

Standing Committee Report Summary

The Waqf Properties (Eviction of Unauthorized Occupants) Bill, 2014

- The Standing Committee on Social Justice and Empowerment (Chairperson: Mr Ramesh Bais) submitted its report on the Waqf Properties (Eviction of Unauthorized Occupants) Bill, 2014 on August 12, 2015. The Bill was introduced in Rajya Sabha on February 18, 2014 and referred to the Standing Committee for examination on March 5, 2014 and subsequently on September 16, 2014.
- The Bill provides the process for the eviction of unauthorised occupants from Waqf properties, and lays down penalties in this regard.
- **Functioning of Waqf boards:** The Committee observed that there are several issues with the functioning of Waqf boards. These include inordinate delays in their constitution, appointment of under qualified members, lack of infrastructure, etc. If these issues are not addressed, encroachment and unauthorised occupation of Waqf properties will continue. It recommended that the central government periodically monitor the functioning and issue directions to the boards.
- **Definition of unauthorised occupation:** Under the Bill, only a person can be an unauthorised occupant. The Committee recommended that private and public institutions be included within the ambit. Further, any person who is in legal possession of Waqf property must not become an unauthorised occupant after the death of the original tenant.
- **Grounds for eviction:** The Bill lays down the procedure for eviction of unauthorised occupants from any waqf property. However, it does not specify the grounds for eviction. The Waqf Act, 1995 and relevant rules are also silent on this aspect. The Committee recommended that the grounds for eviction be specified in the Bill. Further, the period for showing cause (by the occupant against his eviction) must be extended from seven to 15 days.
- **Use of force for eviction:** The Bill permits Waqf Estate Officers to use force for the eviction of any unauthorised occupant who does not comply with the eviction order. The Committee recommended that the eviction process be carried out with the assistance of the relevant District Collector, Commissioner and Superintendent of Police by exercising due restraint.
- **Removal of unauthorised construction:** The Bill authorizes the Waqf Estate Officer to order the removal of structures, goods, fixtures, cattle etc, from the waqf property without notice. The Committee stated that such restrictions would not permit a shopkeeper tenant to run his shop or conduct his business, and must be reconsidered.
- **Powers of Waqf Estate Officers:** The Bill vests Waqf Estate Officers with the powers of a civil court in conducting an inquiry under the Bill. In this context, the Committee noted that the Bill does not specify any legal qualifications for such officers. It recommended that these officers be appointed from the civil services.
- **Penalties:** The Bill imposes a penalty of up to six months simple imprisonment and five thousand rupees fine for unlawful occupation of waqf property. The Committee recommends that this be raised to rigorous imprisonment up to three years and a fine up to one lakh rupees.
- Further, under the Bill if an evictee reoccupies the property, he may be punished with imprisonment up to one year, and five thousand rupees fine. The Committee recommends that the penalties be raised to rigorous imprisonment up to five years and a fine up to five lakh rupees.
- **Ambit of the Bill:** The Bill does not apply to protected sites under the Ancient Monuments and Archaeological Sites and Remains Act, 1958. The Committee recommended that the Bill apply to that part of such protected sites if it has a masjid, dargah or an ashoorkhana. Only archaeological sites that are not mosques must be excluded.

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