

THE PUNJAB WAQF PROPERTIES (ADMINISTRATION) RULES, 2002

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## THE PUNJAB WAQF PROPERTIES (ADMINISTRATION) RULES, 2002

[18<sup>th</sup> June, 2002]

### NOTIFICATION

**No.US(G)3-82/A/93.** In exercise of the powers conferred upon him under section 25 of the Punjab Waqf Properties Ordinance, 1979 (IV of 1979), the Governor of the Punjab is pleased to make the following rules:-

**1. Short title and commencement.–**

- (1) These rules may be called the Punjab Waqf Properties (Administration) Rules, 2002.
- (2) They shall come into force at once.

**2. Definitions.–**

In these rules, unless the subject or context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-

- (a) **“Manager”** means any person appointed by the Chief Administrator for the administration, control, management and maintenance of a waqf property; and
- (b) **“Ordinance”** means the Punjab Waqf Properties Ordinance, 1979.

**3. Appointment of Managers.–**

The Chief Administrator, after taking over and assuming the administration of a waqf property, may appoint a Manager to administer, control, manage and maintain the waqf property on behalf of and subject to the orders of the Chief Administrator.

**4. Scheme for the management of waqf property.–**

- (1) The Manager shall prepare, for settlement by the Chief Administrator, a scheme for the administration of the waqf property in his charge. The scheme shall be designed to give effect to such wishes of the person dedicating, as can be ascertained and to which effect can reasonably be given. In the absence of evidence of express dedication, the waqf property shall be used for the purpose for which it has been used or for any purpose recognized by Islam as religious, pious, or charitable.
- (2) Where the Waqf property is a mosque, the scheme shall ensure that the religious services and other functions performed therein are continued.
- (3) Where the waqf property is a shrine, or other religious institution, the scheme shall make provision for:-
  - (i) The conduct and regulation of the established rites and ceremonies in accordance with the tenets of the saint or sect concerned; and
  - (ii) The proper custody of cash box placed at the shrine or other religious institutions and the income there from. The cash boxes placed at various shrines and properties shall have three locks system i.e. one by Manager , one by National Bank of Pakistan concerned branch and one by District Khatib. These cash boxes shall be opened according to the schedule approved and circulated by the Chief Administrator of Auqaf.

**5. Submission of scheme to the Chief Administrator.–**

- (1) The manager shall submit the scheme prepared by him to the Administrator who shall forward it with his recommendations to the Chief Administrator.
- (2) The Chief Administrator may settle, or refuse to settle, or return for reconsideration any scheme submitted to him under sub-rule (1), or may call for such further details or information about the scheme, or direct such further examination of the scheme as he may consider necessary.

**6. <sup>1</sup>Appointment of Religious Purposes Committee.–**

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<sup>1</sup> Amended vide notification no No.ADA-II/15(9)A/2001 dated 15<sup>th</sup> March,2011.

- (1) The Chief Administrator or any officer authorized by him may appoint a Religious Purposes Committee for a waqf property.
- (2) Where the a waqf property is a shrine, the Religious Purposes Committee shall consist of:
  - (a) not more than seven members, where the shrine has an annual income of less than two million rupees;
  - (b) not more than ten members where the shrine has an annual income of more than two million rupees but less than five million rupees; and
  - (c) not more than twenty members where the shrine has an annual income of more than five million rupees.
- (3) Where the waqf property is a mosque, the Religious Purposes Committee shall consist of:
  - (i) five to seven members, where the mosque has an annual income of more than one hundred thousand rupees; and
  - (ii) five members, where the mosque has an annual income of less than one hundred thousand rupees.
- (4) Where the waqf property is an Imam Bargah or any other religious institution, which is not specified in this rule, the Religious Purposes Committee shall consist of not more than seven members.
- (5) The Chief Administrator or any officer authorized by him shall appoint one of the members of the Religious Purposes Committee as Chairman of the Committee.
- (6) The Chief Administrator or an officer authorized by him shall appoint the Zonal Administrator or the Manager as a Member/Secretary of a Religious Purposes Committee.
- (7) The tenure of a Religious Purposes Committee shall be one year from the date of its constitution but the Chief Administrator or an officer authorized by him may dissolve a Religious Purposes Committee during the currency of its tenure.
- (8) The Chief Administrator or an officer authorized by him shall, while appointing members of a Religious Purposes Committee of a waqf property, take into consideration the "Maslak" of predominant followers of the waqf property.
- (9) Religious Purposes Committee in respect of category (c) shall be constituted by the Chief Administrator of Auqaf, and the Religious Purposes Committee of categories (a) and (b) shall be constituted by the Zonal Administrator concerned.

## **7. Lease of Waqf Properties.–**

- (1) Unless otherwise specifically provided in the scheme settled under rule 5, the following directions with regard to the lease of waqf property shall be deemed to form part of such scheme:-
  - (i) Where the lease relates to land:-
    - (a) the lease shall be in writing;
    - (b) the period of lease shall be one year and shall not exceed three years with the following break up:-
      - (aa) first year's money to be determined in the open auction;
      - (bb) second year 20% increase; and
      - (cc) third year 20% increase.-

The lease shall be extendable, subject to the approval of the Chief Administrator Auqaf for further two years with the following rate of lease money:-

First year	10%
Second Year	10%

Provided that the Chief Administrator of Auqaf may grant a lease for any longer period if in his opinion such action is necessary in the best interest of the waqf property;

- (c) the lease shall be made through open auction after due publicity through national press, by distribution of hand bills on the spot and also by beat of drums, where so required, in favour of the highest bidder. The auction shall invariably be held at the spot or at such other place close to it as may be easily accessible to the intending participants;
- (d) fresh "Lotbandi" shall be prepared by the manager with the assistance or Revenue and Administrative Field Staff of Auqaf Organization and shall be sent for approval to the Zonal Administrator who shall approve it and intimate the Director Estate and Field Staff thereof. The "Lotbandi" so approved, shall be got printed, neatly cyclostyled and sufficient copies shall be kept in the offices of Manager, Zonal Administrator and Chief Administrator Auqaf. Copies of "Lotbandi" shall also be sent to the Town Committees, Tehsil Council, Zila Council, Deputy District Officer (Revenue) and District Coordination Officer concerned. File of such revenue estate shall be maintained and subsequently updated as amended by the Competent Authority from time to time. The file shall, consist of latest copies of "Register Haqdarar Zamin", "Khasra Gardawari", "Aks Shajra" and report "Roznamcha" of the Patwari showing Auqaf land in distinct column and delimitation of lots;
- (e) the lots of irrigated land shall preferably be not of more than fifteen acres, that of "Banjar" land or land without irrigation means of not more than seventy five acres. Marginal adjustments can be made in exceptional cases with reasons to be recorded;
- (f) schedule of auction shall be prepared by the Managers in consultation with the Zonal Administrator and shall be sent to the Director Estate for approval;
- (g) the approved schedule shall be conveyed to the Manager through the Administrator with a copy to the Chief Administrator, District Coordination Officer, Deputy District Officer (Revenue) and, as the case may be, Zila council or Tehsil Council;
- (h) (aa) the auction of land measuring  $\frac{1}{2}$  square shall be conducted by an Auction Committee consisting of:-
  - (aaa) the Manager Auqf;
  - (bbb) the representative of Tehsil Council or Zila Council; and
  - (ccc) the District Khatib.
 (bb) where the land exceeds  $\frac{1}{2}$  square, the auction committee shall consist of:-
  - (aaa) the Zonal Administrator Auqaf;
  - (bbb) the Manager Auqf;
  - (ccc) the representative of Head Officer;
  - (ddd) the representative of District Coordination Officer; and
  - (eee) the District Khatib.
- (i) if the increase in the lease money is 20% or more the Zonal Administrator may approve the auction; provided that the lease money is more than the lease money of two preceding years and contestants were three or more;
- (j) in case, increase in lease money is more than 10% but less than 20% of the preceding years and contestants were at least two, the approval shall be accorded by the Director Estate by a speaking order under intimation to the Chief Administrator Auqaf. Other cases shall be submitted to the Chief Administrator Auqaf for approval;

- (k) the cases which are purposely delayed, mishandled or dumped to cause loss to the department shall be put up at the end of the lease period. In case the loss under this head is due to the negligence and mischief/inaction on the part of the Field Officers, they shall make the loss good, or face disciplinary action under Punjab Removal from Service (Special Powers) Ordinance, 2000 and Efficiency & Discipline Rules, 1999 in addition to the recovery of loss;
- (l) the Zonal Administrator may grant extension in temporary lease in rural areas for one year at a time and for a maximum period of two years beyond the auction year; provided that the yearly increase in lease money is not less than 20% provided further that original lease was approved as a result of auction under clause (i) above and not otherwise. The extension beyond two years shall be granted by the Chief Administrator Auqaf. Before issuing orders of extension whole of the lease money shall be recovered from the lessee in advance and if he fails to do so, lease shall not be extended;
- (m) any lease or initial tenancy of agricultural land and other property in the urban area or cases except mentioned above, shall be approved by the Chief Administrator Auqaf;
- (n) no-extension in yearly lease shall be granted beyond four years, making total of five years including the auction year on any ground of massive expenses on improvement or installation of tube-well etc;
- (o) the basis for determining the rate of lease money shall be the "Illaqa Rate" and the lease money of adjoining private lands; and
- (p) in case of tube-well lots of agricultural land (long term lease):-
  - (aa) "Banjar Qadeem/Barani" (or where more than half of the land in a lot is Banjar / Barani) may be leased out for a period of seven years. The lots shall be of maximum area of seventy five acres but not more than one hundred acres each. The lease may be extended upto ten years in exceptional cases by the Chief Administrator. No extension shall be ordered by any other officer of the Organization.
  - (bb) "Lotbandi" of such land and the period of lease shall be proposed by the Zonal Administrator, who shall be assisted by the Manager Auqaf and Revenue Field Staff, and may be submitted to the Director Estate by the Zonal Administrator for approval of the lot and the period of lease.
  - (cc) "Schedule of auction for tube well scheme" shall be proposed by the Zonal Administrator and shall be sent to the Director Estate for approval.
  - (dd) the approved schedule shall be got printed neatly, cyclostyled and copies of the same shall be sent to the managers, Administrator, Chief Administrator, District Coordination Officer, Deputy District Officer (Revenue) and Local Council concerned and the sitting lessee shall be informed in writing.
  - (ee) Auction of tube-well lot shall be conducted by a committee headed by the Director Estate. The other composition of the Auction Committee shall be the same as mentioned in this rule.
  - (ff) The approval of the auction shall be accorded by the Chief Administrator Auqaf.
- (ii) Where the lease relates to contracts at various shrines:-
  - (a) the lease shall be in writing;
  - (b) the period of contract shall be one year extendable for another two years, subject to an annual increase of 25% and advance payment of lease money. The extension shall be granted by the Chief

Administrator Auqaf on the recommendation of Zonal Administrator before 31 December of each calendar year;

- (c) Schedule of auction of contracts i.e. running traffic, cash boxes and “Nazrana Mutfarraq” etc. shall be advertised in the press in at least one National Daily Newspaper of repute;
- (d) Schedule of auction shall be prepared by the Zonal Administrator and approved by the Director Estate. The auction shall be conducted by a Committee as mentioned herein in the lease of waqf land; and
- (e) The approval of auction shall be accorded by the Zonal Administrator if the increase in lease money is 20% or more, and is more than the three preceding years and the total amount does not exceed rupees two lac. The Director Estate shall grant approval in all other cases.

(iii) Where the lease relates to a house or shop:-

- (a) the lease shall be in writing;
- (b) the period of lease shall not exceed three years;
- (c) the rent reserved shall be at the best available market rate;
- (d) other things being equal, preference shall be given to the old lessee whose lease is due to expire and who agrees to the renewal thereof;
- (e) the lessee shall deposit two months rent in advance and the same shall be adjusted towards the rent of the period of lease;
- (f) if the tenant fails to pay rent for two months he shall be liable to ejectment on one week's notice;
- (g) the rent of urban properties, commercial properties and rural properties shall automatically be enhanced at the rate of 25% after every three years;
- (h) if during the exercise, it is found that occupant is other than the lessee of the department, case for cancellation of lease shall be taken up;
- (i)
  - (aa) if the occupant gives reasonable explanation for his occupation and applies for transfer of tenancy, the rent shall be fixed at the market rate. If he pays rent for fifty months on old rate and accepts the new rent in writing, the Zonal Administrator shall order the transfer of tenancy as per rules, but it shall not be made a practice to regularize illicit occupation in routine. Such cases shall be rejected and possession taken over for fresh lease;
  - (bb) in the case of death of a tenant, the change of tenancy in favour of his widow and legal heirs shall be processed without charging fifty months rent;
  - (cc) if the tenant during his life applies for transfer of tenancy in favour of his wife/legal heir fifty months advance rent shall be charged.
- (j) regular process shall continue to check the illicit occupants and sub-lessees and action shall be taken under intimation to the head office. Action against delinquent officials abetting such activity shall be taken and intimation thereof shall be sent to the head office;
- (k) fresh allotment and fixation of rent for shops and houses shall be approved by the Chief Administrator Auqaf on the recommendation of Zonal Administrator through Director Estate. The cases of transfer of tenancy rights shall be decided by the Zonal Administrator, keeping in view the conditions laid down from time to time by the Director Estate;
- (l) if a tenant is willing to carry out repairs of the property, at his own expense, the Zonal Administrator shall have the powers to grant permission after getting the proposal vetted by the Director Project Auqaf. The tenant shall not alter or modify the original structure nor

shall claim any concession or rebate in the prevailing rent or in the re-assessment of rent. The reconstruction shall be allowed by the Chief Administrator on the recommendations of Zonal Administrator and Director Projects Auqaf; and

- (m) the Director Estate or the Zonal Administrator, suo-moto or on receipt of an application, petition or on a directive from the Chief Administrator, may rescind or modify his own orders after notice to the parties and record reasons under intimation to the Chief Administrator Auqaf; provided that in a case decided by his predecessor, the Zonal Administrator or Director Estate shall exercise his powers after prior approval of the Chief Administrator.
- (2) The Chief Administrator may, if in his opinion the continuance of any lease of waqf property made after 4<sup>th</sup> November, 1961 is not in the interest of the waqf property, cancel the lease-
    - (i) by giving one month's notice to the lessee and the lease shall stand terminated on the expiry of such period; and
    - (ii) by tendering one month's rent to the lessee and the leases shall stand terminated forthwith on such tender.
  - (3) After publication of the notification under section 7 of the Ordinance, the Manager may issue a notice requiring the occupants of the waqf property, within seven days of the receipt of the notice, to deliver vacant possession thereof to him or to execute a lease deed in-respect thereof in favour of the Chief Administrator, and if the occupant fails to comply with the notice, the Manager may eject him with the use of such force as may be necessary.
  - (4) If a lessee of a waqf property, without permission of the Manager, sub-lets or in any way transfers the waqf property:-
    - i. the lease in his favour shall stand terminated;
    - ii. the rent, if any, paid in advance shall stand forfeited; and
    - iii. the lessee, and sub-lessee or transferee shall be liable to be ejected therefrom forthwith, with use of such force as may be necessary.

## **8. Consolidation of Land Holdings.–**

Whenever consolidation proceedings are initiated by the Consolidation Department in any revenue estate the Zonal Administrator shall personally watch the interest of Organization in respect of the landed property. The Auqaf land shall not be subjected to consolidation operations and partition of joint khatahs except with the approval of Director Estate of Auqaf under his signature and the "Wandas" in both cases shall be approved under his signatures.

## **9. Auction of Trees.–**

- (1) The permission of auction of fallen or dead trees shall be granted by the Zonal Administrator, and the reserve price of the trees shall be got ascertained from the officers of Forest Department, not below the rank of S.D.O, before auction. The auction shall be conducted by the Manager as Head of the Auction Committee and approval shall be granted by the Zonal Administrator, and if the reserve price is more than Rs. 50,000/- the schedule of auction shall be advertised at least in one National Daily of wide circulation besides distribution of pamphlets and intimation to the sitting lessee and others, and if the reserve price is more than Rs. 50,000/-, Zonal Administrator shall head of Auction Committee mentioned in rule 7.
- (2) In case the standing trees fall in some Development Scheme such as roads, canals, drains, etc. the "Lotbandi" shall be approved by the Director Estate of Auqaf on the recommendation of Zonal Administrator. The Auction Committee shall be headed by the Administrator with members as indicated in rule 7. Auction shall be conducted after wide publicity through press and other means if the reserve price is more than Rs. 50,000/-.
- (3) The permission of auction and approval of "Lotbandi" of mature standing trees shall be granted by the Director Estate on the recommendation of the Zonal Administrator. The reserve price shall be communicated alongwith the proposal.

- (4) The Zonal Administrator shall head the Auction Committee and auction shall be approved by the Director Estate Auqaf.

**10. Appeal and revision.–**

Appeal against the orders of Zonal Administrator shall lie to the Director Estate and revision to the Chief Administrator.

**11. Repeal.–**

The Waqf Properties (Administration) Rules, 1960 are hereby repealed.