



TAMIL NADU GOVERNMENT GAZETTE

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Purattasi 1, Vikari, Thiruvalluvar Aandu-2050

Part II—Section 2

**Notifications or Orders of interest to a Section of the public
issued by Secretariat Departments.**

NOTIFICATIONS BY GOVERNMENT

BACKWARD CLASSES, MOST BACKWARD CLASSES AND MINORITIES WELFARE DEPARTMENT

SUPERSEDING OF THE TAMIL NADU WAQF BOARD AND APPOINTMENT OF SPECIAL OFFICER
UNDER THE WAQF ACT, 1995

[G.O. Ms. No. 58, Backward Classes, Most Backward Classes and Minorities Welfare (T1), 18th September 2019,
புரட்டாசி 1, விகாரி, திருவள்ளுவர் ஆண்டு-2050.]

READ:

1. G.O.(2D) No. 23, Backward Classes, Most Backward Classes and Minorities Welfare (T1) Department, dated 14-09-2017.
2. G.O.(2D) No. 24, Backward Classes, Most Backward Classes and Minorities Welfare (T1) Department, dated 10-10-2017.
3. Show Cause Notice Issued in Letter No. 4451/T1/2019-02, dated 06-09-2019.
4. Explanations received from Thiruvalargal K.A.M. Muhammed Abubacker, M.L.A., A.S. Fathima Muzaffer, Dr. Haja K. Majeed Syed Ali Akbar, Members, Tamil Nadu Waqf Board dated 10-09-2019.

No. II(2)/BCMBCMWW/769(a)/2019.

Whereas, the Tamil Nadu Waqf Board has been reconstituted *vide* Government Orders first and second read above as per sub-section (1) of Section 14 of the Waqf Act, 1995 with 11 members for a term of 5 years as detailed below:-

Muslim member of Parliament

Thiru. A. Anwhar Raajhaa, M.P.,

Muslim member of State Legislature

1. Thiru K.A.M. Muhammed Abubacker, M.L.A.,
2. Thiru K.S. Masthan, M.L.A.,

Senior Muslim Advocates

1. Thiru A. Sirajudeen
2. Thiru M. Ajmal Khan

Person with professional experience

Thiru A. Tamilmahan Hussain

Recognized scholars in Shia and Sunni Islamic Theology

1. Tmt. Amatul Aatifa, Scholar in Shia Islamic Theology
2. Tmt. A.S. Fathima Muzafer, Scholar in Sunni Islamic Theology

Mutawallis

1. Dr. Haja K. Majeed
2. Thiru. Syed Ali Akbar

State Government Nominee

Thiru M.A. Siddique, I.A.S.,

2. And whereas, Thiru A. Anwhar Raajhaa was elected as Chairperson of the Tamil Nadu Waqf Board and he ceased to be a Member of Parliament and hence he has also ceased to be a member as well as the Chairman of Tamil Nadu Waqf Board as per Section 14 of the Waqf Act, 1995, and at present the Tamil Nadu Waqf Board consists of 10 Members as stated in para 1 above.

3. And whereas, since there is no Muslim Members of the Bar Council of Tamil Nadu, two senior Muslim Advocates had been nominated as Members of the Tamil Nadu Waqf Board by invoking the proviso to Section 14(1)(b)(iii) of the Waqf Act, 1995. At that time, a view had been taken that the Senior Muslim Advocates appointed as members of the Tamil Nadu Waqf Board as per proviso to Section 14(1)(b)(iii) of the said Act would represent elected members of the Board. Now, the Government has received legal advice that the senior muslim Advocates appointed as members shall be considered as nominated members.

4. And whereas, Section 14(4) of the Waqf Act, 1995 states that the number of elected members of the Board, shall at all times, be more than nominated members of the Board. In the present composition of Tamil Nadu Waqf Board, there are four elected members and six nominated members and hence the elected members are less than the nominated members and the Board is unable to perform its functions as per the Waqf Act, 1995.

5. And whereas, presently there are two Muslim Members of Parliament in the State. Even, after their appointment as Members of the Tamil Nadu Waqf Board through election process by constituting electoral college, there will be six elected members and six nominated members for the Tamil Nadu Waqf Board, which would not fulfill the provisions of Section 14(4) of the said Act.

6. And whereas, the High Court of Madras in its Judgment dated 25.03.2013 in W.P. No.16997/2012 etc., inter-alia, held that

“As per section 14(4) the number of elected members of the Board shall, at all times, be more than the nominated members of the Board, except as provided in sub-section (3). Since the elected members of the Board are less than the nominated members of the Board, till the election is completed and Board is reconstituted, the powers and functions of the Waqf Board cannot be exercised by the remaining nine members. Any such functioning by the remaining nine members of the Waqf Board will be in violation of the statutory provision of section 14(4). Therefore, we direct that till the election is completed and new Waqf Board is re-constituted with the elected two members of the Members of Parliament and two members of State Legislature, the Chief Executive Officer shall exercise all the powers and functions of the Board”.

7. And whereas, Section 99(1) of the Waqf Act, 1995 empowers the State Government to supersede the Board by notification, if the Board is unable to perform. Further the proviso to Section 99(1) of the Waqf Act, 1995 states that before issuing a notification under this sub-section, the State Government shall give a reasonable time to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

8. And whereas, the Tamil Nadu Waqf Board has been called upon to show cause within 7 days from the receipt of that notice as to why the Tamil Nadu Waqf Board should not be superseded by the State Government under Section 99 of the Waqf Act, 1995. Further it has also been mentioned therein that in case no reply is received within the stipulated time, action

will be pursued in accordance with law. The show cause notice was served to all the present 10 members of the Tamil Nadu Waqf Board. In response to the show cause notice, out of 10 members 4 members namely, Thiruvalargal K.A.M. Muhammed Abubacker, M.L.A., A.S. Fathima Muzaffer, Dr. Haja K. Majeed Syed Ali Akbar, Members, Tamil Nadu Waqf Board alone have sent their replies to the Government. They have stated that the Senior Advocates nominated as Members can be considered as elected members and requested that the superseding process may be dropped. In this regard, the Government had already received legal opinion that the Senior Advocates can be considered as nominated members. In view of above, the elected members are less than the nominated members and the Board is unable to perform its functions as per the Waqf Act, 1995. Thiru A. Sirajudeen, member, Tamil Nadu Wafq Board without responding to the notice has submitted his resignation as a member of the Tamil Nadu Waqf Board, citing personal reasons vide his letter dated 09.09.2019.

9. In exercise of the powers conferred by sub-section (1) of section 99 of the Waqf Act, 1995, after considering the explanations of certain members, the Governor of Tamil Nadu hereby supersedes the Tamil Nadu Waqf Board for a period of six months, since the Tamil Nadu Waqf Board is unable to perform because the board has elected members lesser than the nominated members which is in violation of statutory provision of sub-section (4) of section 14 of the Waqf Act, 1995.

10. Further in exercise of the powers conferred by clause (b) of sub-section (2) of section 99 of the Waqf Act, 1995, the Governor of Tamil Nadu hereby appoints Thiru M.A. Siddique, I.A.S., Principal Secretary to Government (Expenditure), Finance Department as Special Officer to exercise and perform all the powers and duties under the provisions of the Waqf Act, 1995 on behalf of the Tamil Nadu Waqf Board during the period of supersession.

A. KARTHIK,
Secretary to Government.