

THE ODISHA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2012

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NOTIFICATION

The 30th January, 2013

No.1140/Legis.-33/2012/L.—The following Act of the Odisha Legislative Assembly having been assented to by the Governor on the 22nd January, 2013 is hereby published for general information.

ODISHA ACT 1 OF 2013

THE ODISHA CO-OPERATIVE SOCIETIES

(AMENDMENT) ACT, 2012

AN ACT

FURTHER TO AMEND THE ODISHA CO-OPERATIVE SOCIETIES ACT, 1962

BE it enacted by the Legislature of the State of Odisha in the Sixty-third Year of the Republic of India as follows :—

Short title. **1.** This Act may be called the Odisha Cooperative Societies (Amendment) Act, 2012.

Amendment of Section 2. **2.** In the Odisha Co-operative Societies Act, 1962, Odisha Act 2 of 1963. (hereinafter referred to as the principal Act) in Section 2, after clause (n), the following clause shall be inserted, namely:—

“(n-1) ‘State Co-operative Election Commission’ means the Odisha State Co-operative Election Commission consisting of a Odisha State Co-operative Election Commissioner appointed by the Governor under section 28-AA;”

Amendment of section 16-A. **3.** In the principal Act in section 16-A, in sub-section (1) after clause (a), the following clauses shall be inserted, namely:—

“(a-1) has not attended three consecutive general meetings of the society and such absence has not been condoned by the members in the general meeting ; or

(a-2) has not used for two consecutive years the services, below the minimum level specified in the bye-laws; or”.

Amendment of section 19. **4.** In the principal Act, in section 19, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Every member of a Society shall have right to access to the books, information and accounts of a Society kept in regular transaction of its business during business hours.”.

Amendment of section 28. **5.** In the principal Act, in section 28,—

(a) in clause(b) of sub-section (1), after sub-clause (ii), the following sub-clauses shall be inserted, namely:—

“(ii-a) providing co-operative education and training to its members;

(ii-b) save as provided in sub-clause(ii), filing of return of the society every year within six months of the closure of the financial year, to the Registrar or, as the case may be, to the Financing Bank, which shall include—

(a) annual report of its activities ;

(b) its audited statement of accounts ;

(c) plan for surplus disposal as approved by the General Body;

(d) list of amendments to its bye-laws, if any;

(e) declaration regarding date of holding its General body meeting and conduct of election when due;

(f) any other information required by the Registrar or, as the case may be, Financing Bank.”;

(b) for sub-sections (1-aa) and (1-b) the following sub-sections shall be substituted, namely :—

“(1-aa) Every Committee, unless sooner superseded

under the provisions of this Act, shall continue for five years from the date of election and the term of office of elected members including the office bearers and co-opted members thereof shall be coterminous with the terms of the committee.

Explanation – For the purpose of this sub-section, the expression “the date of election” mean the date of election of the President of the Committee.

(1-b) An election, to constitute a Committee, shall be completed —

- (a) before expiration of its term specified in sub-section (1-aa),
- (b) before expiration of a period of one year from the date of its supersession in case of society carrying on the business of banking,
- (c) before expiration of a period of six months from the date of its supersession in case of society other than a society carrying on the business of banking.”;

(c) in sub-section (2),—

- (i) for clause(a), the following clause shall be substituted, namely :—

“(a) Subject to the provisions of this Act, the Committee of a Society, excluding the member under sub-section (3-b) and co-opted members under section 31, shall consist of,—

- (i) twenty-one members in the case of an Apex Society including the President and the Vice-President; and
- (ii) fifteen members in the case of Central Society, a Primary Society including Large Sized Adivasi Multipurpose Co-operative Society, including the President and the Vice-President of such Society.”;

(ii) for second proviso to clause (e), the following proviso shall be substituted, namely :—

“Provided further that a Society shall provide reservation of one seat for the scheduled castes or the Scheduled Tribes and two seats for women to the Committee consisting of individuals as members and having members from such class or category of persons.”;

(d) in sub-section (6), for clause (b), the following clause shall be substituted, namely :—

“(b) shall, within fifteen days from the date of its occurrence, be intimated by the Chief Executive of the Society to the State Co-operative Election Commission to fill up the vacancy on receipt of intimation :

Provided that where a casual vacancy occurs in the office of the member and the term of that member remains less than half of his original term, the committee shall fill up such vacancy by nomination out of the same class of members in respect of which the casual vacancy has arisen.”

Amendment of section 28-A.

6. In the principal Act, in section 28-A,—

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

“(2) The Chief Executive of the Society, by whatever designation called, shall intimate the State Co-operative Election Commission, the date of expiry of the term of a committee six months before such expiry.”

(ii) sub-sections (3), (3-a), (4) and (5) shall be omitted ; and

(iii) in sub-section (8), for the words “Election Officer,” the words “State Co-operative Election Commission” shall be substituted.

Insertion of new section 28-AA.

7. In the principal Act, after section 28-A, the following section shall be inserted, namely:—

“Superintendence, direction and control of elections to

28-AA. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of,

all elections to a Cooperative Society shall vest in the State Co-operative Election Commission consisting of a State Cooperative Election Commissioner appointed by the Governor and shall hold office for a period of five years from the date of his appointment or he attains the age of sixty five years whichever is earlier.

(2) No person shall be qualified for appointment as State Co-operative Election Commissioner unless he is or has been an officer of the Government not below the rank of Secretary to the Government, having experience in co-operative sector.

(3) A person appointed as State Co-operative Election Commissioner shall before he enters upon his office, make and subscribe before the Governor an oath or, affirmation in the form as may be prescribed.

(4) The salary and allowance payable to, and other terms and conditions of service of, the State Cooperative Election Commission shall be such as may be prescribed:

Provided that the conditions of service shall not be varied to his disadvantage after his appointment.

(5) The State Co-operative Election Commissioner may be removed from his office by the Governor on the ground of corruption or misdemeanour after the Lokpal, on a reference being made to it by the Governor, has, on inquiry held in accordance with the procedure prescribed in that behalf, reported that the State Co-operative Election commissioner ought, on any such ground, to be removed.

(6) The State Government shall make available to him such officer and staff as may be necessary for discharge of the functions conferred on the State Co-operative Election Commission under sub-section(1).

(7) Any officer and employees of the State Government, made available to the State Election Commission for the purpose of discharge of the functions conferred on it under sub-section (1), when appointed by the

State Co-operative Election Commission as the election officer, presiding officer, polling officer or any other officer or otherwise designated for the time being, for the conduct of any election under this Act, shall be deemed to be on deputation to the State Co-operative Election Commission for the period commencing on the date of notification calling for such election and accordingly such officer and employees shall, during that period, be subject to the control, superintendence and discipline of the State Co-operative Election Commission.

(8) For the purpose of election under sub-section (1-b) of section 28, the Chief Executive of the Society, by whatever designation called, shall by notification published on such date as may be recommended by the State Co-operative Election Commission, call upon the Society to elect members to the Committee of such Society in accordance with the provisions of this Act and the rules or orders made thereunder.

(9) The preparation of electoral roll and the conduct of election to the office of the members and President to all Societies shall be in accordance with the rules made in consultation with the State Co-operative Election Commission.

(10) Without prejudice to the provisions of sub-section (1), the State Co-operative Election Commission may issue directives to ensuring smooth conduct of election free from any corrupt practice, prohibited act, disorderly conduct and misconduct, subject to the provisions of this Act and the rules.

Explanation.— For the purpose of this sub-section the expressions 'corrupt practice', 'prohibited act', 'disorderly conduct' and 'misconduct' shall have the meanings respectively assigned to them in Schedule – III.

Amendment
of section
28-B.

8. In the principal Act, the proviso to section 28-B shall be omitted.

Amendment of section 29. **9.** In the principal Act, in section 29, for the sub-section (1), the following sub-section shall be substituted, namely:—

“(1) the meeting of General body of members of a society shall be held at least once in a year and within such period as may be prescribed in the by-law but not later than six months after the close of the financial year, to transact the business.”

Amendment of section 31. **10.** In the principal Act, for section 31, the following section shall be substituted, namely:—

“31. (1) Where the State Government or Central Government,—

- (a) has subscribed to the share capital of a society; or has granted any assistance in cash or in kind or in any other manner; or
- (b) has assisted indirectly in the formation or augmentation of the share capital of a society as provided in Chapter VI; or
- (c) has guaranteed the repayment of principal and payment of interest on debentures issued by a society ; or
- (d) has guaranteed the repayment of principal and payment of interest on loans and advances to a society,

the State Government or the Central Government, as the case may be, or any authority specified by such Government in this behalf, shall provide a panel of names not exceeding four persons having experience in the field of banking, management, finance or specialization in any other field relating to the objects and activities undertaken by the Society for co-option of two persons by the Committee to be the members of the said Committee.

(2) In case of Society other than the Society specified in sub-section (1), the Committee shall co-opt persons not exceeding two having the experience in the field of banking, management, finance or specialization in any

other field relating to the objects and activities undertaken by the Society to be the member of the said committee:

Provided that the co-opted members referred to in sub-sections (1) and (2) shall not have the right to vote in any election of the Society in their capacity as such member or to be eligible to be elected as office bearer of the committee.”

Amendment of section 32. **11.** In the principal Act, in section 32,—

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

“(1) If in the opinion of the Registrar, the committee of any society,—

(i) is in persistent default; or

(ii) is in negligence in the performance of its duties imposed on it by this Act, rules or by-laws; or

(iii) has committed any act prejudicial to the interest of the Society or its members; or

(iv) is stalemate in its constitution or functions,

the Registrar may after giving the committee a reasonable opportunity of being heard within twenty-one days from the date of issue of the notice in that behalf and after consulting, in case of a State Co-operative Bank or Central Co-operative Bank, the Reserve Bank of India and in case of any other society, Financing Bank of such Society, by order in writing stating reasons therefor, supersede the committee for a period not exceeding one year in case of Society carrying on the business of banking and in case of other Society for a period not exceeding six months from the date of such order, and appoint an “Administrator” on such terms and conditions as may be prescribed to manage the affairs of the Society who can take all or any policy decision including admission of members in relation to the society:

Provided that the committee of any such Society shall not be superseded or kept under suspension under

sub-section (7) where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:

Provided further that in case of a Society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply.

Explanation — For removal of doubt, it is hereby declared that if the State Co-operative Election Commission failed to conduct the election for any reason before expiry of the term of a committee, the committee shall be deemed to have been superseded immediately on completion of its term and the management shall stand vest in the Registrar”.

10 of 1949.

(ii) in the sub-section (2), for the words “The Committee or the Administrator or Administrators or the Society so appointed”, the words “The Administrator so appointed” shall be substituted;

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Administrator shall, within fifteen days from the date of supersession of a Committee intimate to the State Co-operative Election Commission for constitution of a new committee in accordance with the provisions of this Act and rules.”;

(iv) sub-section (6) shall be omitted; and

(v) in sub-section (7), after the words “suspend the committee”, the words “for a period not exceeding one year in case of society carrying on the business of banking and in case of other society for a period not exceeding six months” shall be inserted.

Amendment of section 62. **12.** In the principal Act, in section 62,—

(a) in sub-section (1), in clause(i), for the words “an Auditor”, the words “an Auditor or auditing firm, having such qualification and experience as laid down by the State Government,” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1-a) without prejudice to the provisions contained

in sub-section (1), every society shall submit its accounts for audit by an auditor or an auditing firm to be appointed by the general body from out of panel approved by the State Government or any authority authorised by it in this behalf.”

(c) in sub-section (2), for the words, figure and brackets “sub-section (1)” the words, figure and brackets “sub-sections (1) and (1-a)” shall be substituted;

(d) In sub-section (3), before the words “and certified by him”, the comma and words “, auditor or auditing firm, as the case may be” shall be inserted;

(e) In sub-sections (4) and (5), for the word “auditor” wherever occurs, the words and comma “auditor or auditing firm, as the case may be,” shall be substituted; and

(f) sub-sections (6) and (7) shall be omitted.

Amendment of section 63. **13.** In the principal Act, section 63 shall be renumbered as sub-section (1) thereof,—

(i) in sub-section (1) so renumbered, the following proviso shall be inserted, namely:—

“Provided that every apex society shall communicate its audit report to the State Government in the manner prescribed”; and

(ii) after sub-section (1) so renumbered, the following sub-section shall be inserted, namely:—

“(2) The audit report of every apex society, as soon as it is received by the State Government, shall be laid before the State Legislature for a period of fourteen days, comprising one session or more than one session thereof.”

Amendment of section 115. **14.** In the principal Act, in section 115,—

(i) in sub-section (11), for the words figures and letter “Chief Electoral Officer of the Co-operative Societies, issued under section 28-A”, the words, figures and letter “State Co-operative Election Commission, issued under section 28-AA” shall be substituted ;

- (ii) in sub-section (12), for the word figures and letter "section 28-A", the words figures and letter section "28-AA" shall be substituted; and
- (iii) in sub-section (16), after the words "Auditor General" the common and words, "auditor, auditing firm "shall' be inserted.

Amendment
of section
133-B.

15. In the principal Act, section 133-B shall be omitted.

Amendment
of
Schedule III.

16. In the principal Act, in Schedule III, for the words, figures, letter and bracket "see sub-section (3-a) of section 28-A" appearing at the beginning, the words, figures, letters and bracket "see sub-section (10) of section 28-AA" shall be substituted.

Election to
all
cooperative
Societies

17. Notwithstanding anything contained in the principal Act immediately before the commencement of this Act, the election to all cooperative societies shall be held in accordance with the provisions of the principal Act as amended by this Act within six months from the date of such commencement.

By Order of the Governor

D. RAUT
Principal Secretary to Government