

AS

INTRODUCED IN LOK SABHA

Bill No. 154 of 2021

THE WAQF (AMENDMENT) BILL, 2021

By

SHRI SANJAY BHATIA, M.P.

A

BILL

further to amend the Waqf Act, 1995.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Waqf (Amendment) Act, 2021.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

Insertion of new
section 43A.

2. After section 43 of the Waqf Act, 1995, the following section shall be inserted, 43 of 1995.
namely:—

Act not to apply
in certain cases.

“43A. Notwithstanding anything contained in this Act and rules made thereunder *vide* notification no. G.S.R. 380(E) dated 3rd June, 2014 and G.S.R. 126(E) dated 18th February, 2020,—

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(i) a leaseholder in possession of a waqf property prior to the 3rd day of June, 2014 shall not be subject to the application of the provisions incorporated *vide* the Waqf (Amendment) Act, 2013 in the following cases:—

27 of 2013.

(a) where construction on such waqf property had been carried out before the date of commencement of the erstwhile the Waqf Act, 1954, either by the person himself in possession of such property or by his successor through own capital;

29 of 1954. 10

(b) where construction in such property had been carried by leaseholder or his ancestor through own capital after obtaining consent from the Punjab Waqf Board or the Haryana Waqf Board, as the case may be, and

(c) where leaseholder acquired such property by transfer in his name after paying requisite compensation to the original leaseholder and consent of the concerned Waqf Board.

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(ii) rent on such leased property shall be charged at the same rate as was applicable prior to the date of coming into force of the Waqf (Amendment) Act, 2013;

(iii) the transfer of such leased property shall be made:—

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(a) in the case of death of a leaseholder, in the name of his spouse, sons or daughters in such manner as may be prescribed; and

(b) by the original leaseholder to the new leaseholder on payment of an amount equivalent to three months of the rent as fees on the existing terms and conditions for waqf property on lease.”.

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STATEMENT OF OBJECTS AND REASONS

The Waqf (Amendment) Act, 2013 was intended to address encroachments on waqf properties amongst other things. However, aforesaid amendment and the Waqf Properties Lease Rules, 2014 framed thereunder were not justifiable on the properties recorded on lease before 3 June, 2014 *i.e.* date of commencement of notification, because leaseholders have been occupying such properties for the past ten to sixty years.

The Custodian *i.e.* Punjab Waqf Board has only allocated land for such properties, but construction thereof has been undertaken by the leaseholders by incurring personal capital expenditure and after obtaining No Objection Certificate from the Board and developed these as houses, shops and factories and transformed such vacant lands into urban and township areas and made arrangements for their livelihood and accommodation.

Therefore, the urgent need is to ensure that the provisions of the Waqf (Amendment) Act, 2013 and the Waqf Properties Lease Rules, 2014 made thereunder shall not be applicable to properties allocated prior to 3 June, 2014.

Besides this, the concerned department while framing the rules has not evaluated the old methodology, as applicable on old properties and under which property was allotted to previous leaseholders. There is no provision regarding such properties either in newly framed rules or amended rules. The Board and the authorities forcefully tried to impose the new rules upon the leaseholders of older properties and in response to which the affected leaseholders organized themselves as a union and demonstrate against the Government and the Board.

In order to solve this problem, the Central Government constituted Central Waqf Committee in March, 2018 under the Chairmanship of Hon'ble retired Chief Justice Zakiullah Khan and upon the recommendation thereof the Central Government issued Waqf Properties Lease (Amendment) Rules on 18 February, 2020 which instead of solving the issue made it more complicated. The amended rules, instead of rehabilitating the leaseholders, started inflicting adverse impact upon them. After notification of the rules, the Board tried to enforce it forcefully owing to this the leaseholders became furious and the unions intensified their demonstrations following which the Board in Haryana has remained almost non-functional for the last six years.

The Board is facing financial losses and due to lack of sufficient funds the Board was compelled to take loan from the Bank to pay salaries to its employees on time and to manage day-to-day office expenditures. Thus, the leaseholders along with employees and family members dependent on them are suffering from financial losses and mental agony. Considering these difficulties, it became expedient to bring amendment in the parent Act so that this problem may be tackled.

The Bill, therefore, seeks to amend the Waqf Act, 1995 with a view to provide that the provisions of the Waqf Act, 1995 incorporated *vide* the Waqf (Amendment) Act, 2013 (No. 27 of 2013) and the Waqf Properties Lease Rules, 2014 shall not apply to the leaseholders who were already in possession of the waqf properties prior to 3 June, 2014.

Hence this Bill.

NEW DELHI;
November 18, 2021.

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(Shri Sanjay Bhatia, M.P.)

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