

Delhi Wakf Rules, 1997

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Delhi Wakf Rules, 1997

CHAPTER 1 PRELIMINARY

1. Short title and commencement :-

- (1) these rules may be called the Delhi Wakf Rules, 1997

(2) They shall come into force from the date¹ of their publication in the Delhi Gazette.

2. Definitions :-

(1) In these rules, unless the context otherwise requires,

(a) "Act" means the Wakf Act, 1995 (Central Act 43 of 1995);

(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 Delhi Wakf 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 Delhi Wakf 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) "Delhi" means the National Capital Territory of Delhi;

(h) "election" means an election to fill a vacancy in the office of the members of the Board, under subclauses (i), (ii), (iii) and (iv) of clause (b) of sub-section (1) of section 14;

(i) "Election Authority" means the Secretary (Revenue) to Government;

(j) "Elector" in relation to an 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;

(k) "electoral roll" means the separate list of members of each of the four electoral colleges specified in subclauses (i), (ii), (iii) and (iv) of clause (b) of subsection (1) of section 14;

(l) "encroachment" in relation to any Wakf premises means occupation by any person of the Wakf premises without authority for such occupation, and includes the continuance in occupation by any person of the Wakf 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;

(m) "Form" means a form appended to these rules;

- (n) "Government" means the Lieutenant Governor of the National Capital Territory of Delhi;
- (o) "Legal practitioner" shall have the same meaning as is assigned to it in the Advocates Act, 1961 (25 of 1961);
- (p) "Lieutenant Governor" means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 of the Constitution;
- (q) "Premises" Means any land or any building or part of building and includes
- (I) the garden and grounds, if any, appertaining to such building or part of a building
- (ii) Any fittings affixed to such building or part of the building for the more beneficial enjoyment thereof; and"
- (iii) dargah, graven graveyard/ khaqah, maqbara, mosque, tomb and the courtyard appurtenant thereto;
- (r) "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
- (s) "Returning Officer" means any 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;
- (t) "Section; means the section of the Act;
- (u) "Tribunal" means the Tribunal constituted under subsection (1) of section 83;
- (v) Wakf premises means
- (i) any premises dedicated by a person professing Islam orally or by an instrument in writing and used for any purpose recognized by Muslim law for religious, pious or charitable purposes;
- (ii) Premises notified as Wakf property in the official Gazette; or
- (iii) Premises registered as Wakf in the Registration record maintained by the Board; or
- (iv) Premises treated as Wakf premises by user;
- (w) "wakf property" means wakf premises as defined in clause (u) of this sub-rule and shall include movable wakf 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 4(1)

CHAPTER 2 SURVEY OF WAKFS, ETC

3. Appointment of Survey Commissioner etc :-

The Government may appoint a Muslim officer not below the rank of Deputy Secretary to Government as Survey Commissioner and a Gazetted officer as Additional or Assistant Survey Commissioner, Section 4(3) (f)

4. Particulars which the report of Survey Commissioner may contain :-

The report to be submitted by the Survey Commissioner to the Government under subsection (3) of section 4 shall be in Form DWB-I.

Section 4(4)

5. Powers of the Survey Commissioner while making enquiries :-

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:

(1) Provided that no proceedings against the Board shall be instituted until the expiry of two months next notice in writing has been delivered in the office of the Board stating the cause of action, description and place of the petitioner or the applicant and the relief claimed.

Section 5 (2)

6. Particulars which a list of wakf published may contain :-

The list of wakf published under sub-section (2) of section 5 shall be in Form DWB-II.

7. Recovery of cost of survey from Mutawallis :-

(1) the Survey Commissioner shall inform the Board of the amount payable by each wakf/ mutawalli as a result of the assessment made by him under sub-section (1) of section 8, and the Board shall thereupon recover from each such wakf/mutawalli the amount so assessed by the Survey Commissioner. The Board shall deposit the amount so recovered in the Government Treasury under the appropriate head of account and send the treasury challans to the Government.

(2) If any mutawalli fails to pay any amount demanded by the Board under sub-rule (1), the Board shall report the matter to the Government for issuance of necessary certificate as provided under sub-section (3) of section 8.

(3) The Government shall issue such certificate within fifteen days of the receipt of such report from the Board.

Section 14

CHAPTER 3 ELECTION OF MEMBERS OF THE BOARD

8. Administrative machinery for the conduct of elections, powers and functions :-

(1) The Secretary (Revenue) to 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 Joint Secretary (Revenue) to 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 a Gazetted officer of the Government.

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

Provided that the Assistant Returning officer shall be an officer of the Government.

(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 from performing the said functions.

(6) Subject to the 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 prescribe the form of notice, nomination, letter of intimation, declaration paper, ballot paper, ballot paper cover and the envelope for any 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 cases of doubt, the validity or invalidity of each ballot paper or 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 nominations;

(iii) the date of scrutiny of nomination and publication of list of candidates validity nominated;

(iv) the last date and hour for withdrawal of candidature;

(v) the date of publication of the final list;

(vi) the date and hour for the poll;

(vii) the date and hour of scrutiny and counting of votes.

9. 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) and (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 10 shall form the Electoral College for that category and the 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) For category under section 14(I) (b) (i), from the Secretary General, Lok Sabha/Rajya Sabha.

(b) For category under section 14(I) (b) (ii), from the Secretary, Delhi Legislative Assembly.

(c) For category under section 14(I) (b) (iii), from the Secretary, Bar Council of Delhi.

(d) For category 14(I) (b) (iv), from the Chief Executive Officer.

10. Election by Mutawallis :-

For the purpose of preparing the electoral roll under clause (d) of sub-rule (2) of rule 9 which shall constitute the electoral college, the Chief Executive Officers shall give one weeks 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 wakf institution in case where a wakf institution is having more than one mutawalli; and

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

Provided that if the wakf institution fails to so select and communicate to the Chief Executive Officer the senior mutawalli in the case of a wakf institution having more than one Mutawallis and the President of the managing committee where a wakf 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 and have paid annual contribution payable to the Board under section 72 upto the preceding year.

11. Displaying of lists :-

The lists obtained under rule 9 above, shall be displayed on the notice board of the Election Authority and in the office of the Board, not less than seven days before the date notified for election under sub-rule (2) of rule 13, and shall be notified in one Urdu, Hindi and English language newspapers having circulation in Delhi.

12. Filing of objections :-

(1) Any person aggrieved by such publication may file the objection petition before the Election Authority within 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 light 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 13 and such electoral roll shall be final and conclusive list of electors for election.

13. Public notice of intended election :-

(1) After the commencement of the Act, an ordinary election for the

constitution of the Board under sub-section (2) of section 14 shall be conducted to elect the members in categories as provided in sub-clauses (i) to (iv) under clause (b) of subsection (1) of section 14, and on the expiry; of the term of the Board, or on its super session or dissolution under section 99, for filling up of any casual 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 DWB-III published in the Delhi Gazette, call upon on such date or 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 for withdrawal of candidature, the place and date or dates on which and the time during which the poll 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 the Board in Form DWB-IV in Urdu, Hindi and English languages newspapers having circulation in Delhi.

14. Special Election Programmed :-

Notwithstanding anything contained in these rules, where the election process is interrupted or the election programmed has to be altered on account of the orders of any court of law or for any other valid reason, to be recorded in writing it shall be competent for the Election Authority either generally or in respect of specified category/categories of members to alter the election programmed notified under sub-rule (2) of rule 13 and renotify the election programmed as it deems fit in the circumstances of the case.

Provided that where the election programmed is renotified under this rule commencing from the making of nominations, the nominations already made shall be disregarded.

15. Nomination of candidates :-

(1) Any person(s) may be nominated as a candidate to fill the office of the member/members of the Board if he/they is/are qualified to be chosen to fill the seat(s) under the provisions of the Act. Every nomination paper shall be in Form DWB-V. This shall be presented

on or before the appointed 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 personally authorized by him in this behalf. The candidate shall sign 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.

16. Presentation of nomination paper and requirements 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 Form DWB-IV. 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, 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.

17. Publication of nominations received :-

Immediately after expiration of the time specified for receipt of the 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 language a list in Form DWB-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.

18. 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 17. The Returning Officer may, however, admit such other persons as he thinks fit to assist him. The Returning Officer shall give such persons 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 to any nomination and may, either on such objection or on his own motion after such summary enquiry 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 registered in the electoral rolls;

(d) that the candidate has failed to comply with any of the provisions of rule 15; 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 his reasons for such rejection, in writing, 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 category 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 rejection 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 Form DWB-VIII.

19. Withdrawal of nominations :-

Any candidate may withdraw his nomination in writing in Form DWB-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 for withdrawal. The Returning Officer shall give a receipt for the same as prescribed in Form DWB-IX on being satisfied as to the genuineness of the notice of withdrawal and the identity of the person delivering it.

20. Publication of list of contesting candidates :-

(1) On the following day, after the withdrawal of the nominations, the Returning Officer shall prepare in Urdu, Hindi and English languages a list in Form DWB-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 shall contain the names of the candidates as described in their nomination paper in Urdu, Hindi and English languages duly arranged in English alphabetical order.

21. Declaration of result of uncontested candidate/candidates :-

(1) If the number of contesting candidate/candidates is equal or less than the number of vacancy/vacancies in a particular category, the Returning Officer shall forthwith declare such candidate/candidates as duly elected in Form DWB-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.

22. Death of candidate before poll :-

If a contesting candidate dies and a report of his death are 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 respect 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.

23. 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 or other public servant 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.

24. Right of 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 rearranged 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 the electors entitled to vote and such other papers and articles necessary for electors to 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.

25. Form of Ballot Paper :-

(1) Every ballot paper shall contain serial number of list of contesting candidates in Urdu, Hindi and English languages 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.

26. 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 officer for record.

27. Maintenance of secrecy of voting by electors and voting procedure :-

(1) Every elector to whom a ballot paper has been issued under rule 26 shall maintain secrecy of voting within the polling station and for that purpose observe the voting procedure hereinafter lay down.

(2) The elector on receiving the ballot paper or papers as the case may be, shall forth with-

(a) proceed to the voting compartment;

(b) record his first, second, third and so on preference by writing numerical 1, 2 and 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.

28. 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.

29. Challenging of identity :-

(1) Any candidate may challenge the identity of a person claiming to be a particular elector by first depositing, a sum of one hundred rupees in cash 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 impersonated 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 identity;

(b) put the person challenged any question necessary for the purpose of establishing his identity 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.

30. 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 of such ballot paper shall be marked as "Spoilt Cancelled" by the Returning Officer.

(2) If an elector, after obtaining a ballot paper decides not to use it, he shall return it to the Returning Officer, and the ballot paper

so returned and the counterfoil of such ballot paper shall be marked as "Returned Cancelled" by the Returning Officer.

(3) All ballot papers cancelled under sub-rules (1) and (2) shall be kept in a separate packet.

31. Opening of ballot boxes :-

The counting of Votes shall commence immediately after the poll at the same place where voting took place:

32. Counting of ballot papers :-

The Returning Officer immediately after the poll at the same place shall-

(i) open the ballot box, count the ballot papers and ensure that the number of ballot papers found in the box is the same as the number of ballot papers issued as per the office copy of the electoral roll;

(ii) separate the ballot papers which he deems valid from those which he rejects endorsing on each of the latter the word "Rejected" and the ground of rejection.

33. Invalidity of ballot papers :-

Ballot paper shall be invalid in any one or more of the following cases:-

(i) same preference is recorded against more than one name;

(ii) numerical preference is so placed as to render it doubtful to which candidate it is intended to apply;

(iii) the numerical or such other figures are written opposite to the names in such a manner that it is not possible to ascertain the intended preference of the elector;

(iv) there is any mark or writing by which the elector can be identified!

34. Counting of Votes :-

(1) After rejecting the ballot papers which are invalid, the Returning Officer shall-

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

(b) after sue counting, the candidate having obtained maximum

number of first preference votes shall be declared if the number of vacancy is one and in case of vacancies being two, candidates having obtained maximum number of 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 vote 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 candidates shall be declared elected.

35. Provision of recount :-

(1) Any candidate or in his absence, his authorized agent, may, at any time during the counting of the votes, either before or after the completion of the counting of votes, request the Returning Officer to reexamine and re-count the votes of all or any candidate(s) 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 once 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.

36. 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 DWB-XI as may be appropriate, and send 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 the packets referred to in clause (a);

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

37. Grant of certificate of election to returned candidate :-

As soon as maybe, after a candidate has been declared elected, the

Returning Officer shall grant to such candidate a certificate of election in Form DWB-XII and obtain from the candidate an acknowledgment of its receipt duly signed by him.

38. Material to submit 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 32;
- (b) office copy of the electoral roll and counterfoils of ballot papers issued with signatures 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 identity of any elector and the decision of Returning Officer thereon;
- (d) office copy of certificate of election issued to elected candidates and acknowledgments receipts of the same; and
- (e) any other relevant paper(s).

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

39. Making of necessary nominations :-

Government shall make necessary nominations for filling up of the vacancies under categories (c), (d) and (e) of subsection (1) of section 14.

40. Appointment of the members of the Board :-

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) of section 14, 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 weeks notice. The notification shall be published in the Delhi Gazette.

41. Filling-up of a casual vacancy :-

If the election has been conducted for any casual

vacancy/vacancies under section 14 on receipt of the result of the election from the Returning Officer, the Government shall issue notification in the Delhi Gazette under sub-section (9) of section 14 appointing such person(s) as member(s) of the Board.

42. 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 40. The notification shall state that at such meeting the Chairperson shall be

(2) The meeting shall be presided over by the Secretary (Revenue) to the government who shall conduct the proceedings for the election of the Chairperson.

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

(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) (i) Where; a dispute arises as to the validity of election of the Chairperson or any member of the Board, any person interested may within fifteen days of the declaration of the result of the election file a petition before the Tribunal for decision, and the decision of the Tribunal thereon shall be final.

(ii) 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

(7) The election petition shall be accompanied by a courtfee of one hundred rupees.

(8) Every petition referred to in sub-rule (6) shall be disposed of by the Tribunal in accordance with the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) as if while trying a suit.

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

Section 23(2)

CHAPTER 4 CHIEF EXECUTIVE OFFICER OF THE BOARD

43. 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 (2) of section 23 shall be made by the Government in consultation with the board-

- (a) by transfer on deputation of a Government servant; or
- (b) by appointment of a Government servant; or
- (c) by open recruitment after advertising the post by the Board if one Urdu, Hindi and English language newspapers having circulation in Delhi.

(2) To be eligible for appointment to the post of Chief Executive Officer, a

- (a) must be a citizen of India;
- (b) must be a Muslim;
- (c) must hold a Bachelors degree of any of the recognized Indian Universities or hold any diploma or degree of any foreign university which in the opinion of the Government is equivalent to, or higher than, the aforesaid Bachelors degree;
- (d) must have the knowledge of Urdu.

(3) Where the Chief Executive Officer is appointed under clause (a) or clause (b).of sub-rule (1), he should not be below the rank of Deputy Secretary of the

(4) (a) The scale of pay for the post of the Chief Executive Officer and other allowances admissible shall be fixed by the Government, in consultation with the Board.

(b) If the person appointed as Chief Executive Officer is an officer in the Central Government, any Union Territory or a local body, he shall be allowed to draw pay in his own pay scale along with other allowances admissible to him in respective Government, Union Territory Administration or local body, as the case may be, plus deputation allowance as admissible under the Government rules. The period of deputation shall ordinarily be three years subject to extension upto five years by the Government in consultation with the Board for a period not exceeding one year at a time.

(c) If the person appointed as Chief Executive Officer is an officer who has retired from Government service, he shall draw pay if the sanctioned scale plus his pension in full, subject to the condition that the total of the pay and pension so drawn (including pension equivalent of any gratuity drawn by him) shall not exceed the pay at the time of retirement. The rules relating to Government employees lent on foreign service shall mutatis mutandis apply to

such officers.

(5) Where the Chief Executive Officer is appointed by open recruitment-

(a) he should not be below the age of 45 years;

(b) he shall, before entering upon his office, be required to produce a certificate of physical fitness-from the Medical Superintendent of the Government hospital;

(c) he shall be on probation for a period of one year from the date of his appointment and he may be confirmed on the recommendation of the Board.

(6) The Governments traveling allowance rules for the time being in force shall apply to the Chief Executive Officer.

(7) Periodical increments in the time scale of pay to the Chief Executive Officer shall be sanctioned By the Board.

(8) Leave rules applicable to the Government employees and the rules relating to casual leave applicable to the Board employees shall apply to Chief Executive Officer. Casual leave-shall be sanctioned by the Chairperson of the Board and leave other than casual leave by the Government.

(9) The date of retirement on superannuation of the holder of the post of Chief Executive Officer shall be the last day of the month on which he completes the age of 58 years.

Provided that the-Board may extend the date of superannuation beyond the age of 58 years and upto the age of 60 years.

Provided further that no such, extension shall be given for period of more than six months at a-time and no such extension shall be given after the age of 60

Provided also that the notice period can be reduced at the discretion of the Board.

(10) The following penalties may, for good and sufficient reasons, be imposed on the Chief Executive Officer by the Board or the Government, as the case may be, namely:-

(a) by the Board-

(i) censure;

(ii) withholding or stoppage of increment(s);

(b) by the Government-

(i) recovery from pay of the whole or part of any pecuniary loss caused to the Board or to any wakf by negligence or breach of orders;

(ii) reduction to lower stage in the time-scale of pay; (iii) compulsory retirement;

(iv) removal from service which shall not be a disqualification for

future employment;

(v) dismissal from service which shall ordinarily be a disqualification for future employment.

(11) In the case of penalties by the Board an appeal shall lie, within sixty days of the receipt of the order of punishment, to the Government and in respect of other penalties by the Government an appeal shall lie within sixty days to the Central Government. Before awarding any of the penalties mentioned above, the procedure prescribed in the Central Civil Services (Classification, Control and Appeal) Rules shall be followed.

(12) Service record and personal file in the form prescribed for Government servants shall be maintained for the Chief Executive Officer by the Chairperson.

(13) The Government-

(a) shall remove the Chief Executive Officer from office if at a special meeting of the Board called for the purpose a resolution for such removal has been passed by a majority of not less than 3/4 of the total number of members;

(b) may; remove the Chief Executive Officer from office at any time if it appears to the Government that he is incapable of performing the duties; of his office or has been guilty of neglect or misconduct in the discharge of such duties which renders his removal expedient.

44. Functions of the Chief Executive Officer :-

Subject to the provisions of the Act and the rules the Chief Executive Officer shall-

(a) discharge all the duties and exercise all the powers specifically imposed or conferred on the Chief Executive Officer by or under the

(b) attend the meetings of the Board and of the committee and may take part in the discussions purely 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 if required to do so by the person presiding thereon;

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

(e) initiate disciplinary action against all officers and employees of the Board or Wakf under the administrative control of the Board;

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

(g) such other functions as may be delegated by the Board.

45. Powers of Chief Executive Officer to inspect records registers, etc :-

(1) The Chief Executive Officer or any officer of the Board empowered by him in this behalf, may-

(a) call for any record, register or other document in the possession of or under the control of any wakf, registered with the Board or administered by the Board;

(b) require any such wakf to furnish any return, plan estimate, statement of accounts of wakf property administered by it;

(c) require any such wakf to furnish any information, or report on any matter connected with such wakf;

(d) require any such wakf to obtain the previous sanction of the Board before giving up a claim or closing down any institution administered by it which is a source of income; and

(e) have power to inspect any office or any record or other documents of such wakf or movable properties of such wakf or any work or institution or property under the control of the wakf.

(2) Every mutawalli of such wakf or any officer or employee of such wakf shall be bound to give facilities for exercising duties under clause (e) of sub rule (1).

(3) The Chief Executive Officer or any officer of the Board duly authorized by him in this behalf shall, subject to the payment of such fees, if any as, may be livable under any law for the time bearing in-force, be entitled at all reasonable time to inspect, in any public office, any records, registers or other documents relating to a wakf or movable or immovable properties which are wakf properties or are claimed to be wakf properties and it shall be the duty of the officer in charge of such public office to afford all facilities and assistance as may be necessary or reasonably required in regard to the inspection.

46. Conditions and restrictions subject to which the Chief Executive Officer or any other officer may inspect any public office records and registers :-

(1) Whenever the Chief Executive Officer or any other officer of the Board, duly authorized by him, wants to make inspection under section 29 he shall make an application in writing to the officer in charge of the office expressing his intention so to do.

(2) The officer in charge shall allow such inspection within seven days of the receipt of such application and shall intimate the fee

payable for such inspection, which shall be deposited by such officer in cash.

(3) After inspection, if a copy of any document is required, the same shall be issued, duly certified by the officer in charge on such fee as livable for the issue of such copies.

Section 30(1)

CHAPTER 5 INSPECTION OF BOARD'S RECORDS AND GRANTING OF COPIES OF RECORDS

47. Conditions for inspection and issuance of copy :-

(1) All applications for inspection of Boards record to the Chief Executive Officer shall be made in Form DWB-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 for scholarships 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 ten 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 ten rupees per hundred words or fraction thereof.

Provided that the application in Form DW-XIV is accompanied by the receipt

(4) Provided that the applicant shall have the right to appeal to the chairperson, against the order of the Chief Executive Officer.

(5) The appeal in such cases shall be accompanied by a receipt of the Board

48. Authentication of orders of the Board :-

(1) The Chairperson or the Chief Executive Officer shall authenticate the orders and decisions of the Board.

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

(3) All correspondence emanating from the Board shall be in the name of the Chairperson or the Chief Executive Officer and all correspondence with the Board shall be addressed to the Chairman

or the Chief Executive Officer.

Section 39(1)

CHAPTER 6 POWERS OF BOARD AND OF CHIEF EXECUTIVE OFFICER TO HOLD ENQUIRIES

49. The manner in which an enquiry may be held by the Chief Executive Officer :-

(1) Notice of an enquiry under sub-section (1) of section 39 shall be sent to the interested parties informing them the date, time and place fixed for holding the same, in the manner provided in rule 61.

(2) All persons who appear in response to the notice shall be heard on the time fixed for hearing and the enquiry 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 to apply for summoning witnesses or documents.

(4) The enquiry 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) The enquiry officer shall submit report to the Board within thirty days from the date on which the enquiry is concluded.

Section 44(1)

CHAPTER 7 BUDGET AND AUDIT OF ACCOUNTS OF WAKFS MANAGED BY MUTAWALLI OR MANAGING COMMITTEE

50. Time and manner for preparation of budget :-

(1) Every mutawalli or secretary of the committee managing the wakf having a gross annual income exceeding twenty five thousand rupees, shall submit a Budget to the Board showing its probable receipts and expenditure for the ensuing financial year in Form DWB-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) Every mutawalli of a wakf shall in every year prepare in Form DWB-XV a budget in respect of the financial year next ensuing

showing the estimated receipts and expenditure during that financial year and forward the same to the Board at least runty days before the beginning of the financial year.

(4) 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 wakf by the deed of wakf.

(5) 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 return it to the mutawalli concerned.

(6) Every mutawalli shall consider the suggestions and incorporate and modifications made by the Board in the budget and pass the budget before the beginning of the 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 wakf deed and such mutawalli shall forthwith 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 wakf unless such sum is included in the budget estimates sanctioned under section; 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 wakf, a supplemental or revised budget may be framed and got sanctioned.

Section 45(1)

51. Form in which and the time within which, a separate budget of wakf under the direct management of the board to be prepared :-

(1) The Chief Executive Officer shall prepare in Form DWB-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 wakf, under the direct management of the Board, showing 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 46 and for this purpose, reference therein to the mutawalli of the wakf shall be construed 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 wakf 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 proposal 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 the wakf 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 services undertaken by the Board on behalf of the wakf, a supplemental or revised budget may be framed and got sanctioned.

52. Interval at which accounts of wakf may be audited :-

(1) The accounts of the wakf under the management of mutawalli/managing committee shall be submitted by such mutawalli/managing committee for audit within three months of the close of the financial year.

(2) 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 in writing.

53. Annual contribution payable by the mutawalli of wakf to the Board determination thereof :-

(1) The mutawalli of every wakf, the net annual income of which is not less than five thousand rupees shall pay annually to the Board seven per cent of such annual income as annual contribution.

(2) The mutawalli of a wakf 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 annual income of the wakf 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 satisfies the correctness of the return he may fix the annual contribution in accordance with: such return. If no return is filed within time the Chief Executive Officer shall sue motto fix the annual contribution to be paid by the mutawalli.

(4) In case the Chief Executive Officer is of the opinion and the return submitted under sub-rule (1) is incorrect or false in any material particular, or the contents of such return do not comply with me provisions of the Act or the rules calling upon him to show cause within the time specified in the notice as why such assessment of the return shall not be revised.

(5) The Chief Executive Officer after considering the reply if any received from the mutawalli concerned may assess the net annual income of the wakf 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 the net annual income of the wakf

(6) 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 7 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.

(7) 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.

54. Circumstances and conditions subject to which Board may reduce or remit contributions :-

(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 its continuance in subsequent year is found necessary, the Board shall give fresh sanction.

(3) The board may oh application from a mutawalli by order sanction remission or reduction of the contribution to be paid by mutawalli in the following cases,

- (a) loss of money, stores of articles of the wakf not due to the negligence of the mutawalli or other servants of the wakf;
 - (b) loss of income due to failure of crops on account of drought or other unforeseen causes like flood
 - (c) paucity of funds due to the mismanagement of the previous
 - (d) paucity of funds due to non-recovery of loans, advances and debt;
 - (e) where the wakf supports an orphanage whose resources are insufficient for its due management; and
- (4) Before a reduction or remission or remission of contribution is sanctioned, the Board shall make a thorough investigation into the circumstances of each case and satisfy

Section 77

55. Payment of moneys into Wakf 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 Wakf Fund and to issue receipts for the same of the Board 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 amounts as the Board may specify in that behalf. Solvency of sureties shall be got verified by the Sub-Divisional 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 Wakf Fund. A 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 accounts subject to such conditions as the Board may think proper.
- (6) No money shall be withdrawn from the bank unless it is required for immediate payment for the purpose of the Board.
- (7) The appropriation of receipts to expenditure shall, as a rule is

avoided.

(8) Payments from the Wakf Fund shall be made by cash of cherub. Cherub shall not be issued for sums less than one 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 persons signing the

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

(12) An officer authorized to handle the moneys of the Wakf Fund shall be responsible for their custody and also for re-imbruing to the 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 the officer responsible for the proper custody of the amount, the Board may not insist on reimbursement of the amount of the loss by the officer concerned, but may write it 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, the 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 of any Act; or

(b) in fixed deposits for a period 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 to be 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 regulations.

The pages in the account books, registers, receipts, etc., shall be serially numbered and each page affixed with a seal of the Board. The number of pages that each book or register contains 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 Officer to ensure that the contributions, fees, Tents and other amounts due to the Board are promptly demanded, realized and credited to the Wakf 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 advice on all scheme of new expenditure for which its proposed to make a provision in the budget;

(d) he shall ensure that 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 objection 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 loans 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 account from the officers and review them. He shall offer his remarks on such review them. He shall offer his remarks on such account and place it before the Board;

- (k) he shall furnish any information statistics that may be called for by the Board on matters relating to budget, accounts 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 the absence of any provision 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

56. Budget of the Board :-

- (1) The Chief Executive Office shall in every year prepare in Form DWB 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 30th November.
- (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 have 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 auditor. In case no objection is received from the Government, 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 provided in these rules and copies thereof forwarded 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.

Section 51(2) and (4)

CHAPTER 8 TRANSFER OF WAKF PROPERTIES

57. Conditions and restrictions subject to which Board may transfer Wakf property :-

(1) An application for sanctioning transaction of gift sale, exchange or mortgage of immovable property shall be submitted by a mutawalli or managing committee to the Board or prepared by the Board on its own motion or on an application by any person in respect of the property under its direct management and shall contain the following particulars and such other particulars as the Board may consider necessary:-

- (a) nature of the proposed transaction;
- (b) correct description of the properties relating to the transaction with information regarding the survey number, extent and boundaries, ward number and door number also in the case of properties falling within the limits of Municipalities;
- (c) the revenue assessed on the properties relating to the proposed transaction by way of land revenue, cuss, quit-rent, ground rent, property tax, and the like;
- (d) any encumbrances to which the properties relating to the proposed transaction are subject;
- (e) if the proposal is for mortgage, the amount for which the properties are proposed to be mortgaged;
- (f) if the proposal is for sale; the probable price, as the case may be, for which the property is proposed to be sold;
- (g) if the proposal is for exchange, the details and value of the property to be exchanged with and reasons for exchange.

(2) The applicant shall file an affidavit explaining how the proposed transaction is beneficial to the wakf and how the proceeds are to be utilized.

(3) The Board shall on receipt of an application as is referred to in sub-rule (1) from the mutawalli or managing committee or on its own initiative in the case of properties of any wakf directly managed by it, publish in the Delhi Gazette a notice of the proposed transaction.

(4) A notice published under sub-rule (2) shall contain sufficient details of the transaction and shall specify a reasonable time, not being less than thirty days from the date of publication of the notice, within which objections or suggestions may be sent. A copy of the notice shall be affixed on the notice board of the office of the Board and at a conspicuous place where the property is situated. Such publication shall be deemed to be sufficient intimation to the persons having interest in the property forming the subject matter of the proposed transaction.

(5) All objections or suggestions received in respect of the proposed transaction shall be duly considered by the Board before passing order for sale by public auction; A copy of the order sanctioning gift/exchange or mortgage of any immovable property and the date of sale of immovable property by auction shall, in addition to being communicated to the mutawalli and persons having interest, if any, who appeared in the proceedings, be published in the manner laid down in sub-rule (3).

(6) The sale of immovable property by public auction shall not be enforceable unless approval given by two third members of the Board within two months from the date of auction. In case of refusal, reason thereof shall be recorded in writing.

Section 52(1)

58. Guidance subject to which the collector shall recover the property transferred in contravention of the provision of the Act :-

(1) Upon receiving a report from any person residing in the locality where the wakf property is situated or upon receiving information otherwise that a wakf property has been transferred in contravention of the provisions of section 51, the Board shall ascertain from the register of wakf, maintained under section 37, if the property alleged to have been transferred is wakf 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 shall then find out from the records of the Board if sanction of the Board for the said transfer had been applied for and obtained under section 51. If it appears that transfer of wakf property has been made without obtaining previous sanction of the Board, the Chief Executive Officer, after conducting an enquiry in the manner prescribed in rule 49 shall draw up a report specifying therein fully the wakf property, the details of the transfer deed executed in respect of the property, the name and full particulars of the person executing the deed 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 wakf and the result of the inquiry from the records of the Board regarding absence of sanction for the said 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 is 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) Requisition to Collector-The requisition to the Collector shall be drawn by the Chief Executive Officer in Form DWB-XVI and sent to the Collector of the respective district of Delhi through special messenger or by registered post acknowledgment due.

(3) Form to be adopted by the Collector on receipt of requisition-The order passed by the Collector under subsection (2) of section 52 of the Act shall be in Form DWBXVII.

(4) If the person against whom an order under subsection (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 defense and shall also give intimation of such appeal to the Board.

(5) (a) While obtaining possession of the property/properties, using such force as may be necessary, as provided in sub-section (5) of section 52, no person executing the Collectors orders, shall enter any dwelling house without giving forty-eight hours notice to the occupants of the dwelling house,

(b) No outer door of any dwelling house shall be broken open unless the occupants of such dwelling house refuse or in any way prevent access thereto.

(c) No person executing the Collectors order shall enter any dwelling house after sunset and before sun rise.

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

Section 54 (2)

59. Removal of encroachment of Wakf premises Form of notice :-

A notice under sub-section (1) of section 54 shall be in Form DWB-XVIII.

60. Manner of service of notices and order :-

(1) A notice issued under subsection (1) of section 54 or order issued under sub-section (3) of section 54, shall be served by delivering or tendering a copy of the notice or order, 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 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 Wakf premises.

(2) Where the copy of the notice or the order, as the case may be 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 acknowledgment of the service.

(3) in respect of a notice issued under sub-section (1) of section 54 or an order issued under sub-section (3) of section 54, where the person or the adult member of the family of such person refuses to sign the acknowledgement, or where such person cannot be found after using all due and reasonable diligence, or 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 or the order, as the case may be, 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 the ordinary residence or place of the business was identified

and in whose presence the copy was affixed.

(4) If a notice under sub-sector (1) of section 54 or an order issue under subsection (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 or order, as the case may be, shall also be published in at least one newspaper having circulation in Delhi and he may also proclaim the contents of any notice or order in the locality by beat of drum.

Section 54(3)

61. Holding of inquiries and passing 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 subsection (1) of section 54 in Form DWB-XIX. The summary of such evidence and any relevant document filed before him shall form part of the record of the proceedings.

Section 55

62. Manner of taking possession of Wakf premises :-

(1) On receipt of applications in Form DWB-XX from Chief Executive Officer under section 55, the Sub-Divisional Magistrate of the area shall pass an order in Form DWB-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 Sub-Divisional Magistrate shall proceed to remove the encroachment within a month of the expiry of the notice period.

(3) In case any obstruction is offered, or in the opinion of the Sub-Divisional Magistrate is likely to be offered-

(a) to the removal of encroachment taking possession of any wakf premises; or

(b) to the sealing of erection of work of the wakf premises, under the Act; the Sub-Divisional Magistrate may take such police assistance as may be necessary.

(4) Where any wakf premises of which possession is to be taken under the Act is found locked, the Sub-Divisional Magistrate may either seal the premises or in the presence of two witnesses break open the lock(s) 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 wakf premises before sunrise or after sunset;

(b) where any wakf premises are forced open, an inventory of the articles found in the premises shall be taken in the presence 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 wakf premises after all other outlets and inlets to the erection or work of wakf 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 wakf premises or where the erection or work on wakf 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 wakf premises shall be covered by wooden planks, iron or cement sheets and office seal affixed in a manner that no person can enter into or upon the erection or work of wakf premises without tampering with, the office seal;

(c) where any erection or work or any wakf 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 presence of the two witnesses before affixing the seal in the manner aforesaid.

63. Assessment of damages :-

In assessing damages for unauthorized use and encroachment of any wakf premises the Chief Executive Officer shall take into consideration the following matter, namely:

(a) the purpose and the period for which the wakf;

(b) the nature, size and standard of the accommodation available in

(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)

64. Manner of holding Enquiry by the Board :-

The Board may authorize the Chief Executive Officer or any other officer to hold enquiry under sub-section (3) of section 64. The procedure followed for such enquiry shall be the same as provided in rule 49.

Section 67(3)

65. 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 persons adversely affected thereby and one copy of the same shall be published in one Urdu, Hindi and English language newspaper having circulation in Delhi and or such publication the order shall be binding on all persons having any interest in the wakf.

Section 69(i) (3)

66. Manner of consultation with the Mutawalli and manner of publication of order :-

(1) Any scheme for the proper administration of the wakf 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 Wakf

(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 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 language newspaper having circulation in Delhi. Section 71(I) (a)

67. Manner of holding inquiry :-

Enquiry under clause (a) of sub-section (1) of section 71 shall be held in the same manner as prescribed in rule 49.

Section 72(2)

Section 83

CHAPTER 9 PROCEEDINGS IN TRIBUNAL

68. Procedure for filing Petitions :-

(1) A Petition under Section 83 of the Act to the Tribunal shall be made in Form DWB-XXIV.

(2) A Petition to the Tribunal shall be signed by the Petitioner, 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 Petition filed under sub-rule (1) shall be accompanied by documents upon which the petitioner seeks to rely.

(4) The petitioner shall file along with the petition as many copies of the petition and documents as the number of the respondents.

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

69. Contents to the Petition :-

(1) Every petition shall set forth a clear statement of facts concisely and under distinct and separate heads, of petition on which the petition has been filed and such ground of facts of the petition 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 petitioner which cannot be adequately compensated in terms of money.

(3) The filing of all petitions and 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 petition or application summarily.

70. Procedure to be followed by the Tribunal :-

(1) The Registrar or an officer authorized by him in this behalf shall endorse on every petition or application, 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 petition or application shall be registered or numbered by the Registrar or the officer authorized by him in his behalf hi a

register to be kept for this purpose.

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

(4) A copy of the memorandum of the petition or application, as the case may be, shall be served on the other party prior to filing of 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 petition or the application on the other party.

71. Powers to dismiss petition or application without sending notice to the respondents :-

The Tribunal, after considering all aspects of the petition or the application and after hearing the petitioner or the applicant or his authorized representative, may dismiss the petition or application, as the case may be, without sending notice to the respondents.

72. Date of hearing of Petition, etc. :-

Unless the Tribunal dismisses the petition or the application, under subrule (4) of rule 69, it shall notify the parties the date and place of hearing of the petition, application, etc.

73. 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 or be or remain in the room of the Tribunal.

74. Order of the Tribunal :-

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

75. Supply of copies of the orders to parties :-

Every order of the Tribunal finally disposing of or dismissing or allowing the petition or any application, shall be communicated/sent to the parties or their authorized representatives.

76. Orders and directions in certain cases :-

The Tribunal may, notwithstanding any of the foregoing provisions, give such orders or give such directions as may be necessary or expedient to secure the ends of justice.

77. 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 or Hindi if they so desire.

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

78. Copying fee :-

(1) Copying fee shall be charged at the rate of two rupees for the first hundred words or fraction thereof, and rupee for every additional one hundred words or fraction thereof.

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

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

(4) No fee shall be paid by the Board or its authorized representative, with respect to petitions, applications, written statements, replies, documents connected with the matter in question before 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 petition or application may be supplied with the copy of any order or document only under the order of the Tribunal and on payment of the copying fee, as the case may be.

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

79. Seal of the Tribunal :-

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

80. Code of Civil Procedure and Delhi 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 Delhi High Court Rules.

81. Appointment of Tribunal :-

(1) The Tribunal shall be appointed by the Government on deputation out of the Judicial Officers fulfilling the qualifications specified in subsection (4) of section 83 subject to usual terms of deputation as applicable to Government servants.

(2) The Government shall appoint Additional Tribunal in case the tendency of cases with the Tribunal exceeds one thousand.

82. Tenure of Tribunal :-

The deputation of the Tribunal shall be for a period of three years or till he attains the age of sixty years, whichever is earlier. The period of deputation can be extended for a further period of two years or terminated earlier at the discretion of the Government.

83. Age of Superannuation of the Tribunal :-

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

Section 109(2) (xxv)

CHAPTER 10 MISCELLANEOUS

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 connected with a wakf matters/ property before the Tribunal/Court or any other authority;

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

(2) All suits cases and proceedings filed or defended in the courts, before the commencement of these rules, shall be deemed to have been validly filed or defended.

(3) 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 wakf matter/property before the Tribunal/Court or any other authority.

(4) The Chairperson, Chief Executive Officer or any other person, authorized by the Chairperson or Chief Executive Officer shall be competent to sign suit, writ, appeal, and affidavit or counter reply in the cases or proceedings connected with a wakf matter/property before the Tribunal/Court or any other authority.

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

85. Restriction on addition and alteration in wakf property :-

A mutawalli pr managing committee shall not make additions and alteration in the wakf property without the prior approval of the Board.

86. Restriction on creation or transfer of tenancy of wakf property :-

Any creation or transfer of tenancy of the wakf 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 the recommendation of the Board, with absolute majority, relax any provision of the rules for the better functioning of the wakf.

88. Saving :-

All things done or actions taken by the Board and Govt. before the commencement of these rules shall be deemed to be things done or actions taken under these Rules.

