

Indian Polity Notes Part 14 in English

14] Co-operative Societies

CONSTITUTION OF INDIA – PART IX – B

- The 97th Constitutional Amendment Act of 2011 gave a constitutional status and protection to co-operative societies. In this context, it made the following three changes in the constitution:
 1. It made the right to form co-operative societies a fundamental right (Article 191).
 2. It included a new Directive Principle of State Policy on promotion of co-operative societies (Article 43-B2).
 3. It added a new Part IX-B in the Constitution which is entitled "The Co-operative Societies" (Articles 243-ZH to 243-ZT).

Article 243ZH {Definitions}

- "Authorized person" means a person referred to such as in Article 243ZQ
- "Board" means the board of directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted to
- "Co-operative society" a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State
- "Multi-state co-operative society" a society with objects not confined to one State and registered or deemed to be registered under any law for the time being in force relating to such co-operatives
- "Officer bearer" means a President, Vice-President, Chairperson
- "Registrar" means a central registrar appointed by Central government in relation to the multi-state co-operative society and registrar appointed by state government in relation to the co-operative societies
- "State Act" means any law made by the legislative of the state
- "State level co-operative society" means co-operative society having aids area of operation extending to the whole of the state and defined in any law made by the legislature of the state

Article 243ZI {In-corporation of Co-operative Societies}

- Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of co-operative societies based in the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning.

Article 243ZJ {Number and term of members in board and its office bearers}

- The board shall consist of such number of directors as may be provided by the Legislature of a State, by law

- Provided that the maximum number of directors of a co-operative society shall not exceed twenty-one
- Provided further that the Legislature of a State shall, by law, provide for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on board of every co-operative society consisting of individuals as members and having members from such class or category of persons.
- The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be conterminous with the term of the board
- Provided that the board may fill a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term

Article 243ZK {Election of members of board}

- Election of members of board

Article 243ZL {Suppression and suspension of board and interim management}

- Suppression and suspension of board and interim management

Article 243ZM {Audit and accounts of co-operative societies}

- Audit and accounts of co-operative societies

Article 243ZN {Convening of general body meetings}

- Convening of general body meetings

Article 243ZO {Right of a member to get information}

- Right of a member to get information

Article 243ZP {Returns}

- Returns

Article 243ZQ {Offences and penalties}

- Offences and penalties

Article 243ZR {Application to multi-state co-operative societies}

- Application to multi-state co-operative societies

Article 243ZS {Application to Union Territories}

- Application to Union Territories

Article 243ZT {Continuance of exiting laws}

- Notwithstanding anything in this Part, any provision of any law relating to co-operative societies in force in a State immediately before the commencement of the Constitution (Ninety-seventh Amendment) Act, 2011, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is less.'

Constitution (97th Amendment) Act, 2011

- The Constitution (Ninety Seventh Amendment) Act 2011 relating to the co-operatives is aimed to encourage economic activities of cooperatives which in turn help progress of rural India.
- It is expected to not only ensure autonomous and democratic functioning of cooperatives, but also the accountability of the management to the members and other stakeholders.

Reasons of Failure of Cooperative Sector

- The cooperative sector has been playing a distinct and significant role in the country's process of socio-economic development. The failure of cooperatives in the country is mainly attributable to:
- Dormant membership and lack of active participation of members in the management of cooperatives.
- Mounting overdue in cooperative credit institution
- Lack of mobilization of internal resources and over-dependence on Government assistance

Lack of professional management.

- Bureaucratic control and interference in the management, political interference and over-polarization have proved harmful to their growth.
- Predominance of vested interests resulting in non-percolation of benefits to a common member, particularly to the class of persons for whom such cooperatives were basically formed, has also retarded the development of cooperatives.
- These are the areas which needed to be attended to by evolving suitable legislative and policy support with proper political will and financial support.

97th Amendment Act, 2011

- As per the amendment the changes done to constitution are:-
- In Part III of the constitution, after words "or unions" the words "Cooperative Societies" was added.
- In Part IV a new Article 43B was inserted, which says: The state shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of the co-operative societies".
- After Part IXA of the constitution, a Part IXB was inserted to accommodate state vs centre roles.

Salient features Part IXB

- It makes Right to form cooperatives is a fundamental right.

- Reservation of one seat for SC/ST and two seats for women on the board of every co-operative society.
- Cooperatives could set up agency which would oversee election.
- Uniformity in the tenure of Cooperative Board of Directors.
- Provisions for incorporation, regulation and winding up of co-operative societies based on the principles of democratic process and specifying the maximum number of directors as twenty-one.
- Providing for a fixed term of five years from the date of election in respect of the elected members of the board and its office bearers;
- Providing for a maximum time limit of six months during which a board of directors of co-operative society could be kept under suspension;
- Providing for independent professional audit;
- Providing for right of information to the members of the co-operative societies;
- Empowering the State Government to obtain periodic reports of activities and accounts of co-operative societies; which have individuals as members from such categories;
- Providing for offences relating to co-operative societies and penalties in respect of such offences.

Implications

- The amendment of the Constitution to make it obligatory for the states to ensure autonomy of cooperatives makes it binding for the state governments to facilitate voluntary formation, independent decision-making and democratic control and functioning of the cooperatives.
- It also ensures holding regular elections under the supervision of autonomous authorities, five-year term for functionaries and independent audit. Significantly, it also mandates that in case the board is dissolved, the new one is constituted within six months.
- Such a constitutional provision was urgently required as the woes of the cooperative sector are far too many, long-lasting and deep-rooted to be addressed under the present lax legal framework
- However, it fails to establish what constitutional amendments can't do in reviving institutions and may be victim of rival political institutions at the state level as happened in case of 73rd amendments.
- It is feared that state-level politicians will do to this amendment on cooperatives what they did to the one on panchayats.
- Barring exceptions in a few sectors and states, the cooperative sector, particularly cooperative credit societies numbering over 120 million, has for a long time been in a shambles with all kinds of vested interests using them as personal fiefdoms and ladders to political power and means of personal aggrandisement.