Contention of Waqf Properties

Why in News?

Recently, the Union Housing and Urban Affairs Ministry has taken over 123 properties belonging to Delhi Waqf Board which has caused a contention with the board.

What is Waqf?

- **Waqf** – It is any movable or immovable property given in the name of God for religious and charitable purposes by a person professing Islam.
- It can be formed through a deed or instrument, or a property can be deemed waqf if it has been used for religious or charitable purposes for a long period of time.
- A person creating the waqf cannot take back the property and the waqf would be a continuing entity.
- A *non-Muslim can also create a waqf* but the individual must profess Islam and the objective of creating the waqf has to be Islamic.

Status of Waqf properties

- According to the data of Waqf Management System of India, at present there are around 8.5 lakh properties with Waqf Boards.
- These properties spread over more than 8 lakh acres of land.
- After the Army and Railways, most of the land is with the Waqf Boards.

How is a waqf governed?

- Waqfs in India are governed by the ***Waqf Act, 1995.***
- A *survey commissioner* under the Act lists all properties declared as waqf by making local investigation, summoning witnesses and requisitioning public documents.
- The waqf is managed by a ***mutawali,*** who acts as a supervisor similar to a trust established under the Indian Trusts Act, 1882, but trusts can be set up for broader purposes than religious and charitable uses.

What about Waqf Board and Central Waqf Council?

Waqf Board

- A Waqf Board is a juristic person with power to acquire and hold property and to transfer any such property.
- The board can sue and be sued in a court as it is recognised as a legal entity or juristic person.

- **Composition** - Each state has a Waqf Board
  - Headed by a chairperson
  - One or two nominees from the state government
  - Muslim legislators and parliamentarians
  - Muslim members of the state bar council
  - Recognised scholars of islamic theology and
  - Mutawalis of the waqfs with an annual income of rs 1 lakh and above
- **Function** - The Waqf Board can administer the property and take measures for the recovery of lost properties of any waqf, to sanction any transfer of immovable property of a waqf by way of sale, gift, mortgage, exchange or lease.
- However, the sanction shall not be given unless at least two thirds of the members of the Waqf Board vote in favour of such transaction.
- Alienating waqf property without prior approval of state waqf boards is an offence and special tribunals established under the Waqf Act have jurisdiction to deal with such disputes.

Central Waqf Council

- A statutory body under the administrative control of the *Ministry of Minority Affairs* regulates various Waqf boards.
- It was set up in *1964* as per the provision given in the Waqf Act, 1954.
- **Composition -** It consists of a chairman and members not exceeding 20 in number who appointed by the Government of India.
- *Union Minister in charge of Waqf* is the ex-officio chairman of the council.
- **Function** - The Council has been empowered to advise the Central Government, State Governments and State Waqf Boards.

What is the tussle between Centre and Delhi Waqf board?

- **Historical background** – In 2014, the *then government gifted 123 prime properties* in Delhi to Delhi Waqf Board.
- Based on the prtitions filed, High Court in 2014 passed an order to form a committee to study various Delhi Waqf Board properties.
- **S.P. Garg Committee** – It was formed by the government to *study the status of monuments* under the control of Delhi Waqf board.
- In its report, it has mentioned that that no representation or objection was received from the Delhi Waqf Board for acquisition of those 123 properties.
- **Current Issue** –123 properties lapsed into the hands of the Centre including many historic mosques, medieval dargahs and cemeteries.
- Delhi Development Authority (DDA) is removing illegal encroachment surrounding heritage monuments to secure, protect and preserve the area falling under Mehrauli Archaeological Park.
- **Wakf Board's stand** - The Waqf Board which had gone to court following the de-listing of 123 properties, and asked for a halt to the surveys being conducted.
- The Delhi High Court, however, allowed the survey to continue.
- It did direct the authorities to ensure minimal disruption in day-to-day affairs at the

properties, including non-disturbance of prayer timings.

- **Centre's stand** - The Union Ministry of Housing and Urban Affairs' letter absolves the Board from matters pertaining to the said properties in the High Court.
- It has claimed that the Delhi Waqf Board is not and cannot be the owner of any of the 123 properties and at best could only be a custodian, that too only if it's a Waqf property.

References

1. The Hindu| Tussle between Waqf Board and Government
2. IE| Regulation of Delhi Waqf Board
3. Times of India| Powers of Waqf Boards

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