



32ND M. C. CHAGLA MEMORIAL GOVERNMENT LAW COLLEGE NATIONAL MOOT COURT COMPETITION, 2025

27th September & 10th - 11th October, 2025

MOOT PROPOSITION

IN THE SUPREME COURT OF BHARATPUR

Al-Haj Mohammad Ismail & Ors.

...Petitioner

versus

Union of Bharatpur

...Respondent

1. The Democratic Republic of Bharatpur ("**Bharatpur**") is a diverse nation with a population of 1.4 billion people, comprising 28 states and 8 union territories. The country has a rich pluralistic heritage spanning over 5,000 years, with people belonging to various religions, cultures, and communities coexisting harmoniously under the aegis of a secular constitutional framework.
2. After a prolonged struggle for independence spanning nearly a century, Bharatpur gained freedom and adopted a supreme law – The Constitution of Bharatpur ("**Constitution**"), which enshrines the principles of secularism, religious freedom, and minority rights as fundamental pillars of the constitutional order.

3. The Qadiri community in Bharatpur, constituting approximately 15% of the population, has historically practiced the Qadiri tradition of Waqf – the permanent dedication of movable or immovable property for religious, charitable, or educational purposes. This practice, rooted in Qadiri jurisprudence, has been instrumental in establishing and maintaining prayer houses, religious schools, hospitals, and charitable institutions across the country.
4. Since the colonial period, various legislations have governed Waqf properties in Bharatpur. The most significant being the Waqf Act, 1995 (**“Principal Act”**), which established State Waqf Boards to manage and administer Waqf properties, ensuring their preservation and proper utilisation for their designated religious and charitable purposes.
5. Under the Principal Act, Waqf properties could be established through three methods: (i) express declaration by the Waqif (dedicator); (ii) recognition based on long-term usage for religious or charitable purposes (**“Waqf by User”**); and (iii) endowment when family succession ends (**“Waqf-alal-aulad”**). The Act mandated that all Waqf Board members, except government nominees, must be Qadiris, reflecting the religious nature of these endowments.
6. Over the decades, several challenges emerged in Waqf administration, including mismanagement, corruption, encroachment of properties, and prolonged legal disputes. According to government records, out of approximately 850,000 Waqf properties nationwide, over 12,000 were involved in litigation, nearly 58,000 had been encroached upon, and more than 400,000 lacked clear legal status.
7. The State of Nandgram (**“Nandgram”**) is one of the progressive states in Bharatpur, with a significant Qadiri population of 22%. The state houses some of the most historically important Waqf properties, including the 800-year-old prayer house in the capital city of Shahjahanpur, several ancient religious schools, and numerous charitable institutions serving the underprivileged communities.
8. In 2023, the Nandgram State Government commissioned a comprehensive study on Waqf property management within the state. The study, conducted by the State Revenue Department

in collaboration with Qadiri law experts, revealed systemic issues including: (i) lack of proper documentation for 35% of Waqf properties; (ii) illegal encroachment of 15% of total Waqf land; (iii) financial irregularities in 28% of Waqf Boards; and (iv) pending litigation involving properties worth approximately ₹2,500 crores.

9. Concurrently, at the national level, growing concerns about transparency and accountability in Waqf administration prompted the Central Government to introduce comprehensive reforms. The objective was to modernise Waqf governance, enhance transparency, prevent misuse of properties, and ensure that these endowments effectively serve their charitable purposes.
10. On 8th August, 2024, the Parliament of Bharatpur introduced the Waqf (Amendment) Bill, 2024, proposing sweeping changes to the existing legal framework. The Bill aimed to rename the Principal Act as the "Unified Waqf Management, Empowerment, Efficiency and Development Act, 1995" and introduced several controversial provisions.
11. The key amendments proposed included: (i) mandatory inclusion of at least two non-Qadiri members in the Central Waqf Council and State Waqf Boards; (ii) empowering District Collectors to conduct surveys and determine the status of disputed properties; (iii) removal of the Waqf by User provision for future dedications; (iv) requirement that only Qadiris practicing the Qadiri faith for at least five years could create Waqf; and (v) provision for appeals against Tribunal decisions to High Courts.
12. The Bill was referred to a Joint Parliamentary Committee (“JPC”) comprising 31 members for detailed examination. During the committee proceedings, extensive consultations were held with various stakeholders, including Qadiri organisations, legal experts, and civil society groups. The committee received over 125 memoranda from different organisations expressing diverse viewpoints on the proposed amendments.
13. Despite strong opposition from various Qadiri organisations, including the All Bharatpur Qadiri Personal Law Board, Majlis-e-Ulama-e-Bharatpur, and several political parties, the Bill was passed by both Houses of Parliament in April 2025 with certain modifications. The Act received Presidential assent on 5th April, 2025, becoming the Waqf (Amendment) Act, 2025

("Amendment Act").

14. The Amendment Act introduced several contentious provisions with significant structural changes to the Principal Act: Section 9 mandated that the Central Waqf Council shall include two non-Qadiri members among its 22 total members, removing the previous requirement that all Council members, barring the Minister, must be Qadiris. Section 14 required each State Waqf Board to have a minimum of two non-Qadiri members, fundamentally altering the composition which previously mandated all board members to be Qadiris. Section 4 revised survey provisions by transferring all pending surveys from the Survey Commissioner to the District Collector having jurisdiction, while Section 36(7) empowered District Collectors to check the "genuineness and validity" of Waqf applications before registration and investigate any government land or property claimed as Waqf.
15. Section 3(r)(i) was deleted entirely, eliminating the Waqf by User provision which previously recognised Waqf based on long-standing public religious use even without written declaration, though existing Waqf-by-user properties registered before 8th April, 2025 retained their status unless involved in government disputes. Section 3-A introduced new conditions requiring that "only a person practicing the Qadiri faith for at least five years may declare a Waqf" and mandating lawful ownership and competency to transfer property. Section 83 restructured Waqf Tribunals to comprise a District Court judge as Chairman, a Joint Secretary-level state government officer, and an expert in Qadiri law and jurisprudence, while removing provisions deeming finality to Tribunal decisions and providing for appeals to High Courts within 90 days. Additionally, Section 40 was abolished entirely, removing the Waqf Board's previous authority to unilaterally designate any property as Waqf land.
16. The Act sparked immediate controversy and widespread protests across the country. The Qadiri clerics and scholars argued that these amendments violated the constitutional principles of religious freedom and the autonomous management of religious affairs. They contended that including non-Qadiris in Waqf governance was contrary to Qadiri law and constitutional provisions protecting minority institutions.

17. Dr. Al-Haj Mohammad Ismail, a prominent Qadiri scholar and Chairman of the Nandgram State Waqf Board, along with several other Petitioners including the All Bharatpur Qadiri Council, Anjuman-e-Rehmat Trust, and various individual Waqifs, filed a petition against the Union of Bharatpur in the Supreme Court of Bharatpur challenging the constitutional validity of certain provisions of the Amendment Act.
18. The Petitioners argued that the Amendment Act violated several constitutional provisions: (i) Article 25 (freedom of conscience and religion); (ii) Article 26 (freedom to manage religious affairs); (iii) Article 14 (right to equality); (iv) Article 29 (protection of minority interests); and (v) Article 30 (right of minorities to establish and administer educational institutions). They contended that mandatory inclusion of non-Qadiris in Waqf governance undermined the religious autonomy of the Qadiri community.
19. The Petitioners further argued that empowering District Collectors (who may lack understanding of Qadiri jurisprudence) to conduct surveys and adjudicate the genuineness and validity of Waqf applications violated the specialised nature of Waqf law and could lead to decisions contrary to Qadiri principles governing these endowments, thereby undermining the religious autonomy guaranteed under Articles 25 and 26 of the Constitution.
20. The Respondent defended the Amendment Act as a necessary reform to ensure transparency, accountability, and efficient management of Waqf properties. They argued that the amendments were religiously neutral administrative measures aimed at preventing corruption and ensuring that Waqf resources effectively serve their charitable purposes.
21. The Respondent contended that the inclusion of non-Qadiri members would enhance transparency and bring diverse perspectives to Waqf administration without interfering with religious practices. They argued that the constitutional provisions cited by Petitioners did not provide absolute immunity from reasonable regulation by the state in the public interest.
22. On 15th May, 2025, the Supreme Court of Bharatpur constituted a 7-Judge Constitutional Bench to hear the matter and framed the following issues for determination:

- i. Whether the mandatory inclusion of non-Qadiri members in the Central Waqf Council and State Waqf Boards under Sections 9 and 14 of the Principal Act as amended by the Amendment Act, violates the fundamental rights guaranteed under Articles 25, 26, and 30 of the Constitution of Bharatpur?
- ii. Whether the elimination of Waqf by User provision under Section 3(r) of the Principal Act as amended by the Amendment Act, 2025, and the newly inserted requirement that only persons practicing the Qadiri faith for at least five years can create Waqf violates the right to equality under Article 14 and creates unreasonable restrictions on religious freedom?
- iii. Whether the restructuring of Waqf Tribunals under Section 83 of the Principal Act as amended by the Amendment Act, and the abolition of Section 40 of the Principal Act by the Amendment Act, violates the constitutional mandate for specialised adjudication of matters governed by personal law and undermines the effective administration of justice in Waqf-related disputes?
- iv. Whether empowering District Collectors under Sections 4 and 36 to conduct surveys and adjudicate Waqf disputes, restructuring Waqf Tribunals under Section 83, and abolishing Section 40 of the Principal Act constitute excessive state interference in religious affairs and violate the constitutional mandate for specialised adjudication of personal law matters?

NOTE

1. For the purposes of this Moot Proposition, all laws of the Democratic Republic of Bharatpur are *pari materia* to those of the Republic of India. Participants should assume that all relevant constitutional and legal provisions of India are directly applicable in Bharatpur.
2. The Moot Proposition is purely a work of fiction and created solely for the purpose of the Moot Court Competition. The characters, institutions, organizations, and events depicted in this Moot Proposition are purely fictional. Any similarity or resemblance to actual persons or actual events is purely coincidental and unintentional. The Moot Proposition does not intend to defame/denigrate/hurt the sentiments of any person(s), institution, communities, groups, or class of persons.
3. Participants are at liberty to frame and argue additional issues beyond those provided in the framed issues, provided they arise from the facts and law presented in this Proposition.