



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. LVIII]

THURSDAY, AUGUST 3, 2017/SRAVANA 12, 1939

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT)

BILL, 2017.

GUJARAT BILL NO. 28 OF 2017.

ABILL

further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Sixty-eighth Year of the Republic of India
as follows :-

1. (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2017. **Short title and commencement.**

(2) It shall be deemed to have come into force on the 3rd July, 2017.

**Deletion of
section 74CC
of Guj. X of
1962.**

2. In the Gujarat Co-operative Societies Act, 1961(hereinafter referred to as “the principal Act”),section 74CC shall be deleted.

**Guj.X
of 1962.**

**Repeal and
savings.**

3. (1) The Gujarat Co-operative Societies (Amendment)Ordinance, 2017 is hereby repealed.

**Guj. Ord. 1
of 2017.**

- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Parliament enacted the Constitution (Ninety-Seventh Amendment) Act, 2011, thereby inserting PART IXB in the Constitution of India comprising the provisions relating to co-operative societies in order to see that the co-operative societies have in their affairs greater autonomy, democratic functioning and professional management. The provisions of PART IXB mainly relate to number and term of the members of the Managing Committee, election of members of the Managing Committee, supersession and suspension of the Managing Committee, audit of accounts of co-operative societies, convening of general body meetings, returns required to be filed by the co-operative societies, etc.

The Gujarat Co-operative Societies Act, 1961 was amended in the year 2013 for bringing provisions in tune with the provisions contained in PART IXB of the Constitution of India. Section 74CC was inserted by the said amending Act of 2013 so as to empower the State Government to notify the authority which shall conduct the election of the Committee and of the office bearers of the societies other than the specified societies as also to empower the State Government to prescribe the manner in which the authority shall conduct the election of the Committee and of the office bearers of the societies other than the specified societies.

Now, as per the said section 74CC, if the election is held by any election Authority then all the employees of the co-operative societies shall required to be engaged and the regular business of the society may suffer. Moreover, if the election authority is unable to complete all the procedure within stipulated time, the custodian shall be required to be appointed and for that, huge men-power of co-operative department shall be required. It is also pointed out that the members of the different co-operative societies from the field of Irrigation, labour, vegetable, etc. are from very lower strata of society and they may be unable to bear election expenditure.

The Constitution (Ninety-Seventh Amendment) Act, 2011 whereby Part IXB containing article 243ZH to 243ZT had been inserted, had also been declared ultra vires by Hon'ble the Gujarat High Court in Writ Petition (PIL) No. 166 of 2012 for not taking recourse to article 368(2) of the Constitution providing for ratification by majority of the State Legislatures. However, the Special Leave Petition No. 25266 and 25267 of 2013 is pending before Hon'ble the Supreme Court for challenging the said order of the Gujarat High Court.

After considering the above aspects and since the provisions of Part IXB of the said Constitutional amendment are declared ultra vires by Hon'ble the High Court of Gujarat, it becomes necessary to delete section 74CC of the said Act. Necessary amendment is proposed to be made in the said Act.

As the Legislative Assembly of the State of Gujarat was not in session, at that time, the Gujarat Co-operative Societies (Amendment) Ordinance, 2017 was promulgated on the 3rd July, 2017 to amend the said Act to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 3rd August, 2017.

ISHWARSINH PATEL,

By order and in the name of the Governor of Gujarat,

K. M. LALA,

Gandhinagar,

Dated the 3rd August, 2017.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.