शेरशा सी शैख मोहिद्दीन
संयुक्त सचिव
Shersha C Shaik Mohiddin
Joint Secretary

सत्यमेव जयते

भारत सरकार
Government of India
अल्पसंख्यक कार्य मंत्रालय
Ministry of Minority Affairs

DO No.12/3/2023-Waqf

Dated: 24th Oct, 2025

Dear Madam/Sir,

Kindly refer to this Ministry's letter of even No. dated 19.04.2025 **(copy enclosed)** on interim direction of the Hon'ble Supreme Court in the WP (C) No. 269/2025 on the Waqf (Amendment) Act, 2025.

2. In this regard, it is stated that the Hon'ble Supreme Court has now delivered a judgment vide order dated **15.09.2025 (copy enclosed)**. Accordingly, all State Governments/UT Administrations are requested to ensure strict compliance with the judgment of the Hon'ble Court and to undertake action as per the provisions of the **Waqf (Amendment) Act, 2025.**

3. The following are the **only three limited** exceptions with respect to the concerned provisions under The Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995:

i. **Under section 3(r),** a person creating a waqf should be practicing Islam for at least five years. The Court has conditionally stayed its operation until the **respective State Governments** frame rules for providing a mechanism for determining the question as to whether a person has been practicing Islam for at lease five years or not.

ii. **Under section 3(C),** the Court observed that preventing a property from being treated as waqf even before inquiry is conducted prima facie arbitrary. While upholding Section 3C(1) and (2), it held that title disputes must be decided by judicial or quasi-judicial authorities, not by revenue officers. The Court stayed provisions allowing corrections in records and to balance equities, it directed that mutawallis must not create third-party rights until final adjudication.

iii. **Under Section 23**, concerning appointment of the Chief Executive Officer (CEO) of Waqf Boards, the Court directed that, as far as possible, the CEO should be from the Muslim community.

4. Further, the brief of the order dated **15.09.2025** passed by the Hon'ble Supreme Court of India on the validity of other following amendments made under the Act, is as under: -

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i. The Supreme Court's order has reaffirmed the importance of the Waqf reforms brought in 2025. The Act remains fully operational. Waqf properties have been given strong legal protection against dispossession, and reforms such as digitization, transparency, and development will continue as planned.

ii. The Court's decision not to stay the law in its entirety reinforces the settled principle that Parliamentary legislation carries a presumption of constitutionality.

iii. The Court also upheld the deletion of the concept of "Waqf by User." However, the deletion of Section 3(r)(i) (Waqf by User) operates only prospectively from the date of the impugned Act and does not apply retrospectively. Hence, the petitioners' contention that existing waqf lands would be taken over by the Government prima facie holds no water.

iv. The Court also upheld Section 3D of the Act, noting that Section 5(6) of AMSAR permits citizens to continue with their customary religious practices even within protected monuments. The Court upheld Section 3D of the Amendment Act, recognizing that monuments protected under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and Ancient Monument Preservation Act, 1904 form a vital part of India's cultural heritage and must be safeguarded.

v. The Court upheld Section 3E of the act safeguarding the tribal lands in Fifth and Sixth Schedule of the Constitution from being declared as waqf property.

vi. The Court has reaffirmed the minority character of Waqf institutions while also upholding limited non-Muslim representation in the Waqf Boards and Central Waqf Council (CWC). Under the Amended Act, the CWC can have at most four non-Muslim members, including ex officio positions such as the Union Minister in charge of Waqf and the Joint Secretary concerned. Similarly, in State Waqf Boards, no more than three of the eleven members can be non-Muslims, including ex officio members.

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vii. The Court noted that since 1923, registration of waqfs has always been mandatory. Mutawallis who failed to comply for more than a century cannot now claim that their waqfs be recognized without registration. Even where no waqf deed exists, the law has long allowed registration based on available particulars. Therefore, the present requirement of submitting a deed with new applications—introduced to curb misuse—cannot be termed arbitrary. Registration is essential, and the legislature's decision that all new applications must be accompanied by a copy of the waqf deed is fully justified.

viii. The Court upheld Section 36(10) of the Amendment Act, which provides that applications or suits filed by non- registered waqfs after six months cannot claim the benefit of protections under the provisions of the Waqf Act provided the applicant specifies sufficient cause.

ix. The Court upheld the deletion of Section 104, thereby restricting the contribution to waqfs or creation of new waqfs by non-Muslims.

x. The Court upheld the deletion of Section 107, making the Limitation Act, 1963 applicable to waqf disputes.

xi. The Court upheld the deletion of Section 108 concerning evacuee properties, since the Evacuee Property Act, 1950 is no longer in existence.

xii. The Court upheld Section 108A of the Amendment Act, which removes the overriding effect of the Waqf Act over other laws.

xiii. The Government welcomes the Court's observation that reforms such as digitization, transparency, welfare delivery, and development of properties can and should continue. These measures are essential for ensuring that waqf income is used effectively for education, health, and upliftment of the community.

xiv. Overall, the order provides **clarity and reassurance**: the reforms introduced by the Government remain intact.

xv. The Ministry will **fully comply with the Court's directions** and continue to work closely with State Waqf Boards and the Central Waqf Council to implement reforms in a **transparent, participatory, and constitutionally compliant manner.**

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xvi. The judgment is a step forward in ensuring that **Waqf assets are protected, developed, and utilized** for the welfare of the community and the nation, in line with the objectives of the 2025 reforms.

xvii. The Supreme Court has observed stricter provisions relating to mutawallis, noting that in several cases those entrusted with the administration of waqf properties have been found unfit, and by their conduct have brought disrepute not only upon the endowment but also upon the community at large. The Court observed that there is a broad consensus on the need to curb incompetent and unscrupulous mutawallis so as to prevent waste and mismanagement, and to ensure that waqf endowments are applied strictly for the purposes for which they were originally dedicated.

5. It is also requested that as per the consolidated status on progress made by the respective waqf boards in uploading the details of existing auqaf on the UMEED Central Portal-2025, progress is yet to get momentum. In this regard, it is reiterated that all existing Waqf property details have to be uploaded on the portal within six months from the date of launch of UMEED Central Portal-2025, i.e., 06.06.2025. It is further clarified that the uploading of waqf properties on the portal within six months means all such properties must be uploaded by completing whole process of Maker, Checker and Approver.

6. I would be grateful, if you kindly instruct concerned Officer of your State/UT Governments to take necessary action, as and when required, as per the direction of the Hon'ble Supreme Court. The key actionable points are as under:

i. **To make Rules prescribing the mechanism/procedure for deciding the condition of practicing Islam for five years as mentioned in para 3(i) above.**
ii. **To implement judicial oversight in respect of Section 3C, as per para 3(ii) above.**
iii. **To appoint Chief Executive Officer of State/UT Waqf Boards as mentioned in para 3(iii) above;**
iv. **To constitute Tribunal as per the amendment.**
v. **To constitute the State Waqf Boards in line with the Hon'ble Court order.**
vi. **To sensitize the Board and Tribunal that the limitation Act, 1963 applies to Waqf disputes and late claims beyond limitation period could not be entertain;**

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vii. **Strict implementation Section 3D and 3E protections must be ensure so that Tribal lands and ASI protected monuments are not declared as Waqf.**

viii. **State Waqf Boards must ensure uploading existing waqf details on the UMEED Central Portal- 2025 within the six months deadline.**

ix. **Boards must enforce the mandatory submission of Waqf Deed of all new registration of waqf;**

x. **The concept of waqf by user has been omitted. The deletion of Section 3(r)(i) operates only prospectively from the date of the impugned Act and does not apply retrospectively.**

7. Further, to facilitate implementation of the amended provisions of the Act, this ministry has already circulated the draft model rules to be framed under section 109 of the Act for your consideration. In addition, so far as point 6(i) is concerned, Ministry of Minority Affairs is in the process of framing draft Model Rules prescribing the mechanism/procedure for deciding whether a person has been practicing Islam for at least 5 years or not. These model rules will be circulated separately.

8. I would be grateful if this ministry is kept informed of the action as desired above is taken.

With regards

Yours sincerely,

Encl: As above

(Shersha C Shaik Mohiddin)

To,

Chief Secretaires, all State/UT Governments

Copy for necessary action to:

(i) Principal Secretaries/ Secretaires, Minority Welfare Department, All State/UT Governments;
(ii) The CEO, State/UT Waqf Boards
(iii) The Secretary, Central Waqf Council