

Seventeenth Loksabha

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Title : The Multi-State Co-operative Societies (Amendment) Bill, 2022

*m01 उत्तर पूर्वी क्षेत्र विकास मंत्रालय में राज्य मंत्री तथा सहकारिता मंत्रालय में राज्य मंत्री (श्री बी. एल. वर्मा): अध्यक्ष महोदय, 6 जुलाई, 2021 को नए सहकारिता मंत्रालय के गठन के बाद माननीय प्रधान मंत्री जी के सहकारिता समृद्धि के विजन को अकल्पनीय तरीके से पूरा करते हुए, हमारे माननीय केन्द्रीय मंत्री श्री अमित शाह जी की ओर से मैं प्रस्ताव करता हूँ कि बहुराज्य सहकारी सोसाइटी अधिनियम, 2002 का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति दी जाए।

*m02 माननीय अध्यक्ष: प्रस्ताव प्रस्तुत हुआ :

“कि बहुराज्य सहकारी सोसाइटी अधिनियम, 2002 का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति दी जाए।”

*m03 Shri N. K. Premachandran (Kollam): Hon. Speaker, Sir, I rise to oppose the introduction of the Multi-State Co-operative Societies (Amendment) Bill, 2022 under Rule 72(2) of the Rules of Procedure and Conduct of Business in Lok Sabha and as per the provisions of the Constitution of India.

*m04 माननीय अध्यक्ष : आप जो नियम 72(2) पढ़ते हैं, उस पर कभी डिबेट हो जानी चाहिए। विषय यह है कि संसद को इस कानून को पास करने की विधायी क्षमता है या नहीं है। माननीय सदस्य, शायद आपसे ज्ञानी यहां पर कोई नहीं है। जब से मल्टी स्टेट कोऑपरेटिव एक्ट बना है, तब से मैं कोऑपरेटिव में रहा हूँ। यह सेन्ट्रल गवर्नमेंट का एक्ट है और राज्य का कोऑपरेटिव एक्ट है। यही है न? एन. के. प्रेमचन्द्रन जी, बोलिए।

*m05 Shri N. K. Premachandran: Sir, I fully agree with you. On technical points and on the basis of the Constitutional provisions, I am opposing the introduction of the Multi-State Co-operative Societies (Amendment) Bill, 2022.

Sir, the first point which I would like to make is this. You may kindly go through the definition of Article 243ZH(c) and (d) of the Constitution of India.

Sub-clause (c) of the provision clearly defines, what is a cooperative society, which means to say ‘a society registered or deemed to be registered under any law relating to Cooperative Societies for the time being enforced in the State.’

About the Multi-State Cooperative Societies, as the hon. Speaker has just now mentioned, it is as per the law passed by the Parliament; and it belongs to the Union of India. My technical point is that this Bill is against the very spirit of this definition incorporated in Part 9B of the Constitution. That is a newly added amended provision in the Cooperative Societies Act. A Chapter is also there in which there is no particular or specific provision by which a Cooperative Society which is incorporated under the State Law can be merged into a Multi-State Cooperative Society. That is my technical objection. Sir, Chapter 9B, a newly added Chapter in the Constitution, is there with a specific provision to distinguish between a Cooperative Society of the State and a Multi-State Cooperative Society being governed by the Government of India or the Union of India. There is a clear distinction by which a Cooperative Society is governed by the State Legislature or Legislative Assembly and a Multi-State Cooperative Society is run by the Union of India. Here, my basic point is that it is against the federal principles of the Constitution because the federal structure has to be protected. But in this case, it is not so. Sir, as you rightly pointed out, if you go through Clause 6 of the Bill, it is very interesting to note that here, indirectly the Central Government is encroaching upon the rights of a State Cooperative Society. I would explain it. Clause C, Section 7 of the Act is to be amended in which a new provision is being added. It says that ‘Any Cooperative Society, may, by a Resolution, passed by a majority of not less than 2/3rds of the Members present and voting at a General Meeting of the Society, decide to merge into an existing Multi-State Cooperative Society...’ This is the provision which we are disputing.

It means, a State Cooperative Society can, at any time, be merged into a Multi-State Cooperative Society. But the State Cooperative Society is to be governed by a law of the State Legislature but here it is indirectly coming into the domain of the Union of India, which is against the basic spirit of the Constitution by which Part 9B of the Constitution is being incorporated as an amended Chapter. That is the technical objection, which I am raising here.

Along with this, another provision is also there. In provision 243ZI, it is very clearly mentioned, what is the incorporation of a society. The State Law also is well mentioned in Provision 243ZI which is 'Incorporation of the Cooperative subject to provisions...' It says that 'the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of a Cooperative Society.' That is also being governed by a State Law made by the Legislative Assembly.

So, when a specific provision regarding the State Cooperative Society, and a Multi-State Cooperative Society is distinctly there, why indirectly, the Union of India/the Government of India is coming with a legislation with an intent to make all the State Cooperative Societies be merged with the Multi-State Cooperative Societies? So, this is taking away of the rights of the State Governments by the Central Government, which is against the federal character and the federal polity of the Constitution.

Sir, the basic features of the Constitution cannot be amended. That is why I am saying that it is outside the scope of the legislative competence of the House. Hence, I am opposing the introduction of this Bill.

Thank you very much, Sir, for proving me this much of time.

*m06 **माननीय अध्यक्ष** : माननीय मंत्री जी, श्री एन. के. प्रेमचन्द्रन जी ने यह विषय उठाया है कि राज्य की किसी भी सोसाइटी को क्या मल्टी स्टेट कोऑपरेटिव सोसाइटी में बदल सकते हैं, क्या आप यह अधिकार इसमें ले रहे हैं? जब आप जवाब देंगे, तब इस पॉइंट को क्लियर करें।

Now, Shri C. Thomas – Not present;

Dr. D. Ravikumar -- Not present;

Shri Manish Tewari-ji.

*m07 Shri Manish Tewari (Anandpur Sahib): Thank you very much, Mr. Speaker, Sir. I rise to oppose the introduction of the Multi-State Cooperative Societies (Amendment) Bill, 2022, as this Bill violates the object of the 97th Constitutional Amendment, Article 243ZI inserted by the 97th Constitutional Amendment Act, 2011, and Article 43B of the Constitution.

Mr. Speaker, Sir, with your permission, I will point out five specific clauses of the Bill which are beyond the legislative competence of this House and, therefore, we are opposing the introduction of this Bill.

*m08 **माननीय अध्यक्ष** : आप विद्वान हैं। अभी तो हमें केवल इतना ही डिस्कस करना है कि संसद को इसकी विधायी क्षमता है या नहीं है। जब पूरा विषय डिस्कस हो तो खण्डवाइज बोल लीजिएगा।

*m09 **श्री मनीष तिवारी** : स्पीकर सर, मैं उसी प्रावधान की ओर आपका ध्यान दिलवा रहा हूँ, जो प्रावधान सीधा-सीधा इस सदन के लेजिस्लेटिव कॉम्पिटेंस के बाहर है। मैं उससे बाहर जाने की कोशिश नहीं कर रहा हूँ।

The first is that clause 6 of the Bill inserts sub-Section 10 into Section 17, creating an ambiguity by allowing any cooperative society to merge into an existing multi-State cooperative society. This is beyond the legislative competence of the Union as State Cooperative Societies are within the exclusive jurisdiction of the States.

The second is that clause 13 substitutes Section 35 to now prohibit the redemption of shares of multi-State cooperative societies without the approval of the Government. This strikes at the very heart of the principle of autonomous functioning of cooperative societies which the 97th Amendment sought to introduce by virtue of Article 45(b) of the Constitution.

The third is that clause 17 completely usurps the object of the parent Act as well as the 97th Amendment by substituting Section 45 with the Central Election Authority to be appointed by the Central Government.

The fourth is that a fund is sought to be created by virtue of clause 24 of the Bill. By inserting Section 63(a), 63(b), and 63(c) into the parent Act and again by putting an additional burden on cooperatives, it infringes upon the cardinal principle of autonomous functioning as provided in Article 43(b) of the Constitution.

Finally, Mr. Speaker, Sir, and I thank you for your indulgence, clause 45 provides for an overriding of the Board and appointing an administrator in its place who may not even be a member of the society. This clause also substantially contravenes the 97th Amendment to the Constitution.

Mr. Speaker, Sir, I would very, very humbly like to urge the Treasury Benches that this Bill should be withdrawn. It should be reconsidered because it violates the federal spirit of the Constitution. It, actually, attacks the federal spirit of the Constitution with a sledgehammer.

Thank you very much Mr. Speaker, Sir.

*m10 Shri Adhir Ranjan Chowdhury (BAHARAMPUR): Sir, I rise to oppose the introduction of this Bill under the nomenclature of the Multi-State Cooperative Societies (Amendment) Bill, 2022 under Rule 72(2). Sir, already, the explicit reasons for opposing the legislative document have been deliberated by our colleagues. I would like to draw your attention that cooperative society is a State subject under the Seventh Schedule *via* Entry 32 of the State List in the Indian Constitution. It has already been inserted. So, it is, basically, a State subject. You are absolutely raising a pertinent argument which also needs to be dealt with but here in this issue there is a clear indication that the Central Government has been encroaching upon the territory of the State Government. That is why, furore and uproarious protestation has been cropping up across the nation. It is because this Government has always been pleading for cooperative federalism, so, this should have been reflected in the preparation of this legislation. I do not know whether all the stakeholders, I mean, the State Governments have been consulted before the preparation of this legislation or not. According to this Bill, in the Cooperative Rehabilitation and Reconstruction Fund, which is to be constituted, the profit-making multi-State cooperative has to pay Rs. 1 crore or one per cent of its profit. Strangely, the Government is not paying a single paisa. This is an illogical way that one profit-making cooperative society shall pay for the revival of another loss-making cooperative society. This does not happen in the Companies Act also.

Sir, that is why we are opposing the Bill. The Central Government has empowered itself with the vast powers under the present Bill. This may lead to concentration of power with the Central Government which may impact the autonomy and functioning of the multi-sectoral cooperative societies, and may also create a potential for misuse. For example, under the present Bill, the cooperative ombudsman will be appointed directly by the Centre, without any apparent monitoring system, to prevent corruption. An ombudsman is supposed to be unbiased.

माननीय अध्यक्ष : जब पूरे बिल पर डिबेट होगी, तब चर्चा करेंगे। अभी आप सीमित विचार रखिए।

श्री अधीर रंजन चौधरी: सर, मेरी बात पूरी होने वाली है। An ombudsman is supposed to be unbiased and keep a check on the Government by preventing them from abusing power. However, when an ombudsman is appointed directly by the Government itself, it creates scope for undue influence over the decision of the ombudsman.

That is why, my only submission before you and the Government is this. Given the ramifications and encroachment upon the States' power, this Bill should be referred to the Standing Committee so that it could be further scrutinized, and all the controversies could be wiped off before presentation of the Bill afresh. This is my only submission before you.

*m11 Adv. A.M. Ariff (ALAPPUZHA): Sir, I rise to oppose the introduction of the Multi-State Co-operative Societies (Amendment) Bill, 2022. As per one of the lists of the Constitution and also as per the judgment of the Supreme Court, the Central Government cannot make any law with regard to the cooperative societies without the consultation of the States. The amendment in the Bill is a proposal for complete centralization of authority. Also, this is a frontal attack on the federal principle of our Constitution. Therefore, necessary consultation is needed with the State Governments.

I also support the arguments made by the Members against the introduction of this Bill. The Bill may be referred to the Standing Committee. Thank you.

*m12 Prof. Sougata Ray (DUM DUM): Sir, under Rule 72 (1) of the Rules of Procedure and Conduct of Business in Lok Sabha, I beg to oppose the introduction of the Multi-State Co-operative Societies (Amendment) Bill, 2022.

Sir, originally, in 2002, when the Bill first came to light, it was intended to facilitate the voluntary formation and democratic functioning of cooperatives as people's institutes. But it seems that with this Amendment Bill, the Central Government is planning to take away the powers of the State Governments with regard to cooperatives. It has four proposals. One is, setting up of cooperative election authority. Earlier, cooperative elections were looked after by the State Governments. It takes that authority away.

HON. SPEAKER: No.

माननीय अध्यक्ष : मैं को-ऑपरेटिव में रहा हूँ, इसलिए मैं भी को-ऑपरेटिव के सिस्टम को जानता हूँ।

प्रो. सौगत राय : हां, मैं जानता हूँ कि आप बहुत एक्सपर्ट हैं। कोटा में जो को-ऑपरेटिव बना, उसमें आप मैम्बर थे और सेक्रेट्री भी थे। मुझे पता है। आपके बारे में हम लोग सब कुछ जानकारी लेकर ही बोलते हैं। Sir, they are proposing to create a cooperative revival fund. Thirdly, as Adhirji mentioned, they are planning to set up a cooperative ombudsman. Fourthly, they are increasing monetary penalties on Multi-State Cooperative Societies.

सर, मैं एक चीज आपके संज्ञान में लाना चाहता हूँ कि वर्ष 2011 में कॉन्स्टीट्यूशन का 97वां अमेंडमेंट हुआ। जिसमें को-ऑपरेटिव सोसायटी आ गयी। The cooperative societies became part of the Constitution. सर, उसमें कहा गया है कि incorporation of cooperative societies कौन करेगा, यह स्टेट करेगा। यह क्लीयरली मेंशनड है।

माननीय अध्यक्ष : जब डिटेल्ड डिस्कशन होगा तब हम यह चर्चा कर लेंगे।

प्रो. सौगत राय : सर, मैं एक मिनट में अपनी बात समाप्त करता हूँ। Article 243ZR talks about its application to Multi-State Cooperative Societies. यह कॉन्स्टीट्यूशन अमेंडमेंट में लाया गया। बिल में यह कहा गया, बिल में objects and reasons में कहा गया, "In view of insertion of the said part, it has become imperative to amend the Act."

It is not clear to me how the Act is related to the Constitution amendment. The amendment came in 2011. This Government has been in power for eight years. They have not amended it. Suddenly, Mr. Amit Shah comes forward with the amendment to this Bill. This Bill impinges on the rights of the States. It impinges on the right of people to form co-operatives on their own will, and basically, it will act in bringing more control over multi-State co-operative societies by the Central Government.

I am totally opposed to this. It is undemocratic. It is anti-Constitutional, and it violates the spirit of the co-operatives and cooperation in the country.

Sir, please send it to the Standing Committee. You can do it. You have the power. If you write one line, then everything will go to the Standing Committee. आप यह कर दीजिए । ... (व्यवधान)

*m13 Shri T. R. Baalu (SRIPERUMBUDUR): Sir, I am not a lawyer like other Members. I am talking from the point of view of the common man. I oppose the Multi-State Co-operative Societies (Amendment) Bill, 2022. This is stoutly being opposed by me because of one reason. Actually, it gives an impression as though the Chairman, Vice-Chairman, Members and the Secretary are just selected by the Central Government only. There is no democratic policy or principle being adopted. ... (Interruptions) Yes, that is why, the objection is from our side. There is no point of view from the democratically elected public. It is intended for the betterment of opportunities that have been extended to the public.

*m14 **THE MINISTER OF PARLIAMENTARY AFFAIRS, MINISTER OF COAL AND MINISTER OF MINES (SHRI PRALHAD JOSHI):** You are talking on the merit.

*m15 Shri T. R. Baalu: No, this is nothing. I will conclude. Do not worry. I am not going to include any other thing.

Actually, the common man has got the opportunity of taking the help by way of using the co-operative movement. He has to say what has to be served by the Government in rendering the usual way of small, small helps by way of this co-operative movement. This co-operative movement has to be reckoned by democratic means only but there is no democracy. Actually, the Government is making everybody the Heads of the institutions, and they are appointed by the Government only. This is not fair. That is the main objection from us. So, it has to be referred to the Standing Committee. Thank you.

*m16 **माननीय अध्यक्ष :** माननीय मंत्री जी – आप बोलिए ।

*m17 **श्री बी. एल. वर्मा :** माननीय अध्यक्ष जी, अभी माननीय सदस्यों द्वारा कुछ प्रश्न आए हैं। सबसे बड़ा प्रश्न है कि संसद की क्षमता इस विधेयक को लाने की है या नहीं? इस पर मैं कहना चाहता हूँ कि अभी माननीय सदस्य ने स्टेट का प्रश्न किया था कि स्टेट पर हमला हो रहा है। मान्यवर, यह विधेयक इस प्रकार का नहीं है। एक राज्य में जो सहकारिता की सोसाइटीज काम करती हैं, वे राज्य की होती हैं और एक राज्य से ज्यादा में जो काम करती हैं, वे मल्टी-स्टेट होती हैं। मैं कहना चाहता हूँ कि खंड-6 में राज्य सहकारी समितियों के बहुराज्य सहकारी समिति में विलय का प्रावधान पहले से है, परंतु यह राज्यों के सहकारी सोसाइटी में नियमों के अधीन ही है। वर्ष 2002 के अधिनियम में भी राज्य सोसाइटीयों के बहुराज्य सोसाइटी में परिवर्तन करने का प्रावधान पहले से ही आपके यहां है।

दूसरा प्रश्न आया था कि संविधान के 97वें संशोधन को उच्च न्यायालय में निरस्त कर दिया गया था, पर सर्वोच्च न्यायालय ने जुलाई, 2021 में यह निर्णय दिया कि यह संशोधन बहुराज्य सहकारी समितियों पर लागू होगा। इसलिए, इस संशोधन विधेयक की आवश्यकता पड़ी।

अध्यक्ष जी, हमारे यहां चुनाव प्राधिकरण का जो सवाल आया है, वह प्रावधान में संविधान के 97वें संशोधन के अनुसार है और शेयर्स के मोचन का प्रावधान अंकित मूल्य पर प्रस्तावित है जो कि सहकारिता के सिद्धांतों के अनुसार है। इन सहकारी समितियों का उद्देश्य केवल एक राज्य तक सीमित है और सूची-2 राज्य की प्रविष्टि 32 में आती है एवं राज्यों की सहकारी समितियों के पंजीयकों द्वारा पंजीकृत की जाती है। ये विधेयक बहुराज्य सहकारी समितियों के लिए है, जिनका उद्देश्य एक से अधिक राज्यों में है जो संघ सूची की प्रविष्टि 44 के अंतर्गत आती है और केंद्रीय पंजीयक द्वारा इसे पंजीकृत किया जाता है। यह विधेयक पूर्णतया संसद की विधायी क्षमता में है। यह विधेयक संविधान की सातवीं अनुसूची की सूची-1 संघ सूची की प्रविष्टि 44 के अंतर्गत प्रस्तावित है। बहुराज्य सहकारी सोसाइटी अधिनियम, 2002 का उससे पहले बहुराज्य सहकारी सोसाइटी अधिनियम, 1984 में भी इस प्रविष्टि के अंतर्गत संसद में पारित किए गए हैं।

अतः यह विधेयक संसद की विधायी क्षमता में है। बाकी प्रश्नों के बारे में विधेयक पर खंडवार चर्चा जब होगी, तब उसके उत्तर दिए जाएंगे। अतः मैं बहुराज्य सहकारी सोसाइटी संशोधन विधेयक, 2022 के पुरःस्थापन का अनुरोध करता हूँ।

*m18 **श्री एन. के. प्रेमचन्द्रन (कोल्लम):** महोदय, आप इसे स्टैंडिंग कमेटी को भेज दीजिए ।

*m19 माननीय अध्यक्ष : आप सभी से बात करके इस विषय पर चर्चा करेंगे। आप निश्चित रहें।

माननीय अध्यक्ष : पहले आप से इस विषय पर चर्चा और विचार करेंगे।

माननीय अध्यक्ष : प्रश्न यह है:

“कि बहुराज्य सहकारी सोसाइटी अधिनियम, 2002 का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति प्रदान की जाए।”

प्रस्ताव स्वीकृत हुआ

m20 श्री बी. एल. वर्मा: अध्यक्ष महोदय, मैं विधेयक को पुरःस्थापित करता हूँ।