



सत्यमेव जयते

INTERIM REPORT

1973



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WAKF INQUIRY COMMITTEE
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

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INTRODUCTION

REASONS NECESSITATING SUBMISSION OF INTERIM REPORT DEALING WITH URGENT ISSUES FACING WAKF ADMINISTRATION

The Wakf Inquiry Committee was first constituted on the 9th December, 1970. Pursuant to the dissolution of the Lok Sabha at the end of December, 1970, and after the elections the inclusion of one of the Members of the Committee—Shri F. H. Mohsin—in the Central Cabinet, the Committee was constituted for a second time on 23rd September, 1971. The Committee met for the first time on 21st October, 1971, but could not take up any work due to the fact that the post of Secretary to the Committee remained unfilled till the middle of February, 1972.

As soon as the Committee had the assistance of a full-time Secretary, a Questionnaire for inviting the views and suggestions of the general public was finalised by mid-April, 1972, and sent for printing to the Government of India Press at the end of April, 1972. Despite repeated reminders from the Committee, and, by way of assistance, from the Central Minister of Wakfs, the Government Press delayed the printing of the Questionnaire. The printed copies could be had by the Committee only in early August, 1972. The Questionnaire could thus be distributed only by the end of August. In view of the comprehensive nature of the questionnaire, we considered it necessary to give adequate time to enable the members of the public to give their considered views. We, therefore, fixed 31st October, 1972, as the last date for receipt of replies from the public.

Apart from the Questionnaire referred to above and meant for the general Muslim public, the Committee brought out another questionnaire connected with the activities of the State Wakf Boards at the end of April, 1972 (copy annexure 'A') with a view to seek detailed information from the State Wakf Boards in regard to their experience of the working of the Central Act of 1954. Despite several reminders from the Committee and Central Wakf Minister, Mr. Fakhruddin Ali Ahmed, whose assistance was sought in the matter, replies from Assam, Union Territory of Laccadives and U.P. Shia Wakf Boards are not forthcoming. As is evident from the Questionnaire meant for State Wakf Boards, all matters adumbrated in the terms of reference of this Committee and relating to the statutory functions of the State Wakf Boards have been identified and the Boards have been asked to furnish information as to their performance or otherwise in different fields of their activities qua Wakf Boards.

As the State Government is the main authority for supervising the administration of wakfs, detailed factual data and comments of the State Governments were sought through a third set of questionnaire (copy annexure 'B'). Here also despite several reminders from the Committee and the Central Wakf Minister, replies from the State Governments of Assam, Bihar, Haryana, Himachal Pradesh, Kerala, Uttar Pradesh, Maharashtra, West Bengal and Punjab have not come.

The Committee issued about three thousand English copies and one thousand Urdu copies to the general public. Particular care was taken to send the questionnaire to all the present and former Members of the Central Wakf Council, to all the Members of State Wakf Boards, to all the Muslim Members of Parliament and Muslim Members of all State Legislatures. The questionnaire was sent to all these persons by name.

Thus till the end of October, 1972, the Committee had perforce to await the replies to the general questionnaire. Thereafter, the replies received to the general questionnaire and detailed factual data furnished by such State Governments and such Wakf Boards as cared to do so had to be sifted and analysed and juxtaposed by the Committee's Secretariat, which took another two to three months.

It would thus be seen that till January, 1973, the Committee could not commence its work due to factors wholly beyond its control and about which the Central Government was kept informed from time to time. On account of the paucity of the material on which to work out a report due to the indifference not only of the general public but also of persons professedly interested in wakf administration, the Committee is not yet in a position to deal with all the matters referred to it.

We are, however, fully conscious of the need for the early presentation of the Report. We are also aware of the demand for early action in plugging the leaks which surfaced in the course of the implementation of the Central Wakf Act of 1954. Hence even when replies to the questionnaire were awaited, we utilised the period in visiting the States of Tamil Nadu, Mysore, Kerala and Gujarat. During these visits detailed discussions were held with the State Governments, State Wakf Boards and important Muslim Organisations and persons connected with and/or interested in wakf affairs.

Following the receipt of replies from the Boards to general questionnaire, we started scrutinizing the performance of the Boards, as the State Boards are supposed to be the fulcrum of administration of Wakfs.

On a scrutiny of the information furnished by the State Boards, we were struck by the failure on the part of almost all the State Wakf Boards in carrying out or being unable to carry out statutory duties and obligations laid down in the various provisions of the Central Act of 1954. This failure on the part of the Wakf Boards in discharging the elementary duties and obligations cast on them by law, has, in our opinion, thrown the entire system of wakf administration under the Act of 1954 into a melting pot. The replies from the Wakf Boards to the special questionnaire, admitting failure or inability to discharge most of their duties and obligations are appended at Annexure 'C'.

We, therefore, decided to examine other set-ups of wakf administration obtaining in the country and not governed by the Act of 1954 and judge the comparative merits of such system *vis-a-vis* the scheme envisaged under the Central Act, 1954. To this end, we have studied on the spot the administration of wakfs under a whole-time Government Officer, to wit, the Charity Commissioner in Gujarat; and also administration of wakfs by a Government appointed Wakf Commissioner assisted by a partly elected and partly nominated Board in West Bengal. We have also examined the system of wakf administration by a partly elected and partly nominated Board obtaining in the State of Uttar Pradesh. In order to complete our study, we propose shortly to examine in greater detail the working of the Charity Commissioner in the State of Maharashtra, where certain radical amendments have been recently effected in the 1950 Bombay Public Trusts Act.

Along with our study of the various systems of wakf administration, we have also undertaken an examination of the administration of trusts under Religious and Charitable Endowments applicable to other communities, particularly Hindu Religious Endowments Acts of Andhra Pradesh, Tamil Nadu, Mysore and have also taken into account the recommendations made by Sir C. P. Ramaswamy Iyer Commission on Hindu Religious Endowments. We find that some of the important legal facilities available for better administration of religious and charitable institutions under the Hindu Religious Endowment Acts referred to above, have not been provided for either in the Central Act of 1954 or in Wakf Acts of U.P. and West Bengal. But this is a question with which we will deal in our final report.

At every stage of our enquiry we have constantly kept in mind the importance of the recommendations of the Amendments Committee of the Central Wakf Council. We attach great weight to these recommendations. The Committee, however, finds that in offering conclusions arrived at from comparative study of the various laws obtaining in the country for the administration of wakfs and other Religious trusts, the recommendations of this Committee are not very helpful.

Ordinarily, we intended to present only our final report to Government. But two urgent and important factors have necessitated the submission of this interim report recommending emergent legislative action, if possible through ordinance, by the Government, in order to prevent further injury to the wakf properties all over the country. The matters on which we think emergency legislation should be undertaken in order to save wakf property are enumerated below.

Firstly, during our discussions with the Wakf Boards and the various Muslim organisations, it was brought to our notice that the decision of the Rajasthan High Court in *Radhakishen Vs. Rajasthan Wakf Board* in writ petition No. 74 of 1965 has nullified the entire survey of wakf properties undertaken at enormous cost by the various States under Chapter II of the Central Act of 1954. An appeal against the decision of the Rajasthan High Court is still pending before the Supreme Court. As this judgment was, in the first instance, binding only within the State of Rajasthan, undue urgency was not attached to undo its effects and we had accordingly decided to deal with the judgment in our final Report. The recent ruling of the High Court of Mysore in writ petition No. 4259/1968 (the Corporation of City of Bangalore and the Mysore State Wakf Board) and that of the Andhra Pradesh High Court in the case of *Parvathi Bai Vs. the Andhra Pradesh Wakf Board* (1969/11 Andhra Weekly Reports p. 265) following Rajasthan High Court judgment have lent instant urgency to this matter. There is every danger of other High Courts following suit. Therefore, we are of the opinion that immediate legislative action should be undertaken by the Central Government to overcome the effect of this judgment.

The second, and perhaps equally important, reason for suggesting emergent legislation has arisen on account of another judgment. A decision of the Punjab High Court in the case of the Punjab Wakf Board *Vs. Panchayati Garhi Brahmin* reported in 1969 A.I.R. has adversely affected all wakfs by user, specially in Punjab. An appeal against this judgment has been dismissed by the Supreme Court in limini. By importing for the first time the concept of disuser in respect of wakfs which are inferred from user, the judgment appears to render uncertain the future of all wakfs coming under this category. We apprehend that unless remedial action is undertaken, through appropriate legislation, to overcome the consequences of this judgment, the future of all wakfs by user, specially in Punjab, where no Muslims have been left to prove user, would be greatly endangered. While making an appropriate recommendation on this question, the full implications of this judgment and the necessary remedial action proposed by us have been dealt with in detail. Suffice it here to say that this judgment of the Punjab High Court, together with the interpretation of some Sections of Chapter II of the Act by the Rajasthan High Court has, more than anything else, compelled this Committee to submit this interim report.

We consider that two other matters, *i.e.* the large scale illegal occupation of wakf properties and the precarious financial position of Wakf Boards and most of the wakf institutions also call for urgent action. Hence these two problems have been included and recommendations in respect of them also made in our interim report.

During our tour of the various States and during the course of our discussions with the Wakf Boards and important Muslim organisations and personages, we have been struck by the reports of large-scale illegal and unauthorised occupation of wakf properties in almost all the States. In the context of the rising tempo of land hunger the meagre financial resources at the disposal of Wakf Boards for taking legal action and in many cases on account of the connivance of mutawallis of illegal transfers and occupations, the problem has to be given special consideration. To this Committee it seems clear that unless statutory protection is afforded immediately to the wakf properties such as is available to Government property, under the Eviction of Public Premises Acts, before long, we may just as well reconcile ourselves to the wholesale loss and deprivation of valuable wakf properties, specially properties situated in urban areas. We have, therefore, to deal with this crucially important question both from the legislative and the administrative angles in greater detail later in this report.

We consider that it is also necessary to include in our interim report legislative action for exempting all public, religious and charitable wakfs and, for that matter, all other religious and charitable institutions belonging to all communities, from the purview of the Rent Control Acts. Except the Punjab Wakf Board and one or two more State Boards, almost all the Wakf Boards are not well off from a financial point of view. This unsatisfactory financial position, which has made it impossible for the Boards to effectively supervise wakf administration, cannot improve unless the income of wakf properties is immediately and appropriately increased. In our view, the Rent Control Acts stand in the way. Hence, there is necessity for including this subject in our interim report.

Ordinarily, we had plans to consider the question of the period of limitation for suits for the recovery of wakf properties in our final report. We realize that it is a somewhat controversial issue. We have been informed that mainly on account of certain lacunae, in the Act of 1959 which provide for the Extension of Limitation for recovery of wakf properties, several cases launched by the different State Wakf Boards have been thrown out by the law courts on the ground that the Act does not ensure to the benefit of either wakfs by user or those supporting wakfs which have been created by non-Muslims. The Chairman of the Punjab Wakf Board has stated that as many as twelve thousand cases launched by the Punjab Wakf Board have already been adversely affected. The result has been that the very objective of the legislation has been defeated. It is unfortunate that even when this Act was re-enacted by legislation in 1967, and again in 1969, the defect in the original Act was not detected. Under the above circumstances, we have been constrained to suggest in this interim report the rectification of the lacunae in Act 29 of 1959 in respect of the definition of the word "Public Wakf".

At present, because of the condition laid down in the 1954 Act, a mutawalli shall be removed only by a 3/4th majority of the total membership of the Board. In practice, such a removal has become virtually impossible. In effect, therefore, sub-section (2) of Section 43 of the Act 1954 has remained a dead-letter. Under cover of this statutory requirement, unscrupulous Mutawallis have been managing to continue in office in spite of serious charges of mismanagement against them. We are, therefore, strongly of the opinion that the requirement of the majority of not less than three-fourths of the members of the Board laid down in sub-section (4) of Section 43 for the removal of a Mutawalli may be amended suitably as suggested by us later.

After this introduction we propose to deal in detail with various matters in which we are recommending emergency legislation.

CHAPTER I

SURVEY OF WAKF PROPERTIES AS CONTEMPLATED UNDER CHAPTER II OF THE CENTRAL WAKF ACT, THE JUDGMENT OF THE RAJASTHAN HIGH COURT RADHAKISHEN AND BADRINARAYAN Vs. THE STATE OF RAJASTHAN AND OTHERS—JEOPARDISING THE ENTIRE SURVEY WORK ENVISAGED IN THE ACT—REMEDIAL MEASURES PROPOSED.

Even a cursory perusal of Chapter II of Wakf Act has convinced us that the survey of wakfs envisaged under the Act is no mere counting of existing wakfs. If mere enumeration of existing wakfs was intended there would be no necessity for a full-time Commissioner assisted by a team of additional and assistant Commissioners as provided for under Section 4. Nor was there any need to clothe the Commissioner with some of the important powers of a civil court under the Code Civil Procedure, 1908, in respect of various matters listed under sub-section (4) of Section 6. There could also be no justification for the publication in the official Gazette of the list of wakfs drawn up by the Commissioner after having been scrutinised by the Wakf Board as per sub-section 2 of Section 4. Much more, there was no need at all for allowing a year's time in respect of appeals against any wrong entry in such a list of wakfs to a civil court. And lastly, there could be no ground for making the list final and conclusive after a period of one year from the date of publication.

2. One has necessarily to take into account the important fact of the enormous cost involved in carrying out the survey contemplated under the Central Act. The outlay of a huge amount of lakhs of rupees recoverable from the income of the wakfs themselves could not have been countenanced by Parliament if the mere drawing up of a list of already existing wakfs was what was intended.

3. Besides, the circumstances and the urgency under which the Kazmi Bill was passed by the Parliament, following large scale countrywide unauthorised occupation of wakf properties as a result of the Partition and mass exodus of Muslim population from the States of Punjab, Uttar Pradesh, Delhi and Rajasthan has also to be taken note of. Naturally, as a consequence of large scale unauthorised occupation of wakf properties, the survey contemplated under Chapter II of the 1954 Act could only have meant that the Commissioner should enquire into all such cases of illegal occupation of wakf properties as come to his notice during his enquiry. Therefore, it was clearly intended by the Legislature that the Commissioner should decide in the first instance whether a particular property is wakf or not if such a question arises during the course of his enquiry. As this decision of the Commissioner was of a judicial nature involving proprietary rights, an appeal to a Court of Law has been provided after the publication of list of wakfs.

4. We examined the Rajasthan High Court Judgment touching upon almost all the important aspects of survey in the light of the foregoing background. In the writ petition No. 74 of 1965, (Radhakishen and others vs. the State of Rajasthan and others), the Rajasthan High Court has come to the following conclusions, in regard to the jurisdiction of the Wakf Commissioner, his authority and the extent of his powers under the C.P.C. and the nature of survey envisaged under Chapter II of the Wakf Act. The basis of its conclusion is its interpretation of sections 4 to 6 of the Central Wakf Act :—

- (a) The Wakf Commissioner though vested with the powers of Civil Court in respect of certain matters, is not a Civil Court to decide a dispute whether a particular property is a wakf property or not;
- (b) The Wakf Commissioner is required to make a survey of wakf properties existing in a particular State at the commencement of the Act. He is, therefore, not competent to make a survey of those Wakf Properties which had already become extinct at the time of the survey;
- (c) The list of wakf properties published by the Board under sub-section (2) of Section 5 of the Central Act would not be final and conclusive as contemplated in sub-section (4) of Section 6 as against third parties who are not "persons interested" within the meaning of clause (h) of Section 3 of the Act of 1954.

5. According to the High Court of Rajasthan, although sub-section (4) of Section 4 of the Act confers upon the Commissioner, while making an enquiry, certain powers of a Civil Court, these powers have been vested in him only for a limited purpose. The High Court considers that the Commissioner's enquiry under this sub-section does not empower him to decide whether a particular property is a wakf or not. On the other hand, the Court is of the view that under sub-section (5) of Section 4 the Commissioner is empowered only to decide the nature of property to a limited extent to wit, whether a particular wakf is a Shia Wakf or a Sunni Wakf. Beyond this, his decision whether certain Wakf is a wakf or not, affects only the "persons interested" as defined in Section 3(h) of the Act, who alone are entitled to appeal to a Civil Court against the Commissioner's decision on the publication of the list of wakf properties by the Board.

6. Further, on the basis of the sub-heading of Section 4 as "preliminary survey of wakfs" and also taking into account the words of that sub-section, i.e., 'of making a survey of wakf properties existing in the State', the High Court has come to the conclusion that the Wakf Commissioner has only to make a survey of wakf properties existing in the State on the date of the commencement of the Act.

7. The legal implications of the list of wakfs published under sub-section (2) of Section 5 of the Central Wakf Act as determined by the Rajasthan High Court also deserves serious consideration. According to this High Court, sub-section (1) of Section 6 provides a right only for the Board, a Mutawalli of the Wakf or "any person interested therein" to seek redress in a Court of Law, if any question arises following the publication of the list whether a particular property is wakf or not. As such, the Court considers that the final and conclusive nature of the published list as provided for under sub-section (4) of Section 6 would apply only to these three categories of persons listed in sub-section (1) of Section 6. It will not apply to third parties and those who do not come under the definition of "person interested in the 'wakf'" as defined under the Central Act.

8. On a close examination of Sections 3 (h), 4, 5, 6 and 27 of the Central Wakf Act, and the interpretation of these Sections by the Rajasthan High Court, we find that there are some serious lacunae in these Sections and they are open to the interpretation put upon them by the Rajasthan High Court.

9. While considering remedial action for plugging these leaks, we have gone into the recommendations made by the Amendments Committee of the Central Wakf Council relating to the Rajasthan High Court judgment. The Amendments Committee of the Council, however, have suggested suitable amendments only to Section 3(h)(i) defining "person interested" and to Section 6(i) although the judgment of the Rajasthan High Court covers the interpretation of Sections 4, 5, 6 and 27 of the Act as well.

10. We are of the opinion that the sub-heading of Section 4 to wit "preliminary survey of wakfs" is misleading. It is not in conformity with the contents of the said section and is also contrary to the entire scheme of the survey contemplated under Chapter II of the Act. Hence we recommend that this sub-heading may be deleted.

11. Sub-section (1) of Section 4 as presently worded, particularly the phraseology used therein "for the purpose of making a survey of wakf properties existing in the State at the commencement of this Act" is open to the interpretation that the Commissioner is to survey only such of the wakfs as exist at the time of the survey. Such phraseology could also imply that the enquiry by the Commissioner of Wakfs into properties in unauthorised occupation or already transferred is not contemplated. We, therefore, recommend that the word "existing" may be deleted from sub-section (1) of Section 4.

12. Under the 1954 Act, only one survey at the commencement of the Act is contemplated. There is no provision for periodical surveys. As against this, under the Uttar Pradesh Wakf Act and the West Bengal Wakf Act, the State Government has been empowered to order survey whenever it considers that such a survey is necessary and called for. For a parallel, we have noted that in respect of Revenue Settlement periodical surveys have been prescribed. Such periodical settlements are both necessary and desirable because property rights do not remain with the same person. Important changes do occur. In respect of wakfs also, it is quite possible that the first survey may have resulted in omissions. Under the 1954 Act, except for the enquiry by the Board under Section 27, no further survey to cover such omissions is contemplated. It is also possible that fresh wakfs have come into existence. With the Mutawallis, interested as they are, in not registering them, these wakfs may go unnoticed. As the survey contemplates also the determination of the income or properties under each wakf, their number and extent, etc., and changes do occur in respect of these items with the passage of time, it is necessary to conduct periodical surveys.

13. The provisions under the Uttar Pradesh and West Bengal Acts meet this requirement of periodic survey only nominally as the question of periodic survey of wakfs, i.e. second and subsequent surveys are left to the discretion of the State Government. The enabling provision may not be acted upon by the State Government, if left to its discretion. In fact, during our visits to the two States, we have noted that no fresh survey has been ordered in the case of wakfs since 1934 in West Bengal and a second survey has not been instituted in Uttar Pradesh despite repeated requests by the State Wakf Board. Taking all these factors into consideration and the necessity to have periodical surveys of wakf properties, we consider that it should be made obligatory on the part of the State Governments to conduct periodical survey of wakfs also. For the sake of administrative convenience, the periodical survey of wakfs may be made to synchronise with the Revenue Settlement in the State. In fact, a thorough Revenue Settlement would, by its nature, be a survey of the wakfs also.

14. We have, however, fully taken into account the fact that the survey as per Chapter II of the Act costs several lakhs of rupees. Besides, it entails a lot of administrative efforts and investigation. Therefore, we consider that any second or subsequent survey of wakfs should not be ordered before twenty years of the preceding one.

After the lapse of this period it may be left to the State Government to prescribe suitably how and when the second survey of wakfs be made to synchronise with the next Revenue Settlement due immediately after this dateline.

15. In the light of the foregoing remarks and in the context of the Rajasthan High Court judgment,

it is recommended that Section 4(1) be amended as follows :—

“4.(1)—The State Government, by notification in the official gazette, appoint for the State a Commissioner of Wakfs and as many additional or assistant Commissioners of wakfs as may be necessary for the purpose of making a survey of wakf properties in a State. Second or subsequent surveys may be ordered by the State Government periodically as prescribed.”

“Provided that a period of twenty years should elapse after the completion of the survey at the commencement of the Act, before any fresh survey is ordered by the State Government.”

16. The Rajasthan High Court has made very significant remarks while interpreting sub-sections (4) and (5) of Section 4 of the Act. It is, therefore, considered necessary to reproduce a part of the relevant observations of the High Court in this regard :—

“It is significant that it is only under sub-section (5) that the Commissioner is empowered to decide a dispute and that dispute should relate only to the question whether particular wakf is a Shia or a Sunni wakf and if such a question arises and if there is a deed of wakf, then he should decide the nature of the wakf on the basis of that deed. Except sub-section (5) there is nothing in Section 4 or in Rules made by the State to show that the Commissioner is empowered to adjudicate on a question if one arises whether a particular property is a wakf property or not. He has been invested with the powers of a civil court in order to enable him to make a proper survey of existing wakf properties and to submit a thorough report to the State. What we mean to point out is that the Commissioner has not been given the powers of a civil court to try and decide a dispute if it arises on the question whether a particular property is a wakf property or not.....”

17. Obviously, important powers of a civil court would not have been vested in the Wakf Commissioner particularly (a) requiring the discovery and production of any document, (b) requisitioning any public record from any court or office, and (c) making any local inspection or local investigation, unless the Commissioner was also required to decide whether a property is wakf or not if such a question arose in the course of his enquiry. As pointed out earlier, the entire purpose of the survey would be defeated if the Commissioner were not to decide whether a property is wakf or not if such a question were to arise during the course of his investigation. It is, therefore, necessary to clarify this position fully in Section 4 itself by a suitable amendment.

18. We do not also agree with the interpretation of sub-section (5) of Section 4 by the Rajasthan High Court that it is only under this sub-section that the Commissioner is empowered to decide a dispute and

that dispute should relate only to the question whether a particular wakf is a Shia or a Sunni wakf. The phraseology of sub-section (5) that ‘if during any such enquiry any dispute arises as to whether a particular wakf is Shia or Sunni wakf,’ obviously restricts the application of sub-section (5) only to such cases without in any way affecting the other comprehensive enquiries by the Commissioner contemplated under sub-section (4). As a matter of fact, when a dispute arises under sub-section (5) of Section 4 the powers of civil court vested in the Commissioner under sub-section (4) are curtailed and the Commissioner is required to decide such dispute only on the basis of the deed of wakf avoiding all other enquiries. Therefore, sub-section (5) of Section 4 while curtailing the powers of the Commissioners when deciding whether a particular wakf is a Shia or a Sunni wakf does not affect the powers with reference to any other disputes that may arise during the course of the enquiry of the Commissioner under sub-section (4). As a matter of fact, sub-section (5) in the opinion of the Committee does not serve any useful purpose. When appeal has been provided for, the Commissioner should be left free to decide whether a particular wakf property is Shia or Sunni Wakf in the same manner and making use of the same powers as he does when he decides whether a particular property is wakf or not under sub-section (4). Whilst we do appreciate the advisability of the safeguards laid down in the 1954 Act in respect of administration of Shia wakfs, where no separate Shia Board exists, we are firmly of the opinion that no such restriction is called for in a quasi-judicial enquiry by an officer appointed by the State Government and against whose finding an appeal lies to a court of law. Therefore, we are of the opinion that sub-section (5) of Section 4 be deleted.

Accordingly, we propose the following amendments and deletions of sub-sections (4) and (5) of Section 4 :—

(a) Sub-section (4) of Section 4 may be amended as follows :—

“The Commissioner shall, while making an inquiry including an inquiry whether any property is wakf or not, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters, namely :—

(a) summoning and examining any witness;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record from any Court or office;

(d) issuing commissions for the examination of any witness or accounts;

(e) making any local inspection or local investigation;

(f) any other matter which may be prescribed.

Provided that, if, during such inquiry any dispute arises as to whether a particular property is wakf or not, all parties affected should be given a reasonable opportunity to be heard."

(b) Sub-section (5) of Section 4 may be deleted.

20. As a corollary to our suggestion that the word "existing" in sub-section (1) of Section 4 may be deleted, it is recommended that similar words used in sub-section (2) of Section 5 may also be deleted.

21. Next, we come to the interpretation of Section 6 by the Rajasthan High Court which was acknowledged by the Court itself to be of primary importance so far as the case before them was concerned. The following observations of the Court in this connection deserve detailed consideration :—

".....it is contended that the use of the words "any person interested" in the property which is published in the list under sub-section 2 of Section 5 that it is not a wakf property, it is incumbent upon him to file a suit in a competent Civil Court within a year from the date of the publication of the list and if no such suit is filed, the said list would be final and conclusive proof of the fact that it is wakf property. We have given our anxious consideration to this argument and we find it difficult to accept it. If this argument is accepted, then it would mean that even though a Commissioner is not competent to give a final decision about the nature of the disputed property, that is, whether it is a wakf property or not, the Board can take such decision *ex-parte* and if that decision is not challenged in a civil court of competent jurisdiction within a year from the date of the publication of the list, a stranger, who is in possession of the property, would not be able to establish his title after a year of the publication of the list even though the *ex-parte* stand taken by the Board may be grossly incorrect and such a person may be having a valid title over the property. In our opinion the words "any person interested therein" appearing in sub-section 1 of Section 6 mean no more than a person interested in a wakf as defined in clause (h) of Section 3 of the Act."

Sub-section (1) of Section 6 states that if any question arises "whether a particular property specified is wakf property or not, or whether a wakf specified in any such list is a Shia wakf or Sunni wakf, apart from the Board or the Mutawalli of the wakf, "any person interested therein may institute a suit in a civil court of competent jurisdiction". By all accepted standards of interpretation of statutes, the phraseology used "any person interested therein" in sub-section (1) of Section 6 will definitely apply to persons interested in the list of wakfs published

under sub-section (2) of Section 5 and not a person interested in a wakf as defined in clause (h) of Section 3. By an amendment in 1969 (Act 38 of 1969) the language of sub-section (1) of Section 6 has undergone a change. While this sub-section before the amendment read "whether a particular property is wakf or not or whether a wakf is Shia wakf or Sunni wakf" the sub-section after amendment reads "whether a particular property specified as wakf property in a list of wakfs published under sub-section (2) of Section 5 is a wakf property or not". This makes it clear that the words "person interested therein" occurring in new sub-section (1) of Section 6 refer to any person interested in a list of wakfs published under Section 5 (2).

22. We are, therefore, of the opinion that with the amendment of sub-section (1) of Section 6 effected in 1969, the interpretation of words "person interested therein" by the Rajasthan High Court to mean "person interested in a wakf" as defined under clause (h) of Section 3 is no longer relevant.

23. In order to put beyond doubt that the enquiry conducted by the Commissioner under sub-section (4) of Section 4 includes enquiry whether a property is wakf or not and that the list of wakfs published by the Board on the basis of such enquiry becomes final and conclusive under sub-section (4) of Section 6 even against third parties, it would be better to suitably amplify the definition of "person interested in a wakf" in clause (h) of Section 3.

24. We think that a more elaborate definition of "person interested in a wakf" under clause (h) of Section 3 is otherwise called for. As the definition stands, it is incomplete. It does not take into account the various other provisions of the Act where the definition would have to be applied. The present definition of "person interested in a wakf" in particular fails to take note of Section 27 and the orders, notifications etc. to be issued by the various statutory authorities duly empowered to do so under the Act, particularly those affecting the rights of parties.

25. Therefore, we recommend that the following addition to clause (h) of Section 3 as 3(h)(iii) on the lines suggested by the Amendments Committee of the Central Wakf Council be effected:—

Addition proposed to be inserted as 3(h)(iii)

"Any person aggrieved or affected by any notification or order issued under the provisions of this Act by the Board or any officer duly authorised to do so, as the case may be, and any person who claims any interest in the property included in the list of wakfs or any property said to be wakf or wakf property."

26. We are also not in agreement with the interpretation of Section 27 of the Central Act by the Rajasthan High Court. The High Court states "Section 27 does not seem to suggest that it empowers the Board to decide the question whether a particular

property is wakf property or not, if that challenge comes from a stranger, who is, neither mutawalli nor a person interested in the wakf, but who belongs to another religious denomination and who claims a valid title and lawful possession over the property. To accept the respondent's argument would mean that the Board has been given powers of the Civil Court to decide such disputes between itself and strangers and thus to make the Board's decision final unless it is changed by a civil court of competent jurisdiction. If a dispute is raised by a non-muslim, the Board cannot simply be entering the property in the register of wakfs and drive him to take recourse to a civil court".

27. Even though Section 27(1) clearly empowers the Board to decide on the basis of the information collected by it and after making an enquiry *whether a particular property is wakf property* or not the High Court has chosen to limit this power of the Board only to mean that "if the mutawalli fails to get any wakf registered then the Board may, *suo motto*, collect information if it has reason to believe that a particular property is a wakf property. If it finds that the property in the hands of a mutawalli is a wakf property and he is wrongly denying it to be a wakf property, it may be registered as such. Similarly, if there is a dispute as to whether a wakf is a Sunni wakf or a Shia wakf, the Board can decide the question. The decision of the Board under sub-section (2) would be final only between the Board, the Mutawalli or a person interested in the wakf, if it is not revoked or modified by a Civil Court of competent jurisdiction."

28. Any decision whether a particular property is wakf property or not may in many cases affect third parties. There is nothing under Section 27 to suggest that the decision of the Wakf Board whether a particular property is wakf property or not were to affect only the Mutawalli or a person interested in the wakf. In view of the fact that we have already proposed a wider definition of "person interested in a wakf" under clause (h) of Section 3 to cover Section 27 also, we do not propose to deal with this at any greater length.

29. The Committee, however, feels that in view of the fact that the decision of the Wakf Board under Section 27 is clearly and expressly meant to cover even the third parties claiming interest in wakf properties, it may not be correct to permit the Board itself to decide upon the manner and procedure of any such enquiry "as it may deem fit". It would be better that the State Government is empowered to fix the norms and details of procedure for such an enquiry. As such, the words "as it may deem fit" may be substituted by the words "as prescribed" in sub-section (1) of Section 27. In the Act itself, we may add a proviso to Section 27 on the following lines:—

"provided that before taking any decision the Board shall afford to all parties likely to be affected by its decision, a reasonable opportunity of being heard."

List of proposed amendments to the 1954 Central Wakf Act to overcome the effects of the Rajasthan High Court Judgement

(A) Section 3(h) :

The following new clause may be added to Section 3(h):

"(iii) Any person aggrieved or affected by any notification or order issued under the provisions of this Act by the Board or any officer duly authorised to do so, as the case may be, and any person who claims any interest in the property included in the list of wakfs or any property said to be wakf or wakf property."

(B) Sub-heading to Section 4 :

The word "preliminary" may be deleted from the sub-heading to Section 4.

(C) Section 4(1) may be amended as follows :

"4.(1) The State Government, by notification in the official gazette, appoint for the State a Commissioner of Wakfs and as many additional or assistant Commissioners of Wakf as may be necessary for the purpose of making a survey of wakf properties in a State. Second or subsequent surveys may be ordered by the State Government periodically as prescribed :

Provided that a period of twenty years should elapse after the completion of the survey at the commencement of the Act, before any fresh survey is ordered by the State Government."

(D) Section 4(4) :

In sub-section (4) of Section 4, the following amendment may be effected, namely :—

"The Commissioner shall, while making any inquiry including an inquiry whether any property is wakf or not, shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) summoning and examining any witness;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record from any court or office;

(d) issuing commissions for the examination of any witness or accounts;

(e) making any local inspection or local investigation; and

(f) any other matter which may be considered.

Provided that, if, during such inquiry, any dispute arises as to whether a particular property is wakf or not, all parties affected should be given a reasonable opportunity to be heard”.

(E) *Sub-section (5)* of Section 4 may be deleted.

(F) *Section 5(2)* :

In Section 5 of the Principal Act, in Sub-Section 3, the word “existing” shall be omitted.

(G) *Section 27(1)* :

(a) in Section 27 of the Principal Act, in Sub-section (1) for the words “as it may deem fit” the words “as prescribed” may be substituted.

(b) in Section 27 of the Principal Act, of the Sub-section, (2), the following proviso shall be inserted:—

“Provided that the Board before taking any decision shall provide a reasonable opportunity to be heard to all parties likely to be affected by its decision.”



CHAPTER II

WAKF BY USER—ADVERSE EFFECTS OF THE JUDGMENT OF THE PUNJAB HIGH COURT IN LETTERS PATENT APPEAL NO. 336 OF 1969. THE PUNJAB WAKF BOARD, AMBALA CANTT. VS. PANCHAYAT GARHI BRAHMIN, TEHSIL SONEPAT AND ANOTHER ON THIS CATEGORY OF WAKFS—REMEDIAL MEASURES PROPOSED

Wakf by user is a rule of evidence. In all cases of wakf by user, dedication is inferred from long usage by way of wakf. Essentially, therefore, all cases of wakfs by user involve question of facts based on evidence, documentary, oral and investigative. It is on the basis of the available evidence in a particular case, that a decision has to be taken by a court whether wakf by user is established or not. There are a number of important decisions by the Privy Council and High Courts laying down the guidelines of evidence considered sufficient to prove any wakf by user. If documentary evidence is relied upon to establish wakf by user, it has been held by the Privy Council in the case of Ballabh Das Vs. Noor Mohd. (1936 AIR Lucknow 85) that when a certain land has been entered into a khasra as "kabiristan" and graveyard, this *prima facie* at all events means that the land is a graveyard in the sense known under Mohamedan Law. The Privy Council has further held that where a khasra is the instrument which at all events embodies a right and there is no other document which creates title, the khasra and the map are not merely historical materials but are instruments of title or otherwise the evidence of right.

If wakf by user is to be established on the basis of the evidence of user, it has been held by the Privy Council in the aforesaid case that land does not become wakf necessarily and immediately upon the burial of a single person. Their Lordships however, were of the opinion that if dedication has to be made out expressly by direct evidence of burials being made in the ground and in the absence of administrative entries in the Revenue records, a number of instances would undoubtedly have to be proved adequate in character, number and extent to justify the inference that a particular land is a graveyard.

Under the Shariat Law also, wakf by user is only a mode of proof of dedication. The recent discussions the Committee has had with eminent Muslim jurists and representatives of important religious institutions with a view to find out the place of wakf by user in Islamic jurisprudence has confirmed our view that user does not create a wakf. It only presumes the existence of one if its origin is not known and no other proof of dedication is forthcoming.

In the above context, when the Punjab High Court took up the Letters Patent Appeal No. 336 of 1969 in the case of Punjab Wakf Board, Ambala Cantt. vs. Panchayat Garhi Brahmin, Tehsil Sonepat and

another, it was fully within the competence of the High Court, on the basis of the documentary and oral evidence produced before it by the respective parties, to decide whether the property involved was an old graveyard or not. If the High Court had given its decision mainly on a question of fact and decided that the particular property under dispute had not been established on the basis of the oral and documentary evidence before it to be wakf by user, the Committee would not have taken up the case for detailed consideration. The High Court while deciding the aforesaid case has however, laid down for the first time certain criteria, which are at variance with the hitherto generally accepted norms adopted for determination of wakf by user and in addition has made a few observations relating to wakf by user which in our opinion have rendered uncertain the very future of this category of wakf. Therefore, the Committee proposed to deal with them *ad-seriatim*.

We shall reproduce a few relevant paragraphs from the judgment. In the course of their judgment, the High Court observed:—

(1) "Most of the rulings which had been cited before the learned single Judge were of the years prior to the partition of the country or from far off states that have not been directly affected by the partition of the country in 1947, in the same manner in which this part of the country is affected. The conditions brought about by the partition of the country could not have been foreseen or visualised by the courts that decided the cases which has had been cited. Any observations made in those rulings were intended to dispose of only those particular cases and these observations have to be taken in the context in which they were made. The Courts could not have had under contemplation the unusual or unforeseen conditions or the deterioration in the law and order situation that followed the partition of the country in far off States or places. It is true that the burying of a few dead bodies could consecrate a piece of land but this observation apparently does not take into consideration the fact that the land has been built upon."

(2) "The conversion of consecration of any secular property into wakf by user would of necessity be a long drawn-out and gradual process lasting over a period of years and it is not necessary that the process takes only one direction or keeps a uniform pace throughout. In some of the cases discussed in the judgment under appeal, the slow

process had been continued from time immemorial before a wakf by user was found to have been established. There can be circumstances that arrest the advance or progress of the process or which may give it a turn in the wrong or opposite direction. The process has to reach a stage when it can be said to have become absolute; a stage of no-return where after the process cannot take a turn for the worse.....".

(3) "...where a party is relying upon user as evidence of dedication of any property as wakf, we have also to keep in mind that this user had been discontinued at a particular point of time..".

(4) "On the basis of the entries in the records of rights it can be said that a few dead bodies had been buried in this piece of land during a period of 25 years to 40 years before the partition of the country but the circumstances are such that we can believe that the user of this land for this particular purpose was discontinued for about two decades after the partition of the country, apparently because the minority community had evacuated from the villages. It cannot be said that the user before the partition of the country had lasted upto a point of no-return and if the land could assume a certain character by user over a period of years, then the discontinuation of that user at a particular time could have cured the land of its consecrated character as wakf so as to justify the vesting of this land in the Gram Panchayat for the benefit of the present residents of the village. The minority community that could have occasion to use the land as graveyard having discontinued, there is no point in maintaining or administering the land as a graveyard. The consecration of the land by the burying of a few dead bodies has come to an end with the desecration and the obliteration of all traces of these graves and the land has cured by continued disuser of the character that it may have acquired by indifferent user as a graveyard for a few decades before the partition of the country".

Firstly' the opinion of the court would seem to be that the law as laid down by some High Courts outside Punjab on wakfs by user should be applied subject to the changed conditions in Punjab as a result of the partition and could be modified, if necessary. We do not propose to discuss or comment on this approach of the High Court except to point out that in the Muslim jurisprudence there is no degree of consecration depending upon the locality where the dedicated property is situated. With all the humility in us we do not also agree with the proposition that because there had been a partition of the country and there were riots in Punjab the basis for the interpretation of Muslim Law on Wakfs or for its application in Punjab had become different from what was obtaining in the rest of the country. It would appear that according to this view a mosque or graveyard which happens to be situated in Punjab may not enjoy the same degree of inviolability as those which are situated in other parts of the Union, without there being anything in law to warrant the discrimination.

The other proposition of the "point of no-return" that the Punjab High Court has discussed as a part of the conception of wakf by user would appear to be akin to the role of time in creating and extinguishing rights. It is well known rule of law that under certain definite conditions, time create titles. An adverse possession for a number of years, for all purposes, transfers the title from one person to another i.e. the man who has been in possession by ousting the other. Similarly, an easement is created by enjoyment of a right for a prescribed period of time. These processes have nothing to do with "presumptions" as they are understood as forming a part of the law of evidence. In the case of adverse possession the long drawn out and gradual process of possession lasts over a period of years it matures into a title or what is akin to a title. If a man ceases to be in adverse possession before a certain prescribed period has run out this fact provides the circumstances that arrest the advance or progress of the process in the case, and gives the case as the Punjab High Court put it, a turn in the opposite direction before reaching a "point of no-return". So is the case of easements. But this process creates substantial rights. It will not be an acceptable exposition of law to say that if man has been in possession of a property for 12 years or more his possession creates a presumption of some antecedental legal title.

It has become necessary to offer these remarks as there is an impression in many quarters, even those equipped with legal training and acumen, that user creates a right as in the case of user of a right of way or in the case of acquirement of a right over property by adverse possession. Nothing is farther than this from the conception of the genesis of a wakf by user. In a wakf by user, the origin of the wakf or the name of the wakif is not known. Only the use to which the property is concurrently put, is known and because of user it is permitted to infer that at sometime or other in the past, a proper dedication of the property for the purpose for which it is used had taken place. In the absence of proof, written or oral, of dedication user is presumed to be a proof of dedication.

In the case before the Punjab High Court, there were entries in village papers for 40 years describing the land as "Kabiristan". The question of the length or nature of user is always a question of fact. It has always been open to a court to act on its own idea as to what period and extent of user, in the context of the documentary and oral evidence available, would be required to warrant a presumption of dedication. One can always say when an user starts or even how long it has lasted; but one cannot fix when a user reaches a "point of no-return". Hence, in our opinion the theory of "point of no-return" laid down by the High Court is not relevant for determining whether a property is wakf by user.

The other proposition put forward by the High Court of deconsecration of wakf properties following their disuser deserves consideration. A property becomes consecrated as graveyard when only a

number of burials have taken place in it. It cannot be said that although a piece of land, has been used as a graveyard for forty years, as in the case under discussion, it was unconsecrated all the time. On consecration, a property acquires the character of wakf. The position that has been canvassed is that even though a certain character of consecration has been assumed by a graveyard, because of the discontinuation of its user, it is cured of its character of consecration. In our opinion, a graveyard or a mosque once it is consecrated cannot be desecrated. Its desecration destroys its physical existence but it does not affect its consecration. Therefore, this idea of deconsecration following disuser as formulated by the Punjab High Court is alien to the Law of Wakfs.

Once the property is accepted as consecrated, the Character of legal and binding wakf is fixed upon it, it vests in the Almighty and becomes irrevocable, inalienable and non-inheritable.

Perpetuity is the necessary condition of the constitution of wakf and it is not necessary that it should be expressly mentioned. Once the intention is clear either from express declaration or by implication as in the case of wakf by user that the property has been consecrated as wakf, the consecration becomes permanent. The characteristics of permanency cannot be separated from the wakf once it has been consecrated. "Perpetuity" says Fatawa Alamgiri, "is also among the conditions of wakfs according to the opinion and the mention of

it is not a condition". Hence, the axiom "once a wakf always a wakf".

We are of the opinion that the adverse effect of the Punjab High Court judgment on all wakfs by user should be urgently countered. It is not a case of just deciding whether a particular piece of land is wakf by user or not. On the other hand, it is necessary to counter some of the legal propositions contained in the judgment, such as user required to reach a "point of no-return" or the effect of later disuser or deconsecration of religious properties as a result of disuser. Inasmuch as an appeal against this judgment has been rejected by the Supreme Court in *limini*, we urge immediate legislative action even through an ordinance before the interpretations by the Punjab High Court result in adversely affecting the entire class of wakfs by user in the whole country. We therefore, consider that the term "wakf by user" should be amplified and suitably elaborated in the Central Act itself, so as to make it conform fully with the accepted concepts of this category of wakf under the Shariat and the case law on the subject.

The Committee, therefore, recommends that an explanation may be added to sub-clause (i) of clause (1) of Section 3 of the Wakf Act, 1954, retrospectively on the following lines:—

"A wakf by user shall not cease to be wakf by reason only of the user having ceased irrespective of the period of such disuser."



CHAPTER III

THE INTERPRETATION BY SOME HIGH COURTS OF THE PUBLIC WAKFS (EXTENSION OF LIMITATIONS) ACTS, 1959, 1967 AND 1969—IMMEDIATE REMEDIAL MEASURES SUGGESTED.

In the wake of the partition of the country in 1947 and as a consequence of mass exodus of the muslims of some States to Pakistan, a number of wakf properties, which are communally managed, such as mosques, idgahs, and graveyards passed into unauthorised hands. It is to save the title to these wakf properties from being extinguished by adverse possession that Public Wakfs (Extension of the Limitation) Act No. 29 of 1959 was enacted. The Act was re-enacted by the Acts of 1967 and 1969.

We have, however, come to the conclusion that the objective of Act No. 29 of 1959 has been defeated in the case of many categories of public wakfs because some High Courts have interpreted that the definition of 'public wakfs' in the Act does not include wakfs by user even of a public nature or the supporting wakfs under Section 66C.

The word "public wakfs" has been defined as follows in Section 2 of the Act 29 of 1959 : "The permanent dedication by a person professing Islam of any immovable property for any purpose recognised by Muslim Law as a public purpose of a pious, religious and charitable nature".

Proof of Wakf by user is a rule of evidence. User only proves that a certain wakf must have originated as a wakf because it was being treated as such for a long time. User presumes dedication.

By far the greatest number of wakfs by user are related to, and meant for, public purpose of pious, religious, and charitable nature. The exclusion of this important category of wakfs from the scope of the Act of 1959 could not have been intended by the Government, which sponsored the law or by the Parliament, particularly when the main object of passing this law was to protect "public wakf" from passing into unauthorised hands. If ever such protection was needed, it was so needed in the case of wakfs by user, because the management of this category of wakfs was generally on a collective basis; for example, places like mosques and graveyards were managed by the Muslim community of the locality where they were situated. Following the mass exodus of Muslim population from some States, these institutions, i.e., the institutions that were communally managed, collapsed and the properties were left, so to say, *res-nulius*. It is this class of wakfs that needed legislation to protect it from falling into the hands of squatters and land grabbers.

We feel that the word "public wakfs" in Section 2 of the 1959 Act should have been defined more

comprehensively. In view of the fact that under the Wakf Act, 1954, the category of wakfs by user has, under sub-clause (i) of clause (1) of Section 3, been included but in a separate clause in the definition of wakfs generally, we are of the opinion that in Section 2 of the Public Wakfs (Extension of Limitation) Act also, a separate clause should have been introduced to make it clear that public wakfs by user are also meant to be exempted from the law of limitation. On the other hand, we find that definition of wakf as obtained in the Mussalman Wakf Validating Act No. 6 of 1913 has been adopted *in toto* in the Act 29 of 1959 although it had been held in the case of Mami and another Vs. Kallandar Ammal (1927 P. C. 22) that the definition of Wakf under that Act is not exhaustive. The definition in the 1913 Act is of Wakfs only and not of "public wakf". To have adopted it as the definition of "public wakf" was bound to create difficulties in interpretation. In the opinion of the Committee, this has resulted in the interpretation by some of the High Courts that a public wakf by user does not come within the purview of Section 2 of the Act.

Now that some of the High Courts have interpreted the absence of a specific mention of public wakf by user in Section 2 of the Act 29 of 1959 to mean their exclusion from the purview of the Act, we are of opinion that the definition of 'public wakf' should be re-drafted so as to bring out the real aim and objective of the original Act, which was primarily meant to give protection to all "public wakfs" by user also which serve a pious, religious and charitable purposes recognised by Muslim Law.

The aforesaid action is all the more necessary in view of the fact that the State Wakf Boards, partly on their own initiative but mostly on the advice of the Central Government, have lodged innumerable cases for the recovery of the immovable property of wakfs by user staking their claims on the Extension of Limitation Act. While doing so, they have, in our opinion, rightly presumed that the Act could never have envisaged the exclusion of this important category of public wakfs. Therefore, the interpretation placed upon the definition of "public wakfs" by some of High Courts that express dedication by a muslim of the property as wakf under Section 2 of the Act has to be established before the benefit of the Act can be given has come in the way of successfully fighting out claims pertaining to the recovery of possession of public wakfs by user in several cases.

When the period of limitation provided by the 1959 Act could be extended from 1967 to the end of 1971 by two subsequent Acts, on the ground that the Wakf Boards had not been constituted in the various States well in time and the administrative machinery had not been geared sufficiently to take advantage of the original Act, the danger of an unwitting exclusion of an important class of public wakfs from the definition of "public wakfs" in Act 29 of 1959 is good justification for bringing in of fresh legislation at the Central level exhaustively defining "public wakfs" so as to include all public wakfs by user under the purview of the public Wakfs (Extension of Limitation) Act, 1959.

At present, we also find that following the expiry of the Central Act of 1959, the State Governments have been extending the period of limitation for varying periods. Unfortunately, while this is being done, the definition of "public wakfs" has not been revised or modified and the definition as in Act 29 of 1959 is allowed to stand. The States of Kerala, Tamil Nadu, Mysore, West Bengal, Rajasthan, the Union Territory of Delhi and Orissa have already acted in the matter. In other States, the process of enacting similar legislation is reported to be on the anvil. The "Wakfs" is in the Concurrent List and therefore all these laws by the State Governments are supposed to have received the approval of the Central Government. The period of limitation is being extended retrospectively in all the States, and there should be no hesitation on the part of the Central Government to pass its own law applicable retrospectively from 20th of July, 1959.

There remains, however, one more important matter to be considered : whether we can retrospectively clarify and broaden the definition of Public Wakfs so as to include Public Wakfs by user without disturbing the title acquired by persons during the intervening period over these wakfs and unsettling their titles. It has been held by the Supreme Court in Kochunni's case reported in AIR 1960 S. C. 1080 that a law made under Article 31(1) of the Constitution whereby a person is deprived of his property must, in order to be a valid law, satisfy the conditions laid down in Article 19(5) of the Constitution; that is to say, such a law must be a reasonable one and be in the interest of general public.

We feel that inasmuch as the very objective of the 1959 legislation was to protect all public wakfs of a religious, pious, and charitable nature and that the objective has been defeated because of the interpretation by the High Courts of the definition of "public wakfs", we see no objection to clarify this definition retrospectively so as to make it conform to the objectives of the original enactment. We are further of the opinion that the conditions laid down in Article 19(5) of the Constitution will be fulfilled in view of the fact that the protection is being extended to only "public wakfs by user" which are primarily meant for general and public good.

We find that the question of inclusion of supporting public wakfs coming under the definition

of wakf enacted through the addition of Section 66 C of the Central Wakf Act was brought up and dropped while considering the 1967 legislation. It was decided to drop the inclusion of this category of public wakfs only because it was feared that it may give rise to criticism in Parliament and also the title already acquired by illegal occupants, would be unsettled. Both these reasons, we are of opinion, do not justify the exclusion of this category of supporting public wakfs (essentially meant for religious, pious and charitable purposes). When Parliament had agreed to extend protection against running of limitation to all public wakfs of a religious, pious, and charitable nature, in principle, it would certainly not have taken exception to extending similar protection to the category of supporting wakfs. The other argument advanced that it might have disturbed the rights of the occupants and thereby attracted Article 31(1) is also untenable because such a measure does fulfill all the conditions warranting reasonable restrictions for public good as required under Article 19(5) of our Constitution.

Therefore, we feel that if any fresh and comprehensive legislation on the subject is undertaken, there could be no legal or constitutional difficulty in both comprehensively defining "public wakf" so as to include public wakfs by user and also in extending the protection to supporting public wakfs coming under Section 66 C of the Act. Being a Central Legislation on a subject figuring in the Concurrent List, the provision of the Central Law will prevail as against State enactments on the same subject. Such a Central legislation will administratively speaking, also obviate taking separate corrective action of redefining "public wakfs" by separate State enactments.

We have also noted that whilst enacting the 1967 and 1969 legislations, on extension of limitation, Section 3 of the original Act has not been suitably amended to conform to the fact that the Indian Limitation Act, 1908, had, in the meanwhile, been replaced by the Limitation Act of 1963. The result has been that reference to Articles 142 and 144 of the First Schedule of the Indian Limitation Act, 1908, in the Acts of 1967 and 1969 was allowed to be continued in these Acts. It has been reported from Maharashtra that as a reference to Articles 142 and 144 of 1908 Limitation Act were not substituted by reference to the corresponding provisions of the Limitation Act of 1963 in 1967 and 1969 Acts, the benefit of Section 3 of the Public Wakfs (Extension of Limitation) Act of 1959 has been denied to plaintiffs in a number of suits.

In view of the provision of Section 8 of the General Clauses Act, 1897, we do not agree that this view of the Courts of Maharashtra is correct. According to sub-section (1) of Section 8 of the General Clauses Act, 1897, the reference to the 1908 Limitation Act in Section 3 of the Public Wakfs (Extension of Limitation) Acts 1967 and 1969 will have to be construed as a reference to the corresponding provisions of the 1963 Limitation Act. In Narottam

Das vs. State of Madhya Pradesh (AIR 1964 S.C. 1667), the Supreme Court has upheld the aforesaid interpretation of sub-section (1) of section 8 of the General Clauses Act, 1897. The relevant observations of the Supreme Court on this issue are to the following effect:—

“The definition of expression used in an Act with reference to other Acts is a well-known device adopted for the sake of brevity. The definition would remain effective even after the other Act with reference to which the definition was given ceases to exist.”

Despite the legal position, we are of opinion that inasmuch as an entirely fresh and a self-contained legislation on the subject is contemplated, we may just as well delete references to Articles 142 and 144 of the Indian Limitation Act, 1908, and substitute therein a reference to the corresponding Articles of the Limitation Act of 1963.

We find that there is persistent demand from many quarters that law should be enacted so that the period of limitation is extended to apply to wakfs illegally occupied even before the 15th August, 1947, and after the 7th of May, 1954. When 1967 Act was under consideration, at one stage there was a proposal to carry back the period of limitation to the 7th of May, 1942.

We think that the question as to how far, and to what extent, the Limitation Act, 1963, should be made applicable to wakfs and as well as to all religious properties is an important issue for the final report. It is clear from the decision of the Privy Council in *Masjid Shahidganj vs. Shrimoni Gurudwara Parbandhak Committee*, Amritsar (ILR 1940 Lahore 493) that the law of limitation applies to wakfs. Following observations of the Privy Council are relevant to the issue :

“It is impossible to read into the modern Limitation Acts any exception for property made waqf for the purpose of mosque whether the purpose be merely to provide money for the upkeep and conduct of a mosque or to provide a site and building for the purpose. While their Lordships have every sympathy with a religious sentiment which would ascribe sanctity and inviolability to a place of worship, they cannot under the Limitation Act accept the contentions that such a building cannot be possessed adversely to the waqf, or that it is not so possessed so long as it is referred to as “mosque” or unless the building is razed to the ground or loses the appearance which reveals its original purpose.”

It, therefore, follows that unless the application of law of limitation is expressly modified by suitable

legislation, which can stand the test of reasonable restrictions laid down under Article 19(5), wakfs can be acquired by adverse possession, if the requirement of Articles 64 and 65 of the Limitation Act, 1963 are satisfied.

In fact, the application of law of limitation in cases of all religious, pious and charitable properties has been dispensed with under Section 52(a) of the Bombay Public Trust Act, 1950, in respect of transfers for consideration also. Under Section 109 of the Madras Hindu Religious and Charitable Endowments Act, 1959, (The Madras Act 22 of 1959), it has been provided that nothing contained in any law of limitation shall be deemed to vest in any person, the property or funds of any religious institutions which have not vested in such persons or his predecessor entitled before the 30th September, 1951.

The Hindu Religious Endowments Commission, after giving careful consideration to this position, has also recommended that similar provisions as obtained in the Madras Hindu Religious Endowments Act, 1959, should be embodied in all enactments dealing with the religious trusts of a public nature. The Commission has further urged that such a provision should also declare that any alienation made without the requisite sanction of the authority concerned will be *ab initio void*. The Commission while pleading for this necessary protection has gone on to state, that if the extension of any such protection is to attract any of the provisions relating to the fundamental rights of property, the Constitution should suitably be amended (pp. 117 of the Report).

The aforesaid references to the legal and constitutional issues posed by the problem of the application of the law of limitation to all religious and pious Endowments in general and wakfs in particular have been mentioned because this question has also been before the public for a long time. We, therefore, propose to make an appropriate recommendation in this regard in our final report. In the meantime however, we strongly urged that the limited protection already accorded by Parliament, in principle, in respect of all public wakfs of religious, pious and charitable nature should be fully and correctly extended to public wakfs by user and such of the supporting public wakfs, which come under the definition of wakf in Section 66C of the Wakf Act. The urgency for such an action is underlined by the imperative need to save the large number of cases already thrown out and the huge litigation pending in the various law courts of the country. In view of the immediacy attached to the matter, we have attempted a draft enactment which is placed at Annexure ‘D’.

CHAPTER IV

REMOVAL OF MUTAWALLIS BY THE BOARD PRACTICAL DIFFICULTIES ARISING FROM THE PRESENT PROVISION— REMEDIAL MEASURES SUGGESTED

The rights and duties of a mutawalli have been set out in Chapter Five of the Central Wakf Act of 1954. This Chapter was introduced to discipline the mutawallis and keep a control over their dealings with the wakf property under them. Section 41 of the Act has provided penalties for certain offences committed in the course of the administration of the wakf property by the mutawallis. Section 43 of the Act provides that a mutawalli who has been convicted more than once of an offence under Section 41 of the Act or who has been guilty of any of the lapses enumerated in sub-section (1)(b), (c), (d) and (e) of the Section may be removed by the Board. The process of removal adumbrated two stages (i) an enquiry into the charges against the mutawalli ought to be held in the manner prescribed by law, and (ii) the decision for the removal must come from not less than 3/4th of the Members of the Board.

In the course of our enquiry we found that the application of Section 43(4) of the Act is held up and kept pending for years even in patent cases of misappropriation or breach of trust. The reason is the impossibility of securing a majority of 3/4 of the Members of the Board to pass a resolution for the removal of a Mutawalli.

In the first place it is noticed that rarely 3/4 members of a Board attend any of its meetings. Apart from the indifference or lethargy or disinterestedness on the part of the members, the mutawalli also plays a part in manipulating a situation in which a meeting of the Board with the requisite quorum becomes impossible. It is common knowledge that when the question of the removal of a mutawalli is on the agenda of any meeting of the Board the Mutawalli

makes sure that some members keep back from the meeting and the requisite 3/4 majority does not attend. In consequence, the consideration of those items in the agenda, which require a majority of 3/4 members of the Board is postponed from meeting to meeting *ad-indefinitum*.

It is, therefore, necessary that the majority required for the removal of the mutawalli under Section 43 sub-section (4) of the 1954 Act should be reduced to more realistic size. In West Bengal, by the Amending Wakf Act of 1973, a majority of two-thirds of the total membership is proposed for the removal of the mutawalli in any case. A simple majority may not be desirable for a decision on such an important matter as the removal of a mutawalli. But a balance ought to be struck, to emphasize the desirability of expeditious action by the Board and the equally important necessity to prescribe safeguard against any hasty and ill-considered or even malicious action against the Mutawalli.

Under the above circumstances, we consider that a majority of two-thirds of the total membership of the Board, as it proposed in the new West Bengal Act, will serve the above purpose.

We, therefore, recommend that sub-section (4) of Section 43 may be amended so as to provide that no action shall be taken by the Board under sub-section (1) or sub-section (2), unless it has held an inquiry into the matter in the prescribed manner and the decision for the removal of the Mutawalli has been taken by a majority of not less than two-thirds of the members of the Board.

CHAPTER V

UNAUTHORISED OCCUPATION OF WAKFS PROPERTIES—REMEDIAL MEASURES PROPOSED

Whatever places the Committee has visited and with whomsoever we have had discussions concerning wakf administration, the State Wakf Boards, or non-official Muslim organisations, individuals interested in wakf affairs, all of them have expressed grave concern over the problem of continuous encroachment on, and illegal occupation of, wakf properties. Already there had been large scale illegal possession of wakf lands and buildings during the unsettled conditions of 1947. The malady has not abated even with the return of normalcy. The prevalent land hunger, the upsurge in the prices of urban land, and in many cases the connivance of the mutawallis in illegal transfers have aggravated the crisis. The State Wakf Boards have not been able to fulfil the statutory obligation cast on them under clause (h) of Section 15 of the Central Act 29 of 1954, i.e. to take measures for the recovery of lost properties of wakfs. In defence, Wakf Boards have pleaded that with the cost of litigation being so high and the legal process being so long drawn-out, it is virtually impossible for them to take effective action under the ordinary law for dispossession of the illegal occupants.

We find that the special legislation undertaken in 1959 with its subsequent re-enactment in 1967 and 1969 providing for an extended period of limitation for instituting legal action by the Boards has not proved of much use. The persons in illegal occupation have been resorting to all available obstructive and dilatory tactics with the result that the State Wakf Boards have been unable to bear the financial burden involved in a long drawn out litigation. The State Wakf Boards have pointed out to us that very many otherwise legally strong cases, had to be compromised or were lost because of the Boards financial inability to prosecute them.

The Central Wakf Act 29 of 1954 provides for expeditious action for recovery of wakf property by the State Wakf Boards transferred in contravention of Section 36A of the Act. Under Section 36B of the Act 29 of 1954, if the Board is satisfied after making an enquiry in such a manner as may be prescribed that any immovable property of wakf entered as such in the Register of Wakfs, has been transferred without the previous sanction of the Board and in contravention of the provisions of Section 36A of the said Act, it may send a requisition to the Collector, within whose jurisdiction the property is situated, to obtain delivery of possession of the property to the Board. On receipt of such a requisition by the Collector, under sub-sections (2) to (6) of the said Section, a summary procedure has been prescribed for the Collector to obtain and deliver possession of the said wakf property to the Board.

The conditions prescribed however, (that it should have been transferred in contravention of Section 36A) will apply only to voluntary transfers. Sub-section (4) of Section 36B states that any person aggrieved by the order of the Collector may prefer an appeal to the District Court. Section 36B cannot be used if a person is in occupation of wakf property under a will or if he is a rank trespasser or a squatter.

Under Section 49B and 57A of the U.P. Wakf Act 16 of 1960 and Section 54 of the West Bengal Act 13 of 1934, identical procedure for recovery of possession by the Wakf Boards from illegal occupants exists.

The law being as stated above, we are of the opinion that the only effective way of tackling this problem, would be to ask the State Governments to extend the facility of process of summary eviction to illegal occupants of Wakf property also. This remedy is available in respect of Government properties and the properties belonging to local bodies, Government owned Corporation and companies under the various Public Premises (Eviction of Unauthorised Occupants) Acts in force in the various States. Any facility falling short of Summary Eviction will not be effective under the prevailing situation. We feel that not only public wakfs but all religious, pious and charitable institutions belonging to all communities, which serve a public purpose should be afforded this facility. It should not be difficult to persuade the State Governments to agree to afford this facility in view of the fact that under clause (e) (1) (i) of Section 2 of the Central Public Premises (Eviction of Unauthorised Occupants) Act 40 of 1971, the facility of summary eviction has been made available to a company as defined in Section 3 of the Companies Act, 1956, in which not less than 51% of the paid-up share capital is held by the Central Government. The Government owned Corporations also are covered by the aforesaid Act.

We, therefore, recommend that the definition of "public premises" in the Central Public Premises (Eviction of Unauthorised Occupants) Act 40 of 1971 and in other similar State Acts, may be broadened to include the premises belonging to any public wakf or trusts and all religious and charitable institutions serving a public purpose.

There is another aspect of encroachment of wakf properties which the Committee has noted with distress. This has reference to encroachments of wakf properties by the State Government Departments and local bodies. When the State Government is the administrative authority and is in overall control

of wakf administration, any encroachments by the State Government itself on wakf properties would amount to the fence encroaching upon the land it is meant to protect. We find that the efforts of the Central Government to remove such unhappy encroachments, taken up as early as 1961, have failed to cut much ice. The Central Government while urging the State Governments for early handing over of wakf properties under their illegal occupation, or occupation of the local Government institutions, had put forward some concrete and reasonable proposals for an expeditious solution of this problem. In view of the importance of the matter, we would like to reproduce these proposals of the Central Government :—

(a) Where feasible, the property should be vacated and handed over to the Wakf Boards concerned;

(b) Where however, costly constructions have been made on such lands and their vacation is not feasible, the State Government may kindly enter into permanent leases with the Wakf Boards concerned after paying to them the bulk of the market value of the land as premium; or

(c) In the alternative make over the fair market value of the lands to the Boards who

relinquish their rights over the land if it is in their direct management or obtain from the Muta-wallis concerned with their consent, the necessary deeds of relinquishment.

It is a matter of grave concern that this important matter has been hanging fire since 1961 although the compromise proposal mooted by the Central Government, if acted upon, would mostly facilitate the solution of this problem. The efforts of successive Central Ministers of Wakfs to prevail upon the Chief Ministers have not so far borne fruit. It has been acknowledged officially that so far, the response from the State Governments is not encouraging. As the continuance of this state of affairs should not be countenanced any further, we are of the opinion, that it is time the matter is brought to the notice of the Prime Minister, who may be requested to take it up with the Chief Ministers concerned.

Summing up, we recommend legislative action in respect of unauthorised occupation by private parties of wakf properties and administrative action at the highest level in the matter of encroachments of wakf properties by the State Government Departments and local bodies, since any litigation as between the State Wakf Boards and the State Governments is not advisable.



CHAPTER VI

THE UNSATISFACTORY FINANCIAL POSITION OF WAKF BOARDS AND WAKF INSTITUTIONS CAUSES THEREOF— REMEDIAL MEASURES PROPOSED

Any attempt to tone up the administration of Wakf Boards without first providing a sound basis for their solvency would only be an exercise in futility. The unsound financial position of the Boards is the rock on which all schemes and measures so far undertaken by the Boards and the State Governments to improve the administration of Wakf Boards have foundered. With the increasing gap between income and expenditure, most of the Boards are not in a position to employ the necessary administrative, supervisory or field staff to enable them to effectively discharge the duties and obligations cast on them under the various provisions of the Central Act. Apart from their inability to employ the requisite number of Inspectors, Auditors, Accountants, and other staff, the Boards are unable to attract the right type of qualified employees because of only unremunerative salaries they are able to offer to them. We are, therefore, not surprised to find that the common staff-pattern of the Wakf Boards consists mostly and, in some cases, wholly of retired personnel who have been re-employed on meagre salaries.

The main and in many cases the only source of income of the Wakf Boards is the 5 per cent contributions realised from the nett income of the wakfs under them. Nett income is defined in clause (g) of Section 3 of Act 29 of 1954. Some sources of income being near static, it is possible to increase them only if Wakf properties from which they are derived are improved. The current financial props by providing grants and loans by State Governments to keep most of the State Boards going are merely *ad hoc* measures to enable the Boards to make both ends meet and cannot help to permanently improve their financial position. Thus, we are convinced that unless and until the income of the Wakf institutions is suitably raised, the problems of financial paucity faced by the State Boards would continue.

The Committee further finds, whilst the attention is revetted mostly on the inadequate income of the State Wakf Boards, the none-too-satisfactory financial position of most of the important wakfs properties linked to mosques, idgahs, imambaras, and the like is lost sight of. The cost of maintenance of these important institutions has increased enormously due to the current price situation. Added to it, the salary bill of the staff necessary to run these institutions has also gone up. Whilst expenditure has increased steeply, the income of these institutions has remained stationary. The cause of this imbalance is the inability of the State Wakf Boards to increase

the rents of the urban immovable properties which nearly in all cases is the main source of income of such institutions. We find, that in the case of several important mosques, imambaras, and graveyards, it has become impossible for the Mutawalli of Committee of Management to maintain them properly with the result that there is general impression of decay and dilapidation.

Wakf institutions which are so called "public wakfs" and which had at one time or the other come under the control of the Custodian of Evacuee Property, following the partition of the country, have suffered the most. Section 2(f) of the administration of Evacuee Property Act, 1950, to the extent it is material, defines "Evacuee Property" as "any property of any evacuee (whether held by him as owner or as a trustee or as a beneficiary or as a tenant or in any other capacity)..." In this Act, special provision existed in respect of certain trust properties, including wakfs. It is provided in Section 11(i) that "where any property is in trust, being a public purpose of a religious or charitable nature (wakf), that property shall remain vested in the Custodian only until such time as the new trustees are not appointed by the Central Government". Under Section 11(ii) in respect of wakf-alal-aulad—(a) where the mutawalli is an evacuee, the property forming the subject-matter of the wakf shall vest in the Custodian subject to the rights of the beneficiaries under the wakf, if any, who are not evacuees, the rights and interests of such of the beneficiaries as are evacuees shall alone vest in the Custodian". Under the above quoted provisions, for sufficiently long period, most of the wakfs including "public wakfs" came under the control and jurisdiction of the Custodian in the States of Punjab, Haryana, Himachal Pradesh, Uttar Pradesh and Rajasthan. During this period, the Custodian has leased out valuable agricultural lands on low rentals and also rented out valuable urban properties only on nominal rents. The Chairman, Punjab Wakf Board, has pointed out to us, as also the Rajasthan Wakf Board, that shops and other buildings situated in the heart of the market in the various cities of these States have been rented out on paltry rents of Re. 1/- or Rs. 2/- per month mostly in favour of refugees from Pakistan. All these leaseholders and tenants have, however, remained permissive occupants and tenants even after the administrative control of these properties passed into the hands of the respective Wakf Boards. They can neither be dispossessed under the Extension of Limitation Act, 1959, nor can the rents be suitably raised because of provisions of the Rent Control Acts prevailing in the States.

The Committee is of opinion that this sorry state of affairs, though necessitated by circumstances beyond anybody's control, should not be allowed to continue now when almost normalcy has returned. The position needs to be corrected and in our opinion the only way to do so is to exempt wakfs of a public nature from the provisions of the Rent Control Acts prevailing in the States.

The control of letting of urban property is a State subject belonging to List 2 of the 7th Schedule of the Constitution. We foresee the difficulty and the reluctance of the Central Government to offer advice to the State Governments in this matter because the *raison d' Etre* of such legislation is the protection of the tenant from the whims of an unscrupulous landlord. There is much to be said in favour of legislation which seeks to limit these whims of a landlord in dealing with his tenants. But in case of wakfs of a public nature the advantage to be derived for the benefit of the public institutions, which happen to be the main beneficiaries, from suitable increase in the income of the properties which serve them, for outweigh any consideration which weighed in restricting the power of individual landlords. If one may be permitted to use a current slogan, an exemption in favour of public trusts of all kind from the provisions of the Rent controls would be essentially a socialistic step.

We are of the opinion that it may be possible to persuade the State Governments to exempt all "public wakfs" serving a religious, pious and charitable purpose and, as a matter of fact, all public trusts, endowments belonging to all communities from the provisions of the Rent Control Acts. All properties belonging to Central Government and State Governments or local authorities have been exempted from all the provisions of the Rent Control Act in different States. In the Rajasthan Premises (Control of Rent and Eviction) Act No. 17 of 1950 under clause (c) of sub-section (ii) of Section 2 of the Act, any premises which are meant to be places of public amusement or sports such as Cinema buildings, Theatres and the like and which are let out for being used as such, have been exempted from the provisions of the said Act. In most of the Acts, the premises occupied by State or Central Government servants have been exempted from the provisions of the Rent Control Acts. The properties owned by Wakfs or trusts of a public nature should not, in evaluating their utility to society, be placed at a lower level than a cinema or theatre. It is for these reasons that the States of Andhra

Pradesh, Kerala and Mysore have already exempted properties attached to public wakf from the provisions of the Rent Control Acts. We are informed that the Government of Rajasthan and the Delhi Administration have also agreed, in principle, to grant similar exemptions.

In most of the Rent Control Acts, the State Government has been empowered to exempt through notification, any class or category of properties from all or some of the provisions of the Rent Control Acts, prevalent in the State concerned. It should, therefore, be possible in the case of the States wherein such a provision exists in the Rent Control Act to notify the exemption of all public wakfs, trusts and endowments from the operation of the Rent Control Act forthwith without resorting to legislation.

As legislation on the subject comes under the State list, we are unable to recommend any amendment for the said purpose in the Central Wakf Act 29 of 1954. We, therefore, recommend to the Central Government to use all the persuasive resources at its disposal to prevail upon the State Government to grant the necessary exemption to public wakfs from the operation of the Rent Control Act. The initiative in respect of Union Territories can be taken by the Central Government itself. This, in our view, is the *sine que non* of effective improvement of wakf institution in the States.

Sd/-

SYED AHMED, M.P.
Chairman,
Wakf Inquiry Committee,
Ministry of Law, Justice & Co. Affairs.

Sd/-

ISHAQ SAMBHALI, M.P.
Member,
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Ministry of Law, Justice & Co. Affairs.

Sd/-

ZULFIQUAR ALI KHAN, M.P.
Member,
Wakf Inquiry Committee,
Ministry of Law, Justice & Co. Affairs.

ANNEXURE 'A

DATA TO BE COLLECTED FROM THE WAKF BOARDS FUNCTIONING UNDER THE 1954 ACT

1. (a) The budgets of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71.
(b) The details of the members of the staff—post held, qualifications, age, how long holding the present post. If pensioners—the post from which retired and the amount of pension they are drawing. Are there any dismissed Govt. or local body servants in your staff?
2. (a) Have all the wakfs including mosques, dargahs, Imambaras and graveyards which are Wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act.
(b) Has the Board taken any action in respect of any wakf under section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a Wakf or by itself cause the Wakf to be registered?
3. Has your Wakf Board taken action under Section 41(1) of the Act against any Mutawalli who has failed to apply for registration? If so, the number of cases in which such action has been taken may kindly be supplied.
4. How many reports of the Commissioner forwarded by the State Government under Section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of Section 5—the period for which such lists have been pending and the reasons for delay in their disposal.
5. (a) Has the survey of wakf as laid down under Chapter II of the Wakf Act been completed in your State? If not, the present progress recorded may be given?
(b) What action has the Board taken from time to time to the State Government for expediting survey?
6. What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every wakf as required under clause (a) of sub-section 15?
7. Has the Board on any case given any directions under clause (e) (iii) of sub-section (2) of Section 15? If so, such cases may be stated in some detail.
8. (a) During the last three years how many schemes of management have the Board settled? Copies of the schemes settled pertaining to the wakfs with an income of more than Rs. 10,000 may kindly be furnished.
(b) How many appeals under sub-section (3) of Section 15 have been filed or pending in a court of law against such settlement?
9. Has the Board given instructions regarding utilisation of the surplus income of a wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such surplus? If so, copies of such instructions issued during the last three years may kindly be supplied to this Committee.
10. (a) How many wakfs are there under the control of the Board? How many Wakfs have submitted their budgets? Year-wise break up for the years 1967-68, 1968-69, 1969-70 and 1970-71 may be given.
(b) If all the wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis?
11. (a) How many inspections of Wakfs have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71?
(b) Have all wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board? If so, copies of reports on atleast three such inspections be supplied to this Committee.

12. The qualifications, age of the present Secretary of the Board may be given—with the period for which he has been employed with following further details :—

- (i) Is he a full-time or part-time ?
- (ii) The salary he is given.
- (iii) What powers have been delegated to the Secretary by the Board under Section 22 ? A copy of such powers may kindly be furnished.
- (iv) Has the Secretary himself carried out any detailed inspection of any major wakfs? If so, the number and names of the Wakfs inspected during the last three years may be furnished.
- (v) How many days in a year, has your Secretary been on tour during the last five years ? Please also furnish details year-wise for the last five years—1967-68, 1968-69, 1969-70, 1970-71 and 1971-72.

13. (a) The number of wakf institutions audited under section 33(1) may be furnished year-wise for the years 1967-68, 1968-69, 1969-70 and 1970-71.

(b) In how many cases action has been taken under section 34 following the report of the auditors?

(c) The list of Auditors under the employment of the Board, along with their qualification, previous experience, age etc. may be furnished.

14. (a) What is estimated 6% contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? As against this, what have been the actual receipts during these years ?

(b) What action has been taken by the board to realise the arrears from the Mutawallis ?

(i) Has the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears? In how many cases such certificates of non-recovery have not been issued and why ?

(ii) Has the Board taken any action against any mutawalli for default in payment for more than two years ? Has the Board removed any mutawalli on account of his failure to pay for two consecutive years, the contribution payable by him as provided under clause (e) of sub-section (1) of Section 43 ?

15. The details of all properties under the direct management of the Board may be furnished with following particulars :

(a) Short description and the nature of each such Wakf.

(b) The details of the properties and estimated income of each such Wakf.

(c) What was the income of the property at the time when the Board assumed direct management—what has been the income year-wise after the property has come under the Board's management ?

(d) What special steps has the Board taken to improve the administration in respect of each such property ?

(e) Has the Board appointed any special staff for the actual management of each such property ? If so, the details of the staff appointed may please be given.

(f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as a part of charges towards the administration of such properties ?

(g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.

(h) Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management ? If so, the copies of the Inspection Reports may kindly be furnished.

16. The number of enquiries instituted by the Board under Sections 44 and 45 of the Wakf Act may be given.

17. Has the Board received any donations and/or grants to the Wakf Fund under sub-section (1) (a) of Section 48 of the Wakf Act ?

18. Has the Board taken any action under powers vested in it under Section 27 to determine whether a property is a Wakf property or not independently of Chapter II ?

19. Has the State Government passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? If so, the copies of the orders received from the State Government may be furnished together with what action was taken on such orders by the Board or the State Government.

20. In how many cases has the Board taken action under Section 36B for the recovery of Wakf property transferred in contravention of Section 36A ? If so, how many requisitions are pending with the Collectors ?

21. (a) The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of Wakf property under Section 36A during the last 5 years ?

(b) Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.

22. Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(1) and moved a court of law for action against the Mutawallis? If so, give a list and the result of the actions taken.

23. (a) The number and list of mutawallis removed by the Board during the last five years under section 43(1) may be furnished.

(b) In how many cases have such actions resulted in the Mutawallis moving the court of Law ?

(c) In how many cases detailed in (b) above, have the courts of law given stay orders allowing the mutawallis removed by the Board to continue to act as mutawallis ? In how many such cases have the courts appointed receivers ?

(d) In how many such cases coming under (b) have the Wakf Board moved the court for appointment of a receiver as against the court allowing the Mutawalli to continue to be incharge of the Wakf property ?

24. Have the State Government issued rules for carrying out the purposes of the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said Section?

25. Has the Board issued with the previous sanction of the State Government regulations providing for all the clauses from (a) to (n) of sub-section (2) of Section 68? If so, a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons therefor may be given.

26. The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished :—

(i) TA/DA paid to the Members of the Board for attending meetings of the Board;

(ii) Number of meetings held for the period;

(iii) TA/DA paid to the Secretary of the Board.

ANNEXURE 'B'

FACTUAL DATA TO BE COLLECTED FROM THE STATE GOVERNMENT

1. Has the survey under Chapter II of the Wakf Act been completed in your State ? If not, the reasons for the delay. The present stage of progress may kindly be furnished.

2. Did the State Government have occasions to remove the Chairman of the State Board or any Member thereof under clause (b) of sub-section (1) of Section 18 of the Wakf Act ? If so, the details of the circumstances in which he was removed.

3. The number of appeals received by the State Government under sub-section (4)(a) of Section 43 during the last five years together with instances in which the decision of the Wakf Board was reversed, in such appeal.

4. On how many occasions and in respect of how many Wakfs did the State Government determine the amount of contribution under sub-section (1) of Section 46 during the last five years ?

5. In how many instances during the last five years did the State Government give sanction empowering the State Board to borrow money under Section 47 of the Act ? The terms and conditions subject to which the sanction was given by the State Government may also be kindly furnished.

6. (a) Have the accounts of the Board been audited and examined under sub-section (1) of Section 51 for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? If not, the reasons for failure to get the accounts audited ?

(b) Details of any action taken on orders passed by the State Government on the audit reports on the accounts of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 under Section 52 of the Act may kindly be furnished.

7. Copies of any general or special directions issued by the State Government under Section 63 during the last five years may kindly be furnished.

8. Was the State Board ever superseded under Section 64 of the Wakf Act ? If so, the following details may kindly be furnished :—

(a) the period of supersession;

(b) the nett annual income of the Wakf Board at the time of supersession; and

(c) the nett annual income during the period of supersession.

9. Has the State Government framed rules under sub-section (1) of Section 67 ? If so, do the rules cover all the matters adumbrated in clauses (a) to (n) of sub-section (2) of Section 67. If not, the reasons why the rules have not been framed in respect of matters omitted ?

10. (a) Has the State Government made sure that the Board has framed regulations providing for all matters given in sub-section (2) of Section 68 ?

(b) If the Board has failed to frame regulations in respect of any or all of the clauses of sub-section (2) of Section 68, what action has the State Government taken ?

11. Has the State Government earmarked any special staff for supervision of Wakf administration in the State ? If so, the details of the staff may kindly be given.

12. Has the Secretary attached to the Minister of Wakf or any other officer of the State Government ever inspected the office of the Wakf Board ? If so, the copies of the inspection reports, if any, may be furnished ?

13. What periodical returns, and statements have been prescribed by the State Government for purposes of keeping proper supervision over the working of the Board ?

14. Under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, some provisions have been made for the administration of Hindu Religious and Charitable Institutions. Has the State Government any objection if these provisions are *mutatis mutandis* incorporated in the Central Wakf Act ? The relevant provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 are reproduced as Annexure 'A' for reference.

S.G. RASOOL,
Secretary,
Wakf Inquiry Committee.

ANNEXURE 'A'

Some of the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 referred to in the main Questionnaire

Section 12 (1).—Under Section 12(1) of the said Act, the salaries, allowances, pensions and other remuneration of the staff and the Commissioner, Deputy Commissioners, Assistant Commissioners is paid in the first instance out of the consolidated Fund of the State and later recouped from the Hindu Religious Charitable Endowments Administration Fund.

Sub-section (3) of Section 28.—A trustee shall not be entitled to spend the funds of the religious institution for meeting any costs, charges or expenses incurred by him in any suit, appeal or application or other proceedings, for, or incidental to his removal from office or the taking of any disciplinary action against him :

Provided that the trustee may reimburse himself in respect of such costs, charges or expenses if he is specifically permitted to do so by an order passed under Section 102 of the said Act also quoted below for ready reference :

“102. (1) The costs, charges and expenses of and incidental to any suit, appeal or application to a Court under this Act shall be in the discretion of the Court, which may, subject to the provision of Section 93 direct the whole or any part of such costs, charges and expenses to be met from the property or income of the religious institution or endowment concerned or to be borne and paid in such manner and by such persons as it thinks fit.

(2) The costs, charges and expenses of and incidental to any appeal, application or other proceeding before the Commissioner or a Deputy Commissioner shall be in his discretion and he shall have full power to determine by whom or out of what funds and to what extent such costs, charges and expenses are to be paid; and the order passed in this regard may be transferred by execution to the Court and shall be executed by the Court as if the order had been passed by itself, if and in so far as the Court considers the order to be a reasonable one.”

Surcharge

Section 33.—(1) The Commissioner or any officer or other person deputed by the Commissioner in this behalf may, with due regard to the religious practice or usage of the institution, inspect all moveable or immoveable property belonging to, and all records, correspondence, plans, accounts and other documents relating to, any religious institution.

(2) It shall be the duty of the trustee of the institution concerned and all officers and servants working under him, his agent and any person having concern in the administration of the institution, to afford all such assistance and facilities as may be necessary or reasonably required in regard to any inspection made in pursuance of sub-section (1) and also to produce for inspection any moveable property or documents referred to in sub-section (1) and to furnish such information as may be necessary in connection with such inspection, if so required.

(3) Where in the course of such inspection, it appears that the trustee of the institution concerned, or any of the officers or servants working under him, his agent or any other person having concern in the administration of the institution, past or present, has misappropriated or fraudulently retained any money or other property or incurred irregular, illegal or improper expenditure the Commissioner may, after giving notice to the trustee or person concerned to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, by order, certify the amount so lost and direct the trustee or such person to pay within a specified time such amount personally and not from the funds of the institution.

The procedure laid down in sub-sections (3) to (7) of Section (90) shall apply to the recovery of the amount of surcharge. Sub-sections (3) to (7) of Section 90 are also noted herebelow for ready reference :—

“(3) The Commissioner, Deputy Commissioner, or Assistant Commissioner, as the case may be, shall forward a copy of the order under sub-section (2) with the reasons for the same by registered post to the trustee or person concerned.

(4) The trustee or other person aggrieved by such order may, within thirty days of the receipt by him of the order, either—

(a) apply to the court to modify or set aside the order, and the court, after taking such evidence as is necessary may confirm, modify or remit the surcharge with such orders as to costs as it may think appropriate in the circumstances, or

(b) in lieu of such application, may appeal to the Government who shall pass such orders as they think fit.

(5) Neither the court, nor the Government to which or to whom an application or appeal is made under sub-section (4) shall have power to stay the operation of the order pending the disposal of the application or appeal.

(6) An order of surcharge under this section against a trustee shall not bar a suit for accounts against him except in respect of the matter finally dealt with by such order.

(7) The Collector of the district in which is situated any property of the trustee or other person from whom an amount is recoverable by way of surcharge shall, on a requisition made by the Commissioner, recover such amounts as if it were an arrear of land revenue and pay the same to the religious institution concerned."

Section 78.—(1) Where the Assistant Commissioner having jurisdiction over the area in which the religious institution is situated has reason to believe that any person has encroached upon any land or building belonging to the religious institution, which is appurtenant to or adjoins the religious institution, or any sacred tank, well, spring or water-course, appurtenant to the religious institution, whether situated within or outside the precincts thereof, or any space within or outside the prakarams, mentapams, courtyards or corridors of the religious institution (hereinafter in this Act referred to as the encroacher) the Assistant Commissioner shall report the fact together with relevant particulars to the Deputy Commissioner having jurisdiction over the area in which the religious institution is situated.

(2) On being satisfied that there has been an encroachment, the Deputy Commissioner may, cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling on him to show cause before a certain date why an order requiring him to remove the encroachment before a date specified in the notice shall not be made. A copy of the notice shall also be sent to the trustee of the religious institution concerned.

(3) The notice referred to in sub-section (2) shall be served in such manner as may be prescribed.

(4) After considering the objections, if any, of the encroacher and the trustee received within the period specified in the notice referred to in sub-section (2), the Deputy Commissioner may, by order, if he decides that there has been an encroachment, require the encroacher to remove the encroachment and deliver possession of the land or building encroached upon to the trustee before a date specified in the order.

(5) The order of the Deputy Commissioner shall be in writing and shall contain the grounds on which he has passed the order.

Section 87.—(3) The accounts of every religious institution, the annual income of which is calculated for the purposes of section 92 for the fasli year, immediately preceding is not less than sixty thousand rupees, shall be subject to concurrent audit, that is to say the audit shall take place as and when the expenditure is incurred. The accounts of every other religious institution, the annual income of which is calculated as aforesaid for the fasli year immediately preceding is not less than one thousand rupees, shall be audited annually, or if the Commissioner so directs in any case or class of cases at shorter intervals.

Section 90.—(1) The Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be, shall send a copy of every audit report relating to the accounts of a religious institution to the trustee thereof, and it shall be the duty of such trustee to remedy any defects or irregularities pointed out by the auditor and report the same to the Commissioner, Deputy Commissioner, or Assistant Commissioner, as the case may be.

(2) If, on a consideration of the audit report and the report of the trustee and after such inquiry as may be necessary, the Commissioner, Deputy Commissioner, or Assistant Commissioner, as the case may be, thinks that the trustee or any other person was guilty of irregular, illegal or improper expenditure, or loss or waste of money or other property thereof caused by failure to recover moneys due or other property belonging to the religious institution or by neglect or misconduct or mis-application or collusion or fraudulent transactions or breach of trust, the Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be, may after giving notice

to the trustee or such person to show cause *why an order of surcharge should not be passed against him and after considering his explanation, if any, by order certify the amount so spent or the amount or value of the property so lost or wasted, and direct the trustee or such person to pay within a specified time such amount of value personally :*

Provided that if, in respect of any expenditure or dealing with the property of the institution, the trustee or such person had obtained the directions of the Commissioner, Deputy Commissioner, or Assistant Commissioner, as the case may be, and had acted in accordance with such directions, he shall not be held liable.

(3) The Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be, shall forward a copy of the order under sub-section (2) with the reasons for the same by registered post to the trustee or person concerned.

(4) The trustee or other person aggrieved by such order, may, *within thirty days* of the receipt by him of the order, either—

(a) *apply* to the Court to modify or set aside the order and the Court, after taking such evidence as is necessary, may confirm, modify or remit the surcharge with such orders as to costs as it may think appropriate in the circumstances, or

(b) in lieu of such application, may *appeal* to the Government who shall pass such orders as they think fit.

(5) Neither the Court, nor the Government to which or to whom an application or appeal is made under sub-section (4) shall have power to stay the operation of the order pending the disposal of the application or appeal.

(6) An order of surcharge under this section against a trustee shall not bar a suit for accounts against him except in respect of the matter finally dealt with by such order.

(7) The Collector of the district in which is situated any property of the trustee or other person from whom an amount is recoverable by way of surcharge shall, on a requisition made by the Commissioner, *recover such amount as if it were an arrear of land revenue* and pay the same to the religious institution concerned.

(8) Where the Commissioner is satisfied that the trustee or other person with intent to defeat or delay the execution of any order that may be made under sub-section (2) or sub-section (4)—

(a) is about to dispose of the whole or any part of his property; or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Commissioner, *the Commissioner may unless adequate security is furnished, apply to the Court pending the decision of the Court or Government for conditional attachment of the said property or such part thereof, as he thinks necessary.*

Section 92.—(1) Every religious institution shall, from the income derived by it, pay to the Commissioner annually such contribution not exceeding seven per centum of its income as may be prescribed in respect of the services rendered by the Government and their officers and for defraying the expenses incurred on account of such services.

(2) Every religious institution the annual income of which, for the fasli year immediately preceding as calculated for the purposes of the levy of contribution under sub-section (1), is not less than one thousand rupees, shall pay to the Commissioner annually, for meeting the cost of auditing its accounts, such further sum not exceeding one and a half per centum of its income as the Commissioner may determine.

(3) The annual payments referred to in sub-sections (1) and (2) shall be made notwithstanding anything to the contrary contained in any scheme settled or deemed to have been settled under this Act for the religious institution concerned.

(4) The Government shall pay the expenses incurred for the purposes of this Act, including the—

(i) expenses of Area Committees,

(ii) expenses of Consultative Committees, and sub-committees thereof, constituted by the Government or by any officer or authority subordinate to the Government and specially authorised by them in this behalf.

(iii) cost of the publication of journals, books, annuals and descriptive accounts relating to religious institutions.

Section 109.—Nothing contained in any law of limitation for the time being in force shall be deemed to vest in any person the property or funds of any religious institution which had not vested in such person or his predecessor-in-title before the 30th September 1951 (in the case of the Wakf Act the words 'before the 15th August, 1947' may be considered).

Section 114.—(1) The Government may call for and examine the records of the Commissioner or any Deputy or Assistant Commissioner or of any trustee in respect of any proceeding not being a proceeding in respect of which a suit or an appeal or application to a Court or an appeal to the Government is provided by this Act, to satisfy themselves as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein; and, if, in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

(2) The Government may stay the execution of any such decision or order, pending the exercise of their powers under sub-section (1) in respect thereof.

(3) No application to the Government, for the exercise of their power under this section shall be made in respect of any matter unless an application had already been made in respect of the same matter to the Commissioner under Section 21 and had been disposed of by him.

(4) Every application to the Government for the exercise of their power under this section shall be preferred within three months from the date on which the order or proceeding to which the application relates was communicated to the applicant.



S. G. RASOOL,

*Secretary,
Wakf Inquiry Committee,*

ANNEXURE 'C'

Rajasthan Board of Muslim Wakfs

Information sought	Replies furnished by Wakf Boards
1. (a) The budget of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71.	Budgets are enclosed and marked Annex. A, B, C and D.
(b) The details of the members of the staff, posts held, qualifications, age, how long holding the present post, if pensioner, the post from which retired and the amount of pension they are drawing. Are there any dismissed Govt. or local body servants in your staff ?	Details are enclosed and marked Annex. E.
2. (a) Have all the wakf including mosques, darghas, Imambaras and graveyards which are wakfs by user been registered and entered into Register of Wakfs under section 25 of the Act?	Yes. All the properties included in the report of the Wakf Commissioner, Rajasthan have been registered and entered into Register of Wakfs, which includes the Wakfs by user also.
(b) Has the Board taken any action in respect of any wakf under section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a wakf or by itself cause the wakf to be registered ?	Yes. The work of securing the registration of wakf was a stupendous task more so, on account of the antipathy and opposition on the part of the Mutawallis. Hence notices had to be issued under Section 28 of the Wakf Act and the Mutawallis directed to apply for the registration of wakfs. Still there remain quite a number of wakf which had no Mutawallis. Hence action had to be taken under section 28 and the Board had to order that all the wakfs published as such in pursuance of section 5 of the wakf Act in the Govt. Gazette should be deemed to have been registered.
3. Has your Wakf Board taken action under section 41(1) of the Act against any Mutawalli who has failed to apply for registration? If so, the number of cases in which such action has been taken may kindly be supplied.	The Board had to take recourse to the provisions of section 41 of the Act and preliminary notices had to be issued in many cases for showing cause as to why prosecution as contemplated under section 41(1) be not launched. In most cases these notices had the desired effect, and the wakf properties were either got registered or the parties—who felt aggrieved—went to the Courts and secured injunctions <i>pendente lite</i> against the Board. As such, the necessity for instituting any criminal case has not so far arisen.
4. How many reports of the Commissioner forwarded by the State Government under section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of section 5 of the Act; the period for which such lists have been pending and the reasons for delay in their disposal?	The survey has already been completed in Rajasthan. The reports of the Wakf Commissioner have also been published in the Government Gazette.
5. (a) Has the survey of Wakfs as laid down under Chapter II of the Wakf Act been completed in your State? If not, the present progress recorded may be given.	Please see reply to para 4 above.
(b) What action has the Board taken from time to time to move the State Government for expediting survey ?	Question does not arise.

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6.	What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every wakf as required under clause (a) of sub-section (2) of Section 15 ?	The basic record in relation with this information, is the record of the survey as prepared by the Wakf Commissioner. The other record are (1) Register of Wakf prescribed under section 26 of Wakf Act; (2) The yearly budget and income and expenditure statements of the wakfs; and (3) the relevant files of the wakfs.
7.	Has the Board on any case given any directions under clause (e)(iii) of sub-section (2) of Section 15 ?	No.
8. (a)	During the last three years how many schemes of management have the Board settled? Copies of the schemes settled pertaining to the Wakfs with an income of more than Rs. 10,000 may kindly be furnished.	The Board has not settled any scheme of management during the last three years. However long before the Wakf Board came into existence schemes for the following four wakfs were settled by Civil Courts under section 92 of the C.P.C. (1) Dargah Tara Garh, Ajmer; (2) Dargah Shakarbar Sb. Narhar (Jhunjhunu); (3) Sartaj Hotel, Ajmer; and (4) Masjid Committee, Ajmer.
(b)	How many appeals under sub-section (3) of Section 15 have been filed or pending in a court of law against such settlements ?	No.
9.	Has the Board given instructions regarding utilisation of the surplus income of a wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such instructions issued during the last three years may kindly be supplied to this Committee.	Nil.
10. (a)	How many wakfs are there under the control of the Board ? How many wakfs have submitted their budgets? Year-wise break up for the years 1967-68, 1968-69, 1969-70 and 1970-71 may be given.	There are 17,000 Wakf properties in Rajasthan as surveyed by the Wakf Commissioner. Different categories of these Wakfs are as under :— Wakfs having no income 15509 Wakfs having income up to Rs. 200 P.A. 493 Wakfs having income more than Rs. 200 P.A. 998 TOTAL 17000

Notwithstanding the provisions of the Act about the prior submission of the budgets, the practical difficulties are inherent, which if over-looked can render the very management of the wakf quite difficult one. The Board had to take these difficulties into consideration and a convenient workable system has been evolved. The prior submission of budgets is insisted upon in regard with the Wakfs having an annual income of Rs. 2,000 or more (copy of the resolution of the Board is enclosed and marked Annex. F). The remaining categories of wakfs have been given the facility of managing their own financial matters without obtaining prior sanction of their budgets. But this does not mean that these wakfs have been left out without any check or supervision. They have to submit detailed accounts of their income and expenditure every year. These

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accounts are scrutinised very closely. Irregularities in the accounts if any, are taken up. The contribution under section 46 is also levied on the basis of the scrutinised accounts. This dispenses with the cumbersome procedure of the prior submission of the budgets.

- (b) If all the wakf have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis?

Such directions and notices are issued to the Mutawallis, which have desired effect and so far the Board has not taken any action against the Mutawallis as contemplated under section 41 of the Wakf Act.

11. (a) How many inspections of wakf have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71 ?

Inspection made by the Board :—

1968-69	1969-70	1970-71
21	6	7

- (b) Have all wakf having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board? If so, copies of reports on atleast three such inspections may be supplied to this Committee.

Not all.

12. The qualifications, age of the present Secretary of the Board may be given with the period for which he has been employed with the following further details. :—

- Is he a full-time or part-time employee?
- The salary he is given.
- What powers have been delegated to the Secretary by the Board under section 22? A copy of such powers may kindly be furnished.
- Has the Secretary himself carried out any detailed inspection of any major wakfs? If so, the number and names of the wakfs inspected during the last three years may be furnished.
- How many days in a year, has your Secretary been on tour during the last five years? Please also furnish details year-wise for the last five years 1967-68, 1968-69, 1969-70, 1970-71 and 1971-72.

A Statement regarding this item and its sub-items is annexed and marked as Annexure (G).

13. (a) The number of wakf institutions audited under section 33(1) may be furnished year-wise for the years 1967-68, 1968-69, 1969-70, 1970-71 and 1971-72.

- (b) In how many cases action has been taken under section 34 following the report of the auditors? One.

- (c) The list of Auditors under the employment of the Board along with their qualifications, previous experience, age etc. may be furnished.

There is no auditor in the employment of the Board. The Accounts of the major wakfs are being audited by the Local Fund Audit Department and the Chartered Accountants.

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14. (a) What is the estimated 6 per cent contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71? As against this what have been the actual receipts during these years?

A Statement marked 'H' is enclosed. In case of default on the part of the mutawallis despite service of notices on them, action under section 46(4) is taken and the certificates to recover the amount as arrear of land revenue are issued and sent to the Collectors.

- (b) What action has been taken by the Board to realise the arrears from the Mutawallis?

- (i) Has the Board issued certificates for recovery to the Collectors as arrears of land revenue in all cases of arrears? In how many cases such certificates of non-recovery have not been issued and why?

In almost all the cases wherein it is found that recovery cannot be affected otherwise the certificates have been issued to the Collectors for recovering the dues as arrear of land revenues. However, in all such cases wherein other modes of recovery certificates have not been issued.

- (ii) Has the Board taken any action against any Mutawalli for default in payment for more than two years? Has the Board removed any Mutawalli on account of his failure to pay for two consecutive years, the contribution payable by him as provided under clause (a) of sub-section (1) of section 43?

The Board generally gets the amount of contribution recovered as arrear of land revenue. But very recently two Mutawallis have been removed on this count :—

1. Management Committee Dargah Hissamuddin Sb. Sanbher (Jaipur).
2. Mutawalliyan Dargah Khaki Shah, Rajmahal (Tonk).

15. The details of all properties under the direct management of the Board may be furnished with following particulars :—

- (a) Short description and the nature of such wakf.
- (b) The details of the properties and estimated income of each such wakf?
- (c) What was the income of the property at the time when the Board assumed direct management? What has been the income year-wise after the property has come under the Board's management?
- (d) What special steps has the Board taken to improve the administration in respect of each such property?
- (e) Has the Board appointed any special staff for the actual management of each such property? If so, the details of the staff appointed may please be given.
- (f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as a part of charges, towards the administration of such properties?
- (g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.

A detailed statement is enclosed in this item, and its sub-items, please see Annexure I.

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	(h) Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management? If so, the copies of the Inspection Reports may kindly be furnished.																									
16.	The number of enquiries instituted by the Board under sections 44 and 45 of the Wakf Act may be given.	<p>Enquiries held by the Board :—</p> <table> <tr> <th>1962-63</th><th>1963-64</th><th>1964-65</th></tr> <tr> <td>4</td><td>2</td><td>10</td></tr> <tr> <th>1965-66</th><th>1966-67</th><th>1967-68</th></tr> <tr> <td>21</td><td>21</td><td>18</td></tr> <tr> <th>1967-68</th><th>1968-69</th><th>1969-70</th></tr> <tr> <td>1</td><td>3</td><td>5</td></tr> <tr> <th>1970-71</th><td></td><td></td></tr> <tr> <td>1</td><td></td><td></td></tr> </table>	1962-63	1963-64	1964-65	4	2	10	1965-66	1966-67	1967-68	21	21	18	1967-68	1968-69	1969-70	1	3	5	1970-71			1		
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1967-68	1968-69	1969-70																								
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17.	Has the Board received any donation and/or grants in the Wakf Fund under sub-section (1)(a) of section 48 of the Wakf Act ?	No.																								
18.	Has the Board taken any action under powers vested in its under section 27 to determine whether a property is a Wakf property or not independently of Chapter II ?	The Board has to take recourse to the provisions of sec. 27 very often and in quite a sufficient number of cases.																								
19.	Has the State Government passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71? If so, the copies of the orders received from the State Govt. may be furnished together with what action was taken on such orders by the Board or the State Govt.	No.																								
20.	In how many cases has the Board taken action under section 36B for the recovery of Wakf property transferred in contravention of section 36A ? If so, how many requisitions are pending with the Collectors?	In 7 cases out of these seven four are still pending with the Collectors.																								
21. (a)	The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of Wakf properties under section 36A during the last 5 years.	Four.																								
(b)	Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.	Three.																								
22.	Has the Board ever taken action for any failure on the part of the Mutawallis under section 41(1) and moved a court of law for action against the Mutawallis ? If so, give a list and the result of the action taken.	No. Reply to point No. 3 may kindly be persued.																								

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23. (a) The number and list of Mutawallis removed by the Board during the last five years under section 43(1) may be furnished.

List is attached and marked J.

(b) In how many cases have such actions resulted in the Mutawallis moving the court of law?

Two.

(c) In how many cases detailed in (b) above, have the courts of law given stay orders allowing the Mutawallis removed by the Board to continue to act as Mutawallis? In how many such cases have the courts appointed receivers?

Nil

(d) In how many such cases coming under (b) have the Wakf Board moved the court for appointment of a receiver as against the court allowing the Mutawalli to continue to be incharge of the wakf property?

Nil

24. Have the State Government issued rules for carrying out the purposes of the Wakf Act under section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said section?

Yes. But these rules do not cover sections 36(A) and 36(B), 21(1&2), 26, 49, 46(4), 53(1&2) as well as some matters as specified in section 15 of the Act.

25. Has the Board issued with the previous sanction of the State Government regulations providing for all the clauses from (a) to (n) of sub-section (2) of section 68? If so, a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of section 68, the reasons therefor may be given.

Yes. A copy is attached. K.

26. The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished :—

(i) TA/DA paid to the Members of the Board for attending meetings of the Board.

	1967-68	1968-69	1969-70	1970-71
	4585.15	6641.90	5205.00	4682.88

(ii) Number of meetings held during the period.

Year	1967-68	1968-69	1969-70	1970-71
No. of meetings	5	7	8	7
No. of Sitting	13	25	15	18

(iii) TA/DA paid to the Secretary of the Board.

	1967-68	1968-69	1969-70	1970-71
	849.12	457.67	288.00	568.28

—: A :—

Budget estimate of income for the year 1967-68 of Rajasthan Board of Muslim Wakfs, Jaipur

S. No.	Heads	Budget estimate 1966-67	Actual 1966-67	Budget estimate 1967-68
1.	Opening Balance	19,840.34	19,840.34	1,07,383.55
2.	Rent of Wakf Properties	5,000.00	3,125.90	4,000.00
3.	Registration fee	3,000.00	1,497.00	1,500.00
4.	Contribution	25,000.00	14,093.00	35,000.00
5.	Interest of Bank	1,000.00	404.04	2,000.00
6.	Misc. Income	500.00	653.71	700.00
7.	Govt. Loan . . . . .	..	1,00,000.00	..
		54,340.34	1,39,614.19	1,50,583.55

Detailed budget of the Rajasthan Board of Muslim Wakfs Jaipur, 1967-68

Name of Heads	No. of posts	Grade	Actual Expenditure 1966-67	Budget Estimate 1966-67	Revised Estimate 1966-67	Budget Estimate 1967-68
1, Pay of Officers						
Secretary	1	550-30-820-EB-30-850-50-1150.	9,741.09	12,700.00	9,800.00	11,890.00
Asstt. Secretary	1	..	2,680.00	2,680.00	2,680.00	..
TOTAL	2	..	12,421.09	15,380.00	12,480.00	11,890.00

2 Pay and Fee of Remuneration of the Establishment

1. Stenographer	1	140-5-150-EB-7½-180-10-280	18,067.15	24,035.00	18,070.00	24,470.00
2. Upper Division Clerks	5	105-5-150-EB-8-190-10-240				
3. Accountant Cum-Cashier	1	—do—				
4. Field Inspectors	5	—do—				
5. Lower Division Clerks	5	90-4-102-4-110-5-130				
6. Class IV Servants	4	45-1-70				
7. Special Pay for Cashier & Duplicators		120				

GRAND TOTAL 30,488.24 39,415.00 30,550.00 36,360.00

Heads	Actual Expenditure 1966-67	Budget Estimate, 1966-67	Revised Estimate, 1966-67	Budget Estimate, 1967-68
3. Allowance and Honoraria				
Honorarium to Chairman Rs, 100 p.m.			2,000.00	New item
Dearness Allowance	7,427.30	8,000.00	7,450.00	13,000.00
Travel Allowance	8,850.33	10,000.00	8,900.00	10,000.00
House Rent	1,872.37	3,000.00	2,000.00	3,000.00
Comp. Allowance for Non-Gazetted staff	959.90	1,000.00	1,000.00	1,000.00
Remuneration fee to the Staff of Wakf Commr. & Board	60.00	500.00	60.00	500.00
TOTAL	19,169.90	22,500.00	19,410.00	29,500.00

Heads	Actual Expenditure, 1966-67	Budget Estimate, 1966-67	Revised Estimate 1966-67	Budget Estimate, 1967-68
4. Contingencies				
Postage & Telegram	542.34	1,000.00	550.00	1,000.00
Trunk & Telephone	821.95	1,500.00	850.00	1,000.00
Printings	413.65	5,000.00	450.00	2,000.00
Books & Periodicals	156.28	500.00	200.00	500.00
Stationery	589.53	2,000.00	600.00	1,500.00
Elect. water hot & cool weather	569.22	1,000.00	600.00	1,000.00
Furnitures	24.00	100.00	25.00	100.00
TOTAL	3,116.97	11,100.00	3,275.00	7,100.00
5. Law Charges				
Advocate & Lawyer's fee	700.00	3,000.00	800.00	15,000.00
Stamp Charges, Court fee & Litigation	282.39	2,000.00	300.00	
TOTAL	982.39	5,000.00	1,100.00	15,000.00
6. Preservation, Protection and Maintenance of Wakfs	..	1,000.00	..	1,000.00
7. Audit Charges	..	500.00	..	500.00
8. Leave & Pension Contribution	779.03	1,000.00	800.00	2,000.00
9. Scholarships	..	1,500.00	..	1,500.00
10. Light refreshment at the time of meeting as & when necessary misc. petty items, contingencies	551.26	2,000.00	600.00	1,000.00

ABSTRACT

Heads	Actual 1966-67	Budget Estimate 1966-67	Revised Estimate 1966-67	Budget Estimate 1967-68
1. Pay of Officers	12,421.09	15,380.00	12,480.00	11,890.00
2. Pay of Staff	18,067.15	24,035.00	18,070.00	24,470.00
3. Allowance & Honorarium	19,169.90	22,500.00	19,410.00	22,500.00
4. Contingencies	3,116.97	11,100.00	3,275.00	7,100.00
5. Law Charges	982.39	5,000.00	1,100.00	15,000.00
6. Preservation of wakf properties	..	1,000.00	..	1,000.00
7. Audit Charges	..	500.00	..	500.00
8. Leave & pension contribution	779.03	1,000.00	800.00	2,000.00
9. Scholarships	..	1,500.00	..	1,500.00
10. Miscellaneous	551.26	2,000.00	600.00	1,000.00
GRAND TOTAL	55,087.00	84,015.00	55,535.00	93,960.00

—: B :—

Budget estimate of income for the year 1968-69 of Rajasthan Board of Muslim Wakfs, Jaipur

S. No.	Head	Budget Estimate 1967-68	Actual 1967-68	Budget Estimate 1968-69
1.	Opening Balance	1,07,383.55	1,07,383.55	14,840.66
2.	Rent of wakf properties	4,000.00	3,624.00	4,200.00
3.	Registration Fee	1,500.00	1,128.00	3,000.00
4.	Contribution Fee	35,000.00	14,636.00	50,000.00
5.	Interest of Bank	2,000.00	1,545.00	1,500.00
6.	Misc. Income	700.00	339.00	900.00
7.	Bank Deposit			30,000.00
	TOTAL	1,50,583.56	1,13,656.55	1,14,440.66

Detailed Budget of the Rajasthan Board of Muslim Wakfs, Jaipur

Name of Heads	No. of Posts	Grade	Actual Exp. 1967-68	Budget Estimate 1967-68	Revised Estimate 1967-68	Budget Estimate 1968-69
<i>Pay of Officers</i>						
Secretary	1	550-30-820-E.B.-30-850-50-1150	11,350.00	11,890.00	11,500.00	12,490.00
Asstt. Secretary	1					
TOTAL	2		11,350.00	11,890.00	11,500.00	12,490.00

2. Pay & Fee of Remuneration of the Establishment

1. Stenographer	1	140-5-150-E.B.-7½-180-10-250.				
2. Upper Division Clerks	5	105-5-150-E.B.-8-190-10-240.				
3. Accountant-Cum-Chashier	1	—do—	17,256.00	24,470.00	17,300.00	23,417.00
4. Field Inspectors	5	—do—				
5. Lower Division Clerks	5	90-4-102-E.B.-110-5-130				
6. Class IV Servants	4	45-1-170				
7. Special Pay for Chashier & Head Clerk		120 180				
GRAND TOTAL			28,606.00	36,360.00	28,800.00	35,907.00

Head	Actual Expenditure 1967-68	Budget Estimate 1967-68	Revised Estimate 1967-68	Budget Estimate 1968-69
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Allowance and Honeraria

Honerarium to Chairman Duplicating allowance	4,667.00	2,000.00	4,675.00	6,060.00
Dearness Allowance	12,905.00	13,000.00	12,960.00	29,875.00
Travel Allowance	10,500.00	10,000.00	11,000.00	11,000.00
House Rent	1,700.00	3,000.00	1,725.00	3,000.00
Comp. Allow. for Non-Gazetted Staff	1,003.00	1,000.00	1,025.00	1,025.00
Remuneration fee to the staff of wakf Commr. & Board . . . . .	..	500.00	..	500.00
TOTAL	30,775.00	29,500.00	37,365.00	51,460.00

Contingencies

Postage & Telegram	1,207.00	1,000.00	1,210.00	1,250.00
Trunk & Telephone	1,160.00	1,000.00	1,160.00	1,200.00
Printings	589.00	2,000.00	590.00	1,000.00
Books & periodicals	330.00	500.00	325.00	500.00
Stationery	750.00	1,500.00	775.00	1,200.00
Elect. Water Hot & Cool Weather	553.00	1,000.00	460.00	800.00
Furnitures	12.00	100.00	20.00	100.00
Purchase of type writer . . . . .	..	..	..	2,000.00
TOTAL	4,601.00	7,100.00	4,650.00	8,050.00

	Actual Expenditure 1967-68	Budget Estimate 1967-68	Revised Estimate 1967-68	Budget Estimate 1968-69
5. Law Charges				
Advocate & Lawyer's				
Stamp, Charges, Court Fee & Litigation	9,675.00	15,000.00	1,000.00	13,000.00
6. Preservation, protection and maintenance of Wakfs	500.00	1,000.00	500.00	..
7. Audit Charges . . . . .	..	500.00	..	500.00
8. Leave & Pension Contribution	1,265.00	2,000.00	1,265.00	2,000.00
9. Scholarships	200.00	1,500.00	200.00	2,500.00
10. Light Refreshment at the time of Meeting as and when necessary	520.00	1,000.00	525.00	1,000.00
Misc. Petty Items, Contingencies				
TOTAL	76,102.00	93,960.00	83,305.00	1,14,237.00



—: C :—

RAJASTHAN BOARD OF MUSLIM WAKFS, HAWAMAHAL, JAIPUR

Budget Estimate of Income and Expenditure for the Year 1969-70

INCOME				EXPENDITURE			
Accounts for 1968-69	Budget Estimate for 1968-69	Revised Estimate for 1968-69	Head of Income	Budget Estimate made for 1969-70	Expenditure Heads	Revised Estimate 1968-69	Account for 1968-69
19,382.60	50,000.00	16,420.00	(1) Contribution	25,000.00	1. Deficit from previous years	..	..
			Other income				
2,102.27	1,500.00	2,102.00	Interest on investments and advances.	3,000.00	Allowance to Chairman	6,000.00	6,000.00
380.10	7,900.00	390.00	Fees for supply of documents	500.00	Pay of Secy.	10,500.00	7,986.00
10,065.44	..	8,500.00	Other Petty Items including rent of Wakf properties.	33,700.00	Pay of establishment	19,000.00	28,094.00
				45,460.00	T.A. & Other Allowance	29,070.00	31,670.00
				8,050.00	Contingencies	4,560.00	4,150.00
				13,000.00	Law Charges	33,000.00	44,000.00
				500.00	Audit Charges	..	1,000.00
				..	Interest on Loans	..	..
				1,000.00	Preservation of Wakfs	..	500.00
				4,500.00	Other Expenses	2,800.00	3,300.00
31,930.41	59,400.00	27,412.00		62,200.00		1,04,830.00	1,26,700.00
67,621.37	55,017.00	77,413.00	Deficit at the end of the year	64,500.00		..	99,551.00
99,551.78	1,14,417.00	1,04,830.00	Total	1,26,700.00		1,04,830.00	12,670.00
							99,551.78

—: D :—

RAJASTHAN BOARD OF MUSLIM WAKFS HAWAMAHAL JAIPUR

Budget Estimate of the Rajasthan Board of Muslim wakfs, Jaipur for the year 1970-71
Income

Sl. No.	Heads of Income	Actual Income 1968-69	Budget Estimate 1969-70	Revised Estimate 1969-70	Estimate Income 1970-71
1.	Opening Balance	14,840.66	14,500.00	14,921.10	1,000.00
2.	Rent of Wakfs	6,713.72	30,000.00	10,141.00	12,000.00
3.	Registration Fee	3,246.55	3,700.00	1,833.00	2,500.00
4.	Contribution Fee	19,382.60	25,000.00	37,117.00	40,000.00
5.	Interest of Bank	2,102.27	3,000.00	3,057.00	2,000.00
6.	Misc. Income	485.27	500.00	2,816.00	2,000.00
7.	Govt. Loan	83,000.00	..	..	..
8.	Fixed Deposit	30,000.00	50,000.00	30,000.00	30,000.00
TOTAL		1,59,771.07	1,26,700.00	99,884.10	89,500.00

DETAILED BUDGET ESTIMATE OF THE RAJASTHAN BORAD OF MUSLIM WAKFS, JAIPUR

Establishment

S. No.	Name of Posts	No. of Posts	Scale of Pay	Actual Exp. 1968-69	Budget Est. 1969-70	Revised Est. 1969-70	Estimate 1970-71
1.	Secretary	1	550-820-EB-30-850-50-1100	10,388.36	7,986.00	7,986.00	7,986.00
2.	Staff						
	Superintendent	1	250-10-300				
	Stenographer	1	140-5-150-EB-74-180-10-250				
	Upper Division Clerks	2	120-5-150-8-200-10-300				
	Inspectors	3	-do-	18,843.84	28,094.00	18,450.00	14,730.00
	Lower Division	1	90-4-102-4-110-5-150				
	Class IV Servants	3	45-1-70				
				29,232.20	36,080.00	26,336.00	22,716.00

ESTIMATE OF THE RAJASTHAN BOARD OF MUSLIM WAKFS, JAIPUR FOR THE YEAR 1970-71

Expenditure

Sl. No.	Heads of Expenditure	Actual Exp. 1968-69	Budget Est. 1969-70	Revised Est. 1969-70	Estimate 70-71	
1	2	3	4	5	6	7
1.	Pay of Secretary	10,388.36	7,986.00	7,986.00	7,986.00	
2.	Pay of Staff	18,843.84	28,094.00	18,450.00	14,730.00	
		29,232.20	36,080.00	26,336.00	22,716.00	

1	2	3	4	5	6	7
3. Allowance and Honerarium						
Honerarium to the Chairman			6,000.00	6,000.00	2,540.00	(Acctt.)
Allow. to Acctt.					140.00	240.00
Duplicating Allow.			60.00	60.00	60.00	60.00
Cycle Allow.			..	120.00	..	120.00
D.A.			13,668.00	19,840.00	13,665.00	10,956.00
T.A.			11,126.13	8,000.00	6,013.00	8,000.00
House Rent			1,678.98	2,350.00	1,604.00	1,116.00
City Compensatory			1,027.86	1,300.00	965.00	603.00
			33,560.97	37,670.00	24,847.00	21,095.00
4. Office Expenses						
Postage			1,567.13	1,000.00	1,200.00	1,200.00
Telephone			1,079.25	600.00	1,010.00	1,100.00
Printing			296.00	300.00	200.00	300.00
Books & Periodicals			252.20	300.00	287.00	300.00
Stationery			800.33	1,000.00	975.00	1,000.00
Elect. & Water			85.07	500.00	223.00	250.00
Furnitures			5.00	100.00	50.00	50.00
Leaveries			..	350.00	331.00	350.00
			4,084.98	4,150.00	4,276.00	4,550.00
5. Perceivation			450.00	500.00	300.00	..
6. Audit Charges			..	1,000.00	800.00	800.00
7. Leave & Pension contri,			1,198.87	..	..	..
8. Scholarships			100.60	2,500.00	2,025.00	2,000.00
9. Misc. Contingencies			391.53	800.00	200.00	500.00
10. Litigation			27,726.31	44,000.00	25,000.00	20,000.00
11. Repayment of Govt. Loan			10,000.00
TOTAL			96,475.46	126,700.00	83,784.00	81,161.00

ANNEXURE—E

Item No. 1 (b)

DETAILS OF THE MEMBERS OF STAFF

Sl. No.	Name	Post held	Qualifications	Age	How long holding	If pensioner post from which retired	Amount of pension	Whether Dismissed Govt. or Local body servant
1.	Shri Abdul Hafiz Beg.	Superintendent	B.A.L.L.B.	58 years and 10 months	10-10-68	Land Acquisition officer (PWD)	Not yet fixed	No.
2.	Shri Alamsher Khan	Accountant	B.A.	56 years	2-7-70	Accountant in Finance Deptt. of State Govt.	169/-	No.
3.	Shri Ahtram Ullah Khan	Steno	B.A.	29 years	1-7-65	—	—	No.
4.	Shri Aijaz A Naqvi	Inspector	B.A.	34 years	23-2-70	—	—	No.
5.	Shri A. Samad Khan	-do-	Matriculate	26 years	2-12-68	—	—	No.
6.	Shri Amjad Ali Khan	-do-	-do-	44 years	2-12-65	—	—	No.
7.	Shri Ibrahim Ali	U.D.C.	..	62 years	2-12-65	Election Supervisor (U.D.C.)	Not yet fixed	No.
8.	Shri Ataur Rehman	U.D.C.	-do-	27 years	27-1-68	—	—	No.
9.	Shri Rafique Ahmed	Inspector	-do-	39 years	19-11-69	—	—	No.
10.	Shri Ghothmal	Peon	..	27 years	29-1-65	—	—	No.
11.	Shri Chotheykhan	Peon	..	50 years	16-8-65	—	—	No.
12.	Shri Laeeqahmad	Peon	..	28 years	13-6-67	—	—	No.

ANNEXURE G

Item No 12(i) to (v)

DETAILS ABOUT THE SECRETARY OF THE BOARD

1. Name Shri Abdul Ghaffar.
2. Date of appointment as Secretary to Board 31-3-1971.
3. Full time or part time Full time.
4. Salary Not yet fixed by the State Government.
5. Powers delegated Copy is enclosed (Annexure L).
6. Inspections carried out Yes, the Secretary himself carries out inspections of the major wakfs. Some of the Wakfs inspected are :
 1. Jama Masjid Bharatpur.
 2. Jama Masjid Shahabad (Kotah).
 3. Dargah Chalphir Shah (Chittorgarh).
 4. Dargah Fakhruddin Sb. (Galiakot).
 5. Dargah Gagrion (Kotah).

The Secretary has to deal with the wakf cases and problems related to wakf institutions and has to undertake tours.
7. Days on Tour by the Secy.

1967-68	1968-69	1969-70	1970-71	1971-72
33 days	18 days	15 days	19 days	35 days



ANNEXURE H

REALISATION OF CONTRIBUTION

Sl. No.	Year									Budget estimates of contribution	Realisation of contribution
1.	1967-68	.	.	.	.	.	.	.	.	35,000.00	14,636.00
2.	1968-69	.	.	.	.	.	.	.	.	50,000.00	16,420.00
3.	1969-70	.	.	.	.	.	.	.	.	25,000.00	37,117.00
4.	1970-71	.	.	.	.	.	.	.	.	40,000.00	55,132.00



ANNEXURE J

MUTAWALLI REMOVED DURING THE LAST FIVE YEARS

1. Mutawalli Majla Takiya, Sojat City (Pali).
2. Mutawalli Qabristan Dil Azad Khan, Udaipur.
3. Mutawalli Committee Wakf Col. Iqbal Mohd. Khan, Ganganagar.
4. Mutawalli Dargah Nassarnol, Nagpur.
5. Mutawalli Qabristan Bhoorey Shah, Jaipur.
6. Mutawalli Qabristan Ganj Shahidan, Bonli (Sawai Madhopur).
7. Dargah Khaki Shah's Mutawallis, Rajmahal (Tonk).
8. Mutawalli Wakf Properties Mustufai Begum, Ajmer.
9. Mutawalli Jaidad Haji Azim Bux Ji, Jaipur.
10. Mutawalli Takiya Mastan Shah, Jodhpur.
11. Mutawalli Takiya Miththoo Shah, Jodhpur.
12. Mutawalli Sarai Barkat Ahmad Sahib, Tonk.
13. Mutawalli Jama Masjid Chamanpura, Udaipur.



ANNEXURE L

COPY OF THE PROCEEDINGS OF THE MEETING OF THE RAJASTHAN BOARD OF MUSLIM WAKFS HELD ON FRIDAY 7TH
SEPTEMBER, 1962 AT 3.00 P.M. HAWAMAHAL BUILDING, JAIPUR

5. Whereas under Section 22 of the Wakf Act, 1954 the Board may delegate its powers to the Chairman or any Member or Secretary subject to such conditions and limitations as may be specified in the order and whereas no regulations have so far been framed in this regard, it hereby resolves that the Board provisionally delegates its powers to the Chairman or the Secretary specifically with reference to the conduct of cases and the proceedings thereof, as well other powers the Chairman may exercise as an emergency measure when the meeting of the Board may not be practicable.

It further resolves that the measure or action taken by the Chairman under the above circumstances will be placed before the next meeting of the Board for its due consideration and confirmation.

Sd/- S. ABID ALL,
Chairman
Rajasthan Board of Muslim Wakfs,
Jaipur.



OFFICE OF THE RAJASTHAN BOARD OF MUSLIM WAKFS, JAIPUR

WHEREAS Shri Abdul Ghaffar has joined as Secretary of the Rajasthan Board of Muslim Wakfs;

WHEREAS under Section 21 of the Wakf Act (Central Act XXIX of 1954) he is the Chief Executive Officer of the Board;

WHEREAS under Section 22 of the Wakf Act all the powers of the Board can be delegated to the Secretary ; and

WHEREAS the meeting of the Board has been convened on 2-6-1966;

Now as Chairman of the Board in anticipation of the sanction of the Board, Syed Abid Ali, Chairman of the Board do hereby delegate all powers of the Board to said Shri Abdul Ghaffar except those powers which by rules made under the Act are to be exercised by the Board alone.

Sd/- SYED ABID ALI
Chairman,
Rajasthan Board of Muslim Wakfs,
Jaipur.
18-5-1966.



MARATHWADA WAKF BOARD

Information asked for	As furnished by Wakf Board
1. (a) The budgets of the Board for the years 1967-68, 1968-69, 1969-70 & 1970-71.	Copies of the budgets furnished.
(b) The details of the members of the staff-post held, qualifications, age, how long holding the present post. If pensioners the post from which retired and the amount of pension they are drawing. Are there any dismissed Govt. or local body servants in your staff ?	Details of the members of the staff furnished.
2. (a) Have all the wakfs including mosques, darghas, Imambaras and graveyards which are wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act.	1685 wakfs including Mosques, Dargah, Imambaras, Graveyards have been registered since the constitution of the Board under Section 25.
(b) Has the Board taken any action in respect of any wakf under Section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a wakf or by itself cause the wakf to be registred ?	Almost all the Mutawallis were directed to apply for the registration of Wakf and Mutawallis are applying for the registration. There are about four Mutawallis who inspite of notice are evading registration.
3. Has your Wakf Board taken action under Section 41(1) of the Act against any Mutawalli who has failed to apply for registration. If so, the number of cases in which such action has been taken may kindly be supplied.	The Board is taking action against such Mutawallis who have failed to apply for registration. The question of taking action under Section 41(1), against the four Mutawallis is under consideration of the Board.
4. How many reports of the Commissioner forwarded by the State Govt. under Section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of Section 5—the period for which such lists have been pending and the reasons for delay in their disposal.	The five reports of the Commissioner were forwarded to this Board by the State Government and as per provision of the Wakf Act, all the five reports were handed over to the Govt. Printing Press, Nagpur on 19-4-1972, which are at present under publication. There was no delay on the part of the Board.
5. (a) Has the survey of wakf as laid down under Chapter II of the Wakf Act has been completed in your State ? If not the present progress recorded may be given.	The survey of Wakf as laid down under Chapter II of the Wakf Act has been completed in this State ?
(b) What action has the Board taken from time to time to move the State Govt. for expediting survey?	As the survey work of Wakfs in this State was completed by the Govt. there was no opportunity to move the State Govt. in this regard.
6. What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every wakf as required under clause (a) of sub-section (2) of Section 15 ?	The Board has been maintaining the Register of Endowment which contains the full information and particulars.
7. Has the Board on any case given any directions under clause (e) (iii) of sub-section (2) of Section 15 ?	The eight institutions were demolished and were not in existence. The income of Mashas of three institutions were transferred to other institutions of the nature similar to the original.

Information asked for	As furnished by Wakf Board
8. (a) During the last three years how many schemes of management have the Board settled ? Copies of the schemes settled pertaining to the wakfs with an income of more than 10,000 may kindly be furnished.	The six schemes for the management under the style TAMIR-E-JADEED, were settled and malgies etc. were constructed in pursuance of the scheme.
(b) How many appeals under sub-section (3) of Section 15 have been filed or pending in a court of law against such settlement ?	No appeals under the scheme has been filed in the Court nor any appeal is pending.
9. Has the Board given instructions regarding utilisation of the surplus income of a wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such instructions issued during the last three years may kindly be supplied to this Committee.	For the implementation of project scheme a sum of Rs. 1,64,000 was pooled from the funds of 14 different institutions, and this amount was spent on constructing of buildings at different Districts. This amount was advanced to other different institutions as loan.
10. (a) How many wakfs are there under the control of the Board ? How many wakfs have submitted their budgets ? Year-wise break-up for the years 1967-68, 1968-69, 1969-70 & 1970-71 may be given.	The ten wakf institutions are under the direct control of the Board. Besides these wakf institutions there are some institutions which are under super intendence of the Board, but Board has appointed Managing Committees to manage the affairs of the institutions. The Managing Committees have been managing these institutions. The year-wise copies of the Budgets furnished.
(b) If all the wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis ?	When any Mutawallis fails to submit budgets he is given notice in first instance. If even he fails to comply with the notice the Board takes action against the Mutawallis under Section 41.
11. (a) How many inspections of wakfs have been carried out by the Board for the years 1968-69, 1969-70 & 1970-71 ?	The Secretary of Wakf Board has inspected two wakfs during the year 1970-71.
(b) Have all wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board ? If so, copies of reports on at least three such inspections be supplied to this Committee.	Excepting the Secretary during the years under report none has carried out inspection of wakf having an income of more than Rs. 10,000.
12. The qualifications, age of the present Secretary of the Board may be given with the period for which he has been employed with following further details.	The present Secretary of the Board is a retired Dy. Collector and he is a Law Graduate.
(i) Is he a full-time or part-time.	(i) He is a full-time worker. He was appointed for one year, but subsequently he has been retained till further order. He is still continuing in Board.
(ii) The salary he is given.	(ii) He is given a consolidated salary of Rs. 500 per month.
(iii) What powers have been delegated to the Secy. by the Board under Section 22 ? A copy of such powers may kindly be furnished.	The copy of powers delegated to the Secy. under Section 22 of the Act furnished.
(iv) Has the Secy. himself carried out any detailed inspection of any major wakfs ? If so, the number & names of the wakfs inspected during the last three years may be furnished.	The Secy. has personally carried out the detailed inspection of the Panchakki Institution and Estate Kadrabad Jalna. There is no record in this office to indicate that the former Secretaries have ever inspected any major wakfs.

Information asked for	As furnished by Wakf Board																					
(v) How many days in a year, has your Secy. been on tour during the last five years ? Please also furnish details year-wise for the last five years 1967-68, 1968-69, 1969-70, 1970-71 & 1971-72.	<p>The present Secy. was appointed in April, 1970. The year-wise number of days tenured by him and other Secretaries prior to him during the last five years is as under:—</p> <table><tr><td>1. Tour in 1967-68</td><td>18 days</td></tr><tr><td>2. „ „ 1968-69</td><td>44 „</td></tr><tr><td>3. „ „ 1969-70</td><td>5 „</td></tr><tr><td>4. „ „ 1970-71</td><td>50 „</td></tr></table>	1. Tour in 1967-68	18 days	2. „ „ 1968-69	44 „	3. „ „ 1969-70	5 „	4. „ „ 1970-71	50 „													
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13. (a) The number of wakf institutions audited under Section 33(1) may be furnished year-wise for the years 1967-68, 1968-69, 1969-70 and 1970-71.	<p>The Board came into being in 1961. And the accounts of the Institutions were audited upto 1966-67. Besides, the accounts of Masjid Azam Jung, Idary-Kadeem & Library, plots Latur, were audited in 1969-70.</p>																					
(b) In how many cases action has been taken under Section 34 following the report of the auditors ?	<p>About 50% objections of auditor have been satisfied.</p>																					
(c) The list of Auditors under the employment of the Board, along with their qualification, previous experience, age etc. may be furnished.	<p>There was no auditor appointed by the Board during the period from 1967-68 to 1970-71.</p>																					
14. (a) What is estimated 6% contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? As against this what have been the actual receipts during these years ?	<p>The estimated 6% contribution can be ascertained from the figures mentioned below:—</p> <table><tr><th>Year</th><th>Estimated income</th><th>Actual income</th></tr><tr><td></td><td>Rs.</td><td>Rs.</td></tr><tr><td>1967-68</td><td>73,500</td><td>23,655.78</td></tr><tr><td>1968-69</td><td>66,000</td><td>25,137.37</td></tr><tr><td>1969-70</td><td>43,300</td><td>22,907.88</td></tr><tr><td>1970-71</td><td>47,600</td><td>39,240.84</td></tr><tr><td>Total</td><td>2,30,400</td><td>1,10,941.87</td></tr></table>	Year	Estimated income	Actual income		Rs.	Rs.	1967-68	73,500	23,655.78	1968-69	66,000	25,137.37	1969-70	43,300	22,907.88	1970-71	47,600	39,240.84	Total	2,30,400	1,10,941.87
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Total	2,30,400	1,10,941.87																				
(b) What action has been taken by the Board to realise the arrears from the Mutawallis ?	<p>Notices to defaulter Mutawallis are given under Section 35 of Wakf Act.</p>																					
(i) Have the Board issued certificates for recovery to the Collector as arrears of land revenue in all cases of arrears. In how many cases such certificates of non-recovery have not been issued and why ?	<p>So far two thousand certificate for the recovery of arrears of WAKF FUND have been issued and sent to the Collectors requesting them to recover the amount from defaulters as arrears of Land Revenue. These certificates pertain to the period from 1961—71. The contribution recoverable will be known from the following certificates issued and sent to the Collector for recovery from the defaulter Mutawallis as arrears of Land Revenue ?</p> <table><tr><td></td><td>Rs.</td></tr><tr><td>1. Collector Parbhani</td><td>12,186.23</td></tr><tr><td>2. Collector Osmanabad</td><td>14,616.80</td></tr><tr><td>3. Collector Bhir</td><td>22,561.84]</td></tr><tr><td>4. Collector Aurangabad</td><td>16,190.78</td></tr><tr><td>5. Collector Nanded</td><td>01,276.68</td></tr><tr><td>Total amount recoverable:</td><td>66,832.33</td></tr></table>		Rs.	1. Collector Parbhani	12,186.23	2. Collector Osmanabad	14,616.80	3. Collector Bhir	22,561.84]	4. Collector Aurangabad	16,190.78	5. Collector Nanded	01,276.68	Total amount recoverable:	66,832.33							
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Information asked for	As furnished by Wakf Board
(ii) Has the Board taken any action against any Mutawalli for default in payment for more than two years ? Has the Board removed any Mutawalli on account of his failure to pay for two consecutive years, the contribution payable by him as provided under clause (a) of sub-section (1) of Section 43 ?	Action against such Mutawallis who have failed to pay contribution for more than two years has been taken.
15. The details of all properties under the direct management of the Board may be furnished with following particulars:—	The following Wakf Institutions are under the direct management.
(a) Short description and the nature of each such Wakf.	Details have been mentioned in para (10). Supra and copy of the annual Budgets have been enclosed. The perusal of the information mentioned in the above para will bring to light the details of properties.
(b) The details of the properties and estimated income of each such Wakf.	The details of property and estimated income etc. of each Wakf will be known from the copies of Budgets.
(c) What was the income of the property at the time when the Board assumed direct management ? What has been the income year-wise after the property has come under the Board's managements ?	Prior to the taking over of these properties by the Board they were under the control of Muslim Wakf Board of Hyderabad. The details of income and Expenditure of that period are not available in this office. As such this office is unable to furnish the year-wise comparative statement of income of these institutions.
(d) What special steps has the Board taken to improve the administration in respect of a each such property ?	The Board has constructed buildings and Mulgies where ever it was considered necessary in order to improve the administration. In cases where the Hide & Skins are auctioned the Board makes all possible efforts to improve the income.
(e) Has the Board appointed any special staff for the actual management of each such property ? If so, the details of the staff appointed may please be given.	One superintendent has been appointed at Rs. 150/- P.M. to manage the Panchakki Institution Similarly one Ameen for Bilgore has been appointed at Rs. 75/- P.M. and one Muntazim at Raona-parada has been appointed on scale of Rs. 85-125, likewise one superintendent two clerks and two peons have been appointed to look after the management of Estate of Kadirabad Jalna. The pay scale of Superintendent is (Rs. 100-140). The pay scale of clerks is (Rs. 55.85) each one, the peons pay is (Rs. 55/-) each. P.M. One Wakf Officer, two clerks, one Bill Collector & one peon have been appointed to look after the management of Masjid Vazirabad and Idagah at Nanded. The pay of Wakf Officer is (Rs. 100.140) and the pay of clerks Rs (55-85) each and the peons pay is Rs. 55 P.M. and the pay of bill collectors is Rs. 60/- P.M. one Muntazim is appointed at Rs. 55-85 to look after the management of Dargah Hazrat Turabul-haq Sahib at Parbhan. One Bill Collector at Rs. 55-85 and one Pairokar at Rs. 55-85 have been appointed to look after the management of Dargah Shah Bariya Sahib and Masjid Chowk Aurangabad.
	One Daroga has been appointed at Darga Hazrat Shah Noor Hamavi Sahib Aurangabad.

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(f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as a part of charges towards the administration of such properties ?

The details are mentioned in the enclosed Budgets.

(g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.

Out of nine Institutions which are under the direct management of the Board mentioned in Para 10(a) the Board has appointed managing Committee for the Institutions. One at Masjid Vazirabad Nanded, and other at Masjid Chowk, Aurangabad. The remaining (7) Institutions are under the direct management and control of the Board.

(h) Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management ? If so, the copies of the Inspection Reports may kindly be furnished ?

As mentioned above seven Institutions are under management and direct control of the Board hence no need had arisen to inspect any of them. The Wakf Officer do inspect the remaining two institutions which are under management and direct supervise the activities of the managing Committee appointed by the Board.

16. The number of enquiries instituted by the Board under Sections 44 and 45 of the Wakf Act may be given.

In five cases the Board on its own motion started inquiries and has given suitable directions under Section 45. No person submitted any application for inquiring u/s 44.

17. Has the Board received any donation and/or grants to the Wakf Fund under sub-section (1)(a) of Section 48 of the Wakf Act.

No donation or grants have been received by the Board.

18. Has the Board taken any action under powers vested in it under Section 27 to determine whether a property is a Wakf property or not independent of Chapter II ?

In cases where it was considered necessary to determine the nature of Wakf the Board has taken action under power vested in it under Section 27 of the Act. There was no question to determine the property whether it was a *Sunni* or *Shia Wakf*.

19. Has the State Government passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? If so, the copies of the orders received from the State Govt. may be furnished together with what action was taken on such orders by the Board or the State Government.

No specific orders were received from the State Govt. after the audit of the Board. However the State Govt. advised the Board to expedite the reply of the audit reports.

20. In how many cases has the Board taken action under Section 36B for the recovery of Wakf property transferred in contravention of Section 36A? If so, how many requisitions are pending with the Collectors ?

140 cases were referred to the Collectors under Section 36(B). The details of cases are given below:—

1. District Bhir	39
2. District Nanded	20
3. District Osmanabad	35
4. District Parbhani	21
5. District Aurangabad	25

All the cases are still under the examination of the Collectors.

1	2	3
21. (a) The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of Wakf property under Section 36A during the last 5 years ?	The Board has granted permission in seven cases for sale u/s 36(A) during the past five years.	
(b) Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.	No Agricultural Land has been leased out by the Board for a period exceeding three years during the past five years. However in Eighteen cases Non-Agricultural Lands have been leased out for the period exceeding ONE YEAR during last five years. No houses and Mulgies have been given on lease for a period exceeding three years.	
22. Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(1) and moved a court of law for action against the Mutawallis ? If so, give a list and the result of the actions taken.	The Board has prosecuted one Shri Habbeb Bhai Kalodi Mutawalli of Dargah Hazrat Mastan Shah Sahib situated at Purna District Parbhani for failure on his part to submit budgets, Wakf Fund and accounts. He was convicted by the Court and sentenced to pay fine. In spite of his conviction he has not handed over the charge of the institution. Consequently a complaint has been filed against him in Court of Law, which is still pending.	
23. (a) The number and list of Mutawallis removed by the Board during the last five years under Section 43(1) may be furnished.	The following Mutawallis were removed during the period under report.	
	1. Habceb Ahmed Shaida.	Mutawalli Dargah Hazrat Naseeruddin Nageshwarwadi. Aurangabad
	2. Sayeeduddin	Mutawalli Dargah Hazrat Nooruddin Sahib situated near Head Post Office, Aurangabad.
	3. Nadeemulla	Mutawalli Dargah Hazrat Hyder Hussani Sahib, Takiya Kalan, Aurangabad.
	4. Fakhruddin Tirmezi	Mutawalli Dargah Hazrat Fakhruddin Awliya Sahib, Kotallpura, Aurangabad.
	5. Habbeb Bhai Kalodi	Mutawalli Dargah Hazrat Sayal Sahib, Purna, Distt. Parbhani.
(b) In how many cases have such actions resulted in the Mutawallis moving the court of law ?	Out of five removed Mutawallis Shri Habbeb Bhai Kalodi had gone in appeal, but, the appeal was also dismissed and the Lower Court's judgment was upheld in appeal.	
(c) In how many cases detailed in (b) above, have the courts of law given stay orders allowing the Mutawallis removed by the Board to continue to act as Mutawallis ? In how many such cases have the courts appointed receivers ?	There have been no such case.	
(d) In how many such cases coming under (b) have the Wakf Board moved the court for appointment of a receiver as against the court allowing the Mutawallis to continue to be incharge of the Wakf property ?	As stated in para (b & c) above.	

1	2	3												
24.	Have the State Government issued rules for carrying out the purposes of the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said section.	Yes. The State Government has framed Rules under Section 67.												
25.	Has the Board issued with the previous sanction of the State Government regulations providing for all the clauses from (a) to (n) of sub-section (2) of Section 68. If so, a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons therefor may be given.	Yes. The Board has with the previous sanction of the State Government, issued Regulations under Section 68.												
26.	The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished:—	The Expenditure incurred on T.A. & D.A. to the members of the Board is mentioned below:—												
(i) TA/DA paid to the Members of the Board for attending meetings of the Board;		<table><tr><th>Year</th><th>T.A.&D.A.</th></tr><tr><td></td><td>Rs.</td></tr><tr><td>1967-68</td><td>1,897.33</td></tr><tr><td>1968-69</td><td>1,221.81</td></tr><tr><td>1969-70</td><td>1,999.87</td></tr><tr><td>1970-71</td><td>2,509.72</td></tr></table>	Year	T.A.&D.A.		Rs.	1967-68	1,897.33	1968-69	1,221.81	1969-70	1,999.87	1970-71	2,509.72
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1967-68	1,897.33													
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(ii) Number of meetings held for the period		27 Meetings were held during the period under report.												
		<table><tr><td>1967-68</td><td>8</td></tr><tr><td>1968-69</td><td>9</td></tr><tr><td>1969-70</td><td>4</td></tr><tr><td>1970-71</td><td>6</td></tr><tr><td>Total No.</td><td>27</td></tr></table>	1967-68	8	1968-69	9	1969-70	4	1970-71	6	Total No.	27		
1967-68	8													
1968-69	9													
1969-70	4													
1970-71	6													
Total No.	27													
(iii) TA/DA paid to the Secretary of the Board		T.A. & D.A. paid to the Secretary of the Board during the period under report.												
		<table><tr><td></td><td>Rs.</td></tr><tr><td>1967-68</td><td>497.70</td></tr><tr><td>1968-69</td><td>552.84</td></tr><tr><td>1969-70</td><td>114.13</td></tr><tr><td>1970-71</td><td>894.08</td></tr></table>		Rs.	1967-68	497.70	1968-69	552.84	1969-70	114.13	1970-71	894.08		
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Budget estimates of the wakf contribution of Maharathwada Wakf Board

INCOME	EXPENDITURE
	Rs.
1967-68	1,07,435.00
1968-69	1,02,940.00
1969-70	90,220.00
1970-71	99,325.00

COMMENTS TO THE FACTUAL DATA RECEIVED FROM BIHAR SUBAI SUNNI MAJLIS AWQAF

Information asked for	As furnished by Wakf Board
1. (a) The budgets of the board for the year 1967-68, 1968-69, 1969-70 and 1970-71	Copies of budgets enclosed.
(b) The details of the members of the staff-post held, qualifications, age, how long holding the present post. If pensioners—the post from which retired and the amount of pension they are drawing. Are there dismissed Govt. or local body servants in your staff ?	Separate list attached. No.
2. (a) Have all the wakfs including Mosques, Dargahs, Imambaras and graveyards which are Wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act.	Yes. As far as could be ascertained uptil now.
(b) Has the Board taken any action in respect of any Wakf under Section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a Wakf or by itself cause the Wakf to be registered.	Yes.
3. Has your Wakf Board taken action under Section 41(1) of the Act against any Mutawalli who has failed to apply for registration ? If so, the number of cases in which such action has been taken may kindly be supplied.	Yes.
4. How many reports of the Commissioner forwarded by the State Government under Section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of Section 5—the period for which such losts have been pending and the reasons for delay in their disposal.	Question does not arise in view of the fact that the Central Wakfs Act is not enforced in this State. There is no Corresponding provision in the Bihar Wakfs Act, 1947 (Act VIII of 1948).
5. (a) Has the survey of wakf as laid down under Chapter II of the Wakf Act been completed in your State ? If not, the present progress recorded may be given?	There is no provision of survey in the Bihar Wakfs Act, 1947 (Act VIII of 1948).
(b) What action has the Board taken from time to time to move the State Government for expediting Survey ?	Question does not arise as per Bihar Wakfs Act, 1947.
6. What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every Wakf as required under clause (a) of sub-section (2) of Section 15 ?	Register of true copies of Wakf deed u/s 27 Clause (b) of the Bihar Wakfs Act, 1947.
7. Has the Board on any case given any direction under clause (e)(iii) of sub-section (2) of Section 15? If so such cases may be stated in some detail.	No.
8. (a) During the last three years how many schemes of management have the Board settled? Copies of the schemes settled pertaining to the wakfs with an income of more than Rs. 10,000 may kindly be furnished.	Only in two cases Scheme was settled. In one Case there was an amendment of the scheme and in the other case the Scheme was framed.
(b) How many appeals under sub-section (2) of Section 15 have been filed or pending in the Court of Law against such settlement?	In no case appeal was filed.

1	2	3
9.	Has the Board given instructions regarding utilisation of the Surplus income of a wakf under sub-clause (1) of clause (e) of sub-section (2) of section 15 in cases where it has defected such instructions issued during the last three years may kindly be supplied to this committee.	No.
10. (a)	How many wakfs are there under the control of the Board? How many wakfs have submitted their budgets? Year-wise break up for the years, 1967-68, 1968-69, 1969-70 and 1970-71 may be given.	1480 wakfs.
(b)	If the all Wakfs have not submitted their budgets as required by Law what action has the Board taken against the defaulting Mutawallis ?	All the Mutawallis do not submit budgets. The defaulting motawallis are being prosecuted u/s 58 of the Bihar Wakfs Act read with section 65 of the Act.
11. (a)	How many inspection of wakfs have been carried out by the Board for the years 1968-69, 1969-70, and 1970-71.	W. No. 1145, 275, 279 in the district of Darchange in 1970-71 only.
(b)	Have all Wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board ? If so, copies of reports on atleast three which inspections be supplied to this committee.	-do-
12.	The qualifications, age of the present Secretary of the Board may be given with the period for which he has been employed with following further details:—	B.A.B.L. Advocate.
(i)	Is he a full-time or part-time ?	Full-time.
(ii)	The salary he is given.	Rs. 470 per month.
(iii)	What powers have been delegated to the Secretary by the Board under section 22? A copy of such powers may kindly be furnished	The Secretary is in over all incharge of the Board, and he performs such duties which he is Called upon by the Sadar of the Majlis or Special officer to do.
(iv)	Has the Secretary himself carried out any detailed inspection of any Major Wakfs. If so, the number and names of the wakfs inspected during the last three years may be furnished.	-do-
(v)	How many days in a year, has your secretary been on tour during the last five years ? Please also furnish details year-wise for the last five years; 1967-68, 1968-69 1969-70, 1970-71 and 1971-72.	
13. (a)	The number of wakfs institutions audited under section 33(i) may be furnished for the years 1967-68, 1968-69, 1969-70 and 1970-71.	33, 38, 40 of 34—145 Wakfs were audited during the above years.
(b)	How many cases action has been taken under section 34 following the report of the auditors.	Almost in every case action required was taken to be complied with by the mutawallis.
(c)	The list of Auditors under the employment of the Board, along with their qualifications, previous experience, age, etc., may be furnished.	2 Auditors both are B. Common one was accountant in Co-operative & Warehousing Department and the other is fresh from College. Details of age etc. may be seen in the fact Vide serial 1(b).

1	2	3
14. (a)	What is estimated 6% contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71? As against this what have been the actual receipts during these years?	Seperate list attached 5% wakfs is realised on net income <i>Vide</i> 1 (a) of the Data.
(b)	What action has been taken by the Board to realise the arrears from the Mutawallis?	Notice is being sent to the mutawallis to pay arrears else action u/s 68 has to be taken.
(i)	Have the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears. In how many cases such certificates of non-recovery have not been issued and why?	In one case only W. No. 704.
(ii)	Has the Board taken any action against any Mutawalli for default in payment for more than two years? Has the Board removed any Mutawalli on account of his failure to pay for more than two years? Has the Board removed any Mutawalli on account of his failure to pay for the consecutive years, the contribution payable by him as provided under clause (a) of sub-section (i) of section 43?	Action against all the defaulting mutawalli are taken. But the Majlis under our Act can not remove a mutawalli for his failure to pay wakfs fee.
15.	The details of all properties under the direct management of the Board may be furnished with following particulars.	General supervision of the Wakf Vests in the Majlis u/s 527 of the Bihar wakfs Act.
(a)	Short description and the nature of each such Wakfs?	So the question of direct management is not permissible or feasible under the Bihar Wakfs Act.
(b)	The details of the properties and estimated income of each such Wakf.	-do-
(c)	What was the income of the property at the time when the Board assumed direct management? What has been the income year-wise after the property has come under the Board's management?	-do-
(d)	What special steps has the Board taken to improve the administration in respect of each such property?	-do-
(e)	Has the Board appointed any special staff for the actual management of each such property? If so, the details of the staff appointed may please be given.	-do-
(f)	What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as a part of charges towards the administration of such properties?	-do-
(g)	The number of cases in which the Board has appointed Committees of management in respect of properties under its direct management.	-do-
(h)	Has any member or a committee of the Board or the Secretary ever inspected properties under its direct management? If so, the copies of the Inspection Reports may kindly to furnished?	-do-
16.	The number of enquiries instituted by the Board under Section 44 of the Wakf Act may be given?	-do-

1	2	3
17.	Has the Board received any donations any/or grants to the Wakf Fund under sub-section (i)(a) of section 48 of the Wakf Act?	No.
18.	Has the Board taken any action under powers vested in it under section 27 to determine whether a property is Wakf property or not independently of Chapter II?	Under the Bihar Wakfs, that Act the Majlis is not Competent to determine it.
19.	Has the State Government passed any orders after the audit of the Board in 1970-71? If so the copies of the orders received from the State Government may be furnished together with what action was taken on such orders by the Board or the State Government.	Under the Bihar Wakfs Act the State Govt. is not Vested with Such powers.
20.	In how many cases the Board taken action under section 36-B of the recovery of wakf property transferred in contravention of section 36-A? If so, how many requisitions are pending with the Collectors?	There is no Similar provision in our Act to do so.
21. (a)	The number of cases in which the Board has sanctioned the sale, if it, mortgage or exchange of Wakf property under section 36-A during the last 5 years.	9 Cases only during the last 5 years.
(b)	Also the number of cases where the Board as sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.	2 copies only for constructing building.
22.	Has the Board ever taken action for any failure on the part of the Mutawallis under section 41(i) and moved a court of Law for action against the Mutawallis? If so, give a list and the result of the action taken.	About 150 or cases are still pending in Court.
23. (a)	The number and list of Mutawallis removed by the Board during the last five years under section 43 (i) may be furnished.	W.No. 514, 594, 67, 446 & 37.
(b)	In how many cases have such actions resulted in the Mutawallis' moving the Court of Law?	2 cases.
(c)	In how many cases detailed in (b) above, have the Courts of Law given stay orders allowing the Mutawallis removed by the Board to continue to act as Mutawallis? In how many such Cases have the Courts appointed receivers?	W.No. 37.
(d)	In how many such a cases coming under (b) have the Wakf Board moved the Court for appointed of a receiver as against the Court allowing the the Mutawallis to continue to be incharge of the Wakf property?	-do-
24.	Have the State Government Issued rules for carrying out the purposes of the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said section.	Yes, u/s 79 of the Bihar waqfs Act 1947. (Act VIII of 1948).

1	2	3
25.	Has the Board issued with the previous sanction of the State Government regulations providing for all the clauses from (a) to (n) of sub-section (2) of section 68. If so a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of section 68, the reasons therefore may be given.	No.
26.	The expenditure for the year 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished :—	
	(i) T. A./D.A. paid to the Members of the Board for attending meetings of the Board;	Rs. 333.08 in the year 1969-70 only.
	(ii) Number of meetings held for the period;	9 meetings before the Supersession of the Majlis
	(iii) T.A./D.A. paid to the Secretary of the Board.	Rs. 548.16 Paise in the years. 1967-68, 1969-70 and 1970-71.



OFFICE OF THE BIHAR SUBAI SUNNI MAJLIS-E-AWQAF, GULAB BAGH PATNA-4

Budget Provisions for the following Years Under the Head I(a) of the Data

Years	Receipts	Expenditures
1967-68	49,225.00	46,110.00
1968-69	46,600.00	49,100.00
1969-70	48,600.00	50,250.00
1970-71	52,390.00	52,708.00

Budget estimates of the Bihar State Sunni Wakf Board

Year	Income	Expenditure
1967-68	49,225.00	46,110.00
1968-69	46,600.00	49,100.00
1969-70	48,600.00	50,250.00
1970-71	52,390.00	52,708.00

COMMENTS TO THE FACTUAL DATA RECEIVED FROM THE BIHAR SUBAI SHIAH MAJLIS-E-AWQAF

S. No.	Information asked for	As furnished by Wakf Board
1	2	3
1. (a)	With reference to clause (b) of Section 8 of the Bihar Wakf Act, 1947, what are the rules prescribed by the Government for election of Mutawalli Members of the Board. A copy of the same may kindly be sent for ready reference.	The Bihar Wakf Rules 1956 in Rule, 4(d) simply says that a list of electors will be supplied to the Returning Officer by the Majlis in case of election of representative of the Mutawalli. Subsequently, the Bihar Shia Majlis-e-Awqaf Election Rules, 1962 were framed. There is no specific mention in these Rules as to who would supply a list of electors to the Returning Officer by the Majlis in case of election of representative of Mutawalli. The aforesaid Bihar Shia Majlis-e-Awqaf Election Rules, 1962 given detail of election for the constituencies in a general way. There is no spare copy of the Bihar Wakf Rules, 1956 or the Bihar Shia-Majlis-e-Awqaf Election Rules 1962 for sending the same to the Ministry of Law & Justice, Legislative Department (Wakf Inquiry Committee) New Delhi.
(b)	In actual practice, what is the cost of election of a Mutawalli Member as and when it takes place? Does the Board bear the expenditure or the State Govt.? The actual figures of such expenditure on the last occasion of such election may kindly be furnished.	Uptil now there has been no election of any Member of the Board including Mutawalli Member. Hence the cost of election of a Mutawalli Member can not be said. There is no clear Rule as to who will bear the expenditure of the election of Mutawalli Member. Hence no question of actual figure of such expenditure on the last occasion of such election can be furnished.
2.	What are the rules prescribed for the constitution of electoral college of Sunni Muslims of 8 of the Member of the Subai Sunni Majlis-e-Awqaf? A copy of the rules may kindly be furnished.	This relates to the Bihar Sabai Sunni Majlis-e-Awqaf.
3.	Has there been any instances during the last five years of State Govt. not approving the person elected as Sadr by the Majlis as provided for under sub-section (4) of Sec. 8 of the Bihar Wakf Act? If so, the details may kindly be given.	The State Govt. on failure of electorate to elect Members U/s 11 of the Bihar Wakf Act, 1947 (Act VIII of 1948) nominated all the Members of the Board. The Sadr elected by the Majlis was approved by the State Government.
4	Has there been any occasion during the last ten years necessitating the State Govt. to take action under Sec. 11 of the Bihar Wakf Act, following failure of the electorate to elect Members? If so, the details may be furnished.	The State Govt. has taken action U/s 11 of the Bihar Wakf Act, 1947 following failure of the electorate to elect Members. The Bihar Shia Wakf Board was superseded U/s. 77 and a Special Officer by the State Govt. was appointed. After the expiry of the period of supersession the State Government U/s. 11 of the Bihar Wakf Act, 1947, appointed the present Members of the Board.
5.	Has there been any Sadr during the last ten years who has been a paid officers as provided for under sub-sec. (2) of Sec. 13? If so, the details of his salary and conditions of service may kindly be furnished.	No Sadr has been a paid Officer during the last ten years as provided for Under Sub-Section 2 of Section 13.
6.	Copies of the powers delegated by the Majlis to the Sadr and the Nazir may kindly to be furnished	The following powers have been delegated by the Majlis to the Sadr as specified in section 27 (2)(e), (f), (g), (i), (j) (k), (n), (p), (q), and (r) of the Bihar Wakfs Act, 1947, subject to the specification that

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		<p>the Sadr will exercise powers under Section 27 (2)(j) only after obtaining written consent of at least 3/4 members of the Majlis in case a meeting with necessary number of Members required under the proviso and sub-clause 'J' cannot be held.</p> <p>(i) To issue directions to Mutawallis with regard to :</p> <p>(a) Budget,</p> <p>(b) Form No. 1.</p> <p>(c) Payment of dues</p> <p>(d) Enquiries about the management of the Wakf,</p> <p>(e) issue of certified copy,</p> <p>(f) Inspection of documents and properties as and when needed.</p> <p>(ii) To execute Vakalatnames, Mukhtarnames, Sign and verify pleadings, and all kinds of petitions and do other acts in respect of all suits, cases, execution petitions, compromise petitions, appeals and revisions filed on behalf of the said Majlis or filed against the Majlis and to prosecute and defend all suits, cases, appeals and revisions in all criminal and Civil Court and, Revenue Court and High Courts. He is also authorised to carry on routine correspondence with officials and departments of Government.</p>
7.	Has there been any occasion to remove a Mutawalli during the last ten years who has been convicted more than once for the same or different offences under the Bihar Wakf Act as provided under the clause (ii) of sub-Section (2) of Sec. 27.	There has been no occasion to remove a Mutawalli during the last ten years who has been convicted more than once for the same or different offences under the Wakf Act as provided under clause (ii) sub-section 2 of Section 27.
8.	Did the Majlis supersede as per sub-sections (2) of Sec. 28 any committee or Association which has been established through decrees, or by an order of a court which in the opinion of the Majlis was not discharging its function satisfactorily? If so, instances for the last three years may kindly be given.	No.
9.	Has the Majlis of its own motion made any entries in the Register of Wakfs as provided for under Sub-Section (2) of Section 33 ?	Yes.
10.	How many applications have been filed by the Majlis during the last five years to the Collector to declare any immovable property is Wakf property as per Sec. 24(1) of the Act ? What has been the result of each such application.	No.
11.	On how many occasions did the Majlis remove a Mutawalli during the last five years under clause (h) of Sub-Sec. (2) of Sec. 27 of the Act on its own and on how many occasions did the Majlis have had to move the District judge to remove a Mutawalli as envisaged under Sec. 47 of the Act during the same period ?	Since the last five years the Majlis has not removed a Mutawalli under Clause (h) of Sub-Sec. (2) of Sec. 27 of the Act on its own motion. However, on three occasions the Majlis has given permission to three persons who were interested in a Wakf to move the District Judge to remove a Mutawalli as envisaged U/S 47 of the Act during the last 5 (five) years.

1	2	3
12.	During the last five years did the Majlis have had occasion to prepare the Budget for any Wakf following the failure on the part of the Mutawalli concerned to do so as provided for under Sub-Section (5) of Section 58 of the Act ?	No.
13.	In how many cases during the last five years did the Majlis have had occasion to levy surcharge on a Mutawalli as per Sec. (6) of Sec. 61 of the Act ? In how many cases did the affected parties appeal to the competent authority under sec. 63 and what has been the result of such action ? What is the prescribed authority of appeal in such cases ?	There has been no case during the last five years in which the Majlis has had occasion to levy surcharge on a Mutawalli as per Sec. (6) of Section 61 of the Act. However, the competent authority to whom the appeal against the order of surcharge can be filed is the District Judge.
14.	How many Wakf-alal-Aulad have been registered with the Board ? Does the Board scrutinise the entire Budget of each of such Wakf or only that part of the Budget which is meant for religious or charitable purposes ?	There are 21 (Twenty One) Wakf-alal-Aulad registered with this Board. The Board scrutinises the entire Budget and not only that part which is meant for religious or charitable purposes.



ANNEXURE 'A'

THE BIHAR WAQFS ACT, 1947

- SECTION 27(2)(e). to cause inspection to be made of the property and the office of any waqf including accounts and to authorise the Nazir or any of its members, officers or servants for that purpose;
- SECTION 27(2)(f). from time to time, to call for information, reports, returns and other documents from mutawallis;
- SECTION 27(2)(g). to give directions for the proper administration of a waqf in accordance with the law governing such waqf and the wishes of the waqf in so far as such wishes can be ascertained and are not repugnant to such law;
- SECTION 27(2)(i). to direct the deposit of waqf money in the hands of a mutawalli in any bank approved by the State Government;
- SECTION 27(2)(j). to sanction on the application of a mutawalli or any other person interested in a waqf, the conversion of any property of such waqf into another property, if the Majlis is satisfied that such conversion is beneficial for the waqf :
- Provided that no such conversion shall be sanctioned unless the Majlis resolves by a majority which includes at least three-fourths of its members;
- SECTION 27(2)(k). subject to the general supervision of the State Government, to control and administer the Waqf Fund;
- SECTION 27(2)(n). to institute, whenever it thinks fit, an enquiry relating to the administration of a waqf.
- SECTION 27(2)(p). to defend, either on behalf of or in addition to the mutawalli, any suit or proceeding instituted with respect to a waqf, or any matter connected therewith, or, in cases where there is no mutawalli or the succession to the office of the mutawalli is disputed, to defend any such suit or proceeding itself;
- SECTION 27(2)(q). to direct the mutawalli of a waqf to apply to the appropriate officer or authority to enter in a record-of-rights or municipal records. If any, the right, title or interest of such waqf in any immovable property and, on failure of the mutawalli to do so within a reasonable time, to make such application itself;
- SECTION 27(2)(r). to realise, in the prescribed manner and subject to the prescribed conditions, out of the income of any waqf, the costs incurred by the Majlis in any suit or proceeding instituted by it under clause (o), in defending any suit or proceeding under clause (p) or in making and prosecuting any application under clause (q) in respect of such waqf;

COMMENTS TO THE FACTUAL DATA RECEIVED FROM THE WAQF COMMISSIONER OF WEST BENGAL

<i>Information asked for</i>	<i>As furnished</i>																												
1. (a) The budget of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71.	The budget of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 are placed as enclosure No. 1.																												
(b) The details of the members of the staff—post held, qualifications, age, how long holding the present post. If pensioners—the post from which retired and the amount of pension they are drawing. Are there any dismissed Govt. or local body servants in your staff ?	<p>The staff of the Commissioner of Wakfs, West Bengal, is as under :—</p> <table> <tr><td>(i) Commissioner of Wakfs</td><td>1</td></tr> <tr><td>(ii) Supdt.</td><td>1</td></tr> <tr><td>(iii) Accountant</td><td>1</td></tr> <tr><td>(iv) Cashier</td><td>1</td></tr> <tr><td>(v) Inspectors</td><td>4</td></tr> <tr><td>(vi) Auditors</td><td>4</td></tr> <tr><td>(vii) Stenographer</td><td>1</td></tr> <tr><td>(viii) U.D. Assistants</td><td>3</td></tr> <tr><td>(ix) Typists</td><td>2</td></tr> <tr><td>(x) Record Keeper</td><td>1</td></tr> <tr><td>(xi) Record Supplier</td><td>1</td></tr> <tr><td>(xii) Despatcher</td><td>1</td></tr> <tr><td>(xiii) L. D. Assistants</td><td>10</td></tr> <tr><td>(xiv) Class IV Employees</td><td>11</td></tr> </table>	(i) Commissioner of Wakfs	1	(ii) Supdt.	1	(iii) Accountant	1	(iv) Cashier	1	(v) Inspectors	4	(vi) Auditors	4	(vii) Stenographer	1	(viii) U.D. Assistants	3	(ix) Typists	2	(x) Record Keeper	1	(xi) Record Supplier	1	(xii) Despatcher	1	(xiii) L. D. Assistants	10	(xiv) Class IV Employees	11
(i) Commissioner of Wakfs	1																												
(ii) Supdt.	1																												
(iii) Accountant	1																												
(iv) Cashier	1																												
(v) Inspectors	4																												
(vi) Auditors	4																												
(vii) Stenographer	1																												
(viii) U.D. Assistants	3																												
(ix) Typists	2																												
(x) Record Keeper	1																												
(xi) Record Supplier	1																												
(xii) Despatcher	1																												
(xiii) L. D. Assistants	10																												
(xiv) Class IV Employees	11																												
2. (a) Have all the Wakfs including mosques, darghas, Imambaras and graveyards which are Wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act?	All wakfs u/s of the Bengal Wakf Act, 1934 irrespective of mosque, darghas, Imambaras and graveyards, which are wakfs by user, are enrolled in this office. There may be some wakf estate which are yet to be enrolled.																												
(b) Has the Board taking any action in respect of any wakf under Section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a wakf or by itself cause the wakf to be registered ?																													
3. Has your Wakf Board taken any action under Section 41(1) of the Act against any Mutawalli who has failed to apply for registration ? If so, the number of cases in which such action has been taken may kindly be supplied.	Only the Commissioner of Wakfs, can take action u/s of the Bengal Wakf Act, 1934, for non-compliance of the order for enrolment and such other increminating acts on the part of Mutawalli. Penal action under this Section is sparingly taken.																												
4. How many reports of the Commissioner forwarded by the State Government under Section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of Section 5—the period for which such lists have been pending and the reasons for delay in their disposal?	Just after the promulgation of the Bengal Wakf Act, 1934, preliminary survey of wakf property was undertaken by an officer appointed by the State Government. There is no provision that survey report should go to State Government. No report is pending with the Board.																												
5. (a) Has the survey of Wakf as laid down under Chapter II of the Wakf Act been completed in your State? If not the present progress recorded may be given.	In this province Survey of Wakf properties was made and completed u/s 2 of Bengal Wakf Act, 1934 just on the promulgation of the Act.																												
(b) What action has the Board taken from time to time to move the State Govt. for expediting Survey ?	Does not arise.																												

1	2	3
6.	What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every wakf as required under clause (a) of sub-section (2) of Section 15 ?	Section 45 of the Act, lays down the particulars to be maintained in a register, termed 'Register of Wakfs' in respect of a Wakf. Such register is being maintained statutorily.
7.	Has the Board on any case given any directions under clause (e)(iii) of sub-section (2) of Section 15 ?	There is nothing in the Wakf Act, 1954, as 15(2)(e)(iii). Perhaps it will be (ii), u/s 8(2) of the Bengal Wakf Act, 1934, the Board of Wakfs, West Bengal, is constituted for all wakfs, irrespective of fact that they relate to Shia or Sunni sect. But out of 11 members constituting the Board, one Shia member is appointed for general purposes and the other three members solely in respect of wakfs created by Shia.
8. (a)	During the last three years how many schemes of management have the Board settled ? Copies of the schemes settled pertaining to the Wakfs with an income of more than Rs. 10,000 may kindly be furnished.	Wakfs in West Bengal are managed by the Mutawallis according to the provision in the Wakf Deed. The Board frames scheme of management as and when necessary u/s 27 (i)(ii). Their functions are laid down in Section 27 of the Act.
(b)	How many appeals under sub-section (3) of Section 15 have been filed or pending in a court of law against such settlement ?	Does not arise.
9.	Has the Board given instructions regarding utilisation of the surplus income of a wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such instructions issued during the last three years may kindly be supplied to this Committee.	Question of surplus income of wakf seldom arises here. But whenever any surplus income is detected, direction by the Board is issued u/s 27(2) (ii) of the Act. Such is rarity.
10. (a)	How many wakfs are there under the control of the Board ? How many wakfs have submitted their budgets ? Year-wise break-up for the years 1967-68, 1968-69, 1969-70 & 1970-71 may be given.	6693 wakf estates have been enrolled in this office so far. There is no provision for submission of budget to this office by the mutawalli. But u/s 48 of the Act, all mutawallis of public wakfs as defined in section 6(II), have to submit accounts in prescribed forms to this office by the 15th July, each year. Similarly mutawalli of a wakf-alal-aulad wakf estate have to submit statement of particulars u/s 52 of the Act.
(b)	If all the wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis ?	A mutawalli, failing to submit accounts, (not budgets) as stated above, invokes penal provision u/s 57(1) (b) of the Act.
11. (a)	How many inspections of wakf have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71?	166 wakf estates have been audited during the last three years by the Field staff.
(b)	Have all wakf having an income of more than 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board ? If so, copies of reports on at least three such inspections may be supplied to this Committee.	
12.	The qualifications, age of the present Secretary of the Board may be given with the period for which he has been employed with the following further details :— (i) Is he a full-time or part-time employee ?	The Bengal Wakf Act, 1934 does not provide for appointment of Secretary.

1 2 3

(ii) The salary he is given.

(iii) What powers have been delegated to the Secretary by the Board under Section 22 ? A copy of such powers may kindly be furnished.

(iv) Has the Secretary himself carried out any detailed inspection on any major wakfs? If so, the number and names of the wakfs inspected during the last three years may be furnished.

(v) How many days in a year, has your Secretary been on tour during the last five years? Please also furnish details year-wise for the last five years 1967-68, 1968-69, 1969-70 1970-71 and 1971-72.

13. (a) The number of wakf institutions audited under section 33(1) may be furnished year-wise for the years 1967-68, 1968-69, 1969-70 and 1970-71. Wakf estates in West Bengal are audited u/ss 48 & 52 of the Bengal Wakf Act, 1934. The year-wise break-up is as follows :—

Year	No. of wakfs audited
1967-68	67
1968-69	43
1969-70	84
1970-71	70

- (b) In how many cases action has been taken under section 34 following the report of the auditors ? Audit reports received from Auditors and Inspectors are examined in office by the Commissioner and appropriate actions are taken thereon under intimation to the mutawallis and also to the Audit Staff.

- (c) The list of Auditors under the employment of the Board, along with their qualification, previous experience, age, etc. may be furnished.

Sl. No.	Name of Auditor	Qualification	Previous experience	Age
1.	Shri Mohd. Esrarul Haque	B.A.	Sub-Inspector of Rationing. Supervisor (su) under CCM (S&O). Director of Rationing & Distribution.	42 31
2.	Shri Mokaddam Hossain	B.A.	Nil	31
3.	Shri Sarwar Rahman	B.A.	Nil	30
4.	Shri Syed Ahmed	B. Com.	Nil	26

14. (a) What is estimated 6% contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71? As against this what have been the actual receipts during these years?

Under section 59 of the Bengal Wakf Act, mutawallis of the public wakf have to pay contribution at the rate of 5% of the net income and those of aulad estates at the rate of 2½%. A statement is given below:—

1967-68	. . . . .	Rs. 1,31,898.38
1968-69	. . . . .	Rs. 1,64,100.85
1969-70	. . . . .	Rs. 1,70,429.01
1970-71	. . . . .	Rs. 1,73,109.56

- (b) What action has been taken by the Board to realise the arrears from the mutawallis?

Penal action u/s 57(1)(g) of the Bengal Wakf Act is taken to realise the arrear contribution as and when the occasion demands.

- (i) Has the Board issued certificates for recovery to the Collectors as arrears of land revenue in all cases of arrears? In how many cases such certificates of non recovery have not been issued and why?

Under section 86 of the Bengal Wakf Act, certificates are sent to Collector of a District for realisation of contribution u/s 59 of the Act, under the Public Demands Recovery Act, 1913. Certificate Procedure for realisation of contribution has been found by experience to be unremunerative and be set with difficulties both administrative and financial.

- (ii) Has the Board taken any action against any mutawalli for default in payment for more than two years? Has the Board removed any Mutawalli on account of his failure to pay for two consecutive years, the contribution payable by him as provided under clause (a) of sub-section (1) of section 43?

Only the Commissioner of Wakfs, can take penal action u/s 57(1)(g). Commissioner of Wakfs is not himself competent to remove a mutawalli. He has to take recourse to law in a competent court u/s 58 read with section 73(i) of the Act.

15. The details of all properties under the direct management of the Board may be furnished with following particulars :—

There is no provision in the Bengal Wakf Act for direct management of wakfs by the Board of Wakfs.

- (a) Short description and the nature of each such wakf.
- (b) The details of the properties and estimated income of each such wakf.
- (c) What was the income of the property at the time when the Board assumed direct management? What has been the income year-wise after the property has come under the Board's management?
- (d) What special steps has the Board taken to improve the administration in respect of each such property?
- (e) Has the Board appointed any special staff for the actual management of each such property? If so, the details of the staff appointed may please be given

1	2	3
	(f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as a part of charges towards the administration of such properties?	
	(g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.	
	(h) Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management? If so, the copies of the Inspection Reports may kindly be furnished.	
16.	The number of enquiries instituted by the Board under sections 44 and 45 of the Wakf Act may be given.	Application received u/s 32 of the Bengal Wakf Act whether on affidavit or not, are usually investigated and appropriate actions are taken thereon by the Commissioner of Wakfs.
17.	Has the Board received any donation and/or grants to the Wakf Fund under sub-section (1)(a) of Section 48 of the Wakf Act ?	No such donation and grants are received.
18.	Has the Board taken any action under powers vested in it under section 27 to determine whether a property is a wakf property or not independently of Chapter II ?	Under section 46 of the Bengal Wakf Act Commissioner does take action to determine whether a property is wakf or not and act accordingly.
19.	Has the State Govt. passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71? If so, the copies of the orders received from the State Govt. may be furnished together with what action was taken on such orders by the Board or the State Government.	Not received.
20.	In how many cases has the Board taken action under section 36B for the recovery of wakf property transferred in contravention of section 36A? If so, how many requisitions are pending with the Collector?	Section 36A and B of Central Wakf Act, 1954 does not provide any action for the recovery of wakf property transferred.
21. (a)	The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of wakf properties under section 36A during the last five years.	Statement is given below :— Sale 25 cases Gift Nil Mortgage Nil Exchange 5 cases.
(b)	Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.	Lease of agricultural and non-agricultural lands...2

1	2	3
22.	Has the Board ever taken action for any failure on the part of the mutawallis under section 41(1) and moved a court of law for action against the mutawallis? If so, give a list and the result of the action taken.	<p>Under the Bengal Wakf Act, 1934, only the Commissioner of Wakfs is competent enough to take action against the mutawallis for removal as laid down in section 73 of the said Act. List as below :—</p> <ol style="list-style-type: none"> 1. Commissioner of Wakfs Vs. Iskander Mirza. Suit was dismissed on some technical ground. 2. Commissioner of Wakfs Vs. Abdul Mohemein. Abdul Mohemein was removed on compromise. 3. Commissioner of Wakfs Vs. Mohd. Nasim Ali. Suit is pending. 4. Commissioner of Wakfs Vs. Roquia Bibi. Suit is pending. 5. Commissioner of Wakfs Vs. Abdur Rub. Suit is pending.
23. (a)	The number and list of mutawallis removed by the Board during the last five years under section 43(1) may be furnished.	Mutawallis are removed not by the Board, but under orders of the competent Court of Law.
(b)	In how many cases have such actions resulted in the Mutawallis moving the court of law?	Does not arise.
(c)	In how many cases detailed in (b) above, have the courts of law given stay orders allowing the Mutawallis removed by the Board to continue to act as Mutawallis? In how many such cases have the courts appointed receivers?	
(d)	In how many such cases coming under (b) have the Wakf Board moved the court for appointment of a receiver as against the court allowing the Mutawalli to continue to be incharge of the wakf property?	
24.	Have the State Government issue rules for carrying out the purposes of the Wakf Act under section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said section?	
25.	Has the Board issued with the previous sanction of the State Govt. regulations providing for all the clauses from (a) to (n) of sub-section (2) of Section 68? If so, a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons therefor may be given.	<p>A booklet containing the rules framed by Govt. u/s 84 and bye-laws by the Board u/s 85 of the Act, is sent herewith. (Not appended)</p>
26.	The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished :—	
(i)	TA/DA paid to the Members of the Board for attending meetings of the Board;	Budgets for the respective years will speak. For the year 1970-71 the amount was 721.80.
(ii)	Number of meetings held during the period.	10 meetings held.
(iii)	TA/DA paid to the Secretary of the Board.	Bengal Wakf Act, 1934 does not provide for such post. Hence the question of payment to such officer does not arise.

The budgetary position of the West Bengal Wakf Board is summarised as under:—

										1966-67	
Receipts	.	.	.	.	.	.	.	.	.	2,56,291.78	7,47,961.60
O. Balance	.	.	.	.	.	.	.	.	.	4,91,669.82	
Expenditure	.	.	.	.	.	.	.	.	.		1,80,671.23
Closing Balance	.	.	.	.	.	.	.	.	.		5,67,290.37
										1967-68	
Receipts	.	.	.	.	.	.	.	.	.
Income	.	.	.	.	.	.	.	.	.	3,25,623.28	
Opening Balance	.	.	.	.	.	.	.	.	.	5,67,290.37	
Total	.	.	.	.	.	.	.	.	.		8,92,913.65
Expenditure	.	.	.	.	.	.	.	.	.		3,86,455.51
Closing Balance	.	.	.	.	.	.	.	.	.		5,06,458.14
										1968-69	
Receipts	.	.	.	.	.	.	.	.	.
Income	.	.	.	.	.	.	.	.	.	2,17,982.68	
Opening Balance	.	.	.	.	.	.	.	.	.	5,06,458.14	
Total	.	.	.	.	.	.	.	.	.		7,24,440.82
Expenditure	.	.	.	.	.	.	.	.	.		2,99,157.92
Closing Balance	.	.	.	.	.	.	.	.	.		4,25,282.90
										1969-70	
Receipts	.	.	.	.	.	.	.	.	.
Income	.	.	.	.	.	.	.	.	.	1,41,123.44	
Opening Balance	.	.	.	.	.	.	.	.	.	4,25,282.90	
Total	.	.	.	.	.	.	.	.	.		5,66,406.34
Expenditure	.	.	.	.	.	.	.	.	.		2,46,812.05
Closing Balance	.	.	.	.	.	.	.	.	.		3,19,594.29

Broad break-up of receipts and expenditure

					RECEIPTS			
Main items					1966-67	1967-68	1968-69	1969-70
Contributions	.	.	.	.	1,07,120	1,30,710	1,22,100	96,820
House rent	.	.	.	.	28,625	30,100	27,000	28,100
Deposits	.	.	.	.	1,30,430	1,46,500	29,500	10,400
Recovery of Adv.	.	.	.	.	5,400	14,500	37,100	
					EXPENDITURE			
Estt. Charges	.	.	.	.	1,56,000	1,53,000	1,50,000	1,65,000
Wakf Maintenance	.	.	.	.	5,260	13,000	19,600	4,600
Refund of Deposits	.	.	.	.	37,285	1,27,600	58,720	28,900
Advances	.	.	.	.	14,760	43,400	14,500	9,500
Land & Building A/c	.	.	.	.	—	27,000	23,945	2,900

Budget estimates of the West Bengal Wakf Fund

				Income	Exenditure
1966-67	.	.	.	7,47,961 .60	7,47,961 .60
1967-68	.	.	.	8,92,913 .65	8,92,913 .65
1968-69	.	.	.	7,24,440 .82	7,24,440 .82
1969-70	.	.	.	7,56,166 .14	5,66,406 .34
1970-71	.	.	.	6,60,063 .90	5,90,194 .29



FACTUAL DATA RECEIVED FROM U.P. SUNNI CENTRAL BOARD OF WAKFS

<i>Information Sought</i>	<i>Information Furnished</i>
1. (a) The budget of the Board for years 1967-68, 1968-69, 1969-70 and 1970-71.	The copies of the budget of the Board for the years 1967-68, 1968-69 and 1969-70 are attached (Annexure I).
(b) The details of the members of the staff, post held, qualifications, age, how long holding the present post. If pensioners—the post from which retired and the amount of pension they are drawing. Are there dismissed Govt. or local body servants in your staff ?	The list of the members of the staff of the Board attached (Annexure 2). No dismissed Govt. or local body servants are in the staff of the Board. (Not appended)
2. (a) Have all the Wakfs including mosques, dargahs, imambaras and graveyards which are Wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act ?	All such Wakfs which came into the knowledge of the Board have been duly registered under section 29 of the U.P. Muslim Wakf Act, 1960. Those coming in our notice from time to time are also being registered.
(b) Has the Board taken any action in respect of any wakf under Section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of wakf or by itself cause the Wakf to be registered?	Section 31 of U.P. Wakf Act (See 28 of the Central Wakf Act). Action under this section was taken in nine cases during the year 1970-71.
3. Has your Wakf Board taken action under Section 41(1) of the Act against any Mutawalli who has failed to apply for registration? If so, the number of cases in which such action has been taken may kindly be supplied.	Section 54(1)(a) of U.P. Wakf Act [4(1) of Central Wakf Act]. The penal clause under this section differs from that under the Central Act in respect of the amount of fine. Measures others than the imposition of any fine against the mutwallis who failed to apply for registration under section 29 of the U.P. Act was adopted. No fine was imposed for this particular offence in any case.
4. How many reports of the Commissioner forwarded by the State Government under section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of section 5—the period for which such lists have been pending and the reasons for delay in their disposal.	Survey proceedings are not in progress in this State. Last survey was done in the year 1937—39.
5. (a) Has the survey of Wakf as laid down under Chapter II of the Wakf Act been completed in your State? If not the present progress recorded may be given.	Section 4 of the U.P. Wakf Act (Chapter II of the Central Act). The survey of the Wakfs has not been completed in this State.
(b) What action has the Board taken from time to time with the State Government for expediting survey?	Since the last survey in the year 1939, no fresh survey was conducted. The question of holding fresh survey is under consideration of the State Govt. There are certain legal difficulties in starting a fresh survey. The provision of Section 9(2) of U.P. Muslim Wakf Act will have to be modified before the survey proceedings are commenced. The provisions under this Section confer finality to the decisions of the Wakf Commissioners. Also the decisions made in connection with the litigation going up to the High Court cannot be disturbed during the survey proceedings. Correspondence on the subject continues with the Government

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6.	What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every wakf as required under clause (a) of sub-section (2) of section 15?	<p>Section 19(2) a of the U.P. Wakf Act [Section 15(2) a of the Central Act].</p> <p>The Board maintains district-wise list of the registered Wakfs. The register indicates number, name of the Wakf, the name of the mutawallis with address and the details of the property endowed. Another register called Demand Register contains information regarding gross and net income of each Wakf. The connected files furnish information about origin, objects, beneficiaries and another matters relating to Wakfs.</p>
7.	Has the Board on any case given any directions under clause (e) (iii) of sub-section (2) of Section 15? If so, such cases may be stated in some detail.	<p>Section 59 of the U.P. Wakf Act [Section 15(2) e III of the Central Act].</p> <p>Such cases are very rare. In 1967, such a contingency arose. Some money dedicated from Wakf. No. 6 Hameerpur created by Mst. Misso for Madarsa Fakharis Mekka Moazma and also for an Orphanage Madina Munawara could not be remitted due to exchange difficulties. Therefore the mutawallia was directed to utilise the amount in the construction of a building on a land of another Wakf No. 48 of Hameerpur which was under the same Mutawallia.</p>
8. (a)	During the last three years how many schemes of management have the Board settled? Copies of the schemes settled pertaining to the Wakfs with an income of more than Rs. 10,000 may kindly be furnished.	<p>Section 19 of U.P. Wakf Act.</p> <p>No occasion to settle the scheme of management pertaining to the Wakfs with an income of more than Rs. 10,000 arose during the last three years. In respect of comparatively smaller Wakfs like Wakf Jama Masjid Aligarh and Wakf No. 128 Muslim Musafirkhana Aligarh, such schemes were settled in the years 1970-71. In some other cases the proceedings are continuing.</p>
(b)	How many appeals under sub-section (3) of Section (15) have been filed or pending in a Court of Law against such settlement ?	
9.	Has the Board given instructions regarding utilisation of the surplus income of a Wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such surplus ? If so, copies of such instructions issued during the last three years may kindly be supplied to this Committee.	<p>Section 19(2)j of U.P. Wakf Act (Sub-clause i of clause of sub-section 2 of Section 15 of Central Act).</p> <p>During the last three years amount of surplus income from Wakf Mian Saheb No. 67 Gorakpur, Wakf No. 64 Aligarh and Wakf No. 93 Muzaffargarh was ordered to be utilised in the establishment of Technical School at Lucknow.</p>
10. (a)	How many wakfs are there under the control of the Board? How many Wakfs have submitted their budgets? Year-wise break up for the years 1967-68, 1968-69, 1969-70 and 1970-71 may be given.	<p>There are 9893 Wakfs registered with the Board. The number of the Wakfs which submitted their budgets was 124 in the year 1970-71.</p>
(b)	If all the Wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis?	<p>No legal action was taken against the defaulting mutawallis. They were instead asked in a polite manner to observe the rules.</p>
11. (a)	How many inspections of Wakfs have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71?	<p>No inspections of Wakfs made during the years 1968-69, 1969-70 and 1970-71. There is no routine for Auditors of the Board to inspect and audit the accounts of the Wakf.</p>

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- (b) Have all Wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board? If so, copies of reports on at least three such inspections be supplied to this Committee.

Nil.

12. The qualifications, age of the present Secretary of the Board may be given—with the period for which he has been employed with following further details:—

The Secretary of the Board is M.A., LLB. He is running his 59th year of his age. He was appointed as such on 1-1-1971 for the period till he attains the age of 60 years on 4-10-1973. Further details as required are as below.

- (i) Is he a full-time or part-time?

Full-time.

- (ii) The salary he is given.

Rs. 600 as pay—Rs. 100 as car allowance.

- (iii) What powers have been delegated to the Secretary by the Board under Section 22A? A copy of such powers may kindly be furnished.

The list of the powers delegated to the Secretary by the Board under section 20 of the U.P. Wakf Act attached Annexure 3. (Not appended)

- (iv) Has the Secretary himself carried out any detailed inspection of any major wakfs. If so, the number and names of the Wakfs inspected during the last three years may be furnished.

Nil.

- (v) How many days in a year, has your Secretary been on tour during the last five years? Please also furnish details year-wise for the last five years—1967-68, 1968-69, 1969-70, 1970-71 and 1971-72.

The Secretary does not go on tours as a matter of routine. Only in very special cases he pays visit to a Wakf for inspection.

13. (a) The number of wakf institutions audited under section 33(I) may be furnished year-wise for the years—1967-68, 1968-69, 1969-70, and 1970-71.

Section 51 of U.P. Muslim Wakf Act (Section 33 (I) of the Central Act).

No. of the Wakfs audited during the years

1967-68,	1968-69,	1969-70,	1970-71,
2434	3061	2920	5068

- (b) In how many cases action has been taken under Section 34 following the report of the auditors?

Section 52 of the U.P. Wakf Act (34 of the Central Act).

1967-68,	1968-69,	1969-70,	1970-71,
75	105	2920	5068

- (c) The list of Auditors under the employment of the Board, along with their qualification, previous experience, age etc. may be furnished.

List of Auditors with the required particulars (Annexure 4). (Not appended)

14. (a) What is estimated 6% contribution on for the years 1967-68, 1968-69, 1969-70 and 1970-71? As against this what have been the actual receipts during these years?

For the estimated 6% contribution of the Board kindly peruse Annexure No. 5. (Not appended)

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(b) What action has been taken by the Board to realise the arrears from the Mutwallis ? Action taken to realise the arrears from the mutawallis.

(i) Have the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears ? In how many cases such certificates of non-recovery have not been issued and why ? Only in one case the Board issued certificate of recovery to the Collector.

(ii) Has the Board taken any action against any mutawalli for default in payment for more than two years ? Has the Board removed any mutawalli on account of his failure to pay for two consecutive years, the contribution payable by him as provided under clause (e) of sub-section (1) of section 43 ? The power to remove a mutawalli from the office on account of his failure to pay Board's contribution for two consecutive years was provided recently under clause i-a of Section 55 of the U.P. Wakf Amendment Act 1971. So far no action under this newly introduced provision has been taken by the Board.

15. The details of all properties under the direct management of the Board may be furnished with following particulars :

(a) Short description and the nature of each such Wakfs.

(b) The details of the properties and estimated income of each such wakf.

(c) What was the income of the property at the time when the Board assumed direct management what has been the income year-wise after the property has come under the Board's management ?

(d) What special steps has the Board taken to improve the administration in respect of each such property ?

(e) Has the Board appointed any special staff for the actual management of each such property ? If so, the details of the staff appointed may please be given.

(f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as part of charges towards the administration of such properties ?

(g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.

(h) Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management ? If so, the copies of the Inspection Reports may kindly be furnished ?

1	2	3
16.	The number of enquiries instituted by the Board under Sections 44 and 45 of the Wakf Act may be given.	Section 56/57 of the U.P. Wakf Act (Section 44/45 of Central Wakf Act). During the last financial year one hundred forty five enquiries were made by the Board's Inspectors.
17.	Has the Board received any donations and/or grants to the Wakf Fund under sub-section (1) (a) of section 48 of the Wakf Act ?	Section 37 of the U.P. Wakf Act (Section 48 of the Central Act). All moneys received by the Board under section 34 and all the other moneys realised by the Board under the Act constitute a fund called "Uttar Pradesh Sunni Wakf Fund". There is no provision for receiving donations under this section of the Act.
18.	Has the Board taken any action under powers vested in it under Section 27 to determine whether a property is a Wakf property or not independently of Chapter II ?	Section 33 of the Wakf Act (Section 27 of the Central Act). There were only two such cases in the year 1971.
19.	Has the State Government passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? If so, the copies of the orders received from the State Government may be furnished together with what action was taken on such orders by the Board of the State Government.	The copies of the orders passed by the State Govt. on the audit of the Board for the last four financial years as required and the details of the action taken thereupon by the Board are attached (Annexure No. 6). (Not appended)
20.	In how many cases has the Board taken action under Section 36-B for the recovery of Wakf property transferred in contravention of Section 36A ? If so, how many requisitions are pending with the Collectors ?	49-B of U.P. Wakf Act Amendment 1971 (36-B of Central Act). The provision is recently made under the Amendment Act 1971. The approval of the rules framed under sub-section 7 of the said Section by the Govt. is awaited.
21. (a)	The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of Wakf property under section 36A during the last 5 years.	Section 19(2) of U.P. Wakf Act (Section 36A of the Central Act). (a) Sale and Exchange—47
(b)	Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.	(b) Leases of agricultural land—1 for a period exceeding 3 years. Urban properties (buildings) are governed by the Rent Control Act U.P.
22.	Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(1) and moved a court of law for action against the Mutawallis ? If so, give a list and the result of the actions taken.	Section 54 of the U.P. Wakf Act (Section 41-I of the Central Act). U.P. Wakf differs from the Central Act as regards the action and leviable amount of penalty for the offence committed by the mutawallis as enumerated thereunder. There is no provision under U.P. Wakf Act to move the court for such an offence.

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23. (a)	The number and list of mutawallis removed by the Board during the last five years under section 43(1) may be furnished.	Section 48 of the U.P. Wakf Act [(43)(1) of the Central Act].
	(a)	195
(b)	In how many cases have such actions resulted in the Mutawallis' moving the court of Law ?	(b) 61
(c)	In how many cases detailed in (b) above, have the courts of law given stay orders allowing the mutawallis removed by the Board to continue to act as mutawallis ? In how many such cases have the courts appointed receivers ?	(c) 1
(d)	In how many such cases coming under (b) have the Wakf Board moved the court for appointment of a receiver as against the court allowing the Mutawallis to continue to be incharge of the Wakf property ?	(d) 1
24.	Have the State Government issued rules for carrying out the purposes of the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said Section.	Section 78 of the U.P. Wakf Act (Section 67 of the Central Act). The State Government has by notification in the official Gazette made rules for all the matters as and where required under the Act. This section also differs in details from the corresponding section of the Central Act.
25.	Has the Board issued with the previous sanction of the State Government regulations providing for all the clauses from (a) to (n) of sub-section (2) of Section 68 ? If so a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons therefor may be given.	Section 79 of the U.P. Wakf Act (Section 68 of the Central Act). The Board framed its bye-laws under section 79 of the Act providing for all clauses from (a) to (q) of sub-section 2 of the said section. Now a revised version of the bye-laws is being submitted to Government for approval.
26.	The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished :— (i) TA/DA paid to the Members of the Board for attending meetings of the Board; (ii) Number of meetings held for the period; (iii) TA/DA paid to the Secretary of the Board.	The details of expenditure as required is given below :—

Year	T.A./D.A. paid to the members of the Board	No. of Board's meetings	T.A./D.A. paid to Secretary
1967-68	2,427.45	5	X
1968-69	3,763.56	8	X
1969-70	1,143.75	4	X
1970-71	X	1	X

Since 1969 the Board is not functioning under an order of injunction passed by the High Court against the formation of the Board.

Statement showing balance of budget for the year 1967-68

Actual 1966-67

BOARDS' A/c

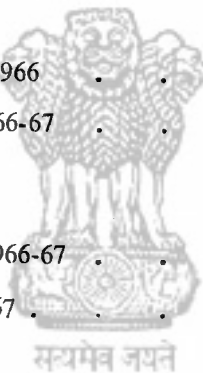
Opening balance as on 1-4-1966	.	.	.	.	.	.	1,04,450.31
Receipts during the year 1966-67	.	.	.	.	.	.	1,39,201.92
Total Receipts	.	.	.	.	.	.	2,43,652.23
Payments during the year 1966-67	.	.	.	.	.	.	1,25,262.98
Closing Balance as on 31-3-67	.	.	.	.	.	.	1,18,389.25

DEPOSIT A/c

Opening balance as on 1-4-1966	.	.	.	.	.	.	1,55,538.76
Receipts during the year 1966-67	.	.	.	.	.	.	94,361.84
							2,49,900.60
Payments during the year 1966-67	.	.	.	.	.	.	89,576.84
Closing balance on 31-3-67	.	.	.	.	.	.	1,60,323.76

S.W. FUND A/c

Opening balance as on 1-4-1966	.	.	.	.	.	.	6,438.32
Receipts during the year 1966-67	.	.	.	.	.	.	25,524.33
							31,962.65
Payments during the year 1966-67	.	.	.	.	.	.	22,278.95
Closing balance as on 31-3-67	.	.	.	.	.	.	9,683.70



Statement showing balance of budget for 1968-69

Actual A/c for 1967-68

Board's A/c

Opening balance as on 1-4-67	1,18,389.25
Receipts during the year 1967-68	1,24,104.47
Total Receipts	2,42,493.72
Payments during the year 1967-68	1,31,790.32
Closing balance as on 31-3-68	1,10,703.40

Deposit A/c

Opening balance as on 1-4-67	1,60,323.76
Receipts during the year 1967-68	89,187.15
Total Receipts	2,49,510.91
Payments during the year	61,395.04
Closing balance as on 31-3-68	1,88,115.87

Sunni Wakf Fund

Opening balance as on 1-4-67	9,683.70
Receipts during the year 1967-68	20,770.28
Total Receipts	30,453.98
Payments during the year 1967-68	23,045.05
	7,408.93

Statement showing balance of budget for the year 1969-70

Actual A/c for 1968-69

Board's A/c

Opening balance as on 1-4-1968	.	.	.	.	.	.	.	.	.	1,10,703.40
Receipts during the year 1968-69	.	.	.	.	.	.	.	.	.	1,30,305.72
Total Receipts	.	.	.	.	.	.	.	.	.	2,41,008.72
Payments during the year 1968-69	.	.	.	.	.	.	.	.	.	1,32,566.96
Closing balance on 31-3-1969	.	.	.	.	.	.	.	.	.	1,08,441.76

Deposits A/c

Opening balance as on 1-4-1968	.	.	.	.	.	.	.	.	.	1,88,115.87
Receipts during the year 1968-69	.	.	.	.	.	.	.	.	.	1,18,115.26
Total Receipts	.	.	.	.	.	.	.	.	.	3,06,231.13
Payment during the year 1968-69	.	.	.	.	.	.	.	.	.	69,236.48
Closing balance as on 31-3-1969	.	.	.	.	.	.	.	.	.	2,36,994.65

Sunni Wakf Fund

Opening balance as on 1-4-1968	.	.	.	.	.	.	.	.	.	7,408.93
Receipts during the year 1968-69	.	.	.	.	.	.	.	.	.	10,259.05
Total Receipts	.	.	.	.	.	.	.	.	.	17,667.98
Payments during the year 1968-69	.	.	.	.	.	.	.	.	.	17,227.74
Balance as on 31-3-1969	.	.	.	.	.	.	.	.	.	440.24

Statement showing balance of budget for 1970-71

Actual A/c for 1969-70

Board's A/c

Opening balance as on 1-4-1969	.	.	.	.	.	.	.	.	.	1,08,441.76
Receipts during the year 1969-70	.	.	.	.	.	.	.	.	.	1,55,963.61
Total Receipts	.	.	.	.	.	.	.	.	.	2,65,405.37
Payments during the year 1969-70	.	.	.	.	.	.	.	.	.	1,33,584.07
Closing balance on 31-3-1970	.	.	.	.	.	.	.	.	.	1,31,821.30

Deposit A/c

Opening balance as on 1-4-1969	.	.	.	.	.	.	.	.	.	2,36,994.65
Receipts during the year 1969-70	.	.	.	.	.	.	.	.	.	99,464.13
Total Receipts	.	.	.	.	.	.	.	.	.	3,36,458.78
Payments during the year 1969-70	.	.	.	.	.	.	.	.	.	88,074.92
Closing balance on 31-3-1970	.	.	.	.	.	.	.	.	.	2,48,383.86

Sunni Wakf Fund

Opening balance as on 1-4-1969	.	.	.	.	.	.	.	.	.	440.24
Receipts during the year 1969-70	.	.	.	.	.	.	.	.	.	17,185.09
Total Receipts	.	.	.	.	.	.	.	.	.	17,625.33
Payments during the year 1969-70	.	.	.	.	.	.	.	.	.	17,508.80
Closing balance on 31-3-1970	.	.	.	.	.	.	.	.	.	116.53

The budgetary position of the UP Sunni Wakf Board is fairly satisfactory, as will be clear from the broad details hereunder :—

Actual A/c for 1966-67

Board's A/c

[illegible]

Deposit A/c

O.B.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	1,55,538.76
Receipts	.	.	.	.	.	.	.	.	.	.	.	.	.	.	94,361.84
Total															2,49,900.60
Payments	.	.	.	.	.	.	.	.	.	.	.	.	.	.	89,576.84
Closing balance	.	.	.	.	.	.	.	.	.	.	.	.	.	.	1,60,323.76

S.W. Fund A/c

[illegible]

Actual A/c for 1967-68

Board's A/c

[illegible]

Deposit A/c

[illegible]

S.W. Fund

[illegible]

Actuals for 1968-69

Board's A/c

O.B.	1,10,703.40
Receipts	1,30,305.72
Total	2,41,008.72
Payments	1,32,566.96
C.B.	1,08,441.76

Deposit A/c

O.B.	1,88,115.87
Receipts	1,18,115.26
Total	3,06,231.13
Payments	69,236.48
C.B.	2,36,994.65

S.W. Fund

O.B.	7,408.93
Receipts	10,259.05
Total	17,667.98
Payments	17,227.74
C.B.	440.24

Actuals for 1969-70

Board's A/c

O.B.	1,08,441.76
Receipts	1,56,963.61
Total	2,65,405.37
Payments	1,33,584.07
C.B.	1,31,821.30

Deposit A/c :

O.B.	2,36,994.65
Receipts	99,464.13
Total	3,36,458.78
Payments	88,074.92
C.B.	2,48,383.86

S.W. Fund

O.B.	440.24
Receipts	17,185.09
Payments	17,625.33
C.B.	17,508.80
	116.53

COMMENTS TO THE FACTUAL DATA RECEIVED FROM THE WAKF BOARD OF KERALA

Information asked for

As furnished

1. (a) The budgets of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71. Copies of the Budgets furnished separately and enclosed.
- (b) The details of the members of the staff, post held, qualifications, age, how long holding the present post, if pensioners—the post from which retired and the amount of pension they are drawing. Are there dismissed Govt. or local body servants in your staff ?

(b) The details of the members of the staff :

Name	Post held	Qualification	Age	How long holding the present post. Present post held from :
1. N. B. Ibrahim	Cashier-cum-Accountant	B.Com.	41	1-11-1961
2. V. Ahmed Kutty	Inspector of Wakfs	B.A.	45	29-9-1965
3. P. A. Hussain	U.D. Clerk	S.S.L.C.	41	29-9-1965
4. C. P. Manju	L.D. Clerk	"	41	24-10-1962
5. E. Yoosuf Kunju	"	B.A.	38	5-12-1962
6. C. M. Aboobacker	"	S.S.L.C.	38	5-12-1962
7. M. K. Abdual Jaleel	"	"	28	16-3-1963
8. M. Nissar	"	"	34	14-4-1963
9. V. M. Mohamed	"	"	34	1-8-1963
10. S. Abdul Salam	"	"	36	27-4-1964
11. A. H. Mohamed Hafiz	"	"	30	30-5-1968
12. M. Shahul Hameed	"	"	26	24-5-1971
13. S. M. Ibrahim Sait	"	"	27	24-5-1971
14. M. Ibrayi	"	"	30	24-5-1971
15. U. Imbichikoya Thangal	"	"	29	8-7-1972
16. K. A. Mayan Kutty	"	"	30	26-7-1972
17. J. Jaffer Hussain	Steno-Typist	"	41	14-1-1964
18. E. Abdul Azeez	Copyist-cum-Clerk	"	39	27-5-1968
19. N. A. Aboobacker	Auditor	B.Com.	34	11-6-1971
20. M. Ibrahim	"	"	28	24-5-1971
21. N. P. Yaccob	Peon	Primary School	38	2-1-1961
22. A. Junas	"	Middle School	30	11-7-1963
23. P. Moideen	Manager	S.S.L.C.	55	4-9-1972

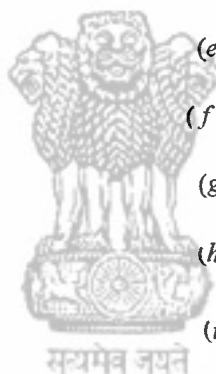
(Retired Tashildar, Kerala State, Pension drawn is Rs. 257)

1	2	3
	Are there any dismissed Government or local body servants in your staff ?	No.
2. (a)	Have all the Wakfs including mosques, dargahs, Imambaras and graveyards which are Wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act ?	Altogether 5659 Wakfs have been registered and entered in the register of Wakfs. Registration of Wakfs is being continued. Still many unregistered Wakfs have to be detected and registered. Wakf Board's Inspectors and Wakf Auditors are making every effort to trace out hidden Wakfs and to get the same registered.
		Wakfs registered before the Kerala Wakf Board includes mosques, Madrassa, Moullood Wakfs, Quran Recital Wakfs, Orphanages etc.
(b)	Has the Board taken any action in respect of any wakf under Section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a Wakf or by itself cause the Wakf to be registered ?	The Board has taken action under Section 28 of the Wakf Act in respect of many Wakf institutions and the same action is being continued at present.
3.	Has your Wakf Board taken action under Section 41(1) of the Act against any Mutawalli who has failed to apply for registration ? If so, the No. of cases in which such action has been taken may kindly be supplied.	The Board has taken action under Section 41(1) for non-registration in 4 cases.
4.	How many reports of the Commissioner forwarded by the State Government under Section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of Section 5—the period for which such lists have been pending and the reasons for delay in their disposals.	The Board has received 2200 Survey Reports of the Asst. Commissioner. Out of the 5659 Wakfs registered have so far, 4640 Wakfs have been published in the Gazette containing the particulars such as name of Wakf, District, Taluk, Village, Nature & object of the Wakf, gross income of property, land revenue, cesses and tax payable. Out of 4640 Wakfs published includes 2000 Wakfs, the survey reports of which were furnished by the Asst. Commissioner of Wakfs. Action is being taken on the remaining Wakfs.
5. (a)	Has the Survey of Wakf as laid down under Chapter 11 of the Wakf Act has been completed in your State ? If not the present progress recorded may be given ?	The survey of Wakfs has not been completed in this State. It has to be conducted by the Board of Revenue.
(b)	What action has the Board taken from time to time to move the State Government for expediting survey ?	The Secretary to Government, Revenue Department and the Secretary, Kerala Wakf Board have requested the Wakf Commissioner to complete the survey of Wakfs without delay.
6.	What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every Wakf as required under clause (a) of sub-section (2) of Section 15 ?	The record as required under clause (a) of sub-section (2) of Section 15 has not been maintained.
7.	Has the Board on any case given any directions under clause (e)(iii) of sub-section (2) of Section 15 ? If so, such cases may be stated in some detail :—	Yes, in two cases the Board has issued directions under clause (e)(iii) of sub-section (2) of Section 15 in respect of Abdul Sathar Haji Moosa Sait Dharmasthapanam and Pallarimangalam Juma Masjid. (i) In one case the direction was issued to certain persons connected with the administration of Pallarimangalam Chandanakkunnu Juma Masjid of Ernakulam Dist. that the Khatheeb (Imam) appointed by the Board should be

allowed to conduct 'Juma-prayers' at the above mosque until the appointment of permanent Khatheeb. This direction was issued on receiving the information about the obstruction caused to the Khatheeb for performing his duties as Khatheeb.

(ii) Another direction issued by the Board is in respect of Abdul Sathar Haji Moosa Sait Dharmasthapanam at Ernakulam with regard to the following points :—

- (a) Appointment of an efficient Manager subject to the approval of the Board.
- (b) Calling of open tenders for all expenditures above Rs. 1,000.
- (c) Maintenance of separate accounts for miscellaneous income.
- (d) Calling of tenders for selling out cocoanuts and other produce from Wakf properties.
- (e) Calling of open tenders for purchasing manure.
- (f) Distribution of family shares without any complaints.
- (g) Taking of immediate steps for audit and publication of accounts.
- (h) Observation of the Trust meeting by a representative of the Board.
- (i) Strictness and stringency in allowing travelling allowance.



8. (a) During the last three years how many schemes of management have the Board settled ? Copies of the schemes settled pertaining to the Wakfs with an income of more than Rs. 10,000 may kindly be furnished.

The Board has framed schemes of management in respect of four Wakfs. (Copies of the schemes are not furnished as the income of the Wakfs to which schemes are settled is below Rs. 10,000).

(b) How many appeals under sub-section (3) of Section 15 have been filed or pending in a court of law against ?

Out of 4 appeals 3 have been dismissed and 1 decreed against the Board and the appeal of the Board is pending.

9. Has the Board given instructions regarding utilisation of the surplus income of a Wakf under sub-clause (1) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such surplus ? If so, copies of such instructions issued during the last three years may kindly be supplied to this Committee.

Instructions relating to the same is issued to all Wakfs *vide* para 17 of Malayalam copy of instruction. The English translation is as follows :—

All the Wakfs with an annual income exceeding Rs. 1,000 shall deposit annually 1% of their income either in Banks or in Post Office for the purposes of creating a Reserve Fund and that the amount so deposited in Reserve Fund shall not be drawn and utilised without the previous sanction of the Board. In all cases where there are specific direction in the Wakf deed in the matter of creation of a Reserve Fund it is enough that a Reserve Fund be created in accordance with the said direction in the deed.

1	2	3
10. (a)	How many Wakfs are there under the control of the Board ?	So far 5659 Wakfs have been registered with the Board.
	How many Wakfs have submitted their budgets ?	The No. of Wakfs of which Budgets & Accounts have been received :
	Year-wise break-up for the years	
	1967-68	2114
	1968-69	2053
	1969-70	2312
	1970-71 may be given :—	2467
(b)	If all the Wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis ?	There are no provisions in the Wakf Act empowering the Board to take action for non-submission of Budgets. However, action has been taken against the Mutawallis who have failed to submit their accounts. For non-submission of accounts for 1971-72 the Secretary, Beema Palli Muslim Jamaath has been prosecuted before the Dist. Magistrate, Ernakulam. In respect of Wakfs having assessable income and which have not furnished accounts in time assessments on best of judgment as contemplated under Section 68(2)(e) have been taken.
11. (a)	How many inspections of Wakfs have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71 ?	Inspections have done in six cases by the Inspectors. Most of the Wakfs whose accounts were audited by Wakf Auditors, were inspected by them in the course of audit.
(b)	Have all Wakfs having income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board ? If so, copies of reports on at least three such inspections be supplied to this Committee.	Not inspected so far.
12.	The Qualifications, age of the present Secretary of the Board may be given with the period for which he has been employed with following further details :—	<p>Name : M. Abootty.</p> <p>Qualification : B.A. & B.L. having 16 years practice at the Bar.</p> <p>Age : 43.</p> <p>Period of appointment: Taken charge from 9-3-1972 onwards.</p>
(i)	Is he a full-time or part-time ?	Full-time.
(ii)	The salary he is given.	Rs. 697.
(iii)	What powers have been delegated to the Secretary by the Board under Section 22 ? A copy of such powers may kindly be furnished.	Sections 14, 15(j), 16, 43, 43a & 47 of the Wakf Act, 1954.(Copy of the notification enclosed). (Not appended)
(v)	Has the Secretary himself carried out any detailed inspection of any major Wakfs ? If so, the number and names of the Wakfs inspected during the last three years may be furnished.	1. Hashimiya Madrasa Wakf at Alleppey. 2. Kullai alias Assainar Haji Wakf at Palghat.
(v)	How many days in a year, has your Secretary been on tour during the last five years ? Please also furnish details year-wise for the last five years	<p>1967-68 33 days.</p> <p>1968-69 31 days.</p> <p>1969-70 13 days.</p> <p>1970-71 41 days.</p> <p>1971-72 72 days.</p>

1	2	3
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13. (a) The No. of Wakf institutions audited under Section 33(i) may be furnished year-wise for the years:—

1967-68	37 institutions.
1968-69	38 institutions.
1969-70	40 institutions.
1970-71	22 institutions.

- (b) In how many cases action has been taken under Section 34 following the report of the auditors:— 3 cases.

- (c) The list of Auditors under the employment of the Board along with their qualification, previous experience, age, etc. may be furnished.

Name of Auditor	Qualification	Age	Previous experience
1	2	3	4
1. M. Ibrahim	B. Com.	28	As audit clerk for 1-1/2 years in Indo-Marine Agencies (P) Ltd. Cochin.
2. N. M. Aboobacker	B. Com.	34	(1) Accountant Assistant for 3 years in M/s. Hindustan Incubator & Brooder Company at Calcutta. (2) Secretary of the Co-operative society Cranganore for 6 months. (3) Accountant for 1 year in M/s. Seagull Fisheries Ltd., Cochin.

14. (a) What is the estimated 6% contribution for the years	Estimate	Actual receipts
1967-68	176,000	1,38,615.90
1968-69	175,000	1,40,574.73
1969-70	150,000	1,49,229.11
1970-71	150,000	1,25,527.27

as against this what have been the actual receipts during these years?

- (i) Have the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears? In how many cases such certificates of non-recovery have not been issued and why?

The Board has issued Revenue Recovery Certificates in all cases of arrears of contribution.

- (ii) Has the Board taken any action against any Mutawalli for default in payment for more than two years? Has the Board removed any Mutawalli on account of his failure to pay for two consecutive years, the contribution payable by him as provided under clause (e) of sub-section (i) of Section 43?

The Board has taken action against two Mutawallis:

- (1) The Mutawalli of Haji Essa Salary Mohamed Wakf, Cochin and
- (2) The Mutawalli of Madrasathul Hashimiya, Alleppey, has been removed and the administration has been taken over.

1	2	3
15.	The details of all properties under the direct management of the Board may be furnished with following particulars.	At present there is only one Wakf by name Haji Essa Salary Mohamed Wakf under the direct management of the Board.
(a)	Short description and the nature of each such Wakf.	The above Wakf is situated within the Cochin Corporation area of Ernakulam District. The objects of the Wakf are charitable and religious purposes.
(b)	The details of the properties and estimated income of each such Wakf.	Extent : 11 acre & 27 cents. Estimated income : Rs. 4,000.00.
(c)	What was the income of the property at the time when the Board assumed direct management—what has been the income year-wise after the property has come under the Board's management ?	Rs. 3,400
(d)	What special steps has the Board taken to improve the administration in respect of each such property ?	Nil.
(e)	Has the Board appointed any special staff for the actual management of each such property ? If so, the details of staff appointed may please be given.	Nil.
(f)	What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as part of charges towards the administration of such properties ?	Rs. 65,000 given to lessee by way of improvements on compromise effected in O. S. 1 of 1967 of the District Court, Alleppey & Rs. 928 towards the taking over delivery of possession of the property.
(g)	The number of cases in which the Board has appointed Committee of management in respect of properties under its direct management.	Broadway Hanafi Mosque, Ernakulam.
(h)	Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management ? If so, the copies of the Inspection Reports may kindly be furnished ?	The Sub-Committee appointed by the Board has inspected the properties.
16.	The No. of enquires instituted by the Board under Sections 44 and 45 of the Wakf Act may be given ?	In 44 cases the Board has instituted enquires.
17.	Has the Board received any donations and/or grants to the Wakf Fund under sub-section (i) (a) of Section 48 of the Wakf Act ?	The Board has not raised any donations or grants to the Wakf Fund till this date.
18.	Has the Board taken any action under powers vested in it under Section 27 to determine whether a property is a Wakf property or not independently of Chapter II ?	The Board has exercised its powers under Section 27 on three Wakfs.
19.	Has the State Govt. passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? If so copies of the orders received from the State Government may be furnished together with what action was taken on such orders by the Board or the State Govt.	Nil

1

2

3

20. In how many cases has the Boards taken action under Section 36B for the recovery of Wakf property transferred in contravention of Section 36A ? If so, how many requisitions are pending with the Collectors? The Board has taken action under Section 36B in respect of two Wakfs. Both are pending with the Collector.
21. (a) The number of cases in which the Board has sanctioned the sale, gift, mortgage, of exchange of Wakf property under Section 36A during the last 5 years ? The Board has accorded sanction for sale in 26 cases and for exchange in one case.
- (b) Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building. In one case the Board has sanctioned a lease for 20 years on an annual Pattom of Rs. 50.
22. Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(I) and moved a court of law for action against the Mutawallis If so, give a list and result of the actions taken. The Board has taken action under Section 41(I) against three Mutawallis. In two cases the Mutawalli was punished with a fine of Rs. 50 each and the other two cases were compromised.
23. (a) The No. and list of Mutawallis removed by the Board during the last 5 years under Section 43(1) may be furnished. (The Hashimiya Madrassa Wakf of Alleppey).
- (b) In how many cases have such actions resulted in the Mutawallis moving the court of law ? Nil.
- (c) In how many cases detailed in (b) above, have the courts of law given stay orders allowing the Mutawallis removed by the Board to continue to act as Mutawallis ? In how many such cases have the courts appointed receivers? Nil.
- (d) In how many cases coming under (b) have the Wakf Board moved the court for appointed of a receiver as against the court allowing the Mutawalli to continue to be incharge of the Wakf property ? Nil.
24. Have the State Government issued rules for carrying out the purposes of the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said Section. Yes. Copy enclosed. (Not appended)
25. Has the Board issued with the previous sanction of the State Govt. regulations providing for all the clauses form (a) to (n) of sub-section (2) of Section 68. If so a copy of such regulations may be furnished if such regulation have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons therefore may be given. Yes. Copy enclosed. (Not appended)

1	2	3
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26. The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly to be furnished:—

Year	TA/DA paid to the members of the Board for attending meetings of the Board	No. of Meetings held for the period	TA/DA paid to the Sect. of the Board.
	Rs.		
1967-68	6,552.86	48	656.14
1968-69	11,325.22		673.87
1969-70	11,285.34		296.20
1970-71	9,425.86		1,289.90

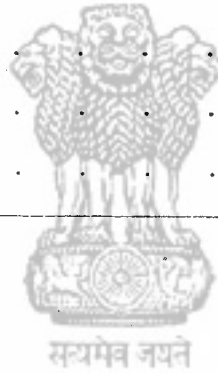
SECTION 14	The Board shall meet for the transaction of business at such times and places as may be prescribed.
SECTION 15(j)	To sanction in accordance with the Muslim law, any transfer of immovable property of a wakf by way of sale, gift, mortgage, exchange or lease, as required by section 36A.
SECTION 16	The Board may, whenever it considers necessary, establish either generally for a particular purpose or for any specified area or areas committees for the supervision of wakfs.
SECTION 43	Notwithstanding anything contained in any other law or the deed of wakf, the Board may remove a mutawalli from his office if such mutawalli.
SECTION 43(a)	Has been convicted more than once of an offence punishable under section 41.
SECTION 47	For the purpose of giving effect to the provisions of this Act, the Board may, with the previous sanction of the State Government, borrow such sum of money and on such terms and conditions as the State Government may determine and the Board shall repay the money borrowed, together with any interest or costs due in respect thereof, according to the terms and conditions of the loan.

Budget of the Kerala Wakf Board

Year	Estimated Income	Estimated Expenditure
1966-67	1,72,100.00	98,000.00
1967-68	1,83,200.00	1,48,200.00
1968-69	1,83,100.00	1,83,200.00
1969-70	1,59,250.00	1,79,695.00
1970-71	1,58,000.00	1,42,650.00

Statement of Assets and Liabilities of the Kerala Wakf Board, as on

	Liabilities	Assets
31-1-1967	5,405.00	2,40,344.76
31-3-1968	9,235.90	2,87,846.83
31-3-1969	23,095.90	2,97,345.95
31-3-1970	2,495.90	2,99,584.31



COMMENTS ON THE FACTUAL DATA RECEIVED FROM THE ANDHRA PRADESH WAKF BOARD

Information asked for	As furnished by the Wakf Board	
1	2	3
<p>1. (a) The budgets of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71.</p> <p>(b) The details of the member of the staff—post held, qualifications, age, how long holding the present post. If pensioners—the post from which retired and the amount of pension they are drawing, are there/dismissed Government or local body servants in your staff?</p> <p>2. (a) Have all the Wakfs including Mosques, Darghas, Imambaras and grave-yards which are wakfs by user been registered and entered into Register of Wakfs u/s 25 of the Act.</p>	<p>1. (a) The copies of the budgets for 1967-68 1968-69, 1969-70 and 1970-71 are enclosed herewith.</p> <p>(b) The details are furnished herewith. (The information being of routine nature has been retained in the Committee).</p> <p>2. (a) No. In the Telangana area of the State of Andhra Pradesh, it is estimated that there are 35,746 wakf properties out of which only 2,633 have been registered. In the Andhra area, the Survey work has been completed and published in A. P. Gazette and there are 3,525 Wakf properties duly registered.</p>	<p>In the Telangana area, the Survey of wakf properties has not been completed by the Wakf Commissioner and the list of the Wakf properties has not been notified in the Gazette.</p>
<p>(b) Has the Board taken any action in respect of any Wakf under Section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a wakf or by itself cause the wakf to be registered?</p>	<p>(b) There is no such case.</p>	<p>The Govt. in the Lr. No. 3659/E-III/62-4 Home (E. III) Deptt. dated 15-2-1965 refrained in the Wakf Board from exercising the power vested in it under Section 15(2)(n) of the Act, in respect of any wakf property while the Commissioner of Wakfs is conducting the Survey in respect of the same property.</p>
<p>3. Has your Wakf Board taken action u/s 41(1) of the Act against any Mutawalli who has failed to apply for registration? If so, the number of cases in which such action has been taken may kindly be supplied.</p>	<p>3. No such action has been taken.</p>	
<p>4. How many reports of the Commissioner forwarded by the State Govt. under Section 5(1) of the Wakf Act are pending before your Board for action sub-section (2) of Section 5—the period for which such lists have been pending and the reasons for delay in their disposal.</p>	<p>4. The reports of the Commissioner have not yet been received in respect of Telangana area. All the reports received in respect of Andhra area, have been disposed of and no reports are pending.</p>	
<p>5. (a) Has the survey of Wakf as laid down under Chapter II of the Wakf Act been completed in your State? If not, the present progress recorded may be given.</p>	<p>5. (a) No. The Survey of Wakfs in Andhra area has been completed and published in A. P. Gazette.</p>	
<p>(b) What action has the Board taken from time to time to make the State Govt. for expediting survey?</p>	<p>(b) No action.</p>	

1	2	3												
6.	What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every Wakf as required under clause (a) of sub-section (2) of Section 15 ?	6. As far as possible, the particulars of income, object and names of beneficiaries are kept in the form of Register, namely, Kitabul Aukaf. This is done only in respect of registered wakf properties.												
7.	Has the Board on any case given any directions under clause (e)(ii) of sub-section (2) of Section 15 ? If so, such cases may be stated in some detail.	7. No such directions have been given.												
8. (a)	During the last three years how many schemes of management have the Board settled ? Copies of the Schemes settled pertaining to the Wakfs with an income of more than Rs. 10,000 may kindly be furnished.	8. (a) Only one settlement scheme is being submitted to the Board. Copy of the Scheme is attached herewith.												
(b)	How many appeals under sub-section (3) of Section 15 have been filed or pending in a court of law against such settlement ?	(b) Nil.												
9.	Has the Board given instructions regarding utilisation of the surplus income of a wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such surplus ? If so, copies of such instructions issued during the last three years may kindly be supplied to this Committee.	9. Nil.												
10. (a)	How many wakfs are there under the control of the Board ? How many wakfs have submitted their budgets. Year-wise break-up for the years 1967-68, 1968-69, 1969-70 and 1970-71 may be given.	10. (a) There are in all (198) institutions under the direct management of the A. P. Wakf Board. The required information in respect of budgets is furnished below: <i>Under direct management</i> <table><tr><td>1967-68</td><td>1968-69</td><td>1969-70</td><td>1970-71</td></tr><tr><td>1</td><td>98</td><td>140</td><td>123</td></tr></table> <i>Under Mutawallis</i> <table><tr><td>2</td><td>1</td><td>6</td><td>1</td></tr></table>	1967-68	1968-69	1969-70	1970-71	1	98	140	123	2	1	6	1
1967-68	1968-69	1969-70	1970-71											
1	98	140	123											
2	1	6	1											
(b)	If all the Wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis.	(b) Mutawallis prosecuted for non-submission of Accounts and Budgets. Details are as follows :— <table><tr><td>Anantapur</td><td>5 cases</td></tr><tr><td>Kurnool</td><td>3 cases</td></tr><tr><td>Cuddapah</td><td>3 cases</td></tr></table>	Anantapur	5 cases	Kurnool	3 cases	Cuddapah	3 cases						
Anantapur	5 cases													
Kurnool	3 cases													
Cuddapah	3 cases													
11. (a)	How many inspections of Wakfs have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71 ?	11. (a) The information is not readily available.												
(b)	Have all wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board? If so, copies of reports on at least three such inspections be supplied to this Committee.	(b) No comments.												

1

2

3

12.

The qualifications, age of the present Secretary of the Board may be given—with the period for which he has been employed with following further details :—

From 2-9-1970 to 30-4-1972 Shri G. M. Ahmed was the Secretary. He was M.A., L.L.B.

Present Secretary :

Shri Saad Husain, B. Sc., age 36 years, employed for one year on deputation from Revenue Deptt., A. P. Government.

(i) Is he a full-time or part-time ?

(i) Full time.

(ii) The salary he is given.

(ii) Pay slip is awaited.

(iii) What powers have been delegated to the Secretary by the Board under Section 22? A copy of such powers may kindly be furnished.

(iii) The powers delegated are appended herewith.

(iv) Has the Secretary himself carried out any detailed inspection of any major wakfs ? If so, the number and names of the Wakfs inspected during the last three years may be furnished.

(iv) The present Secretary inspected Takia Faizullah Shah, Durgah Brahna Shah Saheb, Masjid-e-Chowk, Kiteh Saleheen, grave yard, Amberpet, 3rd Battalion Banjara Hill graveyard and Idgah 1st Lansers.

(v) How many days in a year, has your Secretary been on tour during the last five years ? Please also furnish details year-wise for the last five years—1967-68, 1968-69, 1969-70, 1970-71 and 1971-72.

(v)

1967-68

15 days.

1968-69

10 days.

1969-70

Nil

1970-71

5 days

1971-72

7 days

13. (a)

The number of wakf institutions audited under Section 33(1) may be furnished year-wise for the years 1967-68, 1968-69, 1969-70 and 1970-71.

(a)

Only tests audit inspections have been conducted.

N.B.—Through Govt. Home (Wakf) Deptt. letter No. 731 dated 1-5-1970 the Govt. called for remarks of the Wakf Board to conduct audit of the institutions having income of more than Rs. 5,000 audited by the Auditors of the Local Fund Deptt : Proposals have been accordingly submitted on the analogy of the Govt. of Tamil Nadu.

(b)

In how many cases action has been taken under Section 34 following the report of the auditors ?

(c)

The list of Auditors under the employment of the Board, along with their qualification, previous experience, age etc. may be furnished.

(c)

Regular Registered auditors have not been appointed.

14. (a)

What is estimated 6% contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? As against this what have been the actual receipts during these years ?

(a)

Explanatory note in this regard is enclosed.

(b)

What action has been taken by the Board to realise the arrears from the Mutawallis?

(b)

Explanatory note is enclosed.

1	2	3
	(i) Have the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears. In how many cases such certificates of non-recovery have not been issued and why ?	(i) Explanatory note is enclosed.
	(ii) Has the Board taken any action against any Mutawalli for default in payment for more than two years ? Has the Board removed any mutawalli on account of his failure to pay for two consecutive years, the contribution payable by him as provided under clause (e) of sub-section (1) of Section 43 ?	(ii) -do-
15.	The details of all properties under the direct management of the Board may be furnished with following particulars :—	15. Statement showing the details <i>reg.</i> (a) to (d) is appended herewith. (Wakf Institutions under direct management being 172 in number, details have been detained in the Committee.)
	(a) Short description and the nature of each such Wakf.	-do-
	(b) The details of the properties and estimated income of each such wakf.	-do-
	(c) What was the income of the property at the time when the Board assumed direct management—what has been the income year-wise after the property has come under the Board's management ?	-do-
	(d) What special steps has the Board taken to improve the administration in respect of each such property ?	-do-
	(e) Has the Board appointed any special staff for the actual management of each such property ? If so, the details of the staff appointed may please be given.	(e) The Board has appointed some Nazirs and Nigrankaras for the management of such properties and Inspector-Auditor is appointed Receiver for Mohiddinia Mosque, Damar-maduga Nellore Distt.
	(f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as part of charges towards the administration of such properties ?	(f) Board's resolution No. 133/71 dated 29-12-1971 and 30-12-1971 regarding the actual expenditure is as follows:— “In supersession of Resolution No. 24/70 dated 10-12-1970, it was decided that in the case of Wakf institutions under the direct management of the Wakf Board, the Budget of the institutions should provide an amount for management expenses not exceeding 25% of the net income of the respective wakf in any case.”
	(g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.	(g) The number of Committees appointed under Section 16 of the Wakf Act during the last three years is given below :— 1970 94 1971 127 1972 60
	(h) Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management. If so, the copies of the Inspection Reports may kindly be furnished.	(h) The properties under direct management are usually inspected whenever necessary. The copies of the inspection report are not readily available.

1	2	3
16.	The number of enquiries instituted by the Board under Section 44 and 45 of the Wakf Act may be given.	Two enquires were instituted.
17.	Has the Board received any donations and/or grants to the Wakf Fund under sub-section (1)(a) of Section 48 of the Wakf Act ?	No donations or grants have received.
18.	Has the Board taken any action under powers vested in it under Section 27 to determine whether a property is a Wakf property or not independently of Chapter II ?	Note appended herewith. (Board has detailed difficulties explained by them in two cases. Note retained by the Committee.)
19.	Has the State Govt. passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? If so the copies of the orders received from the State Govt. may be furnished together with what action was taken on such orders by the Board or the State Government.	Audit has not been conducted from the year 1967-68.
20.	In how many cases has the Board taken action under Section 36B for the recovery of Wakf property transferred in contravention of Section 36A ? If so, how many reguisitions are pending with the Collectors ?	In all, 9 cases the Board has taken action under Section 36B for recovery of the wakf property.
21. (a)	The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of wakf property under Section 36A during the last five years.	(a) Statement enclosed.
(b)	Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.	(b) Statement showing the details is appended herewith.
22.	Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(1) and moved a court of law for action against the Mutawallis? If so, give a list and the result of the action taken.	Action was taken against 11 Mutawallis by filing a charge-sheet before Judicial First Class Magistrate. The Mutawallis were convicted in 10 cases and in one case it resulted in acquitted.
23. (a)	The number and list of Mutawallis removed by the Board during the last five years under Section 43(1) may be furnished.	(a) 13 Mutawallis removed.
(b)	In how many cases have such actions resulted in the Mutawallis' moving the court of law ?	(b) Two cases.
(c)	In how many cases detailed in (b) above, have the courts of law given stay orders allowing the Mutawallis removed by the Board to continue to act as Mutawallis ? In how many such cases have the courts appointed receivers ?	(c) In two cases stay orders issued by the A.P. High Court. No Receivers appointed. One case is pending and appeal allowed in another cases.

1	2	3
(d) In how many such cases coming under (b) have the Wakf Board moved the Court for appointment of a receiver as against the court allowing the Mutawalli to continue to be incharge of the wakf property ?	(d) No comments.	
24. Have the State Govt. issued rules for carrying out the purposes of the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said Section ?	24. Copy of the Andhra Pradesh Wakf Rules is enclosed herewith.	
25. Has the Board issued with the previous sanction of the State Govt. regulations providing for all the clauses from (a) to (n) of sub-section (2) of Section 68. If so, a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons therefor may be given.	Copy of the Andhra Pradesh Regulations is enclosed.	
26. The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished.	26. The information is furnished hereunder :—	
(i) TA/DA paid to the Members of the Board for attending meetings of the Board :—	(i) 1967-68 1968-69 1969-70 1970-71 Rs. Rs. Rs. — 2,644.06 3,707.49 3,313.05	
(ii) Number of meetings held for the period;	(ii) 24 meetings were held during the period 1967-68 to 1970-71.	
(iii) TA/DA paid to the Secretary of the Board.	(iii) No allowance has been paid to the Secretary for Board's meetings. The TA paid for tours is as under :— 1967-68 1968-69 1969-70 1970-71 Rs. Rs. Rs. Rs. 572.37 198.23 133.54 Nil	

ITEM 8(A)

Settlement Scheme for the management and administration of Mohiuddin Mosque Estate Wakf situated at Damarmadgu village, Kovur Taluk, Nellore District by the A. P. Wakf Board u/s. 15 clause (2) (d) of the Wakf Act of 1954.

1. The Wakf shall be called Mohiuddin Mosque estate situated at Damarmadgu village, Kovur Taluk, Nellore District with all the endowed properties mentioned in the Schedule annexed hereto as per the registered deed dated 17-7-1917 and the additions if any by the subsequent deeds dated 1-5-1926 and 4-12-1933.

2. A Committee of ten members, as desired by the donor comprising respectable persons of the village (a) close relatives of the donor (b) lessees of the Wakf lands (c) Muslims who offer five times daily prayers in the Mosque (d) Employees of the Mosque and social workers who are religious-minded shall be formed, for the management and administration of Wakf.

3. All the members shall be literate.

4. The Trustee shall be appointed by the Wakf Board and such person shall be appointed who is at least a matriculate, having experience of official correspondence and maintain regular accounts, and fulfil all the conditions laid down by the donor in the registered deed dated 17-7-1917.

5. The members of the Mosque Committee shall be nominated by the District Wakf Committee subject to the approval of the Wakf Board, and shall hold office for a period of three years and the Trustee or Mutawalli shall also be member of the Committee.

6. If there is a vacancy during the period of three years owing to the death, resignation, insolvency, misbehaviour, misconduct or physical incapacity it shall also be filled up by the same procedure.

7. The members of the Committee shall elect a President, a Vice President and a Secretary preferably unanimously or by majority of vote from among the members of Committee. In case of equal votes the Trustee or Mutawalli appointed by the Board shall be empowered to give a casting vote.

8. The Managing Committee shall be responsible for the proper and better management of the Wakf.

9. The Committee shall prepare the yearly budget showing estimated income and expenditure. The Committee shall meet in the first week of every month, check the accounts and consider the ways and means of improving and efficiently managing the Wakf and other matters connected with it.

10. The funds and income of the Wakf shall be spent for the improvement of the Wakf property in existence and for purchasing new lands in accordance with the conditions laid down by the donor in the deed.

11. A bank account will be opened in the one of the scheduled Bank jointly in the name of the Trustee and the President of the District Wakf Committee. All the money shall be deposited in the Bank, leaving Rs. 200 at the disposal of the Committee for emergency.

12. The Secretary will be the executive Officer. He will convene monthly meetings issuing notice to all the members three days prior to the date of the meetings and also emergent meetings on a requisition of four members if necessary, in consultation with the Trustee and the President.

13. The Trustee shall supervise the work of the Secretary and see that all the registers such as cash book, Travellers register, stock register, etc. are properly and regularly maintained. The Trustee shall also supervise the amounts deposited, and see that the Secretary has issued receipts, and has deposited the amount in the Bank. The expenditure incurred, shall be sanctioned by the Managing Committee in its monthly meetings.

14. The lands belonging to the institutions shall be auctioned for three years to the highest bidder in consultation with the committee and the lease deed shall be registered in the name of the Committee and at least $\frac{1}{4}$ of the lease amount shall be obtained from the lessees and deposited in the Bank.

15. The Trustee shall be liable to removed from his office for misconduct, failure in performance of his duties as Trustee or for misappropriation or misbehaviour if proved.

16. A member will be removed if he does not attend three consecutive meetings in spite of the Service of notice.

17. The Office of the Wakf shall be kept in one of three houses, of the Wakf property and the rent shall be fixed and approved by the Wakf Board in consultation with the District Wakf Committee. A portion of the house shall be utilised by the Trustee for residential purpose for which no rent will be charged.

18. The Trustee shall be paid 5% on the net income derived from the properties of the institutions.

19. The Trustee shall be held entirely responsible for the accounts maintained and the accounts shall be audited every year by a registered auditor.

20. The Trustee will perform his duties as a Mutawalli and there will be no Mutawalli for managing the affairs. The Trustee shall be called Trustee-cum-Mutawalli. The appointment of the Trustee-cum-Mutawalli shall ordinarily be for three years unless it is terminated for reasons shown in para 15.

21. The Trustee-cum-Mutawalli shall appoint the following persons with the consent of the committee and with approval of the District Wakf Committee, and they shall also be removed in the like manner for misconduct or for failure to perform the duties.

(a) Pesh Imam. He shall be a qualified person, conversant with muslim law and a person of good character. He shall conduct prayers five times daily in the Mosque in addition to Friday and Id prayers. He will be paid Rs. 60 P.M. He will be appointed in consultation with the District Wakf Committee.

(b) Moazzan. He must be a literate person and well acquainted with muslim law. The same procedure will be adopted for his appointment. He will be paid Rs. 30 per month.

(c) Sweeper and Watchman. He must be a religious-minded man offering daily prayers for five times, keep the mosque clean and the supply of water should be sufficient and kept ready in advance.

22. (a) The repairs to the mosque shall be carried out every third year. Emergency repairs shall be done immediately, and white washing of all the Wakf buildings shall be carried out in the month of Shaban.

(b) The buildings for the religious school shall be constructed, and the present building shall be set apart from Musafarkhana. It shall be repaired and remodelled.

23. The remaining buildings shall be let out on reasonable rent by the Committee in consultation with the District Wakf Committee.

24. Choultry Sarai. This shall be used by poor Travellers who offer prayers daily for five times. They shall be permitted to stay and shall be given meals twice a day.

25. The Wakf Fund 6% shall be paid regularly on the gross income, and the annual budget shall be submitted to the Wakf Board on the prescribed form after being audited by a registered Auditor.

26. As per the intention of the donor the savings shall be utilised for the improvement of the present lands and for purchasing additional property for the enhancement of the income therefore the entire balance shall be kept in the joint account of Trustee and the President, District Wakf Committee in a scheduled Bank and shall spent for the improvement of the Wakf property with the approval of the Board, for installation of pumps for the improvement of land.

27. The details of expenses to be incurred will be the same as mentioned in the deed dated 1-5-1926.

28. The working of the scheme shall be subject to the provisions of the Wakf Act and the Rules framed therein with the approval of the A.P. Wakfs Board.

NOTE : So far as clause (27) is concerned the income of the property has been enhanced and there is no comparison with the prices of commodities preventing in 1926. The Board may consider the details of income and expenditure in the present set up and contributions as shown in the deed of 1926 may be enhanced to a certain extent.

ITEMS 14(A) TO 14(b)(ii)

The details of the estimated income towards Wakf Contribution for the years from 1967-68 to 1970-71 and the actual receipts in respect of Wakf contribution during these years are given below:—

		1967-68	Actual receipt
	Estimated income		
Arrears:	4,40,000.00		1,85,902.00
	1,27,825.00		43,232.00
	5,67,825.00		2,29,134.00
		1968-69	
Arrears:	1,28,000.00		1,30,363.00
Current :	2,00,000.00		29,368.00
	3,28,000.00		1,59,731.00
		1969-70	
Arrears:	2,00,000.00		1,11,051.00
Current :	50,000.00		27,257.00
	2,50,000.00		1,38,308.00
		1970-71	
Arrears:	1,80,000.00		1,20,452.08
Current :	50,000.00		35,108.32
	2,30,000.00		1,55,560.40
		These figures are to be finalised.	

14(b) What action has been taken by the Board to realise the arrears from the Mutawallies?

- Have the Boards issued certificates for recovery by collectors as arrears of Land Revenue in all cases of arrears ? In how many cases such certificates of non-recovery have not been issued and why ?
- Has the Board taken any action against any Mutawalli for default for payment for more than two years ? Has the Board removed any Mutawalli on account of his failure to pay for two consecutive years, the contribution on payable by him as provided under clause (e) of sub-section (1) of Section 43?

Explanatory Note:

With a view to strengthen the finances of the Board the first step taken by the Administrator of the Wakf (during the period of supersession of the Board) was to issue demand certificate U/s 46(4) of the Wakf Act to all the District Collectors for the realisation of the arrears from the defaulting Mutawallies as arrears of Land Revenue. Accordingly certificates to tune of Rs. 5,37,161.87 were issued to all Collectors in the State during the period from January 1966 to June 1967. Out of the arrears of Rs. 6,14,055.47, leaving a balance of Rs. 76,848.60. The arrears of Rs. 76,893.60, pertains to such Wakf institution in respect of which there are certain Civil Suits pending in the courts and in some cases the inam lands have been alienated by the Mutawallies, due to which no institutions are getting any income.

After the formation of the present Board, the arrears for the years 1967-68, 1968-69 and 1970-71 were also, accumulated. The Board during the year 1971-72 has again issued certificates U/s 46(4) covering an amount of Rs. 3,41,301.36 in respect of (9) Districts of Andhra Pradesh.

The Board is taking necessary action to the remaining certificates in respect of the remaining (12) Districts of A.P. and they will be sent shortly.

The Board has taken action U/s 43(1) (e) of the Wakf Act against the following Mutawallies:—

- Sri Syed Shah Gulam Samdani, Muthawalli of Jamia Masjid Balda, Chaxmanr, Hyderabad.
- Sharif Abdullah Saheb, Muthawalli, Dargah, Hazrath Latif Ali Khan, Lingampalli, Hyderabad.
- Sri Mathi Sharifunnisa Begum, Muthawalli of the Wakf property at Osman Gunj, Hyderabad.
- Syed Zakrie, Muthawalli of the Idga at Chambhir taopet, Sircilla Taluk, Karimnagar District.

These cases are pending inquiry.

ITEM 21(b)

Statement showing the details of leased cases

S. No.	Village	Survey Nos. and extent of land which was leased	Amount per year	for what period
1	2	3	4	5
1. Mahbubnagar	.	Land of Hill Namely Wanagattu at Mahbubnagar.	1,800	3 years.
2. Mahboobnagar	.	Survey No. 12-14-15-19-22-23-24—dry land measuring 12 acres 20 guntas and one acre under well—for Rs. 650 per year from 1968 to May 1970.	650	3 years.
3. Mahbubnagar Edra village	.	11. 228, 229, 230, 242, 243, measuring 19 Acres dry lands at Edra (v) for Rs. 110 per year from 1967-68 to 1969.	110	3 years.
4. Attapur Urban Taluk Dist. Hyderabad	.	Survey 312 dry measuring 2 acres and 205 guntas for Rs. 100 per year from June 1968 to end of May 1971.	100	3 years.
5. Hyderabad	.	Near Mosa Riu outside compound of Masjid Toli west land for animals. April 1968 to 1971 (four years)	50 60 75	for 1st year. for 2nd year. for 3rd year.
6. Hyderabad	.	In side of compound Masjid Toli flowers and Fruits garden.	4,500 4,500 5,000 5,000	for 1st year.. for 2nd year. for 3rd year. for 4th year.

सत्यमेव जयते

PUNJAB BOARD OF MUSLIM WAKFS

Information sought				Information furnished		
1	2	3				
1. (a) The budget of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71.		One copy of the budget of the Board for each of the years 1967-68, 1968-69, 1969-70 and 1970-71 is enclosed.				
(b) The details of the members of the staff—post held, qualifications, age, how long holding the present post. If pensioners—the post from which retired and the amount of pension they are drawing. Are there dismissed Govt. or local body servants in your staff ?		The details of the membrs of the staff are given below:				
S. No.	Name	Designation	Qualifications	Age	Date of holding present post	Remarks
1.	G. A. Khan	Secretary	B.A.	32 years	1-9-1970	Neither Pensioner nor Ex-employee.
2.	S. S. Abbee.	Auditor	B.A., S.A.S.	64 years	9-12-1966	Pensioner with pension of Rs. 400 p.m., Ex-employee.
3.	Z. R. K. Munshi	Section Head	Matric.	50 years	24-2-1962	Neither pensioner nor Ex-employee.
4.	Mohd. Israil.	Clerk.	B.A.	26 years	26-10-1969	—do—
5.	Typist post vacant.					
6.	Murtaza Beg	Peon.	—सत्यमेव—	49 years	13-5-1961	—do—
2. (a) Have all the Wakfs including mosques, dargahs, Imambaras and graveyards which are Wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act.		All the Wakfs including Mosques, Dargaha, Imambaras and Graveyards which are Wakfs by user have been registered.				
(b) Has the Board taken any action in a post of any wakf under Section 38 of athe Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a wakf or by itself cause the Wakf to be registered?		No.				
3. Has your Wakf Board taken action under section 41(1) of the Act against any Mutawalli who has failed to apply for registration? If so the number of cases in which such action has been taken may kindly be supplied.		No.				

1	2	3
4. How many reports of the Commissioner forwarded by the State Government under Section 5(1) of the wakf Act are pending before your Board for action under sub-section (2) of Section 5--the period for which such lists have been pending and the reasons for delay in their disposal?	The Commissioner of wakf forwarded 23 reports. Out of which 21 have been published. Two reports of Shia Wakfs are under publication.	
5. (a) Has the survey of Wakf as laid down under Chapter II of the Wakf Act been completed in your State? If not the present progress recorded may be given?	The survey of Wakfs as laid down under Chapter II of the Wakf Act has been completed.	
(b) What action has the board taken from time to time to move the State Government for expediting survey?	No occasion arose for the Board to move the State Govt. for expediting survey.	
6. What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every wakf as required under clause (a) of sub-section (2) of Section 15?	There is no record relating to the origin, object and beneficiaries due to mass migration of Muslim population and Mutawallis from the Punjab to Pakistan as a result of the partition of the country. Record of income is kept in the form of Bahi Khata.	
7. Has the Board on any case given any directions under clause (e) (iii) of sub-section (2) of Section 15? If so, such cases may be stated in some detail.	Nil.	
8. (a) During the last three years how many schemes of management have the Board settled? Copies of the schemes settled pertaining to the Wakfs with an income of more than Rs. 10,000 may kindly be furnished.	Nil.	
(b) How many appeals under sub-section (3) of Section 15 have been filed or pending in court of law against such settlement.	Nil.	
9. Has the Board given instructions regarding utilisation of the surplus income of a wakf under sub-clause (i) of clause (e) of sub-Section (2) of Section 15 in cases where it has detected such surplus? If so, copies of such instructions issued during the last three years may kindly be supplied to this Committee.	No.	
10. (a) How many wakfs are there under the control of the Board? How Many Wakfs have submitted their budgets? Year-wise break up for the years 1967-68, 1968-69, 1969-70 and 1970-71 may be given.	There are 34,158 wakfs. The name of Mutawallis are given below :—	

S. No.	Name of Mutawalli	No. of Wakfs.	Whether Budget Received			
			1967-68	1968-69	1969-70	1970-71
1	2	3	4	5	6	7
1.	Muslim Trust Committee, Simla	All Wakfs situated in Simla Distt. (28)	Yes	Yes	Yes	Yes
2.	Mohd. Ahmed Rehmani, Ludhiana.	4	Yes	Yes	Yes	Yes

1	2	3	4	5	6	7
3. Maulana Saidur Rehman, Ludhiana .		5	Yes	Yes	Yes	Yes
4. Under direct management of Mallana Laqaulla Usmani, at the time of the death.		6	—	—	Yes	Yes
5. Umed Ali Khan, Jullundur		1	—	—	—	—
6. H. H. Begam Sahiba, Pataudi		4	Yes	Yes	Yes	Yes
7. Pirji Asrar Ahmed, Panipat		1	—	—	—	—
8. Committee consisting of Shri Abdul Halim Ghulam Rasool & Anneq Ahmed, Malerkotla.		1	—	—	—	—
9. Committee consisting of Rashid Ahmed, Nasir-ud-Din Yamin Sharif Mohd.		4	—	—	—	—
10. Under direct management of Indergarh Distt., F' Pore		1	—	—	—	—
11. Punjab Aukaf under the management of the Secretary as Mutawalli.		34,158	—	—	—	—

*Information sought**Information furnished*

- 6 Wakfs are under direct management of the Board. The Secretary is Mutawalli of the remaining Wakfs. Budgets are submitted by the Secretary for every year to the Board for approval.
- (b) If all the wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis? There was no defaulter in the submission of budget, though there was considerable delay.
11. (a) How many inspections of Wakfs have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71? As stated above the Secretary is the Mutwalli of major Wakfs. He inspected the Wakfs Properties and checked the account maintained by the collection staff frequently on the spot in all the relevant years. The Chairman also inspects some of the properties.
- (b) Have all wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board? If so, copies of reports on at least three such inspections be supplied to this Committee. There is only one Wakf Haji Rattan Bhatinda having income of more than Rs. 10,000 per annum. The Secretary, Punjab Wakf Board is the Mutawalli of this Wakf & he carried out inspection of this Wakf every year. As Secretary, he himself is Mutawalli. (Not reproduced)
12. The qualifications, age of the present Secretary of the Board may be given—with the period for which he has been employed with following further details :—
- The present Secretary is Shri Ghazanfar Ali Khan. He has been working in this Post since 1-9-1970. He is a graduate of the Punjab University. His age is 32 years. He is officiating pending appointment of a regular Secretary by the Central Government.
- (i) Is he a full-time or part-time? He is a full time.
- (ii) The salary he is given. He is given salary of Rs. 526 p.m.
- (iii) What powers have been delegated to the Secretary by the Board under Section 22? A Copy of such powers may kindly be furnished. List showing the powers delegated to the Secretary by the Board under section 22 of Wakf Act 1954 is enclosed. (Not reproduced)

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(iv)	Has the Secretary himself carried out any detailed inspection of any major Wakfs. If so, the number and names of the Wakfs inspected during the last three years may be furnished.	As Stated above the Secretary the Mutawalli of major wakfs. He carried out inspections of a number of wakfs whether major or minor almost in every district and also every year.
(v)	How many days in a year, has your Secretary been on tour during the last five years? Please also furnish details year-wise for the last five years 1967-68, 1968-69, 1969-70, 1970-71 and 1971-72.	Number of days spent by the Secretary on tour in a year during the last five years are given below :—

Year	No. of days spent on tour
1967-68	132
1968-69	125
1969-70	135
1970-71	146

13. (a) The number of Wakf institutions audited under Section 33(1) may be furnished year-wise for the years 1967-68, 1968-69, 1969-70 and 1970-71. Number of Wakf institutions audited under Section 33(1) are given below :—

Years	No. of Wakfs institutions audited	
	By the Auditor of the Board	By the Chartered Accountant
1967-68	4	—
1968-69	4	—
1969-70	5	—
1970-71	5	All the Wakfs

NOTE : There are 5 Mutawallis whose accounts are audited by the Auditor of the Board. The audit of Wakfs of which Secretary is the Mutawalli and also the Wakfs under direct management of the Board is done by the Chartered Accountant.

- (b) In how many cases action has been taken under Section 34 following the report of the auditors. In all the cases the Board passed order on the Audit report and called explanations for the irregularities committed by the Mutawallis.
- (c) The list of Auditors under the employment of the Board, alongwith their qualification, previous experience, age etc. may be furnished. There is only one auditor of the Board under the employment of the Board Shri S. S. Abbee. He is graduate & S.A.S. and a retired examiner of the Local Funds Account. He audits the Account of the Mutawallis. The audit of the Wakf of which Secretary is the Mutawalli is audited by the Chartered Accountant.

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14. What is estimated 6% contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71 as against this what have been the actual receipts during these years?

The details of the 6% contribution are given below :—

Year	Amount due	Amount realised	Balance
1967-68	13,64,331.34	45,190.30	13,19,141.04
1968-69	14,38,756.75	63,520.00	13,75,236.75
1969-70	18,12,811.78	—	18,12,811.78
1970-71	19,84,079.83	86,081.40	18,97,998.43

14. (a) Have the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears. In how many cases such certificates of non-recovery have not been issued and why?

Nil.

(b) Has the Board taken any action against any mutawalli for default in payment for more than two years? Has the Board removed any Mutawalli on account of this failure to pay for two consecutive years, the contribution payable by him as provided under clause (a) of sub-section (1) of Section 43?

Nil.

15. The details of all properties under the direct management of the Board may be furnished with following particulars :—

The details of the properties under the direct management of the Board are given below :—

(a) Short description and the nature of each such Wakfs?

Maulana Laqaulla Usmani was appointed by the Government of India as Mutawalli of 6 Dargahs of Panipat during custodian time under Section 11 of the Administration of evacuee property Act 1960. The names of these Dargahs are as under :—

(i) Dargah Boo Ali Shah Qalander, Panipat.

(ii) Dargah Makhdoom Sahib.

(iii) Dargah Shah Walayat Sahib.

(iv) Dargah Jajiwali Mohammed.

(v) Madarsa Islamia.

(vi) Dargah Sheikh Mahmood Sahib.

He died on 23rd January 1969. As the question of Mutawalliship was disputed and no suitable person was available for the appointment of the Mutawalli these wakfs were taken over under direct management of the Board for 2 years wide Board's resolution No. 18 dated 19 March 1969 published in the Haryana Govt. Gazette Part III. This period was further extended for 3 years more wide Board's resolution No. 18 dated 19-3-1969 published in Haryana Government Gazette Part III dated 27-4-1971.

(b) the details of the properties and estimated income of each such Wakf.

The details of properties and estimated income of each such wakf is given in Appendix 'A.' (Not reproduced)

(c) What was the income of the property at the time when the Board assumed direct management—what has been the income year-wise after the property has come under the Board's management?

Maulana Laqaulla did not maintain any account. Due to mismanagement the income was hardly Rs. 8,000 per annum with the result that the Dargahs have had not been adequately repaired and contribution payable to the Board amounting to Rs. 4,467.79 was left unpaid when the Board assumed direct management of these wakfs. The income during 1969-70 was raised to about Rs. 14,000.

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(d) What special steps has the Board taken to improve the administration in respect of each such property?	<p>The Board filed suits for possession against trespassers. This resulted in the increase of income. The Board has recently sanctioned the construction of 16 shops in the premises of Dargah Shah Walayat. The Board carried out repairs of Dargahs. The Field inspector already appointed at Panipat is looking after the management of these wakfs in addition to this own duties.</p> <p>The details of income and expenditure is as under :</p> <table> <tr> <th>Year</th><th>Income</th><th>Expenditure</th></tr> <tr> <td>1969-70</td><td>11,044.05</td><td>8,484.87</td></tr> <tr> <td>1970-71</td><td>13,899.98</td><td>8,765.93</td></tr> </table>		Year	Income	Expenditure	1969-70	11,044.05	8,484.87	1970-71	13,899.98	8,765.93
Year	Income	Expenditure									
1969-70	11,044.05	8,484.87									
1970-71	13,899.98	8,765.93									
(e) Has the Board appointed any special staff for the actual management of each such property? If so, the details of the staff appointed may please be given.	No.										
(f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as part of charges towards the administration of such properties?	No.										
(g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.	<p>The Board has not appointed Committee for the management of the Wakf and it is now directly managed by the Board. The Secretary of the Board visits these Dargahs several times in a year and given necessary instructions to the staff on the spot. The Chairman also likewise inspects these Wakfs.</p>										
(h) Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management? If so, the copies of the inspection reports may kindly be furnished?											
16. The number of enquiries instituted by the Board under Section 44 and 45 of the Wakf Act may be given ?	Nil.										
17. Has the Board received any donations and/or grants to the Wakf Fund under sub-section (1) (a) of Section 48 of the Wakf Act ?	Nil.										
18. Has the Board taken any action under powers vested in it under Section 27 to determine whether a property is a Wakf property or no independently of Chapter II?	Yes.										

1	2	3
19.	Has the State Government passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71? If so, the copies of the orders received from the State Government may be furnished together with what action was taken on such orders by the Board of the State Government.	As the objection raised in the audit were of routine nature no occasion arose for the State Govt. or Central Govt. to pass orders on the audit note.
20.	In how many cases has the Board taken action under Section 36B for the recovery of wakf property transferred in contravention of Section 36A? If so, how many requisitions are pending with the Collectors?	Nil
21. (a)	The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of wakf property under Section 36A during the last 5 years?	The Board filed suits against about 1000 encroacher who have constructed houses in the land attached to Islamganj Qabrastan Ludhiana and got decreed. The judgement debtors approached the Board to effect sale of the built area in their possession. Therefore the Board instead of taking execution proceedings considered it worthwhile to accede to the request of the occupants. This has not yet been materialised.
(b)	Also the number of cases in where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.	<p>The Board sanctioned long leases in the following cases :—</p> <ul style="list-style-type: none"> (i) Shri Swami Dass retired Inspector of School, Dharamsala. (ii) Embassey Hotel, Jullundur. (iii) Murinda Sugar Mill. (iv) Municipal Committee, Bhatinda. (v) Indian Oil Company, Panipat. (vi) Indian Oil Company, Kaithal. (vii) Municipal Committee, Kaithal. (viii) Modi College, Patiala.
22.	Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(1) and moved a court of law for action against the Mutawallis. If so, give a list and the result of the actions taken.	Nil
23. (a)	The number and list of mutawallis removed by the Board during the last five years under Section 43(1) may be furnished.	Nil
(b)	In how many cases have such actions resulted in the Mutawallis' moving the Court of Law ?	Nil
(c)	In how many cases detailed in (b) above, have the courts of law given stay orders allowing the Mutawallis removed by the Board to continue to act as Mutawallis? In how many such cases have the courts appointed receivers ?	Nil

1	2	3												
	(d) In how many such cases coming under (b) have the Wakf Board moved the court for appointment of a receiver as against the court allowing the Muta-walli to continue to be incharge of the Wakf property?	Nil												
24.	Have the State Government issued rules for carrying out the purposes of the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said Section?	The State Government issued rules for carrying out the purpose of the Wakf Act under Section 67 of the Wakf Act. The Rules are silent on clause (m) of Section 67 regarding the procedure to be followed in the recovery of any sum under this Act as an arrear of land revenue.												
25.	Has the Board issued with the previous sanction of the State Government regulations providing for all the clauses from (a) to (n) of sub-section (2) of Section 68? If so, a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons, therefor may be given.	A copy of the Regulations is enclosed. (Not appended)												
26.	The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished :—	The expenditure statement for the years 1967-68, 1968-69, 1969-70 and 1970-71 is as under :—												
	(i) TA/DA paid to the Members of the Board for attending meetings of the Board;	<table><tr><th colspan="4">TA/DA paid to members of the Board:—</th></tr><tr><th>1967-68</th><th>1968-69</th><th>1969-70</th><th>1970-71</th></tr><tr><td>7,768.67</td><td>7,356.25</td><td>11,420.48</td><td>6,569.22</td></tr></table>	TA/DA paid to members of the Board:—				1967-68	1968-69	1969-70	1970-71	7,768.67	7,356.25	11,420.48	6,569.22
TA/DA paid to members of the Board:—														
1967-68	1968-69	1969-70	1970-71											
7,768.67	7,356.25	11,420.48	6,569.22											
	(ii) Number of meetings held for the period;	<table><tr><th colspan="4">No. of meetings held:—</th></tr><tr><th>1967-68</th><th>1968-69</th><th>1969-70</th><th>1970-71</th></tr><tr><td>9</td><td>11</td><td>12</td><td>7</td></tr></table>	No. of meetings held:—				1967-68	1968-69	1969-70	1970-71	9	11	12	7
No. of meetings held:—														
1967-68	1968-69	1969-70	1970-71											
9	11	12	7											
	(iii) TA/DA paid to the Secretary of the Board.	<table><tr><th>1967-68</th><th>1968-69</th><th>1969-70</th><th>1970-71</th></tr><tr><td>1,393.31</td><td>1,095.09</td><td>688.49</td><td>—</td></tr></table>	1967-68	1968-69	1969-70	1970-71	1,393.31	1,095.09	688.49	—				
1967-68	1968-69	1969-70	1970-71											
1,393.31	1,095.09	688.49	—											

Budget Estimate of Punjab Aukaf for the year 1971-72

EXPENDITURE

Sl. No.	Heads of A/c	Actuals 1969-70	Budget Estimate 1970-71	Revised Budget 1970-71	Budget Estimate 1971-72	
1.	Rev : Heads of A/c	14,99,500	17,51,000	20,11,000	21,81,600	} 2,33,160
2.	Islamia High School	79,000	1,30,000	1,30,000	1,50,000	
3.	Repayment of loan	—	—	—	—	
4.	Interest paid on over drafts	2,600	—	—	—	
5.	Investment of Interest	6,05,300	5,00,000	6,10,000	1,00,000	
6.	Advances made	4,52,800	3,00,000	6,00,000	6,00,000	
7.	Refund of Provident Fund	8,400	9,000	9,000	5,000	
8.	Refund of securities to Staff	600	2,000	2,000	2,000	
9.	Refund of collections	5,400	10,000	20,000	15,000	
10.	Repayment of Deposit	2,100	2,000	2,000	2,000	
11.	Deposit of securities in electricity board etc	—	—	200	200	
	TOTAL	10,77,500	8,23,000	12,43,200	7,24,200	
12.	Suspense A/c					
	Transaction between Aukaf & Wakf	9,200	10,000	15,000	15,000	
13.	Refund of undisbursed pay etc	6,700	5,000	5,000	5,000	
		15,900	15,000	20,000	20,000	
	Panipat Wakf A/c	8,400	15,000	10,000	10,000	
	GRAND TOTAL	26,80,300	27,34,000	34,14,200	30,85,800	
	Cash Balance	4,08,700	61,500	32,500	4,700	
	GRAND TOTAL	30,89,000	26,72,500	34,46,700	30,90,500	

Member Finance

Sd/-
Secretary

Sd/-
Accounts Officer.

Budget Estimate of Punjab Wakf Board 1971-72

INCOME

S. No.	Head of A/c	Actuals 1969-70	Budget Estt. 1970-71	Actual upto 11/70	Revised Budget Estt. 1970-71	Budget Estt. Remarks 1971-72
1.	Revenue Head of A/c.					
2.	5% Contribution by Aukaf A/c.	67,400	70,000	14,000	83,000	93,000
3.	5% Contribution other than Aukaf A/c.	900	4,000	1,000	4,000	4,000
<i>Other Items :</i>						
1.	Registration fees	—	35,000	—	35,000	—
2.	Share of TA of Member	2,000	2,000	—	2,000	2,000
3.	Interest on investment	3,700	5,000	3,900	5,000	8,000
	Total Revenue	74,000	1,16,000	18,900	1,29,000	1,07,000

PART II (CAPITAL A/c.)

O. Balance	1,11,700	1,54,700	1,58,000	1,58,000	2,26,700
Revenue Head of A/c.	72,000	1,16,000	18,800	1,28,000	1,07,000
<i>Deposit & Advances</i>					
Deposit of 1% W. Council	—	—	100	100	—
Deposit of B. Fund	—	—	—	—	—
Transaction with Aukaf	16,200	10,000	10,800	12,000	15,000
Transaction with Simla	100	—	—	—	—
Advances revenue	700	1,000	1,000	1,000	2,000
Other recoveries	—	100	—	100	100
TOTAL	17,000	11,100	11,900	14,200	17,100
TOTAL	2,00,700	2,81,800	1,88,800	3,01,200	3,50,800

Sd/-
(Ghazanfar Ali Khan)
Secretary,
Punjab Wakf Board,
Ambala Cantt.

Sd/-
Account Officer,
Punjab Wakf Board,
Ambala Cantt.

FACTUAL DATA RECEIVED FROM THE WAKF BOARD OF DELHI

1	<i>The information asked for</i> 2	<i>As furnished</i> 3
1. (a)	The budgets of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71.	Copies of the Budgets are attached at Annexure 'A' and 'A-I'.
(b)	The details of the members of the staff—post held, qualifications, age, how long holding the present post. If pensioners—the post from which retired and the amount of pension they are drawing. Are there dismissed Government or local body servants in your staff?	Details of staff are attached at Annexure 'B'. (Not appended)
2. (a)	Have all the Wakfs including mosques, dargahs, Imambaras and graveyards which are Wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act?	256-Wakfs have been registered and action is in hand to get the remaining Wakfs registered under Section 25 of the Wakf Act. Please see also 5(a).
(b)	Has the Board taken any action in respect of any wakf under Section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a Wakf or by itself cause the Wakf to be registered?	Yes.
3.	Has the Wakf Board taken action under Section 41(i) of the Act against any Mutawalli who has failed to apply for registration? If so the number of cases in which such action has been taken may kindly be supplied.	No, since applications for registration are being received in this office gradually.
4.	How many reports of the Commissioner forwarded by the State Government under Section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of Section 5—the period for which such lists have been pending and the reasons for delay in their disposal?	None.
5. (a)	Has the survey of Wakf as laid down under Chapter II of the Wakf Act been completed in your State? If not the present progress recorded may be given.	The survey of all Wakf properties has not been yet completed. The same is in progress.
(b)	What action has the Board taken from time to time to move the State Government for expediting survey?	Reminders are being sent regularly to the State Government to expedite survey of the remaining Wakfs.
6.	What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every wakf as required under clause (a) of sub-section (2) of section 15?	A register of Wakfs containing all the requisite information is being maintained by the Board.
7.	Has the Board on any case given any directions under clause (e)(iii) of sub-section (2) of Section 15? If so, such cases may be stated in some detail.	No.

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8. (a)	During the last three years how many schemes of management have the Board settled ? Copies of the schemes settled pertaining to the wakfs with an income of more than Rs. 10,000 may kindly be furnished.	None, in respect of Wakfs having an income of more than Rs. 10,000.
(b)	How many appeals under sub-section (3) of Section 15 have been filed or pending in a court of law against ?	The question does not arise.
9.	Has the Board given instructions regarding utilisation of the surplus income of a wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such surplus ? If so, copies of such instructions issued during the last three years may kindly be supplied to this Committee.	No
10. (a)	How many wakfs are there under the control of the Board ? How many Wakfs have submitted their budgets ? Year-wise break-up for the years 1967-68, 1968-69, 1969-70 and 1970-71 may be given.	The Wakf Board has 1215 Wakfs under its control. Requisite Budgets for Wakfs under direct management of the Board are attached at Annexure 'A1'. (Not appended)
(b)	If all the wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis ?	Notices under section 31 of Wakf Act are being issued to the defaulting Mutawallis.
11. (a)	How many inspections of Wakfs have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71 ?	Regular inspections of Wakfs are carried out during the years 1968-69, 1969-70 and 1970-71. The figures of inspections for the said period are not readily available.
(b)	Have all wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board ? If so, copies of reports on atleast three such inspections be supplied to this Committee.	Yes, copies of three reports are attached at Annexure 'C'. (Not appended)
12.	The qualifications, age of the present Secretary of the Board may be given—with the period for which he has been employed with following further details :—	Present Secretary is a retired Army Officer (Major) from the Corp. of Engineers. He is 58 years old.
(i)	Is he a full-time or part-time ?	(i) Full time.
(ii)	The salary he is given.	(ii) Rs. 575 plus D.A. of Rs. 120 and House Rent at the rate of 15% P.M.
(iii)	What powers have been delegated to the Secretary by the Board under Section 22 ? A copy of such powers may kindly be furnished.	(iii) The Board has delegated powers to the Secretary under Section 22 to institute and defend suits and proceedings in a court of law as laid down in Section 15(i) of Wakf Act 1954.

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(iv) Has the Secretary himself carried out any detailed inspection of any major wakfs? If so, the number and names of the Wakfs inspected during the last three years may be furnished.

The present Secretary has taken over charge only with effect from 24th January 1972. He has inspected 22 properties. The names of the Wakfs inspected are attached at Annexure 'E'.

(v) How many days in a year, has your Secretary been on tour during the last five years? Please also furnish details year-wise for the last five years—1967-68, 1968-69, 1969-70, 1970-71 and 1971-72.

All the Wakfs are located in the Union Territory of Delhi as such the Secretary does not have to go out on tours.

13. (a) The number of wakf institutions audited under section 33(i) may be furnished year-wise for the years 1967-68, 1968-69, 1969-70 and 1970-71.

Details of the Wakfs audited are as follows :—

1967-68	1968-69	1969-70	1970-71
69	76	68	10

The reason for the less audit during 1970-71 was due to the fact that the Board had no qualified auditor during this period. Subsequently the Board employed Chartered Accountants, Alam & Co. for conducting the audit and since then the audit of 58 additional wakfs have been completed.

(b) In how many cases action has been taken under Section 34 following the report of the auditors.

Explanations have been called for from Mutawallis concerned under Section 34 of the Wakf Act, where necessary.

(c) The list of Auditors under the employment of the Board, along with their qualification, previous experience, age etc. may be furnished.

The details of the auditors employed by the Board are :—

(i) Mr. Tamizur Rehman, B. Com. and Diploma in Business Administration, employed as an Audit Clerk in the office of the Board since 1961. He is 32 years old.

(ii) M/s Alam & Co., Chartered Accountants, employed for auditing the Board's accounts and the Wakfs having an annual income of Rs. 3,000 and above.

14. (a) Have the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears? In how many cases such certificates of non-recovery have not been issued and why?

Details of the estimated 6% contributions and actual receipts are as follows :—

1967-68	1968-69	1969-70	1970-71
Rs.	Rs.	Rs.	Rs.
Estimated :			
34,900	35,100	1,71,050	1,07,000
Actuals :•			
34,571.74	23,153.96	53,028.29	90,561.58

The short-fall in the actual receipt from 1968 to 1971, is due to non-recovery of Wakf fees from Hamdard Dawakhana, other Mutawallis, and from the directly managed properties on account of non-realisation of rent from the tenants as properties were attached by the Corporation for non-payment of tax dues by the previous Board. Please see also

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15(c). Action for the recovery of Wakf fees from other Mutawallis as well as from the Wakf Board has been taken and as a result there has been progress in recovery in this financial year. Hamdard Dawakhana has now filed suits against Wakf Board challenging that the same is not a Wakf in terms of the Wakfs Act, 1954 and the same are pending in the High Court.

- (b)(ii) Has the Board taken any action against any Mutawalli for default in payment for more than two years? Has the Board removed any Mutawalli on account of his failure to pay for two consecutive years, the contribution payable by him as provided under clause (e) of sub-section (i) of Section 43?

Notices have been issued and cases have been sent to the Collector, where necessary, for realisation of the arrears :—

- (i) Not in all cases. 44 certificates were issued to the Collector u/s 46(iv) of the Wakf Act. Certificates in respect of 17 cases were not issued to the Board.

(ii) No.

15. The details of all properties under the direct management of the Board may be furnished with following particulars :—

The Board has 176 Wakfs under its direct management on 31-3-1972.

- (a) Short description and the nature of each such Wakfs.

- (b) The details of the properties and estimated income of each such wakf.

Copies of the Gazette containing the requisite details of each such Wakf is attached as Annexure 'F'.

- (c) What was the income of the properties at the time when the Board assumed direct management? what has been the income year-wise after the property has come under the Board's management?

The total income of the property at the time when the Board assumed direct management on 1st October, 1962 was Rs. 2,80,673.72 nP. The year-wise income after the property came under the Board's management is given below:—

	Rs.
1963-64	2,73,771.07
1964-65	2,77,043.33
1965-66	2,75,717.70
1966-67	2,93,017.91
1967-68	2,90,900.13
1968-69	3,11,742.83
1969-70	2,39,412.39
1970-71	2,72,423.33

The fall in income is due to non-recovery of arrears of rent from 63 to 66 and 69 to 71 and the attachment of rent of the Wakf properties in 1969-70 and 1970-71 by the Corporation for non-payment of House Tax dues by the previous Board. The properties have since been released with effect from 31-3-1971 on personal intervention of Brig. M. K. Sheriff, Chairman, Delhi Wakf Board. The Board has also taken up the case for exemption of Wakf properties from Delhi Rent Control Act.

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(d) What special steps has the Board taken to improve the administration in respect of each such property ?

The Board has made constant efforts for the removal of encroachment from the Wakf properties and their development, and creation of tenancies, where necessary.

(e) Has the Board appointed any special staff for the actual management of each such property ? If so, the details of the staff appointed may please be given.

Following Staff has been appointed by the Board for the management of the properties under its direct management :—

(i) Property Inspector.

(ii) Nigrane-Masajid.

(iii) Advocate.

(iv) Rent Collectors.

(v) Rent Clerks.

(vi) Surveyor.

(vii) Overseer.

(viii) Imams.

(ix) Moazzans.

(x) Chowkidars/Darbans.

(xi) Mason.

(f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as a part of charges towards the administration of such properties ?

Year-wise consolidated expenditure incurred by the Board on the management of the properties is given below. These figures do not include the expenditure incurred by the Board :—

(i) On payment of Salaries to the other Staff, who help in the administration of the properties.

(ii) Spending on the fulfilment of objects of the Wakfs such as add to widows and handicapped, scholarships to students, aid to institutions and maintenance of mosques.

(iii) Running a Theological Institution and a Public Library (Bachchon-ka-Ghar and Fatehpuri Higher Secondary School were maintained by the Board up to 1968-69). The Board is appropriating 10% of the total income of such properties towards administration charges :—

1963-64	.	.	.	Rs. 1,72,640.55
1964-65	.	.	.	Rs. 1,54,022.38
1965-66	.	.	.	Rs. 1,66,892.93
1966-67	.	.	.	Rs. 1,53,351.19
1967-68	.	.	.	Rs. 1,95,282.11
1968-69	.	.	.	Rs. 1,85,365.73
1969-70	.	.	.	Rs. 1,30,994.52
1970-71	.	.	.	Rs. 2,17,245.37

1	2	3
(g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.	38.	
(h) Has any member of a Committee of the Board or the Secretary ever inspected properties under its direct management ? If so, the copies of the Inspection Reports may kindly be furnished.	Frequent inspections have been carried out by Chairman and members of the Board for which they have claimed no T.A., and necessary action has been taken but written reports are not usually made by the members.	
16. The number of enquiries instituted by the Board under Sections 44 and 45 of the Wakf Act may be given.	One.	
17. Has the Board received any donations and/or grants to the Wakf Fund under sub-section (1)(a) of Section 48 of the Wakf Act ?	Yes.	
18. Has the Board taken any action under powers vested in it under Section 27 to determine whether a property is a Wakf property or not independently of Chapter 11 ?	No.	
19. Has the State Government passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? If so, the copies of the Orders received from the State Government may be furnished together with what action was taken on such orders by the Board or the State Government.	None besides audit report.	
20. In how many cases has the Board taken action under Section 36B for the recovery of Wakf property transferred in contravention of Section 36A ? If so, how many requisitions are pending with the Collectors ?	One and the same is pending with the Collector since the matter is sub-judice.	
21. (a) The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of Wakf property under Section 36A during the last 5 years ?	One (Sale) (26-11-1970).	
(b) Also the number of cases where the Board has sanctioned, lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.	One in case of non-agricultural land (15-6-1965).	
22. Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(i) and moved a court of law for action against the Mutawallis ? If so, give a list and the result of the actions taken.	No.	
23. (a) The number and list of Mutawallis removed by the Board during the last five years under Section 43(i) may be furnished.	Nil.	

1	2	3
(b) In how many cases have such actions resulted in the Mutawallis, moving the court of law ?	Not applicable, in view of reply at (a) above.	
(c) In how many such cases detailed in (b) above, have the courts of law given stay orders allowing the Mutawallis removed by the Board to continue to act as Mutawallis ? In how many such cases have the courts appointed receivers ?	„	„
(d) In how many such cases coming under (b) have the Wakf Board moved the court for appointment of a receiver as against the court allowing the Mutawalli to continue to be incharge of the Wakf property ?	„	„
24. Have the State Govt. issued rules for carrying out the purposes of the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said Section?	Yes, copy attached at Annexure 'G'. (Not appended)	
25. Has the Board issued with the previous sanction of the State Government regulations providing for all the clauses from (a) to (n) of sub-section (2) of Section 68? If so, a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons therefor may be given.	Yes, copy attached at Annexure 'H'. (Not appended)	
26. The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished :—		
(i) TA/DA paid to the Members of the Board for attending meetings of the Board;	(i) Not applicable, since all the members of the Board are stationed in Delhi itself where the meetings are held. The Chairman and the members do not charge local transportation or D.A.	
(ii) Number of meetings held for the period.	(ii) 114, and the number of meetings held during 1971-72 is 39.	
(iii) TA/DA paid to the Secretary of the Board.	Nil, the Board office is situated at Delhi and the Secretary is also stationed at Delhi. All meetings are held in Delhi itself. However he is paid actual conveyance expenses for carrying out local inspections.	

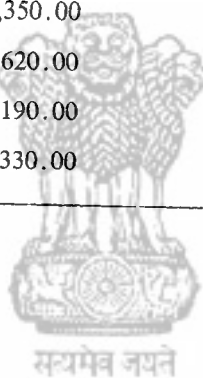
*Budget of Wakf Fund A/c Delhi Wakf Board
for the years 1967-68, 1968-69, 1969-70 & 1970-71*

	Income	Expenditure
1967-68	76,750.00	76,750.00
1968-69	49,000.00	49,000.00
1969-70	2,10,850.00	2,10,850.00
1970-71	1,88,000.00	1,88,000.00

DELHI WAKF BOARD

Budget for the years 1967-68, 1968-69, 1969-70 & 1970-71

	Income	Expenditure
1967-68	6,78,350.00	6,78,350.00
1968-69	8,75,620.00	8,75,620.00
1969-70	4,92,190.00	4,92,190.00
1970-71	5,45,330.00	5,45,330.00



DELHI WAKF BOARD

LIST OF WAKF PROPERTIES INSPECTED

1. Tilak Bridge.
2. Zabta Ganj.
3. York Road.
4. Abu Baker Tusi.
5. Moradabad Pahari.
6. Chattarpur.
7. Zeenatul Masajid.
8. Mosque Pattenwali.
9. Dargah Hazrat Nizamuddin.
10. Dargah Hazrat Bakhtiar Kaki, Mehrauli.
11. Masjid Sangtarashan, Paharganj.
12. Qila Qadam Shariff.
13. Rohtak Road.
14. Takia Gullu Shah, Shahdra.
15. Chhoti Line, Shahdra.
16. Jheel Khuranja, Shahdra.
17. Ghonda, Shahdra.
18. Sarai Rohilla, Rohtak Road.
19. Takia Pio, Khyber Pass.
20. Dargah Abul Rehman Jeelani.
21. Masjid Shahi, Jangpura (Property).
22. Khurd Tel Mills, Qutab Road (Property).



FACTUAL DATA RECEIVED FROM THE WAKF BOARD OF MYSORE IN REPLY TO OUR QUESTIONNAIRE

1	2	3		
	Information asked for	As furnished by the Wakf Board		
		Receipts	Expenditure	Comments
1. (a)	The budget of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71.	1966-67 43,881.00 1967-68 47,414.00 1968-69 54,929.00 1969-70 140,819.00 1970-71 91,393.00	59,567.00 60,659.00 104,495.00 154,371.00 98,376.00	Recoveries on account of contribution from Wakfs have been extremely poor as will be evidenced from the fact that only Rs. 43,918 were recovered in 1967-68 against the budgeted Figures of Rs. 95,000 and Rs. 49,794 in 1968-69 against the budgeted Rs. 187,340, Rs. 58,316 as against Rs. 1,90,000 in 1969-70 and Rs. 61,374 as against Rs. 1,25,000 in 1970-71.
(b)	The details of the members of the staff—post held, qualifications, age, how long holding the present post. If pensioners—the post from which retired and the amount of pension they are drawing. Are there any dismissed Govt. or local body servants in your staff ?	Secretary a graduate, was appointed in November, 1971 after his retirement as under Secretary in the State Government at age 55. Besides the Secretary two clerks, both below 60, are re-employed pensioners. It has a total strength of 26 officials including Secretary.		
2. (a)	Have all the wakfs including mosques, dargahs, imambaras and graveyards which are wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act.	No separate register is maintained for Wakfs by user. However the wakf by user which have been surveyed as such have been registered.		
(b)	Has the Board taken any action in respect of any wakf under Section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a wakf or by itself cause the wakf to be registered ?	No.		
3.	Has your Wakf Board taken action under Section 41(1) of the Act against any Mutawalli who has failed to apply for registration ? If so, the number of cases in which such action has been taken may kindly be supplied.	No.		

1	2	3																																													
4.	How many reports of the Commissioner forwarded by the State Government under Section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of Section 5 and the period for which delay in their disposal?	<p>The following reports received from the Govt. are pending for action:—</p> <table><tr><th>Sl. No.</th><th>District</th><th>No. of Institution</th><th>Date of receipt of report</th><th>Remarks</th></tr><tr><td>1.</td><td>Bijapur</td><td>1603</td><td>23-7-70</td><td></td></tr><tr><td>2.</td><td>Dharwar</td><td>960</td><td>24-7-70</td><td>Under-</td></tr><tr><td>3.</td><td>North Kanara</td><td>215</td><td>25-7-70</td><td>Scru-</td></tr><tr><td>4.</td><td>Belgaum</td><td>554</td><td>20-8-70</td><td>tiny</td></tr><tr><td>5.</td><td>Raichur</td><td>2523</td><td>30-1-71</td><td></td></tr><tr><td>6.</td><td>Bidar</td><td>2266</td><td>5-5-72</td><td></td></tr><tr><td></td><td></td><td></td><td>15-5-72</td><td></td></tr><tr><td>7.</td><td>Coorg. . . .</td><td>59</td><td>31-8-70</td><td></td></tr></table>	Sl. No.	District	No. of Institution	Date of receipt of report	Remarks	1.	Bijapur	1603	23-7-70		2.	Dharwar	960	24-7-70	Under-	3.	North Kanara	215	25-7-70	Scru-	4.	Belgaum	554	20-8-70	tiny	5.	Raichur	2523	30-1-71		6.	Bidar	2266	5-5-72					15-5-72		7.	Coorg. . . .	59	31-8-70	
Sl. No.	District	No. of Institution	Date of receipt of report	Remarks																																											
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6.	Bidar	2266	5-5-72																																												
			15-5-72																																												
7.	Coorg. . . .	59	31-8-70																																												
5. (a)	Has the survey of wakf as laid down under Chapter II of the Wakf Act been completed in your State? If not, the present progress recorded may be given.	Except one District of Gulbarga, the Survey of Wakfs of all other Districts has been completed. The Survey of Wakfs of Gulbarga District is also in progress.																																													
(b)	What action has the Board taken from time to time to move the State Govt. for expenditure survey?	The Board had been requesting the Government as well as the Deputy Commissioner of Districts to expedite the Completion of survey. The work of survey has now been completed in all districts except Gulbarga.																																													
6.	What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every Wakf as required under clause (a) of sub-section (2) of Section 15?	The survey records received through the Government contains the required information. In addition the information except that of beneficiary is available in the Wakf Register also.																																													
7.	Has the Board on any case given any directions under clause (e) (iii) of sub-section(2) of Section 15? If so, such cases may be stated in some detail.	There are no such cases.																																													
8. (a)	During the last three years how many schemes of management have the Board settled? Copies of the schemes settled pertaining to the wakfs with an income of more than Rs. 10,000 may kindly be furnished.	Schemes of management settled during the last three years ended on 31-3-1972 are 3.																																													
(b)	How many appeals under sub-section (2) of Section 15 have been filed or pending in a court of law against such settlement?	There is one such case—(LCC 22/69).																																													
9.	Has the Board given instructions regarding utilisation of surplus income of a Wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such surplus? If so, copies of such instructions issued during the last three years may kindly be supplied to this Committee.	No cases of surplus income of a wakf had been detected during the last three years.																																													

1	2	3
10. (a)	How many wakfs are there under the control of the Board ? How many Wakfs have submitted their Budgets ? Year-wise break up for the years 1967-68, 1968-69, 1969-70, 1970-71 may be given.	
		1967-68 1968-69 1969-70 1970-71
	(i) No. of wakfs under the control of the Board	13433 13433 13433 13433
	(ii) No. of wakfs under the control of the Board with an income of Rs. 100 p.m. or more	3415 3415 3415 3415
	(iii) No. of wakfs which submitted the Budgets.	30 46 34 101
(b)	If all the wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis ?	Nil. (Note :—The above figures do not include the information in respect of Gulbarga District).
11. (a)	How many inspections of wakfs have been carried out by the Board for the year 1968-69, 1969-70 and 1970-71?	1968-69 1969-70 1970-71 102 185 193
(b)	Have all wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board ? If so, copies of reports on at least three such inspections be supplied to this Committee.	No.
12.	The qualifications, age of the present Secretary of the Board may be given with the period for which he has been employed with following further details :—	The present Secretary of the Board is a Graduate of the Aligarh Muslim University. He is 56 years old. He has been appointed with effect from 24-11-1971 till he attains the age of 60 years with a probation of one year.
(i)	Is he a full-time or part-time?	Full-time.
(ii)	The salary he is given.	Pending fixation of pay by Government he is being paid a pay of Rs. 200 plus D.A. of Rs. 120.
(iii)	What powers have been delegated to the Secretary by the Board under Section 22 ? A copy of such powers may kindly be furnished.	A copy of the powers delegated to the Secretary is enclosed. (c) (Not appended)
(iv)	Has the Secretary himself carried out any detailed inspection of any major wakf, if so, the number and names of the wakfs inspected during the last three years may be furnished.	The present Secretary has assumed charge only from 24-11-1971 and has not yet inspected the major wakfs.
(v)	How many days in a year, has your Secretary been on tour during the last five years ? Please also furnished details year-wise for the last five years 1967-68, 1968-69, 1969-70, 1970-71, and 1971-72.	1967-68 1968-69 1969-70 1970-71 1971-72 3 Nil. 6 13 18

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13. (a) The number of wakf institutions audited under section 33(1) may be furnished yearwise for the years 1967-68, 1968-69, 1969-70 and 1970-71.

1967-68	1968-69	1969-70	1970-71	1971-72
70	102	185	193	..

(b) In how many cases action has been taken under Section 34 following the report of the Auditors.

1967-68	1968-69	1969-70	1970-71	1971-72
70	102	185	193	..

(c) The list of Auditors under the employment of the Board, along with their qualification, previous experience, age, etc. may be furnished.

No. of cases; Statement enclosed. (D).
(Not appended)

14. (a) What is estimated 6% contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? As against this what have been the actual receipts during these years ?

	1967-68	1968-69	1969-70	1970-71
Annual estimated 6% contribution	80,611	80,611	80,611	80,611

(b) what action has been taken by the Board to realise the arrears from the Mutawallies ?

Action taken to realise the arrears.

(i) Have the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears? In how many cases such certificates of non-recovery have not been issued and why ?

No. of certificates issued:

	1966-67	1968-69	1969-70	1970-71
	152	449	554	743

In how many cases certificates not issued.

	1,378	929	375	687
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(ii) Has the Board taken any action against any Mutawalli for default in payment for more than two years ? Has the Board removed any Mutawalli on account of his failure to pay for two consecutive years, the contribution payable by him as provided under clause(e) of sub-section (1) of section 43 ?

Certificates have been issued only in respect of chronic and persistent defaulters.
Action taken by the Board to remove the Mutawallis for failure to pay contribution for two consecutive years.

15. The details of all properties under the direct a management of the Board may be furnished with following particulars:

(a) Short description & the nature of each such wakf ?

(b) the details of the properties and estimated income of each wakf.

(c) What was the income of the property at the time when the Board assumed direct management what has been the income years-wise, after the property has come under the Board's management.

Statement appended E.

(d) What special steps has the Board taken to improve the administration in respect of each such property ?

(e) Has the Board appointed any special staff for the actual management of each such property ? If so, the details of the staff appointed may please be given.

1	2	3						
	(f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as part of charges towards the administration of such properties ?							
	(g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.							
	(h) Has any member of a Committee of the Board or the Secretary ever inspected properties under its direct management ? If so, the copies of the inspection reports may kindly be furnished ?							
16.	The number of enquiries instituted by the Board under Section 44 and 45 of the Wakf Act may be given.	No. of enquiries: <table> <tr> <th>1969</th><th>1970</th><th>1971</th></tr> <tr> <td>43</td><td>28</td><td>27</td></tr> </table>	1969	1970	1971	43	28	27
1969	1970	1971						
43	28	27						
17.	Has the Board recieved any donations or grants to the Wakf Fund under sub-section (1)(a) of Section 28 of the Wakf Act ?	No grants are recieved so far. A Charitable and Welfare fund has been established during April '72 and the donations of Rs. 280 received from certain members of the Board have been credited to this fund.						
18.	Has the Board taken any action under powers vested in it under section 27 to determine whether a property is a Wakf property or not independently of Chapter II ?	Yes in two cases.						
19.	Has the State Government passed any orders after the audit of the Board for the year 1967-68, 1968-69, 1969-70 and 1970-71 ? If so the copies of the orders received from the State Government may be furnished together with what action was taken on such orders by the Board or the State Government ?	The State Government has not passed any orders.						
20.	In how many cases has the Board taken action under Section 36B for the recovery of wakf property transferred in contravention of section 36A? If so, how many requisitions are pending with the Collectors ?	In 26 cases the Board has taken action under Section 36B for the recovery of property and 24 cases are pending with the Deputy Commissioners						
21. (a)	The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of wakf, property under section 36A during the last 5 years ?	In 6 cases the Board has granted permission for the sale of Wakf properties.						
(b)	Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.	In 7 cases permission to lease out the Wakf property was granted.						
22.	Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(1) and moved a court of law for action against the Mutawallis ? If so, give a list and the result of the action taken.	No action under section 41(1) (b) was taken against the Mutawallis.						

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23. (a) The number and list of mutawallis removed by the Board during the last five years under section 43(1) may be furnished. (a) to (d) nil.

(b) In how many cases have such actions resulted in the mutawallis moving the court of law ?

(c) In how many cases detailed in (b) above, have the courts of law given stay orders allowing the Mutawallis removed by the Board to continue to act as Mutawallis ? In how many such cases have the courts appointed receivers ?

(d) In how many cases coming under (b) have the Wakf Board moved the court for appointment of a receiver as against the court allowing the mutawalli to continue to be incharge of the Wakf property ?

24. Have the State Government issued rules for carrying out the purposes of the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said section. The State Government has issued Wakf Rules 1960 for carrying out the purposes of the Wakf Act 1954 under Section 67 sub-section 2 of the Act and they cover all the clauses from (a) to (n).

25. Has the Board issued with the previous sanction of the state Government Regulations providing for all the clauses from (a) to (n) of sub-Section (2) of Section 68 if so a copy of such Regulations may be furnished. If such Regulations have not been issued in respect of any of the clauses from (a) to (n) of Sub-section (2) of Section 68, the reasons therefor may be given. The Board has issued with the previous sanction of the State Government, Regulation providing for all the clauses from (a) to (n) of Sub-Section (2) of Section 68. (Copy enclosed). (Not appended)

26. The expenditure for the year 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished:—

(i) TA/DA paid to the Members of the Board for attending meeting of the Board.

(ii) Number of meetings held for the period.

(iii) TA/DA paid to the Secretary of the Board.

	1967-68	1968-69	1969-70	1970-71
	5,800	9,467	42,00	4,219
	six	Six	four	four
	163.42	—	473.58	459.36

Budget estimates of Mysore State Board of Wakf

INCOME		EXPENDITURE
1966-67	43,881.00	59,567.00
1967-68	47,414.00	60,659.00
1968-69	54,929.00	1,04,495.00
1969-70	1,40,814.00	1,54,371.00
1970-71	91,393.00	98,376.00

Details of wakf properties and annual income fetched from the 'E'

Name of institution	Details of property	Annual income at the time of assuming direct charge	Annual income after assumption of direct management
1	2	3	4
1. Masjid Station Bazar	3 houses 5 shops.	4,885.00	4,885.00
2. Masjid Aual Talukdari	2 Malgis & rooms open space.	1,320.00	1,320.00
3. Masjid Kalbani	1 shop 2 rooms.	492.00	492.00
4. Masjid Rahmania Jagath	4 rooms.	240.00	276.00
5. Masjid Mahbaz	Shop & plots.	12,900.00	12,900.00
6. Dargah Aland Shariff	12 lands 4 village jagir.	4,420.00	4,420.00
7. Khankha & Masjid Shah Zainuddin Khadri	Lands.	859.00	988.00
8. Jamia Masjid Basavakalyani	"	..	1,81,000.00
9. Dargah Baba Tajuddin Baagh Sawar, Kalyani	"	6,272.00	6,744.00
10. Masjid Talmadgi Humnabad	"	204.00	204.00
11. Dargah Shah Ali Khutub Sani	"	100.00	100.00
12. Masjid Hachakanahalli	"	350.00	350.00
13. Masjid Hukrana Khurd	—	275.00	275.00
14. Maqbira Mohammad Gawan	—	200.00	Under Archeological Department.
15. Masjid Meeran Bagdal	Lands	165.00	164.00
16. Ashoorkhana Gorta Buzurg, Bidar	—	60.00	..
17. Kali Masjid Bhalki	Lands	275.00	275.00
18. Masjid Salgoan	"	450.00	600.00
19. Dargah Hyder Ali Towgan	"	750.00	750.00
20. Ashoorkhana Hussaini Alam, Rajesoor	Open space	125.00	125.00
21. Takiya Fakeer Mudakan Palli	"	300.00	300.00
22. Takiya Ali Amber village Bidar	Lands	200.00	100.00
23. Masjid Hulsoor, Taluk Annad	"	130.00	130.00

1	2	3	4
24. Masjide Chakli, Udgir	Hand	25.00	15.00
25. Idgah Bharnahalli		60.00	60.00
26. Masjide Dhanura	Lands	280.00	500.00
27. Dargah Jahangeerwali Talmada	„	125.00	150.00
28. Dargah Abdul Latiff Pallali		15.00	15.00
29. Dargah Shah Hussaini Dhamansoor	Lands	200.00	200.00
30. Jama Masjid Sharooof Bazar, Raichur	29 malgis	13,125.00	10,577.00
31. Masjid Station, Raichur	4 malgis	1,500.00	2,100.00
32. Masjide Hashimia, Raichur	3 rooms 11 huts.	840.00	424.00
33. Dargah Hazrat Shamse Alam Hussaini	2 malgis	840.00	687.00
34. Osmania Masjid, Raichur	6 malgis	4,800.00	6,466.00
35. Masjide Noorani, Raichur	3 malgis	576.00	381.15
36. Masjid Ek Minar	3 houses 2 malgis.	4,800.00	1,296.00
37. Jamia Masjid Androon Qila, Raichur	2 malgis	600.00	672.00
38. Masjide Chowk, Raichur	3 malgis	300.00	840.00
39. Masjid Sawaran, Raichur	4 malgis	..	..
40. Darga Hazrat Bade Saheb Yergira	—	900.00	900.00
41. Jamia Masjid Androon Abadi Gangawati	4 malgis	3,600.00	2,760.00
42. Masjide Islampur	4 malgis	1,392.00	5,200.00
43. Ashoorkhana Hussaini Alam, Mudgal	Musafirkhana Nakarkhana open space.	6,000.00	6,455.00
44. Masjide Bazar Trust Tarikere Dist. Chickmagalur	Land 7A-31G Mango, Coconut & Tamarine trees.	3,075.00	3,075.00
	Arreca garden 5A-22G. Houses 10	10,250.00 3,500.00	22,500.00

COMMENTS TO THE FACTUAL DATA RECEIVED FROM THE MADHYA PRADESH WAKF BOARD

1	<i>Information asked for</i>	<i>As furnished by the Wakf Board</i>
2		3
1. (a)	The budgets of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71.	(a) The budgets of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 are furnished.
(b)	The details of the members of the staff—post held, qualifications, age, how long holding the present post. If pensioners—the post from which retired and the amount of pension they are drawing. Are there any dismissed Govt. or local body servants in your staff ?	(b) The details of the members of the staff of the M.P. Wakf Board are given. (Not appended)
2. (a)	Have all the Wakfs including mosques, darghas, Imambaras and graveyards which are Wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act ?	(a) No, On receipt of an application under Section 25(2) of the Wakf Act, 1954, the Wakf Board, after following the prescribed formalities registers the wakfs. Quite a large number of wakfs have already been registered and many applications for registration are pending as usual formalities have yet to be completed in these cases. In the absence of complete survey, it cannot be stated with certainty if applications for registration of all the wakfs have been submitted to this office.
(b)	Has the Board taken any action in respect of any wakf under Section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a wakf or by itself cause the Wakf to be registered ?	(b) Yes.
3.	Has your Wakf Board taken action under Section 41(1) of the Act against any Mutawalli who has failed to apply for registration ? If so the number of cases in which such action has been taken may kindly be supplied.	Yes. This has been done in a large number of cases. As no separate register or account of such cases is maintained, their exact number cannot be given.
4.	How many reports of the Commissioner forwarded by the State Govt. under Section 5(1) of the Wakf Act are pending before your Board for action, under sub-section (2) of Section 5—the period for which such lists have been pending and the reasons for delay in their disposal ?	The Commissioner of Wakfs appointed by the State Govt. conducted survey of wakfs in Raisen and Sehore Districts only of the State. His survey report has already been published.
5. (a)	Has the survey of Wakf as laid down under Chapter II of the Wakf Act been completed in your State ? If not, the present progress recorded may be given.	(a) No, As stated in para 4 above, the old Commissioner conducted only partial survey. The State Govt. have, however, appointed Col. Mehboob Husain, Dy. Secretary to Govt. as Commissioner of Wakfs for the State vide Notification No. 5675-CR-444-1(4), dated 15-9-1970. He is undertaking the survey of wakf properties in the State.
(b)	What action has the Board taken from time to time to move the State Govt. for expediting survey ?	(b) Under Section 4 of the Wakf Act 1954, it is the State Govt. which has to appoint the Commissioner of Wakfs. The Board also requested Govt. to expedite his appointment.

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6. What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every wakf as required under clause (a) of sub-section (2) of Section 15 ?

No record is being maintained in this office under Section 15(2) (a) of the Wakf Act.

7. Has the Board on any case given any directions under clause (e) (iii) of sub-section (2) of Section 15 ? If so, such cases may be stated in some detail.

No.

8. (a) During the last three years how many schemes of management have the Board settled ? Copies of the schemes settled pertaining to the wakfs with an income of more than Rs. 10,000 may kindly be furnished.

(a) No schemes of management were settled.

(b) How many appeals under sub-section (3) of Section 15 have been filed or pending in a court of law against such settlement ?

(b) Does not arise.

9. Has the Board given instructions regarding utilisation of the surplus income of a wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has been detected such surplus ? If so, copies of such instructions issued during the last three years may kindly be supplied to this Committee.

No.

10. (a) How many wakfs are there under the control of the Board ? How many Wakfs have submitted their budgets ? Year-wise break-up for the years 1967-68, 1968-69, 1969-70 and 1970-71 may be given.

(a) Approximately 3,000 wakfs have so far been registered in this State. Of these hardly 900 wakfs are assessable to annual contribution. The rest have either no income at all or their income is so meagre that they are not assessable to any contribution. Year-wise break-up of the number of wakfs which have submitted their budget is as under:—

1967-68	. . . . .	350
1968-69	. . . . .	354
1969-70	. . . . .	315
1970-71	. . . . .	196

(b) If all the wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis ?

(b) Wherever it is found necessary defaulting Mutawallis are prosecuted under Section 41 of the Wakf Act.

11. (a) How many inspections of Wakfs have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71 ?

(a) Nil

(b) Have all wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board ? If so, copies of reports on atleast three such inspections be supplied to this Committee.

(b) No

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12. The qualifications, age of the present Secretary of the Board may be given—with the period for which he has been employed with following further details:—

- (i) Is he a full-time or part-time?
- (ii) The salary he is given.
- (iii) What powers have been delegated to the Secy. by the Board under Section 22 ? A copy of such powers may kindly be furnished.
- (iv) Has the Secretary himself carried out any detailed inspection of any major wakfs ? If so, the number and names of the Wakfs inspected during the last three years may be furnished.
- (v) How many days in a year, has your Secretary been on tour during the last five years ? Please also furnish details year-wise for the last five years—1967-68, 1968-69, 1969-70, 1970-71 and 1971-72.

The present Secretary of the Board is Shri Fazal Ahmed Saeed, retired Under Secretary to Govt. of Madhya Pradesh. He is M.A., LL.B. and 56 years old. He has been appointed by the State Govt. and no period has been specified in the order. However, under the rules framed under the Wakf Act, the age of superannuation of the holder of this post is sixty years.

- (i) He is a whole-time officer of the Board.
- (ii) Rs. 300 per month plus D.A. at Govt. rates plus pension.
- (iii) The powers delegated to the Secy. by the Board u/s 22 of the Act are given in Annexure VI. (Not appended)
- (iv) No
- (v) During the years 1967-68 to 1971-72 the Secretary, M.P. Wakf Board had been on tours as shown below:—

Year	No. of days on tour
1967-68	5 days.
1968-69	2 days.
1969-70	—
1970-71	2 days.
1971-72	3 days.

13. (a) The number of wakf institutions audited under Section 33(1) may be furnished year-wise for the years 1967-68, 1968-69, 1969-70 and 1970-71.

(a) The information is given below:—

Year	No. of Wakf institutions audited
1967-68	4
1968-69	5
1969-70	4
1970-71	6

(b) In how many cases action has been taken under Section 34 following the report of the auditors ?

(b) In pursuance of the reports of the auditors, action under Section 34 of the Act was taken against Anjuman Islamia, Lalbarra, District Balaghat, Obeidullah Khan Scholarship Trust, Bhopal and Dargah Habib Shah Wali, Burhanpur.

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(c) The list of Auditors under the employment of the Board along with their qualification, previous experience, age etc. may be furnished.		(c) Kindly see Annexure VII. (Not appended)															
14. (a) What is estimated 6% contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? As against this what have been the actual receipts during these years ?		(a) The required information is given below:—															
	<table> <tr> <th>Year</th><th>Estimated income</th><th>Actual income</th></tr> <tr> <td>1967-68</td><td>65,000.00</td><td>35,430.00</td></tr> <tr> <td>1968-69</td><td>75,000.00</td><td>58,607.00</td></tr> <tr> <td>1969-70</td><td>75,000.00</td><td>77,440.00</td></tr> <tr> <td>1970-71</td><td>75,000.00</td><td>82,178.00</td></tr> </table>	Year	Estimated income	Actual income	1967-68	65,000.00	35,430.00	1968-69	75,000.00	58,607.00	1969-70	75,000.00	77,440.00	1970-71	75,000.00	82,178.00	
Year	Estimated income	Actual income															
1967-68	65,000.00	35,430.00															
1968-69	75,000.00	58,607.00															
1969-70	75,000.00	77,440.00															
1970-71	75,000.00	82,178.00															
(b) What action has been taken by the Board to realise the arrears from the Mutawallis ?																	
(i) Have the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears ? In how many cases such certificates of non-recovery have not been issued and why ?		(i) Almost in all cases recovery certificates have been issued against the defaulting Mutawallis.															
(ii) Has the Board taken any action against any Mutawalli for default in payment for more than two years ? Has the Board removed any Mutawalli on account of his failure to pay for consecutive years, the contribution payable by him as provided under clause (e) of sub-section (1) of Section 43 ?		(ii) No															
15. The details of all properties under the direct management of the Board may be furnished with following particulars:—		Details of wakf properties under the direct management of the Board are given in the enclosed Annexure VIII. The statement, incorporates information sought in (a) & (b) of this question. Information in respect of other sub-paras is as under :—															
(a) Short description and the nature of each such Wakf.																	
(b) The details of the properties and estimated income of each such wakf.																	
(c) What was the income of the property at the time when the Board assumed direct management—what has been the income year-wise after the property has come under the Board's management ?		(c) The income of the property has been mentioned in the statement. There has been no increase in income after Board took them over for management.															
(d) What special steps has the Board taken to improve the administration in respect of each such property ?		(d) No special steps have been taken to improve their administration.															
(e) Has the Board appointed any special staff for the actual management of each such property ? If so, the details of the staff appointed may please be given.		(e) No staff has been engaged.															
(f) What is the actual expenditure being incurred by the Board for the management for each such property and how much of the percentage of the income of such property has the Board been appropriating as part of charges towards the administration of such properties ?		(f) Nil															
(g) The number of cases in which the Board has appointed Committee of Management in respect of properties under its direct management.		(g) Nil. Attempts are, however, being made to hand them over to some suitable mutawalli or committee of management.															
(h) Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management ? If so, the copies of the Inspection Reports may kindly be furnished.		(h) No															

1	2	3								
16.	The number of enquiries instituted by the Board under Sections 44 and 45 of the Wakf Act may be given ?	<p>The information is given below:—</p> <table><tr><th>Year</th><th>No. of enquiries u/ss. 44 & 45 of the Act.</th></tr><tr><td>1968-69</td><td>25</td></tr><tr><td>1969-70</td><td>21</td></tr><tr><td>1970-71</td><td>14</td></tr></table>	Year	No. of enquiries u/ss. 44 & 45 of the Act.	1968-69	25	1969-70	21	1970-71	14
Year	No. of enquiries u/ss. 44 & 45 of the Act.									
1968-69	25									
1969-70	21									
1970-71	14									
17.	Has the Board received any donations and/or grants to the Wakf Fund under sub-section 1 (a) of Section 48 of the Wakf Act ?	<p>The following donations were received by the Board under sub-section 1(a) of Section 48 of the Wakf Act, 1954 :—</p> <table><tr><td>1967-68</td><td>Nil.</td></tr><tr><td>1968-69</td><td>695.00</td></tr><tr><td>1969-70</td><td>500.00</td></tr></table>	1967-68	Nil.	1968-69	695.00	1969-70	500.00		
1967-68	Nil.									
1968-69	695.00									
1969-70	500.00									
18.	Has the Board taken any action under power vested in it under Section 27 to determine whether a property is a Wakf property or not independently of Chapter II ?	Yes. This has been done in 40 cases during the last three years.								
19.	Has the State Govt. passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70, and 1970-71 ? If so, the copies of the orders received from the State Govt. may be furnished together with what action was taken on such orders by the Board or the State Government.	No.								
20.	In how many cases has the Board taken action under Section 36B for the recovery of Wakf property transferred in contravention of Section 36A? If so, how many requisitions are pending with the Collectors ?	In 8 cases requisitions u/s 36B have been sent to the Collectors concerned of which 7 are pending with the Collectors.								
21. (a)	The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of Wakf property under Section 36A during the last five years ?	(a) In all there are fifty nine cases in which the Board has sanctioned the sale of 12 wakf houses and 47 plots of wakf land under Section 36A of the Wakf Act.								
(b)	Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.	(b) Nil.								
22.	Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(1) and moved a court of law for action against the Mutawallis ? If so, give a list and the result of the actions taken.	Yes. This has been done in a number of cases. It is, however, not possible to give exact figure of such cases as no separate register is maintained for them.								

1	2	3															
23. (a)	The number and list of mutawallis removed by the Board during the last five years under Section 43(1) may be furnished.	<p>In the undermentioned four cases the Board removed the Mutawallis under Section 43 of the Wakf Act:—</p> <p>(i) Shri Mohd. Yusuf Khan, Mutawalli, Dargah Habib Shah Wali, Burhanpur.</p> <p>(ii) Shri Peerzada Noor Ali Shah, Mutawalli Masjid Khair Khani, Burhanpur.</p> <p>(iii) Shri Abdul Wahid, Mutawalli, Masjid Nimbalkar Ki Got, Lashkar-Gwalior.</p> <p>(iv) Shri Hakim Nisar Ahmad, Mutawalli, Anjuman Hamdard, Islam, Dewas.</p> <p>In the first two cases the mutawallis preferred appeals to the State Govt. who have remanded the cases to the Board for taking a decision after giving the mutawallis adequate opportunities to defend themselves. Their cases are still under consideration of the Board. In the case referred to in (iv) above, which rejected it.</p>															
(b)	In how many cases have such actions resulted in the Mutawallis' moving the court of law ?	In one case referred to in (iv) above.															
(c)	In how many cases detailed in (b) above, have the courts of law given stay orders allowing the mutawallis removed by the Board to continue to act as mutawallis ? In how many such cases have the courts appointed receivers ?	Nil.															
(d)	In how many such cases coming under (b) have the Wakf Board moved the court for appointment of a receiver as against the court allowing the Mutawalli to continue to be incharge of the Wakf property ?	Nil															
24.	Have the State Govt. issued rules for carrying out the purposes of the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said Section.	Yes.															
25.	Has the Board issued with the previous sanction of the State Govt. regulations providing for all the clauses from (a) to (n) of sub-section (2) of Section 68. If so, a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons therefor may be given.	Yes.															
26.	The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following (i) items may kindly be furnished:—																
	(i) TA/DA paid to the Members of the Board for attending meetings of the Board;	<table> <tr> <th>Year</th><th>T.A.</th><th>D.A.</th></tr> <tr> <td>1967-68</td><td>2,688.23</td><td>620.00</td></tr> <tr> <td>1968-69</td><td>3,845.92</td><td>1,345.00</td></tr> <tr> <td>1969-70</td><td>3,389.28</td><td>1,380.00</td></tr> <tr> <td>1970-71</td><td>3,427.10</td><td>1,100.00</td></tr> </table>	Year	T.A.	D.A.	1967-68	2,688.23	620.00	1968-69	3,845.92	1,345.00	1969-70	3,389.28	1,380.00	1970-71	3,427.10	1,100.00
Year	T.A.	D.A.															
1967-68	2,688.23	620.00															
1968-69	3,845.92	1,345.00															
1969-70	3,389.28	1,380.00															
1970-71	3,427.10	1,100.00															

1	2	3
(ii) Number of meetings held for the period		(ii)
	Year	No. of meetings held.
	1967-68	9
	1968-69	9
	1969-70	9
	1970-71	6
(iii) TA/DA paid to the Secretary of the Board		(iii)
	Year	T.A. D.A.
	1967-68	199.68 50.00
	1968-69	160.22 30.00
	1969-70	.. ..
	1970-71	22.72 20.00
	1971-72	460.84 45.00

Budget estimates of income and expenditure of Madhya Pradesh Wakf Board

Year	Income	Expenditure
1966-67	1,15,000	1,15,000
1967-68	1,07,900	1,07,900
1968-69	1,08,200	1,08,200
1969-70	1,10,500	1,10,500
1970-71	1,15,000	1,15,000

COMMENTS TO THE FACTUAL DATA RECEIVED FROM ORISSA WAKF BOARD

1	Information asked for	As furnished
1	2	3
1.	(a) The budgets of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71. (b) The details of the members of the staff—post held, qualifications, age, how long holding the post from which retired and the amount of pension they are drawing. Are there any dismissed Govt. or local body servants in your staff?	The budgets of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 are enclosed. There are only two clerks working in the Board's office at present: (1) Sri Rasul Bux, 1st Assistant working since 1-12-1966—Age 27 years 1 month—Matri- culate—getting a consolidated pay of Rs. 151. (2) Sri Ismail Sayeed, 2nd Assistant working since 5-4-1971—Age 26 years 11 months — Honours Graduate—now getting a consoli- dated pay of Rs. 120.00 None of them are dismissed Govt. servant or local body servant.
2.	(a) Have all the wakfs including mosques, dargahs, Imambaras and graveyards which are Wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act. (b) Has the Board taken any action in respect of any wakf under section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a Wakf or by itself cause the wakf to be registered ?	Out of 2,339 wakf institutions so far brought to notice 1538 wakfs have been registered u/s 25 and entered into the Register of Wakfs u/s 26 of the Act. Generally the Board issue notices in the name of the mutawallis or committees incharge of wakf properties directing them to apply for registration of the Wakfs u/s 25.
3.	Has your Wakf Board taken action under Section 41(1) of the Act against any Mutawalli who has failed to apply for registration ? If so the number of cases in which such action has been taken may kindly be supplied.	Due to insufficiency of staff and funds the Board has not taken any action u/s 41(1) of the Act against the Mutawallis.
4.	How many reports of the Commissioner forwarded by the State Govt. under Section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of Section 5—the period for which such lists have been pending and the reasons for delay in their disposal.	3 parts of Survey Report consisting of 83 wakf institutions forwarded by the State Governments u/s 5(1) of the Wakf Act are pending before this Board for approval under sub-section 2 of Section 5. These are pending for the last two months. These reports will be placed before the next meeting of the Board for approval.
5.	(a) Has the survey of Wakf as laid down under Chapter II of the Wakf Act been completed in your State ? If not the present progress recorded may be given ?	No, the survey of wakf as laid down under Chapter II of the Wakf Act has not been completed in our State. Out of 2,339 wakf institutions brought to notice by 30th April, 1972, 1,402 institutions have been surveyed till 30-4-1972.
	(b) What action has the Board taken from time to time to move the State Govt. for expediting survey ?	Steps have been taken by the State Govt. for expediting survey.
6.	What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every wakf as required under clause (a) of sub-section (2) of Section 15 ?	Due to inadequate staff, it is not possible for the Board to maintain record as required under clause (a) of sub-section (2) of Section 15.

7. Has the Board on any case given any directions under clause (e) (iii) of sub-section (2) of Section 15? If so, such cases may be stated in some detail. No.
8. (a) During the last three years how many schemes of management have the Board settled? Copies of the schemes settled pertaining to the wakfs with an income, of more than Rs. 10,000 may kindly be furnished. During the last three years the Board has settled schemes of management in respect of three Wakf Institutions as detailed below:—
 1. Azizullah Bokhari Saheb bije Madhial at Kendrapara.
 2. Idgha Mosque at Srikanthapur, Balasore.
 3. Anjuman-i-Islamia Mosque at Baripada.
 4. No schemes of management in respect of wakfs having an income for Rs. 10,000 or more have been settled by this Board during the last three years.
- (b) How many appeals under sub-section (3) of Section 15 have been filed or pending in a court of law against such settlement? Anjuman-i-Islamia has filed an appeal against such settlement which is pending in the Hon'ble High Court.
9. Has the Board given instructions regarding utilisation of the surplus income of a wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such surplus? If so, copies of such instructions issued during the last three years may kindly be supplied to this Committee. No. Does not arise.
10. (a) How many wakfs are thereunder the control of the Board? How many wakfs have submitted their budgets? Year-wise break-up for the years 1967-68, 1968-69, 1969-70 and 1970-71 may be given. 1583 Wakf Institutions are under the control of the Board.
 None of the Mutawallis or Committees have submitted their budget estimates in spite of repeated directions by the Board. Only the annual account showing the details of actual income and expenditure are submitted by them.
- (b) If all the wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis? No action has been taken so far against the defaulting Mutawallis.
11. (a) How many inspections of Wakfs have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71? Inspection of 33 Wakf institutions, have been carried out by the Secy. Orissa Board of Wakfs during 1968-69, 1969-70 and 1970-71, which is as follows:—
- | | | | | | | | | |
|---------|---|---|---|---|---|---|---|----|
| 1968-69 | . | . | . | . | . | . | . | 5 |
| 1969-70 | . | . | . | . | . | . | . | 13 |
| 1970-71 | . | . | . | . | . | . | . | 15 |
- (b) Have all wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board? If so, copies of reports on at least three such inspections be supplied to this Committee. There is no Wakf Institutions having more than Rs. 10,000 income in the State.


1	2	3
12.	The qualifications, age of the present Secy. of the Board may be given—with the period for which he has been employed with following further details:—	Commissioner of wakfs, Orissa is being appointed as Secy. to Orissa Board of Wakfs in addition to his own duties since the formation of the Board in the State i.e. 1961 Present Secy. Shri M.M. Rahman, O.A.S. joined as Commissioner of Wakfs and Secy. on 10-12-1971. His qualification is B.A., LLB.—Age of the present Secretary is 38.
	(i) Is he a full-time or part-time.	
	(ii) The salary he is given ?	Present Secretary is not getting anything towards his salary from the Board. He is receiving Rs. 775 towards his pay as Commissioner of Wakfs from the State Govt.
	(iii) What powers have been delegated to the Secy. by the Board under Section 22 ? A copy of such powers may kindly be furnished.	<p>Following powers have been delegated to the Secy., Orissa Board of Wakfs under Section 22:—</p> <ol style="list-style-type: none"> (1) The Secretary is authorised to file cases under the Public Wakfs (Extension of Limitation) Act, 1958. (2) The Secy. is authorised to take necessary steps to institute and defend suits relating to wakfs in all courts of law in the State and shall on behalf of the Board sign and verify the plaints to be filed according to law. (3) The Secy. is also authorised to deposit and withdraw all amounts required to be deposited or withdrawn according to law in respect of all suits instituted and defended by the Board. (4) The Secy. is authorised to take necessary steps with the authorities concerned regarding the settlement operations conducted by the State Government—for proper recording of Wakf properties. (5) To take measures for the recovery of lost properties of any Wakf. (6) To call for such returns, statistics, accounts and other informations from the Mutawallis or committees or persons incharge of administration or from persons interested in the Wakf with respect to the Wakf properties for purpose of supervision over the administration of Wakfs. (7) To inspect or cause inspection of, Wakf properties, accounts or records or deeds and documents relating thereto. (8) To allow inspection of the proceedings or other records of the Board and to issue copies of the same on payment of prescribed fees. (9) To exercise the powers and to perform the functions of the Board u/s 25, 26 and 27 of the Act relating to Registration of Wakfs and maintenance of Register of Wakfs and reference to Civil Court respectively.

- (10) To cause Registration of Wakfs and to amend the Register of Wakfs under Section 28 of the Act.
- (11) To provisionally approve the budget of the Mutawallis.
- (12) To convey the formal consent of the Board to any person or authority to institute a suit to obtain any of the reliefs referred to in Section 55 of the Act.
- (13) Such other powers/duties as have been specifically conferred/imposed on him by the Act or under the Rules & Regulation framed thereunder.
- (14) Board is pleased to delegate its power and function u/s 46(1) of the Wakf Act to the Secretary Orissa Board of Wakfs. The Secretary is authorised to make assessment of contribution reotrspectively.
- (iv) Has the Secy. himself carried out any detailed inspection of any major Wakfs. If so, the number and names of the Wakfs inspected during the last three years may be furnished.

1. Yes.
2. Number and names of the major Wakfs inspected by the Secretary :

Year	Name	No.
1969-70	1. Mosque bije Gop, District Puri	
	2. Maqдум Jahania Jahangasht bije Sudkeswar, District Puri	
	3. Anjuman-i-Islamia, mosque at Baripada, Dist. Mayurbhanj	
1970-71	1. Mosque bije Chandbali, District Belasore	
	2. Syed Shah Jalal Baba Bokhari, Mosque bije Santa Kaipadar District Puri	
	3. Badi Masjid bije Jatni, Dist. Puri	
	4. Nubi Saheb Dargah bije Kendrapara, District Cuttack	
	5. Mosque bije Korai, District Cuttack	
	6. Faizulla Peer bije Remuna, District Balasore	
	7. Jama Mosque, Pirpanja, Anjuman Islamia at Bhangaganagar, District Ganjam	

1	2	3	
	Year	Name	No.
1971-72	1.	Jamia Mosque at Bhapur, Behrampur Town, District Ganjam	1
	2.	Mosque, Madrasa, Asurkhana bije Sadasivpur, Nowrangpur, District Koraput	3
	3.	Mosque & Asurkhana at Jeypaore, Dist. Koraput	2
	4.	Dargah Qadam Rasool bije Town Bisinabar samil Dargah Bazar, District. Cuttack	1
	5.	Khanekhoda Tahatul Masjid bije Badakhuri samil Pat-han Mohalla, Soro, Distt. Balasore	1
	6.	Mosque bije Bir Ramchandrapur samil Ahmedpur, Dist. Puri	1



22

Institutions.

(v) How many days in a year, has your Secy. Secretary has toured 111 days (on an average) in a been on tour during the last five years ? year. The details are given below:—
Please also furnish details year-wise for the last five years 1967-68, 1968-69, 1969-70, 1970-71 and 1971-72.

Year	No. of days toured
1967-68	140
1968-69	111
1969-70	95
1970-71	115
1971-72	96
	557

13. (a) The number of Wakf Institutions audited under Section 33(1) may be furnished year-wise for the years 1967-68, 1968-69, 1969-70 and 1970-71. No Wakf Institutions have been audited u/s 33(1) as no auditor has yet been appointed by the Board.
- (b) In how many cases action has been taken under Section 34 following the report of the auditors? Does not arise.
- (c) The List of Auditors under the employment of the Board, along with their qualification, previous experience, age, etc., may be furnished. No auditor has yet been appointed by the Board due to paucity of fund.

- (a) What is estimated 6% contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? As against this what have been the actual receipts during these years ?
- A statement showing the Demand, Collection & Balance for the years 1967-68, 1968-69, 1969-70 and 1970-71 is given below :—

CONTRIBUTION CHART

Year		Demand	Collection	Remission	Balance
1967-68	Arrear	30,784.62	8,275.76	—	22,508.86
	Current	6,182.29	7.79	—	6,174.50
	Total	36,966.91	8,283.55	—	28,683.36
1968-69	Arrear	28,683.36	11,283.56	3,409.90	13,989.90
	Current	6,829.50	—	—	6,829.50
	Total	35,512.86	11,283.56	3,409.90	20,819.40
1969-70	Arrear	20,819.40	9,192.95	347.55	11,278.90
	Current	13,589.84	—	—	13,589.84
	Total	34,409.24	9,129.95	347.55	24,868.74
1970-71	Arrear	24,868.74	3,530.37	125.75	21,212.62
	Current	14,370.84	1,342.73	—	13,028.11
	Total	39,239.58	4,873.10	125.75	34,240.73

- (b) What action has been taken by the Board to realise the arrears from the Mutawallis ?
- Reminders and show cause notices u/s 43 have been issued to Mutawallis for payment of contribution.
- (i) Have the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears ? In how many cases such certificates of non-recovery have not been issued and why ?
- Only 11 certificate cases were filed for recovery of arrear contribution.
- (ii) Has the Board taken any action against any mutawalli for default in payment for more than two years ? Has the Board removed any mutawalli on account of his failure to pay for two consecutive years, the contribution payable by him as provided under clause (e) of sub-section (1) of Section 43 ?
- Show cause notices u/s 43 of the Wakf Act have been issued to Mutawallis for default in payment of contribution for more than two years. No Mutawalli has been removed by the Board so far.
15. The details of all properties under the direct management of the Board may be furnished with following particulars :—
- (a) Short description and the nature of each such wakf.
- Tahatul Mosque and Maktab bije Nigarh Athagarh (ii) Two grave yards bije Radharasikapar and Harisaranpur (iii) Mohammadan Committee bije Athagarh. There are all Sunni wakfs.

1	2	3
(b) The details of the properties and estimated income of each such wakf	<p>Village</p> <p>Area</p> <p>Estimated income</p> <p>Acs.</p> <p>Nijgarh . . . 0.48 About Rs. 600</p> <p>Sathilo . . . 0.91 per annum.</p> <p>Radharasikapur . 0.30</p> <p>Harisaranpur . . 0.80</p> <p>Gobarasasana . . 3.31</p> <p>Sarakuan . . . 1.74</p> <p>Berhampur . . . 2.26</p> <p>Prasannapur . . 1.88</p> <p>11.68</p>	
(c) What was the income of the property at the time when the Board assumed direct management—what has been the income year-wise after the property has come under the Boards, management?	When Board assumed Direct Management on 1-5-1971 the estimated annual income of the wakfs was about Rs. 600. During the direct management of Board (1971-72) the income rose to Rs. 713.11.	
(d) What special steps has the Board taken to improve the administration in respect of each such property?	The paddy land are cultivated by cultivators. They were paying the bhag paddy at a low rate. They have been contacted. The cultivators are willing to pay bhag paddy at a higher rate now.	
(e) Has the Board appointed any special staff for the actual management of each such property? If so, the details of the staff appointed may please be given.	No.	
(f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as part of charges towards the administration of such properties?	The management expenses of the wakf properties in question are borne by the Board as the income of the wakf properties is hardly sufficient to meet the expenses of the wakfs itself.	
(g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.	Though a committee has been appointed by the Board for the management of the above wakfs, they could not take over the management due to ill feeling among themselves.	
(h) Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management? If so, the copies of the Inspection Reports may kindly be furnished.	No. The wakf institutions have only been inspected by the Secretary as far as the question of management is concerned.	
16. The number of enquiries instituted by the Board under Section 44 and 45 of the Wakf Act may be given.	53 enquiries have been instituted by the Board under Section 44 & 45 of the Wakf Act.	
17. Has the Board received any donations and/or grants to the Wakf Fund under sub-section (1)(a) of Section 48 of the Wakf Act?	No.	

- | 1 | 2 | 3 |
|---------|--|--|
| 18. | Has the Board taken any action under powers vested in it under Section 27 to determine whether a property is a wakf property or not independently of Chapter II ? | No dispute has so far arisen about the wakf nature of any wakf property. |
| 19. | Has the State Govt. passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71 ? If so, the copies of the orders received from the State Govt. may be furnished together with what action was taken on such orders by the Board or the State Government. | No orders have been passed by the State Government on the audit reports. |
| 20. | In how many cases has the Board taken action under section 36B for the recovery of wakf property transferred in contravention of Section 36A? If so, how many requisitions are pending with the Collectors ? | In one case of Cuttack District the Board has taken action u/s 36B for the recovery of wakf properties transferred in contravention of Section 36A. It is pending with the Collector, Cuttack. |
| 21. (a) | The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of wakf property under Section 36A during the last five years. | Number of sales, gifts, mortgages sanctioned by the Board u/s 36A during the last five years are as follows: |

Year	Sales	Gifts	Mortgages	Exchanges	Total
1967-68	—	—	1	—	1
1968-69	—	—	—	1	1
1969-70	2	—	—	—	2
1970-71	1	—	—	—	1
1971-72	—	—	—	—	—
GRAND TOTAL					5

- (b) Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.
- Number of cases of lease exceeding three years in case of agriculture land and exceeding one year in the case of non-agricultural land or building sanctioned by the Board during last five years are as follows :

Year	No. of cases of agricultural land	No. of cases of non-agricultural land or building	Total
1967-68	—	1	1
1968-69	—	—	—
1969-70	—	1	1
1970-71	—	1	1
1971-72	1	—	1
GRAND TOTAL			4

1	2	3
22.	Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(1) and moved a court of law for action against the Mutawallis? If so, give a list and the result of actions taken.	No
23. (a)	The number of list of Mutawallis removed by the Board during the last five years under Section 43(1) may be furnished.	Nil
(b)	In how many cases have such actions resulted in the Mutawallis' moving the court of law?	Does not arise.
(c)	In how many cases detailed in (b) above, have the courts of law given stay orders allowing the Mutawallis removed by the Board to continue to act as Mutawallis? In how many such cases have the courts appointed receivers?	Does not arise.
(d)	In how many such cases coming under (b) have the Wakf Board moved the court allowing the Mutawalli to continue to be incharge of the Wakf property?	Does not arise.
24.	Have the State Government issued rules for carrying out the purposes to the Wakf Act under Section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said Section.	Yes. (1) Orissa Muslim Wakfs (Survey) Rules, 1959. Yes. (2) Orissa Muslim Wakfs Rules 1961.
25.	Has the Board issued with the previous sanction of the State Government regulations providing for all the clauses from (a) to (n) of sub-section (2) of Section 68? If so, a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons therefor may be given.	Yes. Orissa Muslim Wakfs Regulations, 1961.
26.	The expenditure for the years 1967-68, 1968-69, 1969-70 & 1970-71 in regard to the following items may kindly be furnished :—	
(i)	TA/DA paid to the Members of the Board for attending meetings of the Board	TA/DA paid to the Members of the Board for attending meetings of the Board :—
		Rs.
	1967-68	1,403.60
	1968-69	1,482.70
	1969-70	968.27
	1970-71	1,254.45
	1971-72	1,080.50
		6,189.52

2

3

(ii) Number of meetings held for the period.

The number of meetings held for the period :

1967-68	.	.	.	.	.	.	.	3
1968-69	.	.	.	.	.	.	.	3
1969-70	.	.	.	.	.	.	.	2
1970-71	.	.	.	.	.	.	.	3
1971-72	.	.	.	.	.	.	.	4
								15

(iii) TA/DA paid to the Secy. of the Board.

TA/DA paid to the Secretary of the Board :

1967-68	.	.	.	.	.	.	.	} Nil
1968-69	.	.	.	.	.	.	.
1969-70	.	.	.	.	.	.	.	Rs. 770.65
1970-71	.	.	.	.	.	.	.	Rs. 741.50
1971-72	.	.	.	.	.	.	.	Rs. 1,271.25
								Rs. 2,783.40



APPENDIX A

Revised Estimate for the year 1966-67 and Budget Estimate for the year 1967-68 of the Orissa Board of Wakfs.

RECEIPT				EXPENDITURE				
	1965-66	1966-67	1967-68	Remarks	Description of charges	1965-66	1966-67	1967-68
First loan of Rs. 10,000 sanctioned in Law Deptt. letter No. 1894 dated 23-3-66. Balance amount out of 2nd loan, i.e. Rs. 10,000 received from Govt. vide Law Deptt. letter No. 10/61-1014 dated 14-2-63.				Anticipated.	1. (a) Allowance paid to C.W. staff for doing Board's work. (b) Pay of staff	1,688.57 Nil	1,629.00 270.00	1,826.00 1,080.00
						1,688.57	1,899.00	2,906.00
Balance on 1-4-65					2. T.A.	1,346.28	1,800.00	2,412.00
Rs. 2,419.87					3. Litigation	313.15	800.00	600.00
Contribution realised					4. Contingency	230.65	823.00	600.00
1962-63 Rs. 1,732.92								
1963-64 Rs. 2,488.97								
1964-65 Rs. 2,050.81								
					TOTAL	3,578.65	5,322.00	6,518.00
Rs. 6,272.70								
Contribution realised during the year.	3,651.50	1,189.48	2,500.00					
Misc. receipts	33.65							
Total receipts by 31-3-67	6,272.70 + 2,419.87 + 3,651.50 + 33.65 + 1,189.48 = Rs. 13,567.20				REMARKS :—	Sri Rasul Bux appointed as assistant of the Board's office with effect from 1-12-66 in the scale of pay Rs. 90 p.m. (consolidated pay). The cases regarding the Wakf properties are now increasing due to illegal transfer of wakf properties.		
Expenditure up to 31-3-67	Rs. 8,898.45							
Balance on 1-4-67	Rs. 4,668.75							



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REMARKS :—Sri Rasul Bux appointed as assistant of the Board's office with effect from 1-12-66 in the scale of pay Rs. 90 p.m. (consolidated pay). The cases regarding the Wakf properties are now increasing due to illegal transfer of wakf properties.

APPENDIX B

Revised Estimate for the year 1967-68 and Budget Estimates for the year 1968-69

1966-67	1967-68	1968-69	Remarks	Description	1966-67	1967-68	1968-69
Balance on 1-4-66				1. Allowances paid to C.W. staff for doing Board's work.	1,360.87	1,241.86	1,267.00
Rs. 9,161.00	Contribution Rs.	Actuals	Anticipated	2. Pay of staff Board's office.	270.00	1,080.00	1,080.00
	1,810.33 upto 31-12-67				1,630.87		
	Misc. income	Rs. 5,117.14		3. T.A. & D.A.	979.05	1,819.95	2,000.00
	Rs. 8.36	Anticipated	Rs. 5,000.00	4. Postage stamp	199.00		
	Rs. 1,818.69	Rs. 150.00		5. Law charges	654.82		
				6. Central Wakf Council	22.00	2,284.94	2,500.00
				7. Audit charges	243.00		
				8. Misc. expenditure	304.00		
		Rs. 5,267.14			4,032.74	6,426.75	6,847.00



APPENDIX C

Form A

(See Rule 8)

SECTION—A

Budget Estimate of Income and Expenditure for the year 1969-70

Accounts for the year 1967-68	Budget Estimate for 1967-68	Revised Estimate for 1967-68	Heads of Income		Income		Expenditure		Fas	
			4	3	5	6	7	8	9	10
8,283.55			1. Contribution		11,283.56	5,000.00	1. Pay to Board's Clerk	1,360.00	1,660.00	1,080.00
			(a) from wakfs							
100.30			(b) Contribution to Chief Minister's relief fund.				2. Fee to C.W. staff	823.23	2,587.25	1,094.66
							3. T.A. of Members	1,967.50	*1,030.40	
									2,600.00	1,467.35
421.40			2. Postal SB (interest)		892.10	400.00	4. Advance	783.00	*1,400.00	
50.48			3. Misc. receipts		54.04	100.00	5. Law charges contingencies	424.55	1,000.00	350.00
30.00			4. Adjustment of puja advance		50.00	15.00	6. Stationery	265.58	800.00	100.05
11,689.62			5. Perpetual annuity from Choudhury Ismail Estates.		5,461.54	5,461.54	7. Printing of forms	137.00	1,100.00	298.71
									200.00	186.50
1,944.75			6. Interest from fixed deposit		2,412.44	3,000.00	8. Purchase of Library books . . . . .	..	100.00	35.80
							9. Misc. Expenditure	319.08	580.00	129.04
187.12			7. Perpetual annuity Krishnanandapur Estates.		23.39	23.39	10. Postage stamp	615.00	1,000.00	561.00
22,707.22							11. Contribution to C.W.C.	946.60	834.00	415.44
							12. Audit fees . . . . .	..	466.00	
							13. C.M.'s relief fund . . . . .	..	..	325.00
1,257			8. Receipts of House rent				14. Bank Commission	10.00	20.00	100.30
			(a) Azizulla Bokhari Sb. by M.O.				15. Loan to Sayeed Seminary	959.00	2,347.85	5.00
					1,511.00	2,640.00				21,693.15
28.00			(b) Kale Pahelwan, Cuttack		929.20	..				27,842.00
237.75			(c) Mastan Dargha		152.00	1,500.00	16. Exp. Sayed Seminary	557.00	1,000.00	
1,230.00			(d) Sayeed Seminary		325.50	4,000.00	17. Loan to Gope Mosque	10,000.00	..	50.00
					3,802.99		18. Kale Pahelwan	186.20	..	78.47
							19. Mastan Dargha Musafirkhana	75.23	800.00	949.20
25,460.47					26,897.76		3. Azizulla Bokhari Sb. Kendrapara	2,228.80	1,200.00	25.00
							4. Jholasahi Mosque . . . . .	..	..
										28,944.67
										64,606.11
										C.B.
										GRAND TOTAL
										91,503.87
										93,550.11

1	2	3	4	5	6	7	8	9	10
O.B.68,090.31									
			9. Gope Mosque	O.B.					
				64,606.11	2,500.00				
				<u>91,503.87</u>	<u>24,639.93</u>				
				64,606.11	O.B.				
					89,246.04				
						Rampapur Mosque		65.00	
						Deg Fund, Chaudkurat		8.00	
						Madrassa, Chaudkurat		100.00	
						Imam Saheb, Chaudkurat		80.00	
						Land Acquisition amount of			
						Imam Saheb		4,319.69	
						or Madrassa, Chaudakurat,		104.00	
						capital Mosque		<u>25,322.19</u>	
							C.B.	63,923.85	
								<u>89,246.04</u>	



Form A

(See Rule 8)

SECTION A

Budget Estimate of Income and Expenditure for the year 1970-71

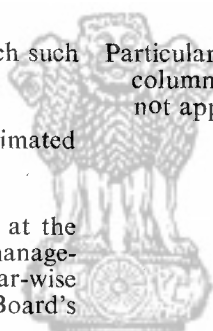
Accounts for the year 1968-69	Budget estimate for 1968-69	Revised estimate for 1968-69	Head of income	Income		Expenditure		Budget estimate for 1970-71	Accounts for 1968-69
				Budget estimate made for 1969-70	Budget estimate for 1970-71	Heads of expenditure	Revised estimate for 1969-70		
1	2	3	4	5	6	7	8	9	10
11,283.56		11,283.56	Contribution	5,000.00	5,000.00	1. Pay to Board's Clerk	1,660.00	1,680.00	1,410.00
892.10		892.10	Postal S.B. interest	400.00	200.00	2. Fee to C.W.'s staff	3,761.95	2,205.00	823.23
54.04		54.04	Misc. receipts	100.00	100.00	3. T.A.	2,166.00	4,600.00	1,967.50
50.00		50.00	Adjustment of Puja Advance	15.00	20.00	4. Festival Advance	40.00	75.00	45.00
5,461.54		5,461.54	P.A. from Choudhury Ismail Estates	5,461.54		5. Law Charge Contingency	2,300.00	1,500.00	862.55
2,412.44		2,412.44	Interest from Fixed deposit	2,412.00		6. Stationery	512.00	600.00	265.58
23.39		23.39	P.A. Krishnandapur Estates	23.39		7. Printing of forms	200.00	200.00	137.00
1,511.00		1,511.00	Receipts of House rent Azizulla Bokhari Sb.	2,640.00		8. Purchase of Library works	100.00	100.00	..
929.20		929.20				9. Misc. expenditure	341.00	600.00	569.08
						10. Postage stamps	700.00	800.00	615.08
152.00		152.00	Kale Pahelwan			11. Contribution to C.W.C.	1,000.00	1,500.00	946.60
							12,780.95		
325.50		325.50	Mastan Dargha	1,200.00		12. Bank Commission	20.00	20.00	10.00
3,802.99		3,802.99	Sayed Seminary	4,000.00		13. Loan to Sayeed Seminary	2,347.85	..	959.00
26,897.76		26,897.76	Gop Mosque Committee	2,000.00		Expenditure	1,000.00	1,000.00	557.00
O.B.64,606.11						14. Loan to Gop Mosque	2,000.00	..	10,000.00
Rs. 91,503.87	GRAND TOTAL		Bhananagar Mosque	565.00					
						15. Kale Pahelwan . . . . .	..	..	186.20
						16. Mastan Dargha . . . . .	..	..	75.23
						17. Azizulla Bokhari Saheb . . . . .	..	..	2,228.80
							18,148.80	14,880.00	21,657.77
							C.B.	82,459.16	69,846.10
							78,514.23	97,339.16	91,503.87
							RS.	96,663.03	96,663.03
							GRAND TOTAL	97,339.16	91,503.87

COMMENTS TO THE FACTUAL DATA RECEIVED FROM THE TAMIL NADU WAKF BOARD

<i>Information asked for</i>	<i>Information furnished by the Wakf Board</i>
1. (a) The budgets of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71.	The copies of Budgets of Tamil Nadu Wakf Board for the years 1967-68, 1968-69, 1969-70 and 1970-71, are enclosed as Annexure I.
(b) The details of the members of the staff—post held, qualifications, age, how long holding the present post. If pensioners — the post from which retired and the amount of pension they are drawing. Are there any dismissed Govt. or local body servants in your staff ?	The details of the members of the Staff with additional particulars as required are furnished in Annexure II. At present no pensioners or dismissed Government servants are in the service of the Board. (Not appended)
2. (a) Have all the Wakfs including mosques, dargahs, Imambaras and graveyards which are Wakfs by user been registered and entered into Register of Wakfs under Section 25 of the Act ?	There are about 5,412 wakfs in Tamil Nadu. Excepting the unassessable wakfs, almost all wakfs have been registered.
(b) Has the Board taken any action in respect of any wakf under Section 28 of the Wakf Act, under which the Board may direct a Mutawalli to apply for the registration of a Wakf or by itself cause the Wakf to be registered ?	If any Mutawalli fails to apply for registration of Wakfs as provided for under Section 25(1) of the Wakf Act, notice is issued to him under section 28 of the Act directing him to register the wakf. This practice is generally followed as and when it is found that the Mutawalli has not registered the wakf.
3. Has your Wakf Board taken action under Section 41(1) of the Act against any Mutawalli who has failed to apply for registration ? If so, the number of cases in which such action has been taken may kindly be supplied.	Combined action has been taken under Section 41(1) of the Act, against the Mutawallis who have failed to register the wakfs, render accounts and Budget Estimates. 160 Mutawallis have so far been prosecuted.
4. How many reports of the Commissioner forwarded by the State Government under Section 5(1) of the Wakf Act are pending before your Board for action under sub-section (2) of Section 5 the period for which such lists have been pending and the reasons for delay in their disposal ?	All the reports of the Commissioners forwarded by the State Government under Section 5(1) of the Act have been published under Section 5(2) of the Act. A good number of the wakfs have been surveyed and notified by the Board subsequently. These include the Wakfs which were omitted during the survey conducted by the Wakf Commissioners and also newly created wakf.
5. (a) Has the survey of wakf as laid down under Chapter II of the Wakf Act been completed in your State ? If not, the present progress recorded may be given?	(a) & (b). As explained in paragraph 4 above, the Board has published the lists of Wakfs existing in Tamil Nadu in the official Gazette on the basis of Wakf Commissioners' reports forwarded by the State Government. After this, the survey of Wakfs has been conducted only by the Board.
(b) What action has the Board taken from time to time to may the State Government for expediting survey ?	
6. What record is being maintained by your Board containing information relating to the origin, income, object and beneficiaries of every wakf as required under clause (a) of sub-section (2) of section 15 ?	The Survey reports known as Proforma forwarded by the State Government under section 5(1) of the Act are maintained as official records and these reports have in turn been entered in bound volumes District-wise.

1	2	3
7.	Has the Board on any case given any directions under clause (e)(iii) of sub-section (2) of Section 15 ? If so, such cases may be stated in some detail.	No case has so far arisen for the Board to issue directions under clause (e)(iii) of sub-section 2 of Section 15 of the Wakf Act.
8. (a)	During the last three years how many schemes of management have the Board settled ? Copies of the schemes settled pertaining to the wakfs with an income of more than Rs. 10,000 may kindly be furnished.	Two schemes were settled during the last 3 years in respect of Wakfs whose income was more than Rs. 10,000 as noted below. 1. Cumbum Vaveer Pallvasal in Madurai District, in W.A. No. 9/68 dated 7-8-1968. 2. Pannaikulam Mosque in Ramanathapuram District, in W.A. No. 74/66 dated 10-4-1968.
(b)	How many appeals under sub-section (3) of Section 15 have been filed or pending in a court of law against such settlements ?	No appeal is pending in a court of law against such settlements.
9.	Has the Board given instructions regarding utilisation of the surplus income of a wakf under sub-clause (i) of clause (e) of sub-section (2) of Section 15 in cases where it has detected such surplus ? If so, copies of such instructions issued during the last three years may kindly be supplied to this Committee.	In no case instructions were issued by the Board for utilisation of the surplus income of a wakf consistently with the objects of the wakf.
10. (a)	How many wakfs are there under the control of the Board ? How many wakfs have submitted their budgets ? Year-wise break up for the years 1967-68, 1968-69, 1969-70 and 1970-71, may be given.	Almost all wakfs notified under the Wakf Act have been brought under the control of the Board. As regards number of Budget proposals submitted by the Wakfs separate data cannot be furnished year-wise, as no register is maintained for watching the receipt and disposal of budget proposals.
(b)	If all the wakfs have not submitted their budgets as required by law what action has the Board taken against the defaulting Mutawallis ?	Periodical reminders are issued to the Mutawallis for submission of accounts and budget estimates. Action has been taken against the defaulting Mutawallis under section 41(1) of the Wakf Act.
11. (a)	How many inspections of Wakfs have been carried out by the Board for the years 1968-69, 1969-70 and 1970-71 ?	During the period of 1967-68, 1968-69, 1969-70 and 1970-71 the Board was administered by the Special Officer appointed by the Government. Number of inspections carried out by the special Officer is 20.
(b)	Have all wakfs having an income of more than Rs. 10,000 been inspected during these three years by any member of the Board or any Committee of the Board and/or a senior official of the Board ? If so, copies of reports on at least three such inspections be supplied to this Committee.	Copies of three such reports are appended in Annexure No. VIII. (No. appended)
12.	The qualifications, age of the present Secretary of the Board may be given—with the period for which he has been employed with following further details :— (i) Is he a full-time or part-time? (ii) The salary he is given.	The Secretary is a full time Officer. The Salary drawn by him is pay Rs. 720+D.A. Rs. 40+H.R.A. Rs. 86.50+C.C.A. Rs. 57.60+cash allowance Rs. 75.

1	2	3	
(iii) What powers have been delegated to the Secretary by the Board under section 22 ? A copy of such powers may kindly be furnished.	The powers delegated to the Secretary under Section 22 of the Act is appended as Annexure III. (Not appended)		
(iv) Has the Secretary himself carried out any detailed inspection of any major wakfs ? If so, the number and names of the Wakfs inspected during the last three years may be furnished.	From 1967 to 1969 when the Board was superseded the Special Officer assisted by Secretary was incharge of the administration. From 1969 onwards up to June 1971 the Special Officer was incharge, the post of Secretary was kept in abeyance. From June 1971 onwards, the present Board as at present constituted, is in existence. The inspections have been made only by Thiru H. K. Khazi, I.A.S. while he was Special Officer and by Thiru F. Ahmed, while he was Secretary and later.		
(v) How many days in a year, has your Secretary been on tour during the last five years? Please also furnish details year-wise for the last five years 1967-68, 1968-69, 1969-70 and 1970-71 and 1971-72.	Number of days toured by the Secretary year-wise is appended in Annexure IV. (Not appended)		
13. (a) The number of wakf institutions audited under Section 33(1) may be furnished year-wise for the years 1967-68, 1968-69, 1969-70 and 1970-71.	The number of wakfs audited under section 33 are furnished below :—		
	Year	No. of Wakfs	
	1967-68	236	
	1968-69	242	
	1969-70	245	
	1970-71	246	
(b) In how many cases action has been taken under Section 34 following the report of the auditors ?	Only in two cases i.e. Koothanallur Peria Pallivasal Wakf and Jamalia College, Madras. Action has been taken under Section 34 of the Wakf Act in respect of Koothanallur Peria Pallivasal. In respect of Jamalia Arabic College, action is being pursued.		
(c) The list of Auditors under the employment of the Board, along with their qualification, previous experience, age etc. may be furnished.	The Board has not appointed Auditors for auditing the Wakf Institutions. By arrangement with the Government, the Board has appointed the Examiner of Local Fund Accounts, to audit the accounts of the wakfs whose income is Rs. 5,000 and above.		
14. (a) What is estimated 6% contribution for the years 1967-68, 1968-69, 1969-70 and 1970-71? As against this what have been the actual receipts during these years?	The demand and collection for the years 1967-68 to 1970-71 are as follows :—		
	Year	Demand	Collection
	1967-68	3,70,724.24	1,65,934.05
	1968-69	4,53,146.16	3,38,149.97
	1969-70	3,64,912.72	3,66,916.66
	1970-71	4,09,829.91	3,18,958.61

1	2	3
(b) What action has been taken by the Board to realise the arrears from the Mutawallis ?	Action has been taken to realise the arrears of contribution under Revenue Recovery Act, as provided for under Section 46 of the Wakf Act.	
(i) Have the Board issued certificates for recovery by the Collector as arrears of land revenue in all cases of arrears. In how many cases such certificates of non-recovery have not been issued and why ?	The Board has issued certificates in 201 cases for recovery by the Collectors under the Revenue Recovery Act.	
(ii) Has the Board taken any action against any mutawalli for default in payment for more than two years? Has the Board removed any mutawalli on account of his failure to pay for two consecutive years? the contribution payable by him as provided under clause (e) of sub-section (1) of Section 43 ?	Nil	
15. The details of all properties under the direct management of the Board may be furnished with following particulars :		
(a) Short description and the nature of each such Wakf.	 <p>Particulars of items from 15(a) to (f) are given column-wise as per Annexure V. (18 Wakfs—Copies not appended).</p>	
(b) The details of the properties and estimated income of each such Wakf.		
(c) What was the income of the property at the time when the Board assumed direct management—what has been the income year-wise after the property has come under the Board's management ?		
(d) What special steps has the Board taken to improve the administration in respect of each such property?		
(e) Has the Board appointed any special staff for the actual management of each such property? If so, the details of the staff appointed may please be given.		
(f) What is the actual expenditure being incurred by the Board for the management of each such property and how much of the percentage of the income of such property has the Board been appropriating as part of charges towards the administration direct of such properties?		
(g) The number of cases in which the Board has appointed Committees of Management in respect of properties under its direct management.	Out of the 18 Wakfs brought under direct management of the Board, a Committee was appointed only in respect of a wakf known as Arakonam Jamiah Mosque and the function of the Committee is purely to assist the Superintendent of Wakfs, who is incharge of the Administration. In all other cases, the Board subordinates are incharge of management.	

1

2

3

(h) Has any member or a Committee of the Board or the Secretary ever inspected properties under its direct management? If so, the copies of the Inspection Reports may kindly be furnished.

Not inspected by the members or the Secretary.

16. The number of enquiries instituted by the Board under Sections 44 and 45 of the Wakf Act may be given.

199 enquiries were conducted by the Board under Sections 44 and 45 of the Wakf Act.

17. Has the Board received any donations and/or grants to the wakf Fund under sub-section (1)(a) of Section 48 of the Wakf Act?

Nil

18. Has the Board taken any action under powers vested in it under Section 27 to determine whether a property is a Wakf property or not independently of Chapter II ?

Whenever any new Wakf detected, either on the information forwarded by interested parties or by the Wakf subordinate, the Board cause investigations through the wakf subordinates to determine the nature and extent of Wakfs and wakf property. If, on the basis of survey Reports submitted by the wakf subordinates, the properties are found to be wakf properties, the Board after scrutinising the Survey Reports passed orders for notification in Gazette. During the period under review no objections were received or disputes arose as to the character of the Wakf property so surveyed and notified.

19. Has the State Government passed any orders after the audit of the Board for the years 1967-68, 1968-69, 1969-70 and 1970-71? If so, the copies of the orders received from the State Government may be furnished together with what action was taken on such orders by the Board or the State Government.

No orders have been passed by the Government.

20. In how many cases has the Board taken action under Section 36B for the recovery of Wakf property transferred in contravention of section 36A ? If so, how many requisitions are pending with the Collectors?

In 15 cases Board has taken action under Section 36B of the Act for recovery of Wakf properties, 14 requisitions as detailed below are pending with the Collectors :—

Madras	.	.	.	.	.	.	.	3
Chingleput	.	.	.	.	.	.	.	1
Dharmapuri	.	.	.	.	.	.	.	3
Salem	.	.	.	.	.	.	.	2
North Arcot	.	.	.	.	.	.	.	2
Thanjavur	.	.	.	.	.	.	.	2
South Arcot	.	.	.	.	.	.	.	1

14

21. (a) The number of cases in which the Board has sanctioned the sale, gift, mortgage or exchange of Wakf property under section 36A during the last 5 years.

(a) & (b) In 19 cases Board has sanctioned sale, mortgage, exchange or lease of wakf properties.

(b) Also the number of cases where the Board has sanctioned lease for a period exceeding three years in the case of agricultural land or for a period exceeding one year in the case of non-agricultural land or building.

1	2	3
22.	Has the Board ever taken action for any failure on the part of the Mutawallis under Section 41(1) and moved a court of law for action against the Mutawallis? If so, give list and the result of the actions taken.	Action has been taken by the Board against the Mutawallis under Section 41(1) of the Act. Action initiated in 158 cases resulting in the dismissal of some mutawallis. List retained by the Committee.
23. (a)	The number and list of Mutawallis removed by the Board during the last five years under Section 43(1) may be furnished.	26 Mutawallis were removed during the period.
(b)	In how many cases have such actions resulted in the Mutawallis' moving the Court of Law?	In 11 cases the Mutawallis have moved the court of law.
(c)	In how many cases detailed in (b) above, have the courts of law given stay orders allowing the mutawallis removed by the Board to continue to act as mutawallis? In how many such cases have the courts appointed receivers?	In 9 cases stay was ordered by court. No receiver has been appointed.
(d)	In how many such cases coming under (b) have the Wakf Board moved the Court for appointment of a receiver as against the court allowing the Mutawalli to continue to be incharge of the wakf property?	Nil
24.	Have the State Government issued rules for carrying out the purposes of the Wakf Act under section 67 and do they cover all the clauses from (a) to (n) of sub-section (2) of the said Section ?	The State Government have issued rules for carrying out the purposes of the Wakf Act under Section 67 of the Act in G.O. (P) No. 3323, Revenue dated 1-12-1971 and the rules framed thereunder cover all the clauses from (a) to (n) of sub-section 2 of the said Act.
25.	Has the Board issued with the previous sanction of the State Government regulations providing for all the clauses from (a) to (n) of sub-section (2) of Section 68? If so, a copy of such regulations may be furnished. If such regulations have not been issued in respect of any of the clauses from (a) to (n) of sub-section (2) of Section 68, the reasons therefor may be given.	The Board framed regulations with the previous sanction of the State Government in respect of clauses a, b, e, f, g, h, i, j, k, l and n. Regulations have not been framed in respect of clauses c, d and m.
26.	The expenditure for the years 1967-68, 1968-69, 1969-70 and 1970-71 in regard to the following items may kindly be furnished :—	
(i)	TA/DA paid to the Members of the Board for attending meetings of the Board;	The Travelling Allowance and Dearness Allowance, paid to the members of the Board for the year 1967-68 is Rs. 7,093.48. During the subsequent periods the Board was administered by the Special Officer. The particulars of T.A. and D.A., drawn by the Special Officer are given in column 26(iii) below.
(ii)	Number of meetings held for the period.	During the period of 4 years 180 sittings were held.
(iii)	TA/DA paid to the Secretary of the Board.	The Travelling Allowance and Dearness Allowance, drawn by the Special Officer/Secretary during the years 1968-69, 1969-70 and 1970-71 are furnished in the Annexure VII. (Not appended)

As will be observed from a General analysis of the budgetary position, Tamil Nadu Wakf Board has been able to almost break even as indicated below :—

	RECEIPTS				EXPENDITURE	
	1968-69	1969-70	1970-71		1968-69	1970-71
Contributions	338,149.97	366,916.66	318,958.61	Salary	239,583.21	254,626.77
Investment Realised	230,159.34	116,998.66	295,042.12	TA/DA	37,530.34	41,283.60
Misc.	226,747.36	35,000.00	34,803.23	Legal charges.	100,752.93	124,583.08
				Investment	70,809.42	—
	795,056.67	518,915.32	648,803.96	Refund of loans	178,856.62	61,750.00
Less O.B. (—)	5,656.98	(—)10,026.54	(—)22,900.00	Misc.	171,893.71	49,545.33
	789,399.69	508,888.78	625,903.96		799,426.23	531,788.78
				C.B. (—)	10,026.54	(—)22,900.00
					789,399.69	508,888.78



FLAG (A)

ANNEXURE VIII

I inspected this property on 16-2-1968. The Mutawalli and the Wakf Inspector were present.

The Mosque is in a good condition. However, the Mutawalli proposes to extend the Mosque. His proposal is perfectly sound and he should pursue the proposal. It would be desirable to cover the entire open space with a concrete slab resting on columns. The Mutawalli has already got the design from an architect regarding this. Sanction should be got from the Corporation of Madras and the work started immediately on getting funds.

There are some graves also next to the Mosque in a private grave yard. This place needs some attention. Some of the graves and other structures may require renovation.

This Wakf presents a sorry spectacle because most of the lands owned have been given on very long lease and on highly unfavourable terms. Some action must be taken by us to see whether the matter cannot be taken up in court and the leases terminated.

The Mutawalli has requested permission to lease out the vacant portion measuring 4,400 sq. ft. This vacant portion represents site of an old bungalow which was demolished by the Corporation under Section 258(3) of the City Municipal Act. This place is now lying vacant and unless something is done about it, there is a danger of its getting encroached upon by unscrupulous persons. The Mutawalli should therefore be permitted to lease out this property for a period of five years. He should give this to the person who offers the highest amount. The lease should not include a clause for automatic renewal. It should be open to the Wakf to terminate the lease on the expiry of the period of five years. The draft lease deed sent up by the Mutawalli will have to be scrutinised by a legal adviser. It may be sent to Thiru Raffuddin Madani who deals with our criminal cases.



Sd/-

H. K. KHAZI,
Special Officer for Wakfs.

Dated : 23-2-1968.

FLAG (A)

ANNEXURE VIII

I inspected the land at 4-50 P.M. on 8-8-1968. The Superintendent of Wakfs, Madras, the Wakf Inspector (Shia) and members of the Abbasi Ashur Khana Committee were present. The proposal to construct the building is sound. The building will give good return. The approach to the Market at the back will also not be shut out.

The draft lease deed should be sent to our Legal Adviser for scrutiny.

I would like the building to be called Abbasi Wakf building. This name should be written upon the building immediately in its construction.

There should be no clause for automatic renewal of the lease at the end of the lease period.

We will also have to notify this in the Gazette and receive objections and follow the prescribed procedure put up drafts quickly.

Sd/-

H. K. KHAZI,
Special Officer for Wakfs.

Dated : 12-8-1968.

ANNEXURE VIII

I inspected the site this morning at about 11 A.M. The Wakf Inspector and the Deputy Surveyor were present. The President of the Committee Thiru M. L. Khan was also present. Some persons of the locality were also present.

2. The vacant site on which the reading room is proposed to be constructed measures 11' x 19'. On the adjoining plot, there is a small hut. This measures 19' x 33'. The President of the Committee told me that the Committee desires to construct the office building of the Wakf on the site measuring 11' x 19' and that on the adjoining site measuring 19' x 33' he proposes to construct a small Arabic School. He has stated that he will be evicting the hut from the bigger plot. He stated that he had not been able to pursue the proposal for want of funds. He now proposes to collect money and take up the work on hand. Since the land is required by the Management of the Wakf itself, it cannot be leased out to anybody. The petitioners may therefore be informed accordingly. A draft letter to Government is also put up.

Sd/-

H. K. KHAZI,
Special Officer for Wakfs.

Dated : 24-1-1969.

FLAG (B)

ANNEXURE III

In exercise of powers conferred by Section 22 of the Wakf Act, (Central Act XXIX of 1954) the Tamil Nadu Wakf Board, Madras-4 hereby delegates the powers to the Secretary, Tamil Nadu Wakf Board, Madras-4 :—

1. All punishments to be imposed by the Secretary, subject to confirmation by the Chairman and report to the Board.
2. To review the work of the Wakf Inspectors and to cut down F.T.A. in the case of shortours or insufficient work.
3. Payment to staff to be certified by the Secretary when it will be confirmed by the Chairman and report to the Board.
4. Sanction of advance to staff and report to Chairman and Board also.
5. With reference to sanction of fees for cases conducted on behalf of the Board, the necessary amounts may be paid by the Secretary after getting the approval of the Chairman and report to the Board.
6. Checking the accounts on the wakfs and issue of demands for contribution due to the Board and see to all collections of contributions and other monies due to the board and submit monthly report to the Board.
7. To inflict punishment to the staff of the Office.
8. To check the tour diary of the Wakf Inspectors and their programme of work.
9. Maintenance of Personal Files of all subordinate staff.
10. Passing of the T.A. and Pay Bills of the staff and to put up for sanction of the Chairman after certifying them to be correct.
11. Issue of receipts for monies received towards contribution due to the Board.
12. Preparation of the Budget of the Office.
13. Approving of the Budget of the wakf in accordance with the rules and regulations in the case of the Wakfs paying a contribution of Rs. 500 and less.
14. Scrutiny and presentation of the annual statement of accounts of the Board.
15. Dealing with the audit objections of the Board.
16. Scrutiny of the security of the Officials of the Board.
17. To put proposals to the Board in all financial matters affecting the Board's funds and the funds of the wakf under the direct management of the Board.
18. To scrutinise all expenditure of the Board and certify before obtaining the sanction of the Chairman for payment of all expenses have been legally incurred.
19. To submit monthly statement of the income and expenditure to the Board and to the Government.
20. To attend to all communications from the Govt. and report them to the Board once a month.
21. To take action under section 46 (4) of the Wakf Act.

Sd/-

AMIRUDDIN AHMED,

Chairman, Tamil Nadu Wakf Board, Madras.

FLAG (D)

1967-68

Receipts 5,17,000

Major items :

Contributions	200,500
Other income	9,000
Loans and advances	3,07,000

Expenditure 5,08,260

Major items

Establishment charges	1,87,800
T.A. & D.A.	30,500
Law & Charges	2,00,000
Loan etc.	40,000

1968-69

Receipts 5,78,870

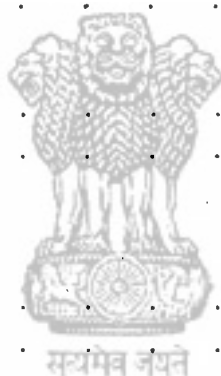
Major items

Contributions	3,40,600
Loan etc.	2,35,000

Expenditure

Major items :

Establishment charges	2,37,500
Law charges	1,00,200



The Board has been requested for a broad summary of the budgetary position indicating year-wise, the opening balance, the actual expenditure, the actual receipts and the closing balance.

ANNEXURE 'D'

Draft—The Central Act No.—1973

THE PUBLIC WAKFS (EXTENSION OF LIMITATION)
AMENDMENT ACT, 1973

A

BILL

further to amend the Public Wakfs (Extension of Limitation) Act, 1959. Be it enacted by Parliament in the twentyfourth year of the Republic of India as follows:—

1. (1) This Act may be called the Public Wakfs (Extension of Limitation) Amendment Act, 1973. Act No. _____ of 1973.

Short title

2. For section 2 of the Public Wakfs (Extension of Limitation) Act, 1959, the following shall be, and shall be deemed always to have been, substituted, namely:—

Substitution
Section 2.

"2.—In this Act, "Public Wakf" means the permanent dedication by a person professing Islam of any immovable property for any purpose recognised by Muslim Law as a public purpose of a pious, religious or charitable nature and includes a wakf by user being a wakf for any purpose recognised by Muslim Law as a public purpose of pious, religious or charitable nature".

Definition

3. For Section 3 of the Public Wakfs (Extension of Limitation) Act, 1959, the following shall be, and shall be deemed always to have been, substituted, namely:—

Amendment of
Section 3 of the
Central Act 25 of
1959

"Where a person entitled to institute a suit of the description referred to in Articles 142 and 144 of the First Schedule to the Indian Limitation Act, 1908, or the corresponding provisions of the Limitation Act, 1963, for possession of any immovable property forming part of a public wakf or any interest therein has been dispossessed or has discontinued the possession, at any time after the 14th day of August, 1947, and before the 7th day of May, 1954, or, as the case may be, the possession of the defendant in such a suit has become adverse to such person at any time during the said period, then notwithstanding anything contained in the said Acts, the period of limitation in respect of such a suit shall extend upto the 31st day of December, 1978.

Explanation.—For the purposes of this section any immovable property given or donated by any person not professing Islam for the support of a public wakf shall be deemed to be property forming part of the public wakf.

NOTE.—

(a) Under Section 3 reference to both Articles 142 and 144 of the Indian Limitation Act, 1908 and Articles 64 and 65 of the Limitation Act, 1963 have been mentioned by way of describing the suits because Articles 142 and 144 of the Indian Limitation Act of 1908 are not identical with Articles 64 and 65 of the Limitation Act of 1963 with the latter containing additional provisions not contained in Articles 142 and 144 of the Act of 1908.

(b) The period of limitation has been recommended to be extended upto 31st December, 1978, in order to enable the Wakf Boards to reinstitute the suits already thrown out by some of the High Courts consequent to their interpretation of Section 2 of the Act and to launch litigation in respect of supporting wakfs defined under Section 66C of Act 29 of 1954 and also taking into account the progress of the survey work still pending in the various States".

ANNEXURE 'E'

Draft enactment incorporating all the amendments and deletions suggested by the Committee

Central Act No. ————— 1973

THE WAKF (AMENDMENT) BILL, 1973

A

BILL

further to amend the Wakf Act, 1954. Be it enacted by Parliament in the twentyfourth year of the Republic of India as follows :—

Short title,

1. (1) This Act may be called the Wakf (Amendment) Act, 1973.

Amendments to
Section 3.

(a) In Section 3 of the principal Act, for clause (h), the following clause shall be always deemed to have been, substituted, namely:—

“(h) ‘Person interested’ in a wakf means any person who is entitled to pecuniary or other benefits from the wakf and includes,—

(i) any person who has a right to worship or to perform any religious duty at a mosque, idgah, imambara, dargah, khanqah, maqbara, graveyard or any other institution connected with the wakf or to participate in any religious institution under the wakf ;

(ii) the wakif and any descendant of the wakif and the mutav

(iii) any person aggrieved or affected by any notification or order made under the provisions of this Act by the Board or any officer duly authorised in that behalf in writing, and any person who claims any interest in the property included in the list of wakfs or any property said to be wakf or wakf property”.

(b) In Section 3 of the principal Act, for sub-clause (i) of clause (1), the following shall be, and shall be always deemed to have been, substituted, namely :—

“(i) Wakf by user :

Explanation.—A wakf by user shall not cease to be wakf by reason only of disuse, irrespective of the period of such disuse”.

Amendments to
Section 4.

(a) In the sub-heading to Section 4 of the principal Act, the word “Preliminary” shall be omitted;

(b) In Section 4 of the principal Act, for sub-section (1) the following shall be, and shall be always deemed to have been, substituted, namely:—

“4.(1).—The State Government, by notification in the official gazette, may appoint as many additional or assistant Commissioners as may be necessary for the purpose of making a survey of wakf properties in the State or subsequent surveys may be ordered by the State Government periodically.

Provided that a period of twenty years should elapse after the completion of the survey at the commencement of the Act, before any fresh survey is ordered by the State Government.”

(c) In Section 4 of the principal Act, for sub-section (4), the following sub-section shall be, and shall be deemed always to have been, substituted, namely:—

“The Commissioner shall, while making any inquiry including as to whether any property is wakf or not, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and examining any witnesses;
- (b) requiring the discovery and production of any document;
- (c) requisitioning any public record from any court or office ;
- (d) issuing commissions for the examination of any witness or accounts ;
- (e) making any local inspection or local investigation ;
- (f) any other matter which may be prescribed.

Provided that, if during any such enquiry, any dispute arises as to whether a particular property is wakf or not all parties affected should be given a reasonable opportunity to be heard.

(d) In Section 4 of the principal Act, sub-section (5) shall be deleted.

In Section 5 of the principal Act, in sub-section (2), the word “existing” shall be omitted.

Amendment to
Section 5.

(a) In Section 27 of the principal Act, in sub-section (1) for the words “as it may deem fit” the words “as prescribed” may be substituted;

Amendments to
Section 27.

(b) In Section 27 of the principal Act, after sub-section (2), the following proviso shall be inserted :—

“Provided that the Board before taking any decision shall provide a reasonable opportunity to be heard to all parties likely to be affected”.

In Section 43 of the principal Act, for sub-section (4), the following sub-section shall be substituted :—

Amendment to
Section 43.

“4. No action shall be taken by the Board under sub-section (1) or sub-section (2) unless it has held an enquiry into the matter in the prescribed manner and the decision has been taken by a majority of not less than two-thirds of the members of the Board”.