan and interest;

(i) he shall be responsible for the maintenance of accounts of the Board;

(j) he shall obtain periodical returns of stores and stocks and their value from the offices and review them. He shall offer his remarks on such accounts and place it before the Board;

(k) he shall furnish any information and information and statistics that may be called for by the Board on matters relating to budget, account and audit;

(l) he shall arrange for internal audit of accounts of the Board periodically and take urgent steps to rectify any defects noticed during such audit;

(m) he shall report to the Board all instances of payments made contrary to the rules and regulations besides cases where payments are made in absence of any provisions in the budget estimates.

(19) The Board may prepare revised estimates during the financial year keeping in view the actual and probable expenditure during the year.

Section 78

54. Budget of the Board- (1) The Chief Executive Officer shall in every year prepare in Form...WB XXIII, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure during that financial year and place before the Board by 31st December.

(2) The Board shall scrutinize the budget proposal and make suitable modification, if necessary, and forward a copy of the same to the Government before 31st January.

(3) On receipt of the budget forwarded to it, the Government shall examine the same and suggest such alterations, corrections or modifications, to be made therein as it may think fit and forward such suggestions, to the Board for its consideration.

(4) On receipt of the suggestions from the Government, if the Board does not agree with any modifications, corrections or alterations made by the Government in the Budget, the Board may forthwith make written representation to the Government with regard to the alterations, corrections or modifications suggested by the Government.

(5) The Government shall consider the representation of the Board and pass final orders in the matter and communicate its decision within a period of three weeks from the date of receipt of such representation.

(6) On receipt of the suggestions from the Government and if no representation has been made by the Board to such suggestions or the Government has communicated its decision regarding any representation, if any, made by the Board, the Board shall incorporate in its budget all the alterations, corrections, modifications finally suggested by the Government and the budget so altered corrected or modified, shall be passed by the Board. A copy of the budget so passed shall be forwarded to the Government. In case no objection is received from the Government within fifteen days, the budget shall be declared to be final.

(7) If, in the course of the year, the Board finds it necessary to alter the figures shown in the budget with regard to the receipts or the distribution of the amounts to be expended on the different services undertaken by the Board, a supplemental or revised budget may be framed and got sanctioned in the manner provide in these rules and copies thereof to the Government.

(8) No sum shall be expended by the Board unless such sum is included in the budget estimates sanctioned under section 78 and in force at the time of incurring the expenditure.

CHAPTER VIII

REMOVAL OF ENCROACHMENT AND RECOVERY OF WAQF PROPERTIES

Section 52(1)

55. Guidance subject to which the collector shall recover the property transferred in contravention of the provisions of the Act- (1) Upon receiving report from any person residing in the locality where the waqf property is situated or upon receiving information otherwise that a waqf property has been transferred in contravention of the provisions or section 51 or 56, the Board shall ascertain from the Register of Auqaf, maintained under section 37, if the property alleged to have been transferred is waqf property, and in case that be so, the Board shall obtain a certified copy of the deed of transfer from the registration office concerned. The Chief Executive Officer, after conducting an inquiry in the manner prescribed in rule 52 shall draw up a report specifying therein fully the waqf property, the details of the transfer deed executed in respect of the property, the name and full particulars of the person executing the deed or other document and the name with particulars of person or persons to whom the property has been transferred. The report shall also contain the result of the comparison of the details of the property with the entries in the Register of Auqaf and the result of the inquiry from the record of the Board regarding unauthorized transfer. The report shall be put up for orders of the Board which, after considering the report of the Chief Executive Officer and inspecting such of the documents as may appear necessary and/or making inquiry from such persons as it considered reasonable, pass orders for sending a requisition to the Collector of the respective district to obtain and deliver possession of the property to the Board.

(2) The requisition to the Collector shall be drawn by the Chief Executive Officer in FormWB-XVI and sent to the Collector of the respective district through special messenger or by registered post acknowledgment due.

(3) The order passed by the Collector under subsection (2) of section 52 of the Act, shall be in FormWB-XVII.

(4) If the person against whom an order under sub-section (2) of section 52 is issued, prefers an appeal to the Tribunal as provided by sub-section (4) of section 52, he shall send a copy of the memorandum of appeal to the Collector immediately on the day of filing the appeal and the Collector shall arrange for its defence shall also given intimation of such appeal to the Board.

(5) (a) While obtaining possession of the property, using such force as may be necessary, as provided in sub-section (5) of section 52, no person executive the Collector's orders, shall enter any dwelling house;

(b) no outer door of any dwelling house shall be broken open unless the order of executing authority.

(c) no person executing the Collector's order shall enter any dwelling house after subset and before sub rise;

(6) After obtained possession of the property, the Collector or any person duly authorized by him in this behalf shall handover the said property to the Board or to any person duly authorized by the Board on proper acknowledgment.

Section 54(1)

56. Removal of encroachment of waqf premises; From of notice- A notice under sub-section (1) of section 54 shall be in Form ..WB-XVIII.

57. Manner of service of notice and order- (1) A notice issued under subsection (1) of section 54 shall be served by delivering or tendering a copy of notice, as the case may be, to the person for whom it is intended or to any adult member of his family, or by sending it by registered post acknowledgment due or by speed post in a letter addressed to that person at his usual or last known place of residence or business, or by having it affixed on the outer door or some conspicuous part of the waqf premises.

(2) Where the copy of the notice under sub-rule (1) is delivered or tendered the signature of the person to whom the copy is so delivered or tendered, shall be obtained in token of acknowledgement of the service.

(3) In respect of a notice issued under sub-section (1) of section 54 where the person or the adult member of the family or such person refuses to sign the acknowledgment, or where such person cannot be found after using all due and reasonable diligence, or if there is no adult member of the family of such person a copy of the notice or the order, as the case may be, shall be affixed on the outer door or some other conspicuous part of the ordinary residence or usual place of business of such person and the original shall be returned to the Chief Executive Officer who issued the notice with a report endorsed thereon or annexed thereto stating that a copy has been so affixed, the circumstances under which it was done so and the name of the person, if any, by whom presence the copy was affixed.

(4) If a notice sub-section (1) of section 54 and an order issued under sub-section (3) of section 54 cannot be served in the manner provided in sub-rule (1), the Chief Executive Officer may, if he thinks

fit, direct that such notice shall also be published in at least one newspaper having circulation in the area and he may also proclaim the contents of any notice or order in the locality by beat of drum.

Section 54(4)

58. Holding of inquiries and passed of order- (1) Where any person on whom a notice under this Act has been served, desires to be heard through his representative, he shall authorize such representative in writing.

(2) The Chief Executive Officer shall record the summary of the evidence tendered before him and pass order as provided in sub-section (1) of section 54 in FormWB-XIX. The summary of such evidence and any relevant document file before him shall form part of the record of the proceedings before the Tribunal.

(3) If the waqf property is not vacated within 15 days of the receipt of the notice in Form ...WB-XIX, the Chief Executive Officer may make application before the Tribunal for grant of order of eviction for removing such encroachment and deliver possession of the Waqf property to the Board or the Mutawalli.

(4) The Tribunal, after giving an opportunity of being heard, to the person against whom application has been made, pass order of eviction and cause a copy of the order of eviction to the on the waqf property.

(5) If any person fails to comply with the order of eviction passed by the Tribunal within forty five days of the service of the order, the Chief Executive Officer shall refer the matter to the Executive magistrate of the area in Form ...WB XX

Section 55

59. Manner of taking possession of waqf premises - (1) On receipt of application in Form WB XX from Chief Executive Officer under section 55, the Executive Magistrate of the area shall pass an order in FormWB XXI within one month of the receipt of application.

(2) In case the encroachment is not removed within fifteen days of the order, the area Magistrate shall proceed to remove the encroachment within a month of the expiry of the notice period.

(3) If any obstruction is offered, or in the opinion of the Executive Magistrate is likely to be offered-

(a) to the removal of encroachment taking possession of any waqf property; or

(b) to the sealing or erection of work of the waqf premises, under the Act, the Executive Magistrate may take such police assistance as may be necessary.

(4) Where any waqf premises of which possession is to be taken under the Act is found locked, the Executive Magistrate may either seal the premises or in the presence of two witnesses break open the lock or open or cause to be opened any door, gate or other barrier and enter the premises:

Provided that –

(a) no entry shall be made into or possession taken of a waqf property before sunrise or after sunset;

(b) where any waqf premises are forced open, an inventory of the articles found in the premises shall be taken in the possession of two witnesses.

(5) The sealing under sub-rule(4) shall be made in the following manner namely:-

(a) affixing the office seal on outer door or any erection or work of any waqf premises after all other outlets and inlets to the erection or work of waqf premises have been properly bolted, locked or encircled with rope, wire or wire mesh;

(b) where doors and windows have not been fixed to any erection or work of waqf premises or where the erection or work on waqf premises is of such a nature that it cannot be encircled with rope, wire or wire mesh, in that case such erection or work of waqf premises shall be covered by wooden planks, iron or cement sheets and office seal affixed a manner that no person can enter into or upon the erection or work of waqf premises without tampering with the office seal.

(c) where any erection or work or any waqf premises is found locked the lock may be broken or any door, gate or any other barrier caused to be opened in the presence of witnesses and an inventory of the articles found in the premises shall be prepared in the present of the two witnesses before affixing the seal in the manner aforesaid.

(6) Whosoever, being a public servant, fails in his lawful duty to prevent or remove encroachment shall, on conviction be punishable with fine which may extend to fifteen thousand rupees for each of such offence.

60. Assessment of damages- (1) Recoverable from judgment debtor be assessed.

(2) In assessing damaged of unauthorized use and encroachment of any waqf premises, the Tribunal shall take into consideration the following matter, namely:

- (a) the purpose and the period for which the waqf premises remained in unauthorized use;
- (b) the nature, size and standard or the accommodation available in such premises;
- (c) the rent that would have been realized if the premises had been let out; on rent for the period of encroachment to any other person;
- (d) any damage done to the premises during the period of encroachment;
- (e) any other matter relevant for the purpose of assessing the damages.

Section 64(3)

61. Manner of holding inquiry by the Board- The Board may authorize the Chief Executive Officer or any other officer to hold inquiry under sub-section (3) of section 64. The procedure followed for such inquiry shall be the same as provided in rule 52.

Section 67(3)

62. Manner of publication of order- A copy of the order passed by the Board under sub-section (2) of section 67 shall be supplied free of cost to the person adversely affected thereby and one copy of the same shall be published in one Urdu, Hindi and English/local languages newspaper having circulation in the area and one such publication the order shall be binding on all persons having any interest in the waqf.

Section 69(1) and (3)

63. Manner of consultation with the mutawalli and manner of publication of order- (1) Any scheme for the proper administration of the waqf under subsection (1) of Section 69 shall be framed by the mutawalli, managing committee or the applicant giving details as follows:-

- (a) name of the waqf;
- (b) address;

- (c) whether under the management of the mutawalli/managing committee or under the direct management of the Board;
 - (d) details of the proposal;
 - (e) expenditure involved;
 - (f) income to be generated.
- (2) The proposal shall be considered by the Board where the matter shall be put up by the mutawalli/managing committee or the applicant. The Board shall take the decision and shall communicate the same within fifteen days.
- (3) The decision of the Board shall be published in the Urdu/Punjabi newspaper having circulation in the area.

Section 71(1)(a)

64. Manner of holding inquiry- Inquiry under clause (a) of sub-section (1) of section 71 shall be held in the same manner as prescribed in rule 52.

CHAPTER-IX PROCEEDINGS IN TRIBUNAL

Section 83

65. Appointment of Tribunal- (1) The Tribunal shall be appointed by the Government.

(2) The Government may appoint as many as Additional Tribunals depending on the pendency of cases, and distance from waqf properties.

66. Qualification and mode of selection of a member of Tribunal, having knowledge of Muslim law and jurisprudence-

(1) Present, Chairman, Imarat-E-Sharia, by designation, in case appointment of Ex-Chairman, Imarat-E-Sharia then by name.

(2) Mufti, Punjab appointed by the Punjab Government, by designation, in case appointment of Ex-Mufti, Punjab then by name.

(3) Present, Chairman, Punjab Wakf Board, by designation, in case appointment of Ex-Chairman, Punjab Wakf Board then by name.

There will be no age bar in case of appointment of third member of the Tribunal.

67. Tenure of Tribunal- The deputation of chairman and administrative member of the Tribunal shall be for a period of five years or which may be extended for a further period of two years at the direction of Government.

68. Age of superannuation of Tribunal- The age of superannuation of the Tribunal shall be the last day of the month in which he attains the age of sixty two years.

69. Manner for filing Application before the Tribunal- (1) An Application under Section 83 of the Act to the member of Tribunal shall be made in Form.....WB-XXIII.

(2) An application to the Tribunal shall be signed by the Applicant, and shall be presented by him in person or by his authorized representative to the Registrar or to an officer authorized by him in this behalf.

(3) The application filed under sub-rule (1) shall be accompanied by documents upon which the petitioner seeks to rely.

(4) The applicant shall file along with the application as many as additional copies of the application and documents as the number of the respondents.

(5) The Tribunal may, in its discretion, accept an application for hearing under sub-rule (1), which is not accompanied by all or any of the documents referred to above.

70. Contents of the application- (1) Every application shall set forth a clear statement of facts concisely and under distinct and separate heads, of application on which the application has been filed and such ground of facts of the application and relief claimed therein, shall be numbered consecutively.

(2) The application for interim relief shall set forth clearly and precisely any loss being caused to the applicant which cannot be adequately compensated in terms of money.

(3) The filing of all applications before the Tribunal shall be subject to compliance of mandatory provision of section 89.

(4) 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 application summarily.

71. Procedure to be followed by the Tribunal- (1) The Registrar or an officer authorized by him in this behalf shall endorse on every applicant, the date on which it was presented and fix the date for appearance before the Tribunal and shall sign the endorsement in token thereof.

(2) Every application shall be registered or numbered by the Registrar or the officer authorized by him in his behalf in a register to be kept for this purpose.

(3) The Tribunal shall maintain such of the registers as prescribed for use in civil courts as may be necessary.

(4) A copy of the memorandum of application shall be served on the other party prior to filing the same before the Tribunal:

Provided that in cases of extreme urgency, the Tribunal may, on an application if considers expedient so to do, dispense with the service of the copy of the applicant on the other party.

(5) Written statement to the application preferred before the Tribunal may not be entertained after sixty days have elapsed from the date of filing the application:

Provided that if the Tribunal is satisfied that the respondent was prevented by sufficient cause from filing the written statement within the said period of sixty days, it may entertain the written statement within a further period of thirty days, but not thereafter.

(6) Replication to the written statement preferred before the Tribunal may not be entertained after sixty days have elapsed from the date of filing the written statement.

Provided that if the Tribunal is satisfied that the applicant was prevented by sufficient cause from filing the replication within the said period of sixty days, it may entertain the replication within a further period of thirty days, but not thereafter.

(7) Maximum three applications each by the applicant and the respondent shall be allowed for adjournments on any ground and non thereafter.

(8) In case of division, between the members of the Tribunal decision of the majority of the members of the Tribunal shall prevail.

(9) Final hearing of any matter shall take place before the full Tribunal Matters other than final hearing may be entertained by a single member or two members in the absence of the third member.

72. Powers to dismiss applicant without sending notice to the respondent- The Tribunal, after considering all aspects of the application and after hearing the applicant or his authorized representative may dismiss application, without sending notice to the respondent.

73. Date of hearing of application, etc. – Unless the Tribunal dismisses the application, under rule 73, it shall notify the parties the date and place of hearing of the applicant, etc.

74. Proceedings to be open to public- The proceedings before the Tribunal shall be open to the Public:

Provided that the Tribunal may, if it thinks fit, order at any stage of the proceedings that the public generally or any person in particular shall not have access to remain in the room of the Tribunal.

75. Order of Tribunal, - (1) The Tribunal shall decide the Application within the period of one year from the date of filing.

(2) Every order, of the Tribunal shall be in writing and shall be signed and dated under its seal.

76. Supply of copies of the order to parties- Every order of the Tribunal dismissing or allowing the application, shall be communicated to the parties or their authorized representatives free of cost.

77. Orders and directions in certain cases- The Tribunal may, notwithstanding any of the foregoing provisions, give such orders to given such directions as may be necessary or expedient to secure the ends of justice.

78. Language of the Tribunal - The language of the Tribunal shall be English:

Provided that the parties to a proceedings before the Tribunal, may file documents/proceedings drawn up in Urdu/Hindi/Punjabi if they so desire:

Provided further, that every such document/proceedings in Urdu/Punjabi/Hindi language shall be accompanied by its true translation into English.

79. Copying fee- (1) Copying fee shall be charged at the rate of fifty rupees for the first hundred words or fraction thereof, and twenty five rupees for every additional one hundred words or fraction thereof.

(2) Except in cases where copies are supplied free under the rules or instructions for the time being in force, the scale of the fee to be charged for the supply of copies urgently shall be twice the rate specified in sub-rule (1).

(3) Copying fee shall be payable in case in advance.

(4) No fee shall be paid by the Board or its authorized representative, with respect to applications, written statements, replies, documents connected with the matter in question before the Tribunal or order passed by the Tribunal.

(5) The amount calculated according to the scale prescribe in sub-rule (1) shall be retained by the Registrar as copying fee and the surplus amount, if any, deposited by the party shall be refunded to him at the time of supplying the copy:

Provided that the party shall, if the amount deposited by him is not sufficient to cover the copying fee, pay the deficit before taking delivery of the copy.

(6) If the Registrar feels any doubt about the propriety of granting copy of any document, he shall place the application before the Tribunal for orders.

(7) Persons who are not parties to any application, may be supplied with the copy of an order or document only under the order of the Tribunal and on payment of the copying fee.

(8) All copies shall be certified by the Registrar.

80. Seal of the Tribunal- The official seal of the Tribunal shall be such as the Government may specify.

81. Code of Civil Procedure and the Punjab Haryana High Court Rules to be generally followed- In deciding any question relating to the procedure not specially provided by the Act or these rules, the Tribunal shall, as far as possible, be guided by the provisions contained in the Code of Civil Procedure, 1908 and the Punjab Haryana High Court Rules.

CHAPTER X

MISCELLANEOUS

Section 98

82. Board to submit Annual Report to the Government: (1) The Government shall, as soon as after 1st day of July in every year, cause the Annual Report of the Board to be prepared in Form WB-XXIV.

(2) The Board shall submit its Annual Report to the Government by the end of July every year. The Government shall finalize the Annual Report of the Board by the end of September and lay before both the Houses of State Legislature in its next session.

Section 9(4)

83. Performance report of Board to be sent to Central Waqf Council- The Government or, as the case may be, the Board, shall furnish information to the Central Waqf Council on the performance of Board, particularly on their financial performance, survey, maintenance of waqf deeds, revenue record, encroachment of waqf properties, annual reports and audit reports in the manner and time as may be specified by the Central Waqf Council in FormWB-XXV.

84. Suits by or against the Board:- (1) The Chairperson or the Chief Executive Officer shall be competent to sanction.

(a) filing of suit, writ, appeal or cases connection with a waqf matters/property before the Tribunal/Court or any other authority.

(b) defending of suit, writ, appeal or cases connected with a waqf matter/ property before the tribunal/court or any other authority.

(2) The Chairperson or the Chief Executive Officer shall be competent to appoint an advocate to file or defend a suit, writ, appeal or any other proceedings connected with a waqf matter/property before the Tribunal/Court or any other authority.

(3) The Board or any other person, authorized by the Board shall be competent to sign suit, appeal, and affidavit or counter reply n the cases or proceedings connected with auqaf matter/property before the Tribunal/Court of any other authority.

(4) The Chairperson or Chief Executive Officer shall be competent to authorize any employee of the Board to tender evidence or produce record on behalf of the Board before the Tribunal/Court or any other authority.

85. Restriction on addition or alteration in waqf property- A Mutawalli or managing committee shall not make additions or alteration in the waqf property without the prior approval of the Board.

86. Restriction on creation or transfer of tenancy of waqf property- Any creation or transfer of tenancy of the waqf property by Mutawalli or managing committee without the prior approval of the Board shall be void and of no effect.

87. Relaxation of rules- The Government may, on recommendation of the Board, with 3/4th majority, relax any provision of the rules in the interest of waqf.

88. Repeal of savings – (1) The Punjab Waqf Rules 1954 are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Rules shall be deemed to have been taken under the corresponding provision of these Rules.

Provided that such repeal shall not affect the previous operation of the corresponding Rules, and subject thereto, anything done or any action taken in the exercise of any power conferred by or under the corresponding Rules shall be deemed to have been done or taken in the exercise of the powers conferred by or under these Rules as if these Rules were in force on the day on which such things were done or action was taken.

89. Power to remove difficulties- (1) If any difficulty arises in giving effect to the provisions of these rules, the State Government may, by order, not inconsistent with the provisions of these Rules, remove difficulty.

Provided that no such order shall be made after the expiry of the period of two years from the commencement of these Rules.

(2) However, order made under these Rules shall be laid, as soon as may be after it is made, before each House of Legislature.

Note:- The Punjab Waqf Board is following “Punjab Wakf Regulations, 1966” and “Punjab Waqf Rules, 1964 (with Amendment upto 1983”.

Now Rules and Regulations are being prepared in the light of Waqf Amendment, 2013 are under process.

