

## **Madhya Pradesh Co-Operative Societies (Amendment) Act, 2015**

**10 of 2015**

**[13 April 2015]**

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## **Madhya Pradesh Co-Operative Societies (Amendment) Act, 2015**

**10 of 2015**

**[13 April 2015]**

An Act further to amend the Madhya Pradesh Co-operative Societies Act, 1960.

Be it enacted by the Madhya Pradesh Legislature in the Sixty-sixth year of the Republic of India as follows :-

### **1. Short title and commencement :-**

(1) This Act may be called the Madhya Pradesh Co-operative

Societies (Amendment) Act, 2015.

(2) It shall come into force on the date of its publication in the Madhya Pradesh Gazette.

## **2. Amendment of Section 2 :-**

In Section 2 of the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961) (hereinafter referred to as the principal Act),-

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

"(a-ii) "Administrator" means any Government Servant, not below the rank of class III executive, who has been appointed as Administrator by the Registrar under the provisions of this Act, to conduct the business of the society and who shall work under the control and guidance of the Registrar;"

(ii) after clause (hh), the following clause shall be inserted, namely :-

"(hh-i) "Executive Magistrate" means an officer appointed under Section 20 of the Code of Criminal Procedure, 1973 (No. 2 of 1974);"

(iii) after clause (m), the following clause shall be inserted, namely :-

"(m-i) "Government sponsored business" means economic activities carried on by the society under any scheme or programme sponsored by Central or State Government;"

## **3. Amendment of Section 19-A :-**

In Section 19-A of the principal Act, clause (d) shall be omitted.

## **4. Insertion of Section 20-A :-**

After Section 20 of the principal Act, the following section shall be inserted, namely :-

"20-A. Co-operative training to members, members of Board of Directors and employees

(1) Every society shall organise training programme in Co-operative matters for its members, officers and employees through National or State or District level Co-operative Training Institutes as may be specified by the State Government.

(2) Every member of the board of Directors shall undergo training in cooperative matters at such institutes and for such period and at

such intervals as may be prescribed."

#### **5. Amendment of Section 48 :-**

In Section 48 of the principal Act, for sub-section (10), the following sub-section shall be substituted namely :-

"(10) The Board of Directors may fill casual vacancies by co-option out of the same class of members, if the remaining term of office of the Board of Directors is two years or less on the date on which such vacancies has arisen :

Provided that if the remaining term of office of the members of the Board of Directors is more than two years and where the seat remains vacant after election or a casual vacancy occurs, then the vacancy shall be filled by election out of the same class of members in respect of which vacancy has arisen."

#### **6. Amendment of Section 48-A :-**

In Section 48-A of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely :-

"(4) (a) No person shall be eligible to be elected as president or Chairman or Vice-President or Vice-Chairman of a society, if he is elected as a member of Parliament or Member of Legislative Assembly or elected to any post in District Panchayat, Janpad Panchayat, Gram Panchayat, Urban Local Bodies, Mandi Board or Mandi Committee:

Provided that if any person holds office of President or Chairman or Vice-President or Vice-Chairman of a society and is elected to any post in District Panchayat, Janpad Panchayat, Gram Panchayat, Urban Local Bodies, Mandi Board or Mandi Committee, then the president or Chairman or Vice-President or Vice-Chairman of the society shall cease to function as such from such date he is declared elected and the post shall automatically become vacant from the aforesaid date.

(b) A member of a society who is elected as a Member of Parliament or Member of Legislative Assembly or elected to any post in District Panchayat, Janpad Panchayat, Gram Panchayat, Urban Local Bodies, Mandi Board or Mandi Committee, may be elected as a director or representative of any society."

#### **7. Amendment of Section 48-C :-**

In Section 48-C of the principal Act, for clause (b), the following

clause shall be substituted, namely :-

"(b) elect the Chairman, other office bearers and representatives;"

## **8. Amendment of Section 49 :-**

In Section 49 of the principal Act,-

(i) for sub-section (2), (3) and (4), the following sub-sections shall be substituted, namely :-

"(2) Notice of such meeting shall be sent to such officer who has been vested with the power of registration of the society at least fourteen clear days before the date of the meeting.

(3) The Registrar or such officer who has been delegated the power of registration of society may himself attend such meeting or depute any officer subordinate to him to attend it.

(4) The Registrar or such officer who has been delegated the power of registration of society shall have the right to address the meeting in respect of any matter pertaining to the subjects specified in clauses (a), (c), (d) and (e) of sub-section (1).";

(ii) for sub-section (7-A), the following sub-section shall be substituted, namely :-

"(7-A) (a) The term of the Board of Directors shall be five years from the date on which first meeting of the Board of Directors is held.

(b) On completion of the term of 5 years of the Board of Directors, the office of members of the Board of Directors shall be deemed to be vacated automatically on such day and the Registrar or an Administrator appointed by him shall take over the charge and shall cause to conduct election of the members of Board of Directors within a period of six months :

Provided that in the case of Co-operative Bank, the Registrar or Administrator shall cause to conduct election of the members of the Board of Directors of the Bank within a period of one year.

(c) In special circumstances, the State Government may, for reasons to be recorded in writing, extend the period for conducting the election of a society for a period not exceeding one year in total.

(d) The term of the representative elected by the Board of Directors to other societies shall be co-terminus with the term of Board of Directors of the society:

Provided that if such representative, elected as a members in the Board of Directors of the other society shall continue to hold officer till the expiry of the term of the Board of Directors of the society for

which he is elected."

#### **9. Amendment of Section 49-E :-**

Section 49-E of the principal Act,-

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

"(a) Notwithstanding anything contained in this Act, or rules or byelaws made thereunder, for every apex society where the State Government has contributed to its share capital or has given loans or financial assistance or has guaranteed the repayment of loans granted in any other form, or the society does Government sponsored business or undertakes an activity as a representative or agent of the Central or State Government and the turnover of the above two business, together or separately, constitutes 50 percent or more of its total business, there shall be a Managing Director not below the rank of Class-I Officer, who shall be appointed by the State Government.";

(ii) in sub-section (2), for clause (b), the following clause shall be substituted namely :-

"(b) The Chief Executive Officer shall be appointed,-

(i) from among the officers of the cadre maintained under Section 54 if such a cadre has been created;

(ii) by the Registrar where the State Government has contributed to its share capital or has given loans or financial assistance or has guaranteed the repayment of loan granted in any other form or the society does Government sponsored business or undertakes an activity as a representative or agent of the Central or State Government and the turnover of the above two businesses, together or separately, constitutes 50 percent or more of its total business;

(iii) in other cases with the prior approval of the Registrar."

#### **10. Amendment of Section 50-A :-**

In Section 50-A of the principal Act, after sub-section (3), the following new sub-section shall be inserted, namely :-

"(4) No person shall be qualified to be a candidate for election as member of the board of director, representative or delegate of the society if he has any dues payable to Madhya Pradesh State Electricity Board or its successor companies, standing against his name for a period exceeding six months at the time of submission of nomination paper."

## **11. Amendment of Section 53 :-**

In section 53 of the principal Act, in sub-section (1),-

(i) clause (f) shall be omitted;

(ii) for the first, second and third proviso, the following provisos shall be substituted, namely :-

"Provided that in special circumstances, the State Government may, for reasons to be recorded in writing, extend the term of office of the Administrator for a period not exceeding one year in total:

Provided further that the Board of Directors of any such 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 the society does Government sponsored business or undertakes an activity as a representative or agent of the Central or State Government and the turnover of the above two businesses, together or separately, constitutes 50 percent or more of its total business:

Provided further that in case of a co-operative bank, the order of supersession shall not be passed without previous consultation with the Reserve Bank :

Provided further that the advice of the Reserve Bank shall be limited to the provisions of the Banking Regulations Act, 1949 (No. 10 of 1949):

Provided further that if no communication containing the views of the Reserve Bank, on action proposed is received within thirty days of the receipt by that bank of the request soliciting consultation, it shall be presumed that the Reserve Bank agrees with the proposed action and the Registrar shall be free to pass such order as may be deemed fit:

Provided also that in case the Registrar is not in agreement with the opinion of the Reserve Bank, he may pass an order, recording the reasons thereof in writing.";

(iii) for sub-section (5), the Following sub-section shall be substituted, namely:-

"(5) The Administrator so appointed shall manage the affairs of the society under the control and guidance of the Registrar and shall arrange the conduct of election under the direction of the Authority.";

(iv) in sub-section (7), for the words, bracket and figure "and the person or persons appointed under sub-section (1)", the words, bracket and figure "and the Administrator appointed under sub-

section (1)" shall be substituted;

(v) in sub-section (10),-

(a) After the first proviso, the following proviso shall be inserted, namely :-

"Provided further that the advice of the Reserve Bank shall be limited to the provisions of the Banking Regulations Act, 1949 (No. 10 of 1949);";

(b) after the existing second proviso, the following proviso shall be inserted,

namely :-

"Provided further that in case the Registrar is not in agreement with the opinion of the Reserve Bank, he may pass an order recording the reasons thereof in writing;";

(vi) for sub-section (12), the following sub-section shall be substituted namely :-

"(12) Notwithstanding anything contained in this Act or rules made thereunder or byelaws of society, if the Board of Directors of society ceases to function due to order of any court or in the absence of prescribed quorum, the Registrar may appoint an Administrator temporarily in place of Board of Directors till the court order is vacated or the new elections are held and the Board of Directors take charge:

Provided that if the society ceases to function due to absence of quorum as prescribed, the Administrator so appointed by the Registrar, shall conduct election within a period of six months and in the case of co-operative Bank within a period of one year from the date of appointment of such Administrator and ensure that the Board of Directors take charge:

Provided further that in special circumstances, the State Government may, for reasons to be recorded in writing, extend the election of a society for not exceeding one year in total :

Provided also that in case of a co-operative Bank the information of appointment of Administrator shall be sent to the Reserve Bank by the Registrar."

## **12. Amendment of Section 54 :-**

In section 54 of the principal Act for sub-sections (2) and (3), the following sub-sections shall be substituted, namely :-

"(2) The Registrar, the Apex Societies and Central Societies shall maintain such cadres of officers and other servants as the State Government may, by order, direct and the conditions of service of

members of such cadre shall be such as the Registrar may, by order, determine.

(3) The State Government may, by notification, specify the class of societies which shall employ officers from such cadres maintained by the Registrar, Apex Societies or Central Societies under sub-section (2) as may be specified therein and it shall be obligatory on the part of such class of societies to accept and appoint such cadre officers on the cadre posts as and when deputed by the Registrar, Apex Societies or Central Societies."

### **13. Amendment of Section 56 :-**

In Section 56 of the principal Act, in sub-section (3),-

- (i) first proviso shall be omitted;
- (ii) in the second proviso, the word "further" shall be omitted,

### **14. Amendment of Section 57-A :-**

In Section 57-A of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) On receipt of the application under sub-section (1), the Executive Magistrate shall, within thirty days, authorise any police officer not below the rank of a sub-inspector to enter and search any place where the records and property are kept or likely to be kept and to seize them and handover possession thereof to the Registrar or the person authorised by him, as the case may be: Provided that in special circumstances for reasons to be recorded the Executive Magistrate may proceed beyond thirty days."

### **15. Amendment of Section 57-C :-**

In Section 57-C of the principal Act, for sub-section (9), the following sub-section shall be substituted, namely:-

"(9) For the purpose of this Chapter the Officer nominated by the Registrar at State level. Joint Registrar at Divisional level and Deputy or Assistant Registrar at District level shall act as State Coordinator, Divisional Coordinator and District Coordinator respectively and shall discharge such duties for the conduct of election as entrusted to them by the Authority."

### **16. Amendment of Section 57-D :-**

In Section 57-D of the principal Act,-

- (i) in sub-section (4), for full stop, the colon shall be substituted

and thereafter the following proviso shall be inserted, namely:-

"Provided that if the society does not make available such information, books and records as is required by the Authority and the society fails to comply with the requisition made by the Authority, then the Authority shall inform the Registrar to take action against such society under the provisions of the Act.";

(ii) in sub-section (5), for full stop, the colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

"Provided that if the society does not provide all such assistance as required by the Authority and the society fails to provide assistance as required by the Authority, then the Authority shall inform the Registrar to take action against such society under the provisions of the Act.".

### **17. Amendment of Section 58 :-**

In Section 58 of the principal Act, in sub-section (1),-

(i) in clause (a), for the existing proviso, the following proviso shall be substituted, namely:-

"Provided that if the general body of the society fails to appoint an auditor or auditing firm within the stipulated time, the Registrar shall appoint the auditor or auditing firm and shall cause the accounts to be audited :

Provided further that in every Co-operative Bank and in such societies where the State Government has contributed to their share capital or has given loans or financial assistance or has guaranteed the repayment of loans granted in any other form or the society does Government Sponsored Business or undertakes an activity as a representative or agent of the Central or State Government and the turnover of the above two businesses, together or separately, constitutes 50 percent or more of its total business, then the auditor or auditing firm shall be appointed by the Registrar for audit from an approved panel:

Provided also that in case of a liquidated society, the liquidator is authorised to appoint an auditor or auditing firm from a panel approved by the Registrar.";

(ii) for clause (d), the following clause shall be substituted, namely:-

"(d) The apex society of which the annual turnover is more than 100 crore rupees, the audited financial statement of such society shall be laid on the table of the Legislative Assembly.".

### **18. Substitution of Section 80 :-**

For Section 80 of the principal Act, the following Section shall be substituted, namely:-

Transfer or withdrawal of cases.

"80. The Registrar may, at any time on his own motion or on an application made by any party-

(a) make over any case or class of cases arising under the provisions of this Act, which are pending before him for consideration and disposal, to any officer subordinate to him who is competent to decide or dispose of the case or class of cases, or

(b) withdraw any pending case or class of cases from any subordinate officer for consideration and disposal or may transfer the same to any other subordinate officer for consideration or disposal, who is competent to decide or dispose of such case or class of cases.".

**19. Amendment of Section 90 :-**

In Section 90 of the principal Act, for the words "under this Act", the words "under this Act or other Act" shall be substituted.