

The Jharkhand Self Supporting Co-operative Societies
(Amendment) Act, 2015

(Jharkhand Act 22, 2015)

An Act to amend the Jharkhand Self-Supporting Co-operative Societies Act, 1996

reamble;

Where as, voluntarily constituted Co-operative- Societies can lead to the socio-economic betterment their members as based on their economic participation, democratic control and autonomous actioning so as to act more meaning fully in the interests of their members;

And where as is an obligation of the State Government to promote voluntary formation, tonomous functioning, democratic control and professional management of the Co-operative Societies the State and promote them and take such measures as are necessary for this purpose;

And where as in pursuance of the 97th amendment Act of the constitution of India many nendments are imperative in the Jharkhand Self Supporting Co-operative Societies Act, 1996.

Be it enacted by the Governor of Jharkhand in the 66th year of the Republic of India as follows:-

1. Short title, extent and commencement. -

(1) This Act may be called the Jharkhand Self-Supporting Co-operative Societies (Amendment) Act, 2015.

(2) It shall extend to the whole of the State of Jharkhand.

(3) It shall come into force at once.

2. Amendment in subsection (b) of Section-2 of the Act 2 of 1996 shall be substituted by the following, namely-

(b) "**Board**" means Board of Directors or Governing Body or Managing committee by whatever name it is called to which the direction and control of the management of the affairs of a Co-operative Society is entrusted to;

3. Insertion after sub-section (p) of section 2 of the Act 2 of 1996 - The following subsection (q) shall be added after the subsection (p) of section 2 of the Jharkhand Self-Supporting Co-operative Societies Act, 1996, namely "Apex Society**" means a Co-operative Society whose area of operative covers whole of Jharkhand or any Co-operative federation/union having in its area of operation whole of Jharkhand and which has been declared as Apex Society by the Registrar of Co-operative Societies;**

4. Insertion after subsection (q) of section 2 of the Act of 1996 - The following subsection (r) shall be added after the subsection (q) of subsection 2 of the Jharkhand Co-operative Act, 1996 namely "Functional Directors**" means functional executive directors of the society specified as per rules or Bye-laws of that co-operative society;**

5. Amendment in subsection (7) of section 23 shall be substituted by the following:

A person admitted as a member may exercise the rights of membership, including the right to vote only after ensuring minimum attendance, as required in the meetings convened for participation in the management of the society and availing of minimum requisite services of the society as may be prescribed in the bye-laws of the society;

Provided that a person shall have been a member for at least one year before being eligible to exercise the right to vote;

Provided further that the above provision shall not apply to the promoter member in the first year of registration of a Co-operative Society;"

6. After subsection (7) of section 23 the following sub-section (8), (9), (10) shall be inserted, namely:

"(8) Every Co-operative Society shall provide access to every member to the books, information and accounts of the co-operative society kept in regular trisection of its business with such member.

(9) Every member of a Co-operative Society shall have the right to get all information / documents regarding books, information and account of the Co-operative Society kept in regular translation of its business. The chief executive officer/manager of the Co-operative Society shall ensure access to every member to all required information/ Documents.

(10) The member of Co-operative Society shall have the right to get education and co-operative related training as per the rules of bye-laws made under any provision of this Act."

7. In the said act section - 25 shall be amended as follows, namely -

(a) sub-section (1) shall be substituted by the following, namely -

"(1) Subject to the provisions of this Act and the bye-laws the ultimate authority of a Co-operative Society shall vest in its general body. Board of every Co-operative society shall convene annual general meeting within six months from the closure of financial year, which shall deal with all or any matter dealt with subsection (3) except those in relation of members and office-bearer of the board."

(b) Sub section (3)(a) and (b) shall be deleted.

8. In the said Act sub-section 2 of section - 26 shall be amended as follows, namely

"(2) The board shall consist of maximum twenty one member including office-bearers in accordance with the bye-laws. Chief executive shall be an ex-officio member of the board. The board shall co-opt such persons having experience in the field of baking, management, finance or specialization in any other field relating to object and the activities under taken by the co-

11. (a) Subsection (1) shall be substituted by the following, namely -

"(1) A Co-operative society shall get its accounts audited by an auditor from a panel approved by registrar, co-operative societies or by the authority authorized by him. at least once in every financial year. Such Auditor shall either be a chartered Accountant within the meaning of the chartered Accountants Act, 1949 or from the office of the Registrar, co-operative societies or authorizes by him

shall be determined from time to time. Only such Auditor or chartered Accountant firm shall be eligible for the audit of the accounts of co-operative Society."

(b) subsection (4) shall be substituted by the following namely -

"(4) The audit of the account of every co-operative Society be done by the auditor or chartered Accountant firm, specified under sub-section (1), appointed by the general body of Co-operative society. The remuneration of the auditor or Chartered Accountant firm, Specified under sub-section (1), appointed by the general body of Co-operative society. The remuneration of the auditor shall be fixed by the general Body in terms with the audit fee fixed by the registrar;

"(11) Apex Co-operative society with the approval of the general body shall compulsorily submit the audit report after the audit of the statement of accounts to the registrar within thirty days so that the report may be placed in the Legislature through state Government in accordance with the procedure laid may be placed in the legislature through state Government in accordance with the procedure laid down by the State Government for this purpose."

12. In the said Act section - 35 shall be substituted by the following, namely-

"35. filing Annual Statement of Account. - Every Co-operative society shall file annual statement of accounts before the Registrar within six months of the end of financial year which shall include following subjects:

(a) Annual report of the activities.

(b) Audited statement of accounts.

(c) Plan to deal with the surplus as approved by general body.

(d) list of the amendment done, if any, in the bye laws of the Co-operative Society.

(e) Declaration regarding date for the conduct of election, if due, and date for the holding of its general body meeting.

(f) Any other information, by the registrar in pursuance of any of the provisions of the act.

operative societies, as member of the board; provided that the number of such co-opted members shall not exceed two and this shall be in addition to the total number of board;

Provided further that such co-opted member shall not have the right to vote in any election of the Co-operative Society in their capacity as such member or to be eligible as office bearers of the board;

Provided further at least also that the functional directors of a Co-operative society shall also be the member of the board and such member shall be excluded for the purpose of counting the total number of directors;

Provided that at least 50 percent seats of managing board shall be reserved for the women member, out of which two seats shall be reserved for the scheduled castes or Scheduled Tribes women in the board of every co-operative society consisting of individuals as member and having member from such class or category of person.

The seats so reserved shall be filled up from amongst the members of scheduled castes or scheduled

tribes women members either by election or/ and by co&option."

9. In the said Act, section 28 shall be amended as follows, namely-

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 co-terminus 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 the board is less than half of its original term.

Provided further that the term of the first board shall not exceed twelve months from the date of registration of the Co-operative Society."

10. In the said Act sub-section (1), (2) & (3) of section - 29 shall be amended as follows, namely -

"(1) The conduct of elections to the board of a Co-operative Society shall be the responsibility of the incumbent board.

"(2) The election shall be conducted before the expiry of term of the outgoing director in the manner specified in the bye-laws and the provisions made there under and as per the provisions of the Jharkhand Self-Supporting Co-operative Societies Act, 1996 and rules made there under"

Subsection (3) shall be deleted.

13. Insertion of section - 41A after section & 41 of the Jharkhand Act 2 of 1997, - In the said Act after section - 41 the following new Section - 41A shall be inserted, namely -

"41A, Supersession of the Board by the Tribunal. - (a) If upon the receipt of application from the member of a Co-operative Society, the tribunal is of the opinion that the Board of any Co-operative Society, where loan or financial aid has been provided by the State Government or loan has been provided on Government guarantee, is persistently making defaults or is negligent in the performance of the duties imposed on it by this Act, the Rules or the bye-laws, or conducting business against the interest of its members or there is stalemate in the formation or functioning of the Board, it may, after giving opportunity to the managing committee to state its objection, if any, by order with reasons in writing supersede the Board of the Co-operative Society for a period not exceeding six months. The members of the boards of societies so superseded shall not be eligible for reelection for five years from the date of supersession. Registrar shall record every order passed under this section in writing and inform the concerned Co-operative Society through registered post;

Provided that in case of Co-operative Society carrying on the business of banking, provision of Banking Regulation Act, 1949 shall also apply;

Provided also that in case of Co-operative Society carrying on the business of banking the maximum period of dissolution shall be of one year;

Provided also that the Board of the Co-operation Society having banking operation shall be done in consultation with the Reserve Bank of India.

(2) When any Co-operative Society is under supersession under sub-section (1), the Tribunal shall appoint an Administrator to conduct the affairs of the society. The Administrator appointed under this

sub-section, shall take necessary action for the election of the Board of Co-operative Society within the specified period and shall hand over the management to elected Board.

(3) The Administrator appointed under sub-section (2) shall get remuneration, as may be fixed by the Tribunal, as it deems fit to carry on the business of the Co-operative Society. The remuneration so fixed shall be payable from the accounts of Co-operative Society.

(4) Administrator appointed under sub-section (2) shall work in accordance with the service conditions laid down by the Tribunal and shall perform all the duties and carry on responsibilities assigned to the Board under this Act, rules and the bye-laws;

Provided that the Tribunal shall have the power to change the Administrator during the period of supersession."

14. In the said Act Subsection (1) of section - 42 shall be substituted by the following, namely:-

"(1) It shall be an offence under this Act if-

(a) A Co-operative Society or an officer or member thereof wilfully furnishes a false return or false information, or does not furnish wilfully any information required from him by a person authorized in this behalf under the provisions of this Act;

(b) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act;

(c) any employer who, without sufficient cause, fails to pay to a Co-operative Society amount deducted by him from its employee within a period of fourteen days from the date on which such deduction is made;

(d) any officer or custodian who wilfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a Co-operative Society of which he is an officer or custodian, to an authorized person; and,

(e) any person indulges in corrupt practices before, during or after the election of the office bearer or member of the Board of the Co-operative Society."

15. Insertion of new chapter-X- A after chapter- X comprising of section 48A to 48F of the Act 2 of 1997. -
In the said Act, after chapter X the following new chapter-X A shall be inserted, namely -

CHAPTER-X-A

48A. Application of the Chapter to cooperative Bank. - (1) The provisions of this chapter shall apply to a Cooperative Bank as defined in the Deposit Insurance Corporation Act, 1961 (47 of 1961) in addition to the provisions contained in other parts of this Act, Where any question of apparent or implied inconsistency arises, the provisions of this Chapter shall prevail over the provisions of the other parts of this Act.

(2) For the purpose of this chapter, "Deposit insurance corporation means the deposit insurance corporation established under the Deposit Insurance Corporation Act, 1961) and "Reserve Bank"

means the Reserve Bank of India established under the Reserve Bank of India Act, 1934 (2 of 1934)

48B. Division, amalgamation, compromise, etc. - (1) No order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction or of division or transfer of assets and liabilities of a Cooperative Bank shall be made without the previous sanction in writing of the Reserve Bank.

(2) Where an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulation Act, 1949 (10 of 1949) in respect of a Cooperative Bank, the Registrar, with the previous approval of the Reserve Bank in writing, may during the period of moratorium, prepare a scheme,-

(i) for the re-construction of the Cooperative Bank; or

(ii) for its amalgamation with any other Cooperative Bank (herein referred to as the transferee Bank).

(3) Notwithstanding anything to the contrary contained in this Act where a Cooperative Bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961 (47 of 1961) is amalgamated or in respect of which a scheme of compromise or arrangement or of reconstruction has been sanctioned and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank, is amalgamated or, the new Cooperative Bank formed after such amalgamation or, as the case may be, the insured bank or the transferee bank shall be under an obligation to repay the Deposit Insurance Corporation in the circumstances, to the extent and in the manner referred to in section 21 of the Act.

48C. Supersession of Managing Committee of Cooperative Bank. - Notwithstanding anything contrary contained in this Act, Registrar shall, if so required in writing by the Reserve Bank in public interest or for preventing the affairs of the Cooperative Bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the Cooperative Bank; pass an order for the supersession of the managing committee or other managing body (by what ever name called) of that Cooperative Bank, appoint an administrator, upon such terms and for such periods not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank.

48D. Reserve Bank's sanction or requisition for winding up order. - (1) Notwithstanding anything to the contrary contained in this Act, no Cooperative Bank shall be wound up except with the previous sanction in writing of the Reserve Bank.

(2) Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for the winding up of a Cooperative Bank if so required by the Reserve Bank in the circumstances mentioned in section 13 D of the Deposit insurance Corporation Act, 1961 (47 of 1961).

48E. Reimbursement to Deposit Insurance Corporation. - Where a Cooperative Bank, being an insured bank within the meaning of Deposit Insurance Corporation Act, 1961 (47 of 1961) is wound up or is taken into liquidation and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed in the circumstances to the extent and in the manner provided in section 21 of that Act.

48F. Finality of the Reserve Bank's sanction or requisition. - Notwithstanding anything to the contrary contained in this Act where with the previous sanction in writing or on the requisition of the Reserve

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Bank-

- (i) an order for the winding up of the cooperative bank is made, or
- (ii) in respect of which a scheme of compromise or arrangement or of reconstruction or amalgamation is made, or
- (iii) in respect of which an order for the supersession of its managing committee or other managing body (by whatever name called) and the appointment of an administrator therefore has been made.

No appeal or revision on review there against shall lie or be permissible and such sanction or requisition of the Reserve Bank shall not liable to be called in question in any manner.)

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प्रधान सचिव-सह-विधि परामर्शी

विधि (विधान) विभाग, झारखण्ड, राँची।