
**REPORT OF THE SUBJECT COMMITTEE
ON
THE KERALA CO-OPERATIVE SOCIETIES
(AMENDMENT) BILL, 2013
AND
THE BILL AS REPORTED BY THE SUBJECT COMMITTEE**

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207/2013.

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SUBJECT COMMITTEE—XI (2011-13)
FOOD, CIVIL SUPPLIES AND CO-OPERATION

Chairman :

Minister for Food, Civil Supplies and Registration

Ex-officio Members :

Minister for Co-operation

Minister for Revenue

Members :

Smt. Geetha Gopi

Dr. N. Jayaraj

Shri Koliakode N. Krishnan Nair

” Ludy Luiz

” K. K. Narayanan

” R. Selvaraj

” G. Sudhakaran

” V. M. Ummer Master

Legislature Secretariat :

Shri P. D. Sarangadharan, Secretary

,, M. Narayanan Potty, Joint Secretary

Smt. J. Mary Gracy, Deputy Secretary

Shri K. G. Thrideep, Under Secretary.

THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2013

(Report of the Subject Committee)

Subject Committee XI—Food, Civil Supplies and Co-operation to which the “Kerala Co-operative Societies (Amendment) Bill, 2013” was referred, considered the Bill clause by clause and now submits this report with the Bill as reported by the Committee annexed thereto.

2. The Kerala Co-operative Societies (Amendment) Bill, 2013 was published as a Gazette Extraordinary dated 31st January, 2013. The Bill was introduced in the Assembly on 11th February 2013 and was referred to the Subject Committee XI on the same day.

3. The Committee considered the Bill clause by clause at its meeting held on 11th February 2013. The Committee recommends to adopt the Bill with the following modifications :

Clause 2

In Section 2 (ab) proposed to be inserted in the principal Act by clause 2 (i) after the word ‘business’ the following shall be inserted “preparation of audit report”.

Clause 11

The Section 16A (1) (b) proposed to be inserted in the principal Act by clause 11 shall be deleted and section 16 A(1)(c) shall be renumbered as Section 16 A (1) (b).

Clause 14

1. In Section 28 (1G) of the principal Act proposed to be amended by clause 14 (vii) the words “be competent to” shall be deleted.

2. In Section 28 (1J) proposed to be inserted in the principal Act by clause 14 (viii) after the word ‘nomination’ the words “by the committee” shall be added.

Clause 15

1. The second proviso to Section 28B (2) of the principal Act proposed to be amended by clause 15 (iii) shall be deleted.

2. In the third proviso to Section 28B (2) of the principal Act proposed to be amended by clause 15 (iii) the word “also” shall be substituted by “further”.

Clause 23

In Section 63 (11) of the principal Act proposed to be amended by clause 23 (iii) after the word 'Society' the words "which includes the report on administrative matters" shall be inserted.

Clause 31

The first proviso to section 80(6) of the principal Act proposed to be amended by clause 31(iv) shall be deleted and in second proviso the word "further" shall be deleted.

4. Minutes of dissent is appended.
5. All other changes are consequential.

Thiruvananthapuram,
February 12, 2013.

ANOOP JACOB,
Chairman,
Subject Committee XI.

MINUTES OF DISSENT

The Bill if passed would cause unhealthy competition and proliferation of co-operative societies would go against the interest of the co-operative movement itself. It seeks to sideline the circle co-operative unions and the state co-operative union and in the name of professionalism it aims bureaucratic control over the democratic set up. The provisions of the bill are without considering the uniqueness of the co-operative movement in the State and it does not contain anything for the modernisation or for the furtherance of the co-operative movement. We record our dissent on this bill for the following reasons :

It includes provision :

1. for refusal to register the societies stating economical reasons. This will enable a Government like the present one to curb the societies controlled by political opponents;
2. to issue duplicate certificate of registration for societies having no official record of their registration thereby helping bogus societies;
3. to dispense with the power the registrar to control the co-operative societies;
4. for unlimited power to the societies for disposing of the assets and for amalgamation without the prior approval of Registrar or any authorities which may be detrimental to the interest of the members;
5. for divesting of Registrar of his power to amalgamate societies in consultation with the Circle co-operative union for the economic interest of the societies;
6. to promote subsidiaries which may culminate in siphoning of the funds of the societies by vested interests by acquiring unviable institutions in which they are having personal and pecuniary interest;
7. to enter into partnership for public interest which may lead to wiping off of the societies;
8. to remove members not availing the services of the society for two years which is impractical on many counts; to exemplify insisting to avail of the service of hospital society regularly would be cruel;

9. for compulsory attendance for the general body meeting would be impractical as most of the members are daily wagers or low income group who may find it difficult to compulsorily attend the general body meeting as there is no provision to pay them the wage for the day or to convene in the meeting on day and time convenient to them and all; it is the right and not the duty of the member to attend the general body meeting;
10. to expel a defaulter without invoking the recovery clause and other means of recovery is detrimental to the economic interest of the society because by such action the member is absolved of his responsibility for repayment;
11. for fixing the term of the committee at five years as the longer term may lead to inefficiency and vested interest;
12. for regional election officers apart from the Co-operative Election Commission to conduct and supervise the election of the co-operative societies which is ultra vires to constitution which specifies a single authority or body for the purpose;
13. entrusting the audit to private auditors without any control by the Director of Co-operative Audit;
14. entrusting the Registrar to fix the limit of establishment expenses which will definitely go against the interest of the employees of the co-operative societies;
15. to appoint employees on deputation from Government services as chief executive of the society which is detrimental to the interest of the society;
16. to appoint management committee to intervene in the affairs of democratically elected circle co-operative union; and
17. to intervene in the affairs of the state co-operative union through the officer appointed by the Government.

KOLIAKODE N. KRISHNAN NAIR (Sd.)

K. K. NARAYANAN (Sd.)

Thiruvananthapuram,

11-2-2013.

വിയോജനക്കുറിപ്പ്

2013 കേരള സഹകരണ സംഘം ഭേദഗതികളിൽ ഭൂരിപക്ഷം വകുപ്പുകളും നിരാകരിക്കണമെന്ന് ആവശ്യപ്പെടുന്നു.

സഹകരണ സംഘങ്ങളെ സഹകാരികളുടെ നിയന്ത്രണത്തിൽ നിന്നും റിസർവ് ബാങ്കിന്റെ നിയന്ത്രണത്തിൽ കൊണ്ടുവരുന്നതിനാണ് ഈ ബിൽ. നാഷണലൈസ്ഡ് ബാങ്കുകളും ഡെഷ്യൂൾഡ് ബാങ്കുകളും പോലെ സഹകരണ സംഘങ്ങളും ഈ നിയമംവഴി ആയി തീരുന്നു. പലിശ നിശ്ചയിക്കാനുള്ള അവകാശം സഹകരണ ബാങ്കുകളിൽ നിന്നും റിസർവ് ബാങ്ക് കവർന്നെടുക്കുന്നു. ഇതുവഴി നിക്ഷേപവും വായ്പയും ബിസിനസ്സും കുറയും. സംഘങ്ങൾ സാമ്പത്തികമായി പുറകോട്ടു പോകും. ജീവനക്കാർക്ക് ശമ്പളം കിട്ടാതെ വരും. 60000 സഹകരണ ജീവനക്കാരുടെ ഭാവി ഈ നിയമംമൂലം ഭീഷണയിലാകുന്നു.

സഹകരണ വിപണനം ഇല്ലാതാകുന്നു. കൺസ്യൂമർ ഫെഡ് മാത്രമേ നിലനിൽക്കുകയുള്ളൂ. വിലക്കയറ്റം തടയുന്നതിൽ ശക്തമായ ഉപകരണമായി 2010-11-ൽ മാറിയ സഹകരണ സംഘങ്ങൾ ആ രംഗത്ത് നിന്ന് ഒഴിവാക്കപ്പെടുന്നു.

പ്രാദേശിക സഹകരണ തെരഞ്ഞെടുപ്പ് സംവിധാനം അഴിമതിയിലേക്ക് നയിക്കും. സംഘർഷമുണ്ടാക്കും. കടാശ്വാസ നടപടികൾക്ക് അനുവാദമില്ലാതെ വരും.

രജിസ്ട്രാർ നോക്കുകുത്തിയാകും. വകുപ്പ് മന്ത്രിക്ക് അധികാരമില്ലാതെയാകും. റിസർവ് ബാങ്ക് ഗവർണർക്ക് സഹകരണ മേഖലയുടെമേൽ പരമാധികാരം വരും. ആദായ നികുതി, സേവന നികുതി എന്നിവ അടയ്ക്കേണ്ടിവരുന്നതോടുകൂടി, പങ്കാളിത്ത ജനാധിപത്യം ആധാരമാക്കിയുള്ള സഹകരണ പ്രസ്ഥാനം പൂട്ടപ്പെടും. ബ്യൂറോക്രസിയുടെ തേർവാഴ്ച നടക്കും. സ്വകാര്യ പണമിടപാടുകാരുടെ സുവർണ്ണ കാലമാണ് ഇതുവഴി വരുന്നത്. ബ്ലേഡ് കമ്പികൾ തഴച്ചുവളരും. അമേരിക്കൻ മോഡലിൽ ഇന്ത്യാ ഗവൺമെന്റ് നടപ്പാക്കുന്ന എൽ.പി.ജി. നയങ്ങൾമൂലമുള്ള സംഹാരഭൂമിയായി കേരളം മാറും. ആഗോളവൽക്കരണകാലത്ത് ജനങ്ങളോടൊപ്പം നിന്ന് ഗവൺമെന്റിനെ സഹായിക്കുകയും വിലക്കയറ്റം, സാമ്പത്തിക തകർച്ച എന്നിവയെ ഒരു വലിയ പരിധിവരെ തടഞ്ഞ സഹകരണ പ്രസ്ഥാനത്തിന് ആ കഴിവ് ഇല്ലാതെ വരും. റിസർവ് ബാങ്കും നബാർഡിന്റെ കർഷകവിരുദ്ധ നിലപാടും ചേർന്ന് സഹകരണ പ്രസ്ഥാനത്തെ തടങ്കലിലാക്കുന്നതിന് പാറാവ് നിൽക്കുന്നതാണ് ഈ നിയമം.

കേന്ദ്രത്തെകൊണ്ട് സഹകരണ പ്രസ്ഥാനത്തിനെതിരായ ആക്രമണത്തെ അവസാനിപ്പിക്കാൻ സഹകരണ വകുപ്പ് നേതൃത്വം നൽകുകയാണ് വേണ്ടത്.

കുടിശ്ശികക്കാരനെ ഉടനടി ഇല്ലാതാക്കുന്ന ഈ ബില്ലിലെ നടപടി സാമൂഹ്യ ദുരന്തങ്ങൾ വിളിച്ചുവരുത്തും. കാർഷിക മേഖലയിലും പരമ്പരാഗത മേഖലകളിലും മാത്രമല്ല കേരളീയ സമൂഹത്തിന്റെ എല്ലാ മേഖലകളിലും ഈ ബില്ലി് ദുരന്തം വിതരും. ആത്മഹത്യയുടെ ഘോഷയാത്ര പ്രത്യക്ഷപ്പെടും. 2011 മേയിൽ തന്നെ 68000 കോടി ഡെപ്പോസിറ്റും 60,000 കോടി വായ്പയുമായി ദേശീയശ്രദ്ധ പിടിച്ചുപറ്റിയ നമ്മുടെ

സഹകരണ ബാങ്കുകൾ പണമില്ലാതെ വലയുന്ന നാളുകളാണ് ഈ ബില്ലിന് ക്ഷണിച്ചു വരുത്തുന്നത്. ശപിക്കപ്പെട്ട വൈദ്യനാഥൻ കമ്മിറ്റി റിപ്പോർട്ടും ആർ.ബി.ഐ., നബാർഡ് എന്നിവയുടെ ജന വിരുദ്ധനയങ്ങളും ആഗോളവൽക്കരണത്തിന്റെ തേരിലേറ്റി കേരളത്തിലേക്ക് ആനയിക്കുന്ന ഈ ബില്ലിലെ മേൽപ്പറഞ്ഞ വ്യവസ്ഥകളോട് വിധേയപ്പെട്ട് രേഖപ്പെടുത്തുന്നു.

മൂന്നരക്കോടി അംഗങ്ങളുള്ള സഹകരണ പ്രസ്ഥാനം സാർവ്വദേശീയ സഹകരണ തത്വങ്ങളിൽ ഊന്നിയതാണ്, ഒരു നൂറ്റാണ്ടിന്റെ പാരമ്പര്യമുള്ളതാണ്. നെഹ്റുവും, ഇ.എം.എസും അച്യുതമേനോനും ആർ. ശങ്കറും പി.കെ.വി.യും നായനാരും വളർത്തിയ പ്രസ്ഥാനമാണിത്. ഈ ഗവൺമെന്റ് ഇത് തകർക്കരുത്. ഈ ബില്ലിലെ ജനാധിപത്യ വിരുദ്ധമായ വകുപ്പുകൾ പിൻവലിക്കണം. അഴിമതി തടയൽ, ഓഡിറ്റിംഗ് തുടങ്ങിയ മേഖലകളിലെ മേൽനോട്ടം ശക്തിപ്പെടുത്താൻ ആവശ്യമായ വകുപ്പുകൾ കൂട്ടിച്ചേർക്കണം. സ്ത്രീകളുടെ എണ്ണം മൂന്നാക്കി സഹകരണ ഭരണസമിതികളിൽ നിലനിർത്തണം. പ്രൊഫഷണലുകളുടെ എണ്ണം കുറയ്ക്കരുത്. രജിസ്ട്രാറുടെ അധികാരങ്ങൾ നിലനിർത്തണം.

പ്രതിപക്ഷവുമായി ചർച്ച നടത്താതെ ബിൽ അവതരിപ്പിച്ചു. ഭരണഘടനാ ഭേദഗതികളിൽ പറയാത്തതും സഹകരണ നിയമത്തിന് നിരക്കാത്തതുമായ ചില ഭേദഗതികളും ഈ ബില്ലിൽ ഉണ്ട്.

2012 ജനുവരി 15-ാം തീയതി നിലവിൽ വന്ന 97-ാം ഭരണഘടനാ ഭേദഗതി നിയമത്തിലെ വ്യവസ്ഥകൾ ഉൾപ്പെടുത്തുന്നതിനായി കൊണ്ടുവന്ന സഹകരണ (ഭേദഗതി) ബില്ലിൽ സഹകരണ-സ്വയംഭരണ-ജനാധിപത്യ വ്യവസ്ഥകൾ മാത്രമല്ല ഉൾപ്പെട്ടിട്ടുള്ളതെന്ന് പറയേണ്ടിയിരിക്കുന്നു. ഭരണഘടനാ ഭേദഗതി പ്രകാരമുള്ള വ്യവസ്ഥകൾ ചേർക്കുന്നതിനോടൊപ്പം ഉൾപ്പെട്ടിട്ടുള്ള ജനാധിപത്യവിരുദ്ധ അധികാര കേന്ദ്രീകരണ വ്യവസ്ഥകൾ മാറ്റേണ്ടതാണ്.

രണ്ടാം ഖണ്ഡത്തിലെ ഉപഖണ്ഡപ്രകാരം പുതുതായി ചേർക്കുന്ന ചീഫ് എക്സിക്യൂട്ടീവ് എന്നതിന്റെ നിർവ്വചനത്തിൽ തന്നെ ഒളിഞ്ഞിരിക്കുന്ന കേന്ദ്രീകൃത പ്രവണത കാണാവുന്നതാണ്. പ്രസ്തുത നിർവ്വചനത്തിൽ സർക്കാർ ഉദ്യോഗസ്ഥനും ഉൾപ്പെടുന്നു. സർക്കാർ ഉദ്യോഗസ്ഥനെ സംഘത്തിലെ ചീഫ് എക്സിക്യൂട്ടീവ് അയി നിയമിക്കാൻ കഴിയും എന്നർത്ഥം. സർക്കാരിന് ഇഷ്ടമുള്ള ഉദ്യോഗസ്ഥനെ സംഘത്തിന്റെ ചീഫ് എക്സിക്യൂട്ടീവ് ആക്കുമ്പോൾ ആ സംഘത്തിലെ മറ്റ് പ്രവർത്തനങ്ങൾ എങ്ങനെ കൈകാര്യം ചെയ്യപ്പെടും എന്ന് അനുമാനിക്കാവുന്നതാണ്. കൂടാതെ ബില്ലിന്റെ 31-ാം ഖണ്ഡം പ്രകാരം സംഘത്തിന്റെ ആവശ്യപ്രകാരം സർക്കാർ ഉദ്യോഗസ്ഥനെ നിയമിക്കാവുന്നതാണ്. ഈ വ്യവസ്ഥകൾ സംഘങ്ങളുടെ സ്വയംഭരണ സ്വഭാവത്തെ നശിപ്പിക്കുന്നതാണ്.

ബില്ലിന്റെ 10-ാം ഖണ്ഡപ്രകാരം സംഘങ്ങൾക്ക് അവയുടെ ലക്ഷ്യങ്ങൾക്കായി അനുബന്ധ സ്ഥാപനങ്ങൾ ആരംഭിക്കാൻ വ്യവസ്ഥ ചെയ്യുന്നു. ഏതൊരു സംഘത്തിനും ഇത്തരം സ്ഥാപനങ്ങൾ ആരംഭിക്കുവാൻ കഴിയുന്നത് ആശാസ്യമാണോ എന്ന് ചിന്തിക്കണം. സംഘങ്ങൾ അങ്ങനെ തുടങ്ങിയ അനുബന്ധ സ്ഥാപനങ്ങൾ സംഘങ്ങളെ തന്നെ നശിപ്പിക്കുന്ന രീതിയിലേക്ക് എത്തിച്ചേരില്ലേ എന്ന് സംശയിക്കണം. വ്യക്തികളുടെ നിക്ഷേപം അത്തരത്തിൽ തെറ്റായ രീതിയിൽ വഴിതിരിക്കപ്പെടാൻ ഇത് ഇടയാക്കുന്നതാണ്.

സംസ്ഥാന സഹകരണ തെരഞ്ഞെടുപ്പ് കമ്മീഷനിൽ ഇപ്പോൾ ഒരംഗമാണുള്ളത്. അതിനെ ബില്ലിന്റെ 15-ാം ഖണ്ഡപ്രകാരം മൂന്നായി വർദ്ധിപ്പിക്കുന്നു. ഇപ്പോഴുള്ള സ്പെഷ്യൽ സെക്രട്ടറിയെ ചീഫ് തെരഞ്ഞെടുപ്പ് കമ്മീഷണറായും പുതുതായി സഹകരണവകുപ്പിൽ ഉള്ളതോ വിരമിച്ചതോ ആയ രണ്ട് അസിസ്റ്റന്റ് രജിസ്ട്രാർമാരെ നിയമിക്കുകയും ചെയ്യുന്നു. ഇത് സർക്കാരിന്റെ ഇഷ്ടക്കാരെ നിയമിക്കാൻ ഇടയാക്കുകയും കമ്മീഷന്റെ സ്വതന്ത്രമായ പ്രവർത്തനത്തെ ബാധിക്കുകയും ചെയ്യും. ചീഫ് തെരഞ്ഞെടുപ്പ് കമ്മീഷണറുടെ തീരുമാനത്തേക്കാൾ പ്രാധാന്യം രണ്ട് കമ്മീഷണർമാരുടെ തീരുമാനത്തിന് ലഭിക്കുന്നതിനും തെരഞ്ഞെടുപ്പ് വിഷയങ്ങളിൽ സർക്കാരിന് താൽപ്പര്യമുള്ള കാര്യങ്ങൾ വളഞ്ഞവഴിയിലൂടെ ചെയ്യുന്നതിനും ഇടയാക്കും. തെരഞ്ഞെടുപ്പ് കമ്മീഷന്റെ സ്വതന്ത്ര പദവി നഷ്ടപ്പെടുകയും സഹകരണ വകുപ്പിന് കീഴിലുള്ള ഒരു സ്ഥാപനമായി അത് അധഃപതിക്കുന്നതിനും ഇടയാക്കുന്നതാണ്.

ഓഡിറ്റ് സംവിധാനത്തിലും മാറ്റങ്ങൾ ബില്ലിന്റെ 23-ാം ഖണ്ഡം നിർദ്ദേശിക്കുന്നു. ഓഡിറ്റ് ഡയറക്ടറുടെ പാനലിൽ നിന്നും സംഘത്തിന്റെ പൊതുയോഗമാണ് ഓഡിറ്റർമാരെ നിയമിക്കേണ്ടത്. അതുപോലെ അപ്പെൽസ് സംഘങ്ങളുടെ ഓഡിറ്റ്, ഓഡിറ്റ് സ്ഥാപനങ്ങൾക്ക് നിർവ്വഹിക്കാം. ഇത് ഇന്ന് നിലവിലുള്ള കുറ്റമറ്റ ഓഡിറ്റ് സംവിധാനത്തെ തകർക്കും. ഇഷ്ടമുള്ളവരെക്കൊണ്ട് ഓഡിറ്റ് നടത്താവുന്ന സംവിധാനം നിലവിലുവരും.

സാമ്പത്തിക തർക്കങ്ങളിൽ മൂന്നുവർഷത്തെ കാലഹരണപരിധി കൊണ്ടുവരാൻ ബില്ലിന്റെ 27-ാം ഖണ്ഡവും മൂന്നാം പട്ടികയും ലക്ഷ്യമിടുന്നു. പൊതുജനങ്ങളുടെ പണം നഷ്ടപ്പെടുന്നതിനാകാം ഇത് ഇടയാക്കുക. അല്ലെങ്കിൽ ഈ വ്യവസ്ഥ ഒരു വർഷം കഴിഞ്ഞ് മാത്രമേ നടപ്പിൽ വരികയുള്ളൂ എന്ന വ്യവസ്ഥയെങ്കിലും ചേർക്കേണ്ടതാണ്.

ഓംബുഡ്സ്മാൻ സംവിധാനം 2010-ലെ 7-ാം നമ്പർ സഹകരണ ഭേദഗതിയിലൂടെ കൊണ്ടുവന്ന സംവിധാനമാണ്. ഇപ്പോൾ ഓംബുഡ്സ്മാന്റെ യോഗ്യത 15 വർഷത്തെ ബാർ പ്രാക്ടീസായി വർദ്ധിപ്പിക്കുന്നത് ഇപ്പോഴുള്ള ഓംബുഡ്സ്മാനെ പിരിച്ചുവിടുന്നതിന് മാത്രമാണ്.

സർക്കാർ സഹകരണ യൂണിയനെയും സംസ്ഥാന സഹകരണ യൂണിയനെയും ഇല്ലാതാക്കുന്ന ഒരു ബില്ലാണിത്. 31-ാം ഖണ്ഡപ്രകാരം സംഘം ജീവനക്കാരുടെ കാര്യങ്ങൾ തീരുമാനിക്കേണ്ടത് സഹകരണ യൂണിയന് പകരം രജിസ്ട്രാർ ആയിരിക്കുന്നതാണ്. യൂണിയന്റെ പ്രസക്തി തന്നെ ചോദ്യം ചെയ്യുന്ന വ്യവസ്ഥയാണിത്. എന്തിനാണോ സംസ്ഥാന സഹകരണ യൂണിയൻ നിലനിൽക്കുന്നത് അത് ഇല്ലാതാക്കുന്ന വ്യവസ്ഥയാണിത്.

32-ാം ഖണ്ഡപ്രകാരം സർക്കിൾ സഹകരണ യൂണിയന്റെ കാര്യങ്ങൾ നോക്കുന്നതിന് രജിസ്ട്രാർക്ക് ഒരു വർഷത്തേക്ക് ഉദ്യോഗസ്ഥനെ നിയമിക്കാവുന്നതാണ്. ഒരു ഉദ്യോഗസ്ഥൻ കൈകാര്യം ചെയ്യാവുന്ന പ്രവർത്തികളാണോ ഒരു സർക്കിൾ സഹകരണ യൂണിയൻ കൈകാര്യം ചെയ്യുന്നത്? കൂടാതെ സർക്കിൾ സഹകരണ യൂണിയൻ ചെയർമാനെ അവിശ്വാസത്തിലൂടെ പുറത്താക്കാനും വ്യവസ്ഥ ചെയ്യുന്നു. ഇത് സഹകരണ പ്രസ്ഥാനത്തിൽ നിന്നും സഹകരണത്തെ ഇല്ലാതാക്കലാണ്.

സംസ്ഥാന സഹകരണ യൂണിയന്റെ പ്രവർത്തനങ്ങൾ സർക്കാരിന് ഏറ്റെടുത്ത് നടത്തുന്നതിനുള്ള വ്യവസ്ഥകളാണ് ബില്ലിന്റെ 32-ാം ഖണ്ഡത്തിലുള്ളത്. സർക്കാർ ഉദ്യോഗസ്ഥനെ സംസ്ഥാന സഹകരണ യൂണിയന്റെ തലപ്പത്ത് ഒരു വർഷത്തേക്ക് പ്രതിഷ്ഠിക്കാവുന്നതാണ്. അതുപോലെ സംസ്ഥാന സഹകരണ യൂണിയന്റെ ചെയർമാൻ, വൈസ് ചെയർമാൻ എന്നിവരെ അവിശ്വാസത്തിലൂടെ പുറത്താക്കാനും വ്യവസ്ഥയുണ്ട്. സഹകരണ ജനാധിപത്യരീതിയിൽ തെരഞ്ഞെടുക്കപ്പെടുന്നവരുടെ അധികാരം കൃത്രിമ മാർഗ്ഗത്തിലൂടെ കയ്യടക്കാനാണ് സർക്കാർ ശ്രമിക്കുന്നത്. കുതിരക്കച്ചവടത്തിനും കുതികാൽവെട്ടിനും സഹകരണ പ്രസ്ഥാനത്തെ തുറന്നു കൊടുക്കുകയാണ് ഇതിലൂടെ ചെയ്യുന്നത്.

ഭരണഘടനാ ഭേദഗതിയുടെയും സഹകരണ ജനാധിപത്യ സ്വയംഭരണ തത്വങ്ങളുടെയും പേരുപറഞ്ഞ് കൊണ്ടുവന്ന സഹകരണബിൽ സഹകരണമേഖലയിൽ അധികാരം പിടിച്ചെടുക്കാനുള്ള സർക്കാരിന്റെ കുറുക്കുവഴികളാണ്. ഇത് കേരളത്തിലെ ലക്ഷക്കണക്കിന് സഹകാരികൾ തിരിച്ചറിയുകതന്നെ ചെയ്യും.

ചുരുക്കത്തിൽ സഹകരണബിൽ എന്ന മനോഹരമായ പുസ്തകത്തിനകത്ത് ഒളിപ്പിച്ചുവെച്ച കുപ്പിച്ചില്ലുകളും മൊട്ടുസൂചികളുമാണ് ഇതിലെ ഓരോ വ്യവസ്ഥകളും.

തിരുവനന്തപുരം,
11-2-2013.

ജി. സുധാകരൻ (ഒപ്പ്)

THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2013

(As Reported by the Subject Committee)

[Words underlined indicates the modifications suggested by the Subject Committee and omissions are marked by asterisks]

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BILL

further to amend the Kerala Co-operative Societies Act, 1969.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Co-operative Societies Act, 1969, for the purposes hereinafter appearing;

BE it enacted in the Sixty-fourth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 2013.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act),—

(i) after clause (a), the following clauses shall be inserted, namely:—

“(aa) “assisted society” means a co-operative society which has received the Government assistance in the form of share capital, loan, grant or any other financial assistance or any guarantee by the Government or from Boards constituted by the Government for repayment of loan, interest or deposits;

(ab) “auditing of accounts of co-operative societies” means a close examination of financial transactions, overdue debts, if any, maintenance of books of accounts, documents and other records of a business, preparation of audit report and includes an inquiry into the affairs of the society and subsidiary institutions in order to ascertain the correctness of accounts and the extent to which its activities were useful in promoting the economic welfare of the members in accordance with co-operative principles;”;

(ii) after clause (d), the following clause shall be inserted, namely:—

“(da) “chief executive” means any employee of a co-operative society by whatever designation called and includes an officer of the State Government or an employee of any other institution or co-operative society, who discharges the functions of a chief executive under the Act, the Rules or the bye-laws;”;

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(iii) after clause (ecc), the following clause shall be inserted, namely:—

“(ecc) “co-operative principles” means the co-operative principles listed in Schedule II appended to this Act;”;

(iv) for clause (1 a), the following clause shall be substituted, namely:—

“(1a) “miscellaneous societies” means such societies, as may be prescribed, and which accept deposits from their members only and no deposits shall be accepted from nominal or associate members, and shall undertake business activities for the welfare of its members as per the bye-laws and shall issue loans only to members:

Provided that no agricultural loans or schematic loans shall be issued to the members except the loans for welfare activities;”;

(v) the existing clause (oa) shall be re-numbered as clause (oaa) and before that clause as so re-numbered the following clause shall be inserted, namely:—

“(oa) “prescribed period” means the period of limitation specified in Schedule III appended to this Act;”.

3. *Amendment of section 4.*—To section 4 of the principal Act, the following proviso shall be added, namely:—

“Provided that no co-operative society shall be registered if it is likely to be economically unsound, or the registration of which have an adverse effect on development of co-operative movement.”.

4. *Amendment of section 8.*—In section 8 of the principal Act,—

(i) the existing section shall be numbered as sub-section (1) of that section and after that sub-section as so numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), where the Registrar is satisfied that the original registration certificate is irrecoverably lost and a duplicate certificate could not be issued as the files or records regarding the Registration of the co-operative society was lost, after registration, the Registrar shall issue a certificate stating the registration number and date of registration of a co-operative society, on the basis of the details available in the audit certificate and the records available with the Registrar, signed and sealed by him, which shall be conclusive proof that the said society is duly registered and it shall be treated as a certificate of registration.”.

5. *Amendment of section 9.*—In the proviso to section 9 of the principal Act, the words “and control” shall be omitted.

6. *Insertion of new section 9A.*—In the principal Act, after section 9, the following section shall be inserted, namely:—

“9A. *Publication of name by a co-operative society.*—Every co-operative society,—

(a) shall paint or affix its name, register number and the address of its registered office and keep the same painted or affixed in conspicuous position, in letters easily legible to members in vernacular language and in English language, on the outside of every office or place in which its business is carried on;

(b) shall have its name engraved in legible characters on its seal with common emblem; and

(c) shall have its name and address of its registered office, mentioned in legible characters in all its business letters in all its bill heads and letter paper, and in all its notices and other official publications, and also have its name so mentioned in all bills of exchange, hundies, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the co-operative society, and in all bills of parcels, invoices, receipts and letters of credit of the co-operative society.”.

7. *Amendment of section 12.*—In section 12 of the principal Act, sub-sections (5), (6) and (7) shall be omitted.

8. *Insertion of new section 13A.*—After section 13 of the principal Act, the following section shall be inserted, namely:—

“13A. *Subject matter of bye-laws.*—Every co-operative society shall make its bye-laws consistent with the provisions of this Act and Rules and no provision in the bye-laws of a co-operative society shall be contrary to the provisions of the Act and the Rules.”.

9. *Amendment of section 14.*—In section 14 of the principal Act,—

(i) in sub-section (1) the words “with the previous approval of the Registrar and” shall be omitted;

(ii) in sub-section (2), the words “with the previous approval of the Registrar and” shall be omitted;

(iii) sub-sections (8) and (9) shall be omitted.

10. *Insertion of new sections 14A and 14B.*—After section 14 of the principal Act, the following sections shall be inserted, namely:—

“14A. *Promotion of subsidiary institutions for the economic welfare of members.*—(1) A co-operative society may by a resolution passed at general meeting by a majority of members present and voting, promote, one or more subsidiary institutions, which may be registered under any law for the time being in force, for the furtherance of its stated objects.

(2) Any subsidiary institution promoted under sub-section (1) shall exist only as long as the general body of the co-operative society deems its existence necessary:

Provided that a co-operative society, while promoting such a subsidiary institution shall not transfer or assign its substantive part of business or activities undertaken in furtherance of its stated objects to such subsidiary institutions.

Explanation:—For the purpose of this section,—

(a) an institution shall be deemed to be a subsidiary institution where the co-operative society,—

(i) controls the management or board of directors or members of governing body of such institutions; or

(ii) holds more than half in nominal value of equity shares of such institutions.

(b) a subsidiary institution shall not include a partnership firm.

(3) The annual reports and audited accounts of any such subsidiary institution shall be placed each year before general body meeting of the promoting co-operative society.

14B. *Partnership of co-operative societies.*—(1) Any two or more co-operative societies with prior permission of the Registrar, may by resolution passed by the majority of the members present and voting at a general body meeting of each of such co-operative societies, may enter into partnership to carry out anyone or more specific business. Written notice of the general body meeting shall be given to each member before fifteen clear days of such meeting.

(2) The partnership shall be in the interest of the members of the co-operative society or the co-operative societies or shall be in the public

interest or shall be in the interest of the co-operative movement in general and it does not mean to be a partnership firm registered under Indian Partnership Act, 1932 (Central Act 9 of 1932).”.

11. *Insertion of new section 16A.*—After section 16 of the principal Act, the following section shall be inserted, namely:—

“16A. *Ensuring participation of members in the management of societies.*—(1) No member shall be eligible to continue to be a member of a co-operative society if he,—

(a) is not using the services of the society for two consecutive years or using the services below the minimum level as may be prescribed in the rules or the bye-laws;

[****]

(b) has not attended three consecutive general meetings of the society and such absence has not been condoned by the members in the general meeting.

(2) Where any person becomes ineligible for continuing as a member as per sub-section (1), the committee of the society may remove the person from membership after giving him an opportunity for making his representation, if any, and the person concerned shall thereupon cease to be a member of the society:

Provided that no member of the society removed as above shall be eligible for re-admission as a member of that society for a period of one year from the date of such removal.”.

12. *Amendment of section 17.*—In section 17 of the principal Act,—

(i) in sub-section (1), after the words, “the interest of the society” the words “or persistently defaulting payment of his dues, or has failed to comply with the provisions of the bye-laws” shall be inserted;

(ii) after sub-section (3), the following sub-sections shall be added, namely:—

“(4) The expulsion from membership may involve forfeiture of shares held by the member.

(5) No member of the society who has been expelled under sub-section (1) shall be eligible for re-admission as a member of that society, for a period of one year from the date of such expulsion.”.

13. *Insertion of new sections 19A and 19B.*—After section 19 of the principal Act, the following sections shall be inserted, namely:—

“19A. *Member participation.*—No member of a society shall exercise the right of a member unless he has attended the minimum required general body meeting and minimum level of services as may be prescribed.

19B. *Right of a member to get information.*—Every society shall keep open to inspection for its members, free of charge, at all reasonable times, at the registered address of the society,—

- (a) an up-to-date copy of the Kerala Co-operative Societies Act, 1969;
- (b) an up-to-date copy of the Kerala Co-operative Societies Rules, 1969;
- (c) an up-to-date copy of the bye-laws of the society;
- (d) a register of members;
- (e) the latest audited balance sheet of the society; and
- (f) the accounts of the society in so far as they relate to his transaction only.”.

14. *Amendment of section 28.*—In section 28 of the principal Act,—

(i) in sub-section (1), for the words “not exceeding” the word “of” shall be substituted.

(ii) to sub-section (1), the following explanation shall be added, namely:—

“*Explanation:*—Notwithstanding anything contained in the bye-laws, for the purpose of calculating the term of committee, five years from the date of election will be taken to be the term of the committee.”;

(iii) to sub-section (1), after the second proviso, the following proviso shall be added, namely:—

“Provided also that in the case of the following type of co-operative societies election shall be conducted on ward basis in accordance with the bye-laws, namely:—

- (a) Primary Agricultural Credit Societies/Service Co-operative Banks/ Farmers Service Co-operative Banks/Rural Banks/Regional Banks;
- (b) Urban Co-operative Banks;
- (c) Urban Co-operative Societies;
- (d) Primary Agricultural and Rural Development Banks;
- (e) Primary Housing Co-operative Societies.”;

(iv) in sub-section (1A), for the words “thirteen” and “twenty five” the words “fifteen” and “twenty one” shall respectively be substituted;

(v) to sub-section (1A), after the existing proviso, the following provisos shall be added, namely:—

“Provided further that this section shall not be applicable to the committees of Primary Co-operative Societies and all other types of co-operative societies constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2013:

Provided also that this section shall not be applicable to the societies where election notification was issued and election procedure was started on the basis of the existing provisions of the Act, prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2013.”;

(vi) in sub-section (1B), after the words “as the case may be”, the words “subject to the limit specified in sub-section (1A) of section 28” shall be inserted;

(vii) for sub-section (1G), the following sub-section shall be substituted, namely:—

“(1G) Notwithstanding anything contained in the bye-laws of a society, the committee in office shall [***] co-opt two persons or representatives who are having experience in the field of banking, management, finance or specialization in any other field, relating to the objects and activities undertaken by the co-operative society as members of the Board of such society:

Provided that the number of such co-opted members shall not exceed two in addition to maximum limit specified in sub-section (1A):

Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member and is not eligible to be elected as office bearers of the board:

Provided also that such co-opted members of a co-operative society shall also be members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in sub-section (1A).”;

(viii) after sub-section (1I), the following sub-section shall be added, namely:—

“(1J) Notwithstanding anything contained in the bye-laws of the society, casual vacancy of an elected member of the committee shall be filled up by nomination by the Committee out of the same class of members, if the term of office of the board is less than half of its original term.”;

15. *Amendment of section 28B.*—In section 28B of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in this Act or in the Rules, the Government shall by notification in the Gazette, constitute a State Co-operative Election Commission for the superintendence, direction and control of the preparation of electoral rolls and for the conduct of all elections to co-operative societies including election to the President/Vice President and Representative General Body.”;

(ii) the proviso to sub-section (1) shall be omitted;

(iii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The State Co-operative Election Commission shall consist of not more than three members, one among them shall be the State Chief Co-operative Election Commissioner and others shall be Commissioners. The State Chief Co-operative Election Commissioner shall be an officer not below the rank of Special Secretary to Government. The Commissioners shall be persons, who are or have been officers of the Department of Co-operation, not below the rank of Additional Registrar of Co-operative Societies. The appointment of State Chief Co-operative Election Commissioner and the Commissioners shall be for a period of five years from the date of assumption of office or sixty two years, whichever is earlier:

Provided that, in the case of officers in service, the Chief Election Commissioner and the Commissioners shall vacate their offices on their date of superannuation:

[***]

Provided further that,—

(i) the State Co-operative Election Commission shall in consultation with the Registrar have power to fix, alter or revise the maximum and minimum limit of election expenses to be spent by different classes of societies by special or general order;

(ii) the Election Commission may fix fee or cost for election process, in accordance with rules made in this behalf;

(iii) the procedure for payment of election fee or cost shall be such, as may be prescribed.”.

16. *Amendment of section 29.*—In section 29 of the principal Act,—

(i) in sub-section (1), for the words “once in a year”, the words “within a period of six months of close of the financial year” shall be substituted;

(ii) in clause (c) of sub-section (1), after the words ‘audit report’, the words “and the report and follow up action of the committee thereon” shall be inserted;

(iii) after clause (c), the following clauses shall be added, namely:—

(ca) review of operational deficit/loss, if any, and programme to reduce such deficit;

(cb) approval of the programme of activities of the society prepared by the committee for the ensuing year;

(cc) review of annual report and accounts of any subsidiary organization, if any;

(cd) amendment of bye-laws;

(ce) declaration regarding date of holding of its general body meeting and conduct of elections when due; and

(cf) any other information required by the Registrar in pursuance of the provisions of the Act;

(iv) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) Where the board of a co-operative society fails to convene the annual general meeting within the period specified in sub-section (1), the Registrar or the person authorized by him in this behalf shall be competent to convene such annual general meeting within a period of ninety days from the date of expiry of the period mentioned in sub-section (1) and the expenditure incurred on such meeting shall be borne by the co-operative society.

(4) The person or persons who, in the opinion of the Registrar, were responsible for not convening the annual general meeting within the stipulated period shall be disqualified for one term for being elected as committee members and to continue as members of a society in addition to being liable for any other provisions under this Act:

Provided that the Registrar shall, before passing order under this sub-section, afford a reasonable opportunity of being heard to each such person, who in his opinion were responsible for not convening the annual general meeting within the specified period.

(5) A notice of the general meeting stating the place, date and hour of the meeting together with the agenda shall be given to every member, as may be prescribed.”.

17. *Amendment of section 31.*—In section 31 of the principal Act,—

(i) in the last portion of sub-section (1), for the words “ the government or any other authority specified by them in this behalf shall have the right to nominate not more than three persons or one-third of the total number of members of the committee of such apex or central society, whichever is less, to be the members of the committee” the words “ the government or any other authority shall have the right to nominate not more than two persons to the committee of an Assisted, Apex or Central Society” shall be substituted;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The person nominated under sub-section (1) shall not be eligible to hold the office of the president/chairman or vice-president/vice-chairman of the Apex or Central Society nor will be eligible for being sent as the delegate of the Apex or Central Society.”;

(iii) sub-section (4) shall be omitted.

18. *Amendment of section 32.*—In section 32 of the principal Act,—

(i) in the last portion of sub-section (1), the words “as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however that the aggregate period does not exceed one year” shall be omitted.”.

(ii) before “Explanation” to clause (d) of sub-section (1), the following provisos shall be added, namely:—

“Provided that in the case of co-operative society, carrying on the business of banking, the provisions of the Banking Regulation Act, 1949(Central Act 10 of 1949) shall also apply:

Provided further that in the case of a co-operative society, carrying on the business of Banking, appointment of administrator/administrative committee shall not exceed one year in the aggregate:

Provided also that the board of a co-operative society shall not be superseded or kept under suspension where there is no Government share holding or loan or financial assistance or any guarantee by the Government or any Board or Institutions constituted by the Government.”.

19. *Amendment of section 33.*—In section 33 of the principal Act, after clause (a) of sub-section (1) the following clause shall be inserted, namely:—

“(aa) there is stalemate in the constitution or functions of the committee.”.

20. *Amendment of section 56.*—In section 56 of the principal Act, in sub-section (1), after clause (b), the following clause shall be inserted, namely:—

“(c) ten per cent of the net profit to the Co-operative Member Relief Fund as may be prescribed.”.

21. *Amendment of section 57 B.*—In section 57B of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) All societies covered under the Deposit Guarantee Scheme shall enroll and contribute towards the Scheme within six months from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2013 failing which the societies have no right to accept deposit from depositors and the Registrar shall be competent to issue prohibition order, restraining the society from accepting deposits for such period specified in the order:

Provided that before making such order, the Registrar shall give an opportunity to the chief executive of the society to state his objection, if any, to the proposed action.

(4) Notwithstanding anything contained in sub-section (3) the Registrar may exempt any society for a period upto one year by a general or special order from enrolling such societies under the Deposit Guarantee Scheme with reasons to be recorded:

Provided that if any society violate the prohibition order under sub-section (3) the Registrar shall be competent to demand a sum of rupees five thousand only as penalty. If any society fails to pay such penalty, within two weeks from the date of receipt of demand notice, the Registrar shall be competent to issue

direction to the financing bank to recover the amount from the account maintained in the financing bank by the society, or to recover the amount under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968). If the violation is a continuing one, a further penalty of rupees one thousand for every day shall be levied, after the first day, during which the violation continues.”.

22. *Amendment of section 57D.*—In section 57 D of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) All societies covered under the Co-operative Risk Fund Scheme shall contribute towards the scheme at the rate specified in the scheme within three months from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2013 failing which the societies have no right to issue loans to members and general public and the Registrar shall be competent to issue prohibition order, restraining the society from providing loans:

Provided that before making such order, the Registrar shall give an opportunity to the chief executive of the society to state his objection, if any, to the proposed action:

Provided further that if any society violate the prohibition order, the Registrar shall be competent to demand a sum of rupees five thousand only as penalty. If any society fails to pay such penalty, within two weeks from the date of receipt of demand notice, the Registrar shall be competent to issue direction to the financing bank to recover the amount from the account maintained in the financing bank by the society, or to recover the amount under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968).” .

23. *Amendment of section 63.*—In section 63 of the principal Act,—

(i) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) It shall be the duty of the managing committee to audit the accounts of every society at least once in every year :

Provided that the accounts of every society shall be audited within six months of the close of the financial year to which such accounts relate.”;

(ii) for sub-section (5), the following sub-sections shall be substituted, namely:—

“(5) The procedure to be adopted in auditing the accounts of different types of co-operative societies should be in the manner specified in the audit manual approved by Director of Co-operative Audit or guidelines,

directions as may be issued, from time to time, by the Registrar, the National Bank for Agricultural and Rural Development or Reserve Bank of India, as the case may be, from time to time.

(5A) It shall be the duty of the Director of Co-operative Audit in consultation with Registrar to revise, amend or update audit manual in every five years, as may be prescribed.”;

(iii) after sub-section (7), the following sub-sections shall be inserted, namely:—

“(8) The minimum qualification and experience of auditors for auditing accounts of the co-operative society may be such, as may be prescribed.

(9) Every co-operative society shall cause to be audited by an auditor or auditors or team of auditors referred to in sub-section (8) appointed by general body or special general body from among the panel of auditors approved by the Director of Co-operative Audit:

Provided that if there are no auditors available from the above panel, the general body of a society may appoint auditing firms from among a panel approved by the Director of Co-operative Audit.

(10) The financial accounts of all apex societies shall be audited by auditing firms from among the panel approved by the Director of Co-operative Audit and the administrative matters and related accounts of assisted apex societies shall be audited by the Departmental auditors from among the panel approved by the Director of Co-operative Audit as may be prescribed and submit the audit reports to the Director of Co-operative Audit.

(11) The audit report of the accounts of an apex co-operative society which includes the report on administrative matters, shall be laid by the Government, before the Legislative Assembly, in the manner prescribed.

(12) It is the responsibility of the managing committee to convene general body meeting or special general body meeting in order to appoint auditors or auditing firms within the stipulated time from among the panel approved by Director of Co-operative Audit, failing which, the members of the managing committee shall cease to hold their office. In such cases to avoid administrative stalemate, the Registrar may *suo motu* or on application from the Director of Co-operative Audit or from any person authorized in this behalf, appoint an administrator or an administrative committee consisting of not more than three persons, who need not be members of the society, one among them as convener, to manage the affairs of the society, for a period not exceeding six months as may be specified in the order :

Provided that administrator or administrative committee shall arrange for the constitution of a new committee or for entering upon office of the new committee, as the case may be.”.

24. *Amendment of section 64.*—In section 64 of the principal Act,—

(i) for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) The financial statements and other statutory statements as required by auditors shall be prepared by the chief executive of the society within one month from the date of close of the financial year and submit it before managing committee and the fact shall be reported to the Director of Co-operative Audit or to the persons authorized by him in this behalf.

(4A) It shall be the duty of the managing committee of every society to ensure the accuracy of financial and other statutory statements. It is the responsibility of the managing committee to submit the above statements for audit within one month from the date of receipt of the above statements before the auditor. Lapse on the part of managing committee in this regard will be considered as a disqualification to hold office and they shall cease to be a member of the committee as may be prescribed. In such cases to avoid administrative stalemate, the Registrar may *suo motu* or on application from the Director of Co-operative Audit or by any person authorized in this behalf, appoint an administrator or an administrative committee consisting of not more than three persons, who need not be members of the society, one among them as convener, to manage the affairs of the society, for a period not exceeding six months as may be specified in the order :

Provided that administrator or administrative committee shall arrange for the constitution of a new committee, or for entering upon office of the new committee, as the case may be.

(4B) Within three months from the date of receipt of the audit report, the Director of Co-operative Audit shall issue an audit certificate to the concerned society with a copy of audit memorandum as may be prescribed.”;

(ii) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) The auditor or auditing firms appointed as per section 63 shall complete the audit within four months from the date of receipt of the statements and submit audit report to the Director of Co-operative Audit or to the persons authorized by him in this behalf.”;

(iii) in sub-section (7), the words “or can be recovered from the account maintained in the financing bank by the society, through an order issued by the Registrar upon the request from the Director of Co-operative Audit” shall be added at the end.

25. *Amendment of section 65.*—In sub-section (5) of section 65 of the principal Act, the words “which period may at the discretion of the Registrar and for reasons to be recorded in writing, be extended from time to time, so however that the aggregate period shall not in any way, exceed one year” shall be added at the end.

26. *Insertion of new section 66C.*—In the principal Act, after section 66B, the following section shall be inserted, namely:—

“66C. *Submission of returns to the Registrar.*—Every co-operative society shall file returns, within six months of the closure of every financial year, before the Registrar, containing the following particulars, namely :—

- (a) a comprehensive annual report of its activities ;
- (b) its audited statements of accounts ;
- (c) plan for surplus disposal as approved by the general body of the co-operative society ;
- (d) list of amendments to the bye-laws of the co-operative society, if any ;
- (e) declaration regarding date of holding of its general body meeting and conduct of elections when due ; and
- (f) any other information required by the Registrar in pursuance of any of the provisions of this Act or the Rules.

27. *Amendment of section 69.*—In section 69 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) All monetary disputes mentioned in Schedule III to the Act shall be filed within the time limit specified in the said Schedule.”.

28. *Amendment of section 69A.*—In section 69A of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely :—

“(4) The Ombudsman or Ombudsmen so appointed under sub-section (2) shall be a person or persons having minimum of fifteen years of Bar practice and having experience and expertise in banking or co-operative field.”.

29. *Amendment of section 74B.*—In section 74B of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(2) All primary credit societies including Primary Agricultural Credit Societies may open branches in their area of operation with the prior written permission of the Registrar.”.

30. *Amendment of section 79.*—In section 79 of the principal Act, in sub-section (1) after the word “Registrar” the words “or Director of Co-operative Audit” shall be inserted.

31. *Amendment of section 80.*—In section 80 of the principal Act,—

(i) in sub-section (2), for the words “State Co-operative Union” the word “Registrar” shall be substituted;

(ii) in sub-section (3), the words “in consultation with the State Co-operative Union” shall be omitted;

(iii) in sub-section (3A), for the word “Schedule”, the words and number “Schedule I” shall be substituted;

(iv) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Government shall have power to fix or alter the maximum and minimum limit of establishment expenses of co-operative societies including the pay and allowances and other benefits of employees of co-operative societies :

[***]

Provided [***] that societies run on net loss can give pay and allowances to its employees below the minimum limit fixed by the Government.”;

(v) after sub-section (9), the following sub-section shall be inserted, namely:—

“(10) The Government may, on mutually agreed terms and on application of a society, depute a Government servant to the service of the society for the purpose of managing its affairs and the Government servant so deputed shall exercise such powers and perform such duties as may be prescribed.”.

32. *Insertion of new sections 88B and 88C.*—After section 88A of the principal Act, the following sections shall be inserted, namely:—

“88B. *Appointment of officer on failure to constitute the Circle Co-operative Union.*—Where the term of office of the Circle Co-operative Union has expired and a new union has not been constituted, or where the members of

the existing Circle Co-operative Union resigns enblock or where vacancies occur in the Circle Co-operative Union either by resignation or otherwise and the number of remaining members cannot constitute the quorum or where the Circle Co-operative Union fails to hold its regular meeting consecutively for six months or where the Registrar is satisfied,—

(i) that a new Circle Co-operative Union cannot be constituted before the expiry of the term of office of the existing Circle Co-operative Union ; or

(ii) on the date on which the term of office of the existing Circle Co-operative Union expires ; or

(iii) a new Circle Co-operative Union is prevented from entering upon office or the new Circle Co-operative Union fails to enter upon office,

the Registrar may appoint an officer to manage the affairs of the Circle Co-operative Union, for a period of six months as may be specified in the order, which period may at the discretion of the Registrar and for reasons to be recorded in writing be extended from time to time, so, however that the aggregate period shall not in any case exceed one year or till the said Circle Co-operative Union is reconstituted, whichever is earlier.”.

88C. *Removal of Chairman.*—A committee shall remove from office the Chairman, or any other officer of the committee, if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.”.

33. *Insertion of new sections 89B and 89C.*—After section 89A of the principal Act, the following sections shall be inserted, namely:—

“89B. *Appointment of officers or committee on failure to constitute the managing committee of the State Co-operative Union.*—Where the term of the managing committee of the State Co-operative Union has expired and a new managing committee has not been constituted or where the members of the existing managing committee resigns enblock or where vacancies occur in the managing committee either by resignation or otherwise and the number of remaining members cannot constitute the quorum or where the State Co-operative Union fails to hold its regular meeting consecutively for six months or where the Government are satisfied,—

(i) that a new managing committee cannot be constituted before the expiry of the term of office of the existing managing committee ; or

(ii) that on the date on which the term of the existing managing committee expires ; or

(iii) that a new managing committee is prevented from entering upon office or a new managing committee fails to enter upon office, the Government may appoint an officer of the Co-operative Department to manage the affairs of the State Co-operative Union, for a period of six months as may be specified in the order, which period may at the discretion of the Government and for reasons to be recorded in writing, be extended from time to time, so however that the aggregate period shall not in any case exceed one year or till the managing committee is reconstituted, whichever is earlier.

89C. *Removal of Chairman, Vice Chairman etc.*—The committee shall remove from office the Chairman, the Vice-chairman or any other officer of the committee if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.”.

34. *Amendment of section 94.*— In section 94 of the principal Act,—

(i) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(4A) Any officer or custodian, willfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a society of which he is an officer or custodian, to an authorised officer such as Administrator, Administrative Committee, Liquidator, Auditor, or to any person authorised in this behalf by the Registrar or by the Director of Co-operative Audit, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both.

(4B) Whoever, before, during or after the election of members of the committee or of office bearer or of delegates indulges in or adopt any corrupt practices mentioned hereunder shall be punishable with imprisonment which may extend up to six months or with fine which may extend up to one thousand rupees or with both,—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of the Co-operative Election Commission or the Electoral Officer or the Returning Officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark or the ballot box or any identity card for election relating to any society; or

(d) supplies any forged ballot paper or forged identity card; or

(e) fraudulently put any other matter other than ballot paper in the ballot box which he is not authorised by law; or

(f) commits any criminal offence against the Electoral Officer or the Returning officer or the Polling Personnel or other office bearers and employees of a society; or

(g) offers any gift or promise with the intention to influence members to vote in favour of him or to any other person; or

(h) compel any person to withdraw or not to withdraw from being a candidate at an election to any society.”.

35. *Amendment of section 95.*—In section 95 of the principal Act, for sub-section (1) the following sub-section shall be substituted, namely:—

“(1) The offences punishable under sub-sections (4A), (4B), (8), (8A) and (8B) of section 94 shall be cognizable.”.

36. *Insertion of new Schedules.*—In the principal Act, the existing Schedule shall be numbered as Schedule I and after Schedule I as so numbered, the following Schedules shall be inserted, namely:—

“SCHEDULE II

[see clause (eccc) of section 2]

Co-operative Principles

1. Open and Voluntary membership
2. Democratic Member Control
3. Member Economic Participation
4. Autonomy and Independence
5. Education, Training and Information
6. Co-operation among Co-operatives
7. Concern for community

SCHEDULE III

[see sub-section (4) of section 69]

<i>Description of Dispute or Suit</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
(1)	(2)	(3)
1. For money payable for money lent	Three years	when repayment period is over
2. For money lent under an agreement that it shall be payable on demand	Three years	when loan is made
3. For money deposited under an agreement that it shall be payable on demand, including money for a member or a customer in the hands of society	Three years	when demand is made
4. For the price of Work done by the parties to the dispute, where no time has been fixed for payment	Three years	when work is done
5. By a surety against the principal debtor	Three years	when the surety pays the creditor
6. By a surety against a co-surety	Three years	when the surety pays anything in excess of his own share
7. For the balance of money advanced in payment of goods to be delivered	Three years	when goods ought to be delivered

(1)	(2)	(3)
8. For the price of goods sold and delivered where no fixed period of credit is agreed upon	Three years	The date of the delivery of the goods
9. For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit	Three years	when period of credit expires

Secretariat of the Kerala Legislature,
Thiruvananthapuram,
February 12, 2013.

P. D. SARANGADHARAN,
Secretary.

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