



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 3rd July, 2009:—

I

BILL NO. XVII OF 2008

A Bill to provide for social security to the families living below poverty line in the country whose children up to the age of fourteen years have been prohibited under the law to undertake any kind of employment by extending financial assistance and for matters connected therewith and incidental thereto.

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Children Social Security Act, 2008.

(2) It shall come into force at once.

(3) It extends to the whole of India.

2. In this Act unless the context otherwise requires, "prescribed" means prescribed by rules made under this Act.

Short title,
extent and
commencement.

Definition.

The Central Government to provide financial assistance.

3. The Central Government shall provide financial assistance to every family living below poverty line, having two children upto the age of fourteen years at such rate and in such manner as may be prescribed.

The Central Government to conduct a survey for identification of beneficiaries.

4. For the purpose of providing financial assistance under section 3 the Central Government shall conduct a survey to identify the number of families living below poverty line and having two children below the age of fourteen years and prepare a list of such families as may be covered under this Act in such manner as may be prescribed.

The Central Government to provide funds.

5. The Central Government shall, after due appropriation made by Parliament by law in this behalf make available to the States and Union Territories the requisite funds for the purpose of this Act.

Power to make rules.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Now that children upto the age of 14 years have been prohibited by law to undertake any kind of employment, including work in fields, etc. a large number of poor families, particularly, below poverty line have been hard hit and need assistance to substitute for the income that their children in the age group of 10-14 years would have been able to earn if employed.

In the circumstances, it is desirable that such families be provided financial assistance for the loss suffered by them due to the operation of the law. However, such assistance, may be limited up to and for two children only at the maximum, per family.

The Bill seeks to achieve the above objectives.

RAJEEV CHANDRASEKHAR

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall provide financial assistance to the families living below poverty line and having two children. Clause 5 provides the Central Government shall make available to the States and Union Territories funds for the purpose of the Act. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees two hundred crore may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill.

The rules will relate to matters of details only. The delegation of legislative power is of normal character.

II

BILL NO. XIII OF 2008

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

Short title,
and
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2008.

(2) It shall come into force, at once.

Amendment
of art. 148.

2. In article 148 of the Constitution,—

(i) after clause (1) the following shall be inserted, namely:—

“Provided that no serving bureaucrat other than that belonging to the Indian Audit and Accounts Service shall be eligible for appointment under clause (1).”

(ii) after clause (4) the following shall be inserted, namely:—

“*Explanation:* In this clause office includes the office of Governor of a State, Lt. Governor or Administrator of a Union Territory or any other office like the Chairman of the Finance Commission, etc. whose appointment is made by the President or Governor of a State on the advice of the Council of Ministers of the Union or the State, as the case may be.”

STATEMENT OF OBJECTS AND REASONS

The office of the Comptroller and Auditor-General of India is one of the most pivotal offices in the Government of India as provided in the Constitution. In the words of Dr. B.R. Ambedkar, the architect of our Constitution, the Comptroller and Auditor-General is the most important officer as he is the guardian of Indian purse and ensures that not a farthing is spent out of the Consolidated Fund of India or of a State without the authority of the appropriate legislature. It is, therefore, essential that this office should be independent of any control of the executive.

In order to ensure the independence of this office of any control of the executive, provision has been made in the Constitution that the CAG once appointed, can be removed in like manner and on the like grounds as a Judge of the Supreme Court. His salary and other conditions of service cannot be varied to his disadvantage after his appointment. Further to ensure his impartiality and uprightness it has been laid down that he shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

However, in actual practice during the last over 50 years there have been serious violations of the principles laid down for ensuring impartiality of this office in so far as a number of serving and retired bureaucrats have been appointed as Controller and Auditor Generals. Moreover in one case a CAG after retirement was appointed as the Chairman of the Finance Commission and another retired CAG was appointed as a Governor in 2002. Obviously such appointments are against the spirit of the provisions of the Constitution relating to this office. Accordingly Clauses 1 and 4 of Article 148 of the Constitution are proposed to be amended to ensure that such violations are not repeated.

Hence this Bill.

RAJEEV CHANDRASEKHAR

III**BILL NO. XXXVII OF 2008**

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2008.

(2) It shall come into force at once.

Amendment of article 54.

2. In article 54 of the Constitution, in clauses (a) and (b), the word 'elected' shall be deleted.

Amendment of article 55.

3. In article 55 of the constitution, in clause (2), the word "elected" occurring at five places shall be deleted.

STATEMENT OF OBJECTS AND REASONS

As per article 54 of the Constitution, the President of India is elected by the members of an electoral college consisting of (a) the elected members of both the Houses of Parliament and (b) the elected members of the Legislative Assemblies of the States. Accordingly, 12 members of the Rajya Sabha nominated by the President under Article 80(1) (a), and two members of the Lok Sabha from Anglo Indian community nominated by the President under Article 331 and Anglo Indian members of State Assemblies nominated by the respective Governors under Article 333 have been excluded from the electoral college. The provisions of Article 333, under which members of Anglo Indian Community are nominated to the State Assemblies shall cease after sixty years from the commencement of the constitution that is with effect from the 26th January 2010. Thereafter, only nominated members of Parliament will stand excluded from the Electoral College. These 14 nominated members of Parliament are members of the Electoral College, which elects the Vice-President and in other respects also, there is no difference between them and the elected members. The nominated members of Lok Sabha can even vote in a no-confidence motion and the nominated members of the Rajya Sabha are eligible to vote in a joint sitting of both the Houses of Parliament convened to decide the fate of a Bill in the event of a dead lock between the two Houses.

It is, therefore, felt that the exclusion of the nominated members of the both the Houses of Parliament and States Assemblies from the Electoral College under Article 54 is not proper and reasonable and needs to be rectified. Consequential amendments have been suggested in article 55 also.

Hence this Bill.

RAJEEV CHANDRASEKHAR

IV

BILL NO. L OF 2008

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2008.
2. After article 21A of the Constitution, the following article shall be inserted, namely:—

"21B. All citizens having a family shall have the right to a dwelling unit with all modern facilities in accordance with such norms as Parliament may by law prescribe.

Explanation.— For the purposes of this article " Family" means husband, wife and one minor child."

Short title.

Insertion of
new article
21B.

Right to have a
dwelling unit.

STATEMENT OF OBJECTS AND REASONS

Shelter is the basic necessity for sustaining life. Right to the life and other similar rights for the well-being of the citizens enshrined in the Constitution are meaningless for the millions of persons, who have no shelter. It is therefore, necessary that right to shelter is made a fundamental right.

Hence this Bill.

T. SUBBARAMI REDDY.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that each family shall have the right to dwelling unit. The Bill, if enacted, will involve expenditure for providing houses to families, who are not having houses. Though housing basically is a State subject, yet the Central Government has to give grants to the State Governments for implementing the provisions of the Bill. It is estimated that an annual recurring expenditure of about rupees ten thousand crore is likely to be involved.

A non-recurring expenditure of rupees two thousand crore, is also likely to be involved.

V

BILL NO. LI OF 2008

A Bill to provide employment or for means and resources for self-employment to atleast one adult member of every family and matters connected therewith.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows: -

Short title and extent

1. (1) This Act may be called the Employment Act, 2008.

(2) It extends to the whole of India.

Definition.

2. In this Act unless the context otherwise requires, "family" includes wife, husband and minor children.

Central Government to provide employment.

3. **It shall be the duty of the Central Government to provide employment to atleast one adult member of every family.**

No person to be involved in any activity other than employment.

4. Every person who has been provided with a job under section 3 shall not involve himself in any activity other than his employment for financial or other gains.

Promotion on basis of performance.

5. The Central Government shall evolve a process ensuring periodical promotions to all its employees on the basis of tests and their performance.

Job to dependents.

6. The Central Government shall provide employment to the dependent of an employee, who had been provided with a job under section 3, after his retirement from service.

Resources for self-employment

7. **The Central Government shall provide credit, subsidy and all other facilities or resources for self-employment to a family, where it is not possible to provide employment to atleast one member of that family.**

Power to make Rules.

8. The Central Government may, by notification, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In India, poverty is one of the biggest problems. Even after fifty-nine years of independence, we have not been able to contain the poverty. Although our country has progressed in many fields, yet it has failed to improve the standard of living of the people. There may be many reasons for poverty.

It has been observed that income of a small family as compared to its income in the year 1965 has not improved. There are a large number of families where there is not even a single earning member and most of them earn their livelihood by working as labourers, domestic servants, bonded labourers, etc. Majority of population lives below poverty line. Our country being a welfare State should take necessary steps to improve the lot of the people and formulate schemes and plans to eradicate poverty from the country.

With this in view, it is proposed to make a positive step towards eradicating poverty. It is proposed that at least one adult member of every family should be provided with employment and where it is not possible to provide employment, the Government should encourage those who desire to set up their own business and improve their capability of increasing production, like weavers, shoe makers etc. so that they become self-sufficient and the family should be given all necessary facilities for decent and reasonable living.

The Bill seeks to achieve the above objectives.

T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall provide employment to one adult member of every family. Clause 7 provides that the Central Government shall provide credit, subsidy and all other facilities or resources for self-employment to a family where it is not possible to provide employment. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India in implementing the provisions of the Bill. It is likely to involve an annual recurring expenditure of about rupees one thousand crore from the Consolidated Fund of India.

A non-recurring expenditure to the tune of one hundred crore is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. Since the rules will relate to matters of details only, the delegation of Legislative power is of a normal character.

VI

BILL NO. LXII OF 2008

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2008.
2. In article 130 of the Constitution, the following proviso shall be inserted, namely:—

“Provided that there shall be established a permanent Bench of the Supreme Court at Hyderabad consisting of five Judges who shall be nominated from amongst the Judges of the Supreme Court by the Chief Justice of India which shall also have appellate jurisdiction over cases decided by any High Court in order to administer justice and exercise control over cases arising in the states of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and Union Territory of Puducherry.”

Short title.

Amendment
of article 130

STATEMENT OF OBJECTS AND REASONS

There are at present 28 States and 7 Union Territories. In the last 59 years, workload of the Supreme Court has increased with the result that there are a large number of cases pending in the Supreme Court, and as such, justice to the people has considerably been delayed. There is a need to establish a permanent Bench of the Supreme Court at Hyderabad to deal with the cases of the Southern States urgently as the people from these states have to travel all the way to New Delhi in connection with their cases. This will also reduce the expenditure to be incurred by the States or individuals who have to spend a lot of money coming from the States to the Supreme Court in Delhi and engage the lawyers and arrange for their stay, etc in Delhi. It will also reduce arrears of the Supreme Court of India. The idea behind this amendment is only to facilitate the work of the Supreme Court of India and not to bifurcate the present Court or reduce its importance.

Hence this Bill.

T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

The Bill if enacted will involve expenditure from the Consolidated Fund of India in respect of administration of the Supreme Court Bench at Hyderabad. It is likely that it will involve a recurring expenditure of about rupees one crore per year and rupees fifty crore as a non-recurring expenditure.

VII

BILL NO. XXXIV OF 2008

A Bill further to amend the Hindu Minority and Guardianship Act, 1956.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Hindu Minority and Guardianship (Amendment) Act, 2008.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 6.

2. In section 6 of the Hindu Minority and Guardianship Act 1956, (hereinafter referred to as the principal Act in sub-section (a), for the words "and after him" the word "or" shall be substituted. 32 of 1956.

Amendment
of section 7

3. In section 7 of the principal Act, for the words "and after him" the word "or" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Hindu Minority and Guardianship Act, 1956 was enacted as a supplement to the Guardians and Ward Act, 1890 and deals with natural guardians and testamentary guardians incidentally abolishing the *de facto* guardians. The Act, however, does not treat men and women equally which has to be corrected.

Hence this Bill.

BRINDA KARAT

VIII

BILL NO. IV OF 2009

A Bill to provide for declaration of assets and liabilities by Judges of Supreme Court, High Courts and Subordinate Courts to a designated authority; to provide for rights to the Central Government to call for information on declaration of assets and liabilities and; to provide for penalty for non-declaration or forged declaration of assets and liabilities and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Declaration of Assets and Liabilities by the Supreme Court, High Court and Subordinate Court Judges Act, 2009.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appointed day” means the first day of January, 2009.

(b) “assets and liabilities” means assets and liabilities in and outside India and includes movable and immovable property.

STATEMENT OF OBJECTS AND REASONS

Of late, controversies have been generated on the issue of declaration of assets by the Judges of the Supreme Court. The Central Information Commission has opined that the information relating to assets and liabilities of the Judges comes under the preview of Right to Information (RTI) Act, 2005 and, therefore, it should be made available to the citizens. On the other hand, the judiciary feels that the information which is available with the Chief Justice of India does not come under the preview of the RTI Act and, therefore, the information relating to assets and liabilities of Judges which is available with the Chief Justice of India cannot be given under the RTI. It is being largely felt that there should not be any objection to the Judges in declaring their assets and liabilities or making available this information to the citizens. As the Law stands today, even the Members of Parliament are bound to declare their assets and liabilities within a specified period after taking oath as Members of Parliament. In order to put the controversy at rest it is felt necessary that there should be a mandatory provision for declaration of assets and liabilities by the Supreme Court, High Court and Subordinate Judges.

Hence this Bill.

MAHENDRA MOHAN

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

The rules will relate to details only. The delegation of legislative power is of normal character.

IX

BILL NO. I OF 2009

A Bill to prohibit the spreading of regionalism and to promote nationalism in the country and to provide relief and rehabilitation to the victims of regionalism and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Regionalism Act, 2009.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Organization" means any organization or outfit promoting regionalism in any manner including political outfits.

(b) "prescribed" means prescribed by rules made under this Act.

(c) "Regionalism" means any action in any part or State of the country, by any person or organization, including political party leading to intimidation, beating, forced exodus, by any means, of persons belonging to other region or State.

(d) "State" means Govt. of India, Govt. of States and all local and other authorities under the control of Central Government.

3. The State shall strive to promote and protect the ideals of nationalism in the country.

State to
promote
nationalism.

4. It shall be the duty of the State to protect its citizens from any act of regionalism.

State to
protect
against
regionalism.

Prohibition from abetment and indulgence in regionalism. State not to give security to person indulged in regionalism.

Ban on political party *prima facie* accused of regionalism.

Penalty.

Scheme for relief and rehabilitation.

Power to remove difficulties.

Act to have overriding effect.

Power to make rules

5. No person or organization shall abet or indulge in any act of spreading regionalism.

6. The State shall not incur any expenditure on the security of any person who or whose organization has been *prima facie* accused of spreading regionalism by a competent court.

7. Notwithstanding anything contained in any other law for the time being in force, any political party whose leaders or workers are *prima facie* accused of spreading regionalism by the competent authority shall be banned and all the elected representatives of such party in Parliament or State Legislatures shall stand disqualified from the date of coming into force of the Act.

8. Notwithstanding the provisions of the IPC, whoever violates the provisions of—
(i) section 5 shall be punishable with imprisonment for life and shall also be liable to fine which may extend to twenty-five lakh rupees.

(ii) section 6 shall be punishable with imprisonment which may extend to three years and shall also be liable to with fine which may extend to one lakh rupees:

Provided that if the contravention of section 5 of this Act has been done by the workers of a political party then the President or the head of that political party shall be liable to be prosecuted under this Act.

9. (1) The Central Government shall, within one month of the commencement of this Act, frame a scheme for providing relief and rehabilitation of victims of regionalism and shall also provide funds for its implementation.

(2) without prejudice to the generality of the provision of sub-section (1) the scheme shall *inter-alia* provide for,—

(i) compensation for the loss incurred by the victims during the violence of regionalism including the *ex-gratia* payment;

(ii) reimbursement of medical expenses incurred by victims injured during the violence; and

(iii) employment to victims who have lost their means of livelihood:

Provided that till the time a gainful employment is provided to the victim, he shall be provided with subsistence allowance at such rate as may be prescribed.

10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

11. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save aforesaid the provisions of the Act shall be in addition to and not in derogation of any other law for the time in force.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Article 1 of the Constitution provides that India *i.e.* Bharat shall be a Union of States. Clause (e) of article 19(e) gives a fundamental right to all its citizens to reside and settle in any part of the territory of India. The intention of the founding fathers of the Constitution behind incorporating these articles in the Constitution was that India is one country and all its citizens have right to move, live and settle in any part of it. Of late, repeated attacks in Maharashtra, particularly, in Mumbai on persons of northern parts of the country were not only unfortunate, but also an attempt to negate the principles enshrined in our Constitution. Every now and then a political outfit is spreading regional and linguistic venom in the society leading to intimidation and forceful eviction of the poor people, who are living there for more than half century. In these attacks, some innocent lives have been lost and many poor and hapless people who earn their livelihood by doing all sorts of menial jobs were beaten in full public view and were asked to leave Maharashtra. Many families have been uprooted and lost their shelters. They have nothing to feed themselves and their children. Still those who are living in Maharashtra are in a state of constant fear of losing their life and livelihood any time. The violence and disturbance in the financial capital of the country is not only a national loss, but a jolt to the social fabric of the country. It is unthinkable, if the same kind of regional fervor starts in every State then what would be the fate of the country. In the form of our preamble to the Constitution, we have adopted the principles of fraternity assuring the dignity of the individual and the unity and integrity of the nation. We are known for our unity in diversity. Therefore, any such incident is a blot on our society.

Persons with narrow and petty political gains should not be allowed to run amok in the society and should be dealt with severely for destroying the peace. It is high time that a law for preventing the spreading of regionalism in the society is framed and any such act should be severely punished.

Hence this Bill.

MAHENDRA MOHAN

FINANCIAL MEMORANDUM

Clause 9 of the Bill provides that the Central Government shall frame a scheme for providing relief and rehabilitation to the victims of regionalism and provide funds for its implementation. In view of this it is sure that some recurring expenditure would be involved from the Consolidated Fund of India. The amount of recurring expenditure that would be involved annually would depend upon the number of incidents and victims in such incidents. Therefore, it is difficult to estimate the amount that would be required from the Consolidated Fund of India.

No Non recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

The rules will relate to matters of details only. The delegation of legislative power is therefore of normal character.

X**BILL NO. III OF 2009**

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2009.

(2) It shall come into force with immediate effect.

2. In the Indian Penal Code 1860, section 309 shall be omitted.

Short title
and com-
mencement

Omission of
section 309.

STATEMENT OF OBJECTS AND REASONS

Section 309 of Indian Penal Code provides that whoever attempts to commit suicide and does any act towards commission of such an offence shall be punished with imprisonment for a term, which may extend to one year or with fine or with both. For quite some time in the past, there has been a debate about retaining this section in the Indian Penal Code. There are strong views regarding decriminalisation of attempted suicide in various countries. Many countries do not treat suicide as a crime. At present, suicide is a crime in only a handful of countries. The Law Commission in its 210th Report on humanitarian and decriminalisation of attempt to suicide has recommended for repealing of this anachronistic law to relieve the distressed person who attempts to commit suicide. According to Law Commission report, attempt to commit suicide may be regarded more as a manifestation of a diseased condition of mind deserving treatment and care rather than an offence which to be visited with punished. The Report further says that it would not be just and fair to inflict additional legal punishment on a person, who has already suffered agony and ignominy in his failure to commit suicide. Earlier in its 42nd Report, also the Commission had recommended repealing of section 309. Accordingly, the Indian Penal Code (Amendment) Bill, 1978 was passed by Rajya Sabha. The Bill could not find place in the statute book as it lapsed on dissolution of the Lok Sabha. It is high time that this section should be removed from the Indian Penal Code. However, abetment of suicide will continue to be an offence under Section 306 of IPC.

Hence this Bill.

MAHENDRA MOHAN

XI

BILL NO. IX OF 2009

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2009.

(2) It shall come into force, at once.

Amendment
of Article
371-1.

2. In the article 371-1 of the Constitution the following proviso shall be inserted, namely,—

“Provided that notwithstanding anything contained in this Constitution or in any other law for the time being in force or in any judgement or order, the Legislative Assembly of Goa shall be competent to enact any legislation—

(i) to regulate ownership and transfer of land in the State of Goa in public interest and in the interest and on grounds of duration of residence in the State, social, economic and environment needs of the State, and such other public interest, as may be specified by the State by law;

(ii) to regulate influx of migrants considering available resources specially land, water, power, etc. and also sanitation and environmental aspects; and

(iii) to opt for any of the two types of panchayats from village, intermediate and district level.

STATEMENT OF OBJECTS AND REASONS

Land is becoming a scare resource more particularly in small States. Land mafia as well as foreigners are landing in States like Goa with tons of money buying huge areas creating social and economic chaos. Some of the buyers have the potential to buy a whole village in a smaller State like Goa. Persons engaged in real estate in the country too, are resorting to similar purchases and disturbing the social fabric in the State.

Rights existing under the Constitution should not be so unfettered so as to change economic scenario of a smaller State particularly its villages, much to the disadvantage of the State and its people. Anti-social elements which become a part of such uncontrolled transaction are providing disastrous for a State like Goa. Therefore, States have to be empowered to enact appropriate legislations to bring in restrictions on transfer of land and other immovable properties on grounds of duration of residence requirements in the State, social and economic needs of the State, environment and public interest, etc. as may be specified by the law.

Similarly, in the State of Goa, consisting of hardly 3,702 square meters of land with a population of roughly fourteen lakhs, increasing number of migrant population has reached to an unmanageable proportions. While it is the fundamental right of every citizen under article 19 of the Constitution to move freely throughout the territory of India, it is also the fundamental right of the others to live a decent life with basic amenities provided by the State. In order to safeguard the basic rights of those Goans and also non-Goans who are settled in Goa for a number of years, further inflow of population has to be regulated to avoid a virtual stampede in the near future.

Article 243B of the Constitution provides for the constitution of the village, intermediate and district level panchayats in the State. However, in a State like Goa having smaller size of population less than twenty lakh this objective can not be achieved because an intermediate level panchayat can not be constituted by a State with a population not exceeding twenty lakh. Hence, it is felt that suitable amendments may be made in the Constitution in order to make eligible even for the smaller State like Goa to constitute intermediate level panchayat. Since there are provisions in the Constitution which come in the way of achieving above objectives, special provisions are required to be made by amending article 371-I.

Hence, this Bill.

SHANTARAM LAXMAN NAIK

XII**BILL NO. XXII OF 2008**

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2008.

(2) It shall come into force with immediate effect.

Amendment of article 217.

2. In article 217 of the Constitution, in clause (1), for the words “sixty two years” the words “sixty five years” shall be substituted.

Amendment of article 233

3. In article 233 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

(3) Every district judge appointed under this article shall hold office until he attains the age of sixty five years:

Provided that a district judge may, by writing under his hand addressed to the Chief Justice of the Concerned High Court, resign his post:

Provided further that a district judge may be removed from his office by the concerned High Court as per the established procedure.

STATEMENT OF OBJECTS AND REASONS

There appears to be no particular national underlying the existing, diversity of age of superannuation ranging from fifty eight years to sixty five years as one proceeds up the judicial pyramid. Similarly there is no basis to suppose that a judicial officer would be unable to discharge his judicial duties adequately only till fifty eight years of age whereas a High Court Judge can do so only upto sixty-two years, whereas a Supreme Court Judge can do so upto sixty-five years of age.

Given the over three crore pendency of cases by way of arrears, the availability of existing experience judicial manpower uniformly all over the country till sixty-five years of age is desirable. It is felt that such uniformity in age would also reduce, if not eliminate the occasional unseemly urges for judges of a lower court to seek promotion to the next higher rung of the judicial order. It is, therefore, desired that the superannuation age of all Judges in the country should be symmetrically aligned.

The above Bill seeks to achieve the aforesaid objects.

Hence this Bill.

ABHISHEK MANU SINGHVI

V. K. AGNIHOTRI,
Secretary-General.