

REPORT NO.

63



सत्यमेव जयते

PARLIAMENT OF INDIA  
**RAJYA SABHA**

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE  
ON PERSONNEL, PUBLIC GRIEVANCES, LAW AND JUSTICE

**SIXTY THIRD REPORT**

**The Rajasthan Legislative Council Bill, 2013**

*(Presented to the Rajya Sabha on 9<sup>th</sup> December, 2013, 2013)*  
*(Laid on the Table of Lok Sabha on 9<sup>th</sup> December, 2013, 2013)*



**Rajya Sabha Secretariat, New Delhi**  
**December, 2013/Agrahayana, 1935 (Saka)**



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\* To be appended at printing stage.

**ACRONYM**

**CPI  
CPI (M)**

**COMMUNIST PARTY OF INDIA  
COMMUNIST PARTY OF INDIA (MARXIST)**

**COMPOSITION OF THE COMMITTEE  
(Constituted on 31<sup>st</sup> August, 2013)**

1. Shri Shantaram Naik — *Chairman*

**RAJYA SABHA**

2. Ms. Anu Aga
3. Shri Ram Jethmalani
4. Shri Sanjiv Kumar
5. Shri Parimal Nathwani
6. Shri Ram Vilas Paswan
7. Shri Sukhendu Sekhar Roy
8. Shri Ramchandra Prasad Singh
9. Dr. Abhishek Manu Singhvi
10. Shri Bhupender Yadav

**LOK SABHA**

11. Maulana Badruddin Ajmal
12. Shri T. R. Baalu
13. Shri E.T. Mohammed Basheer
14. Shri N.S.V. Chitthan
15. Shri P.C. Gaddigoudar
16. Shri D.B. Chandre Gowda
17. Shri Shailendra Kumar
18. Shri Jitender Singh Malik
19. Shri Arjun Meghwal
20. Shri Pinaki Misra
21. Shri Abhijit Mukherjee
22. Shri S.S. Ramasubbu
23. Shri S. Semmalai
24. Shri S.D. "Shariq"
25. Smt. Meena Singh
26. Shri Vijay Bahadur Singh
27. Dr. Prabha Kishore Taviad
28. Shri Suresh Kashinath Taware
29. Shri Madhusudan Yadav
30. Vacant
31. Vacant

**SECRETARIAT**

Shri Alok Kumar Chaterjee, Joint Secretary  
Shri K.P. Singh, Director  
Shri Ashok K. Sahoo, Joint Director  
Smt. Niangkhanem Guite, Assistant Director  
Smt. Catherine John L., Assistant Director

## INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, having been authorised by the Committee on its behalf, do hereby present the Sixty-third Report of the Committee on the Rajasthan Legislative Council Bill, 2013. (**Annexure-I**)

2. In pursuance of the Rules relating to the Department-related Parliamentary Standing Committee, the Hon'ble Chairman, Rajya Sabha referred the Bill, as introduced in the Rajya Sabha on the 6<sup>th</sup> August, 2013 to this Committee on the 7<sup>th</sup> August, 2013 for examination and report.

3. The Committee issued a press communiqué to solicit views/suggestions from desirous individuals/organisations on various provisions of the Bill. In response thereto the Committee received thirty-four memoranda containing suggestions from various organizations/ individuals / experts. Comments of the Legislative Department on the views/suggestions thereon were sought for consideration of the Committee. (**Annexure-II**)

4. The Committee heard the presentation of the Secretary, Legislative Department, Ministry of Law and Justice on various provisions of the Bill in its meeting held on 27<sup>th</sup> September, 2013 and recorded oral evidence on the subject matter of the Bill in its meeting held on 30<sup>th</sup> October, 2013. During its Study visit to Jaipur between 8<sup>th</sup> to 10<sup>th</sup> October, 2013, the Committee interacted with the representatives of the Government of Rajasthan, representatives of political parties such as The Indian National Congress, Bahujan Samaj Party, Bharatiya Janata Party, Communist Party of India (M), Communist Party of India and representatives of organizations viz Consumer Unity & Trust Society, People's Union for Civil Liberties, Mazdoor Kisan Shakti Sangathan Transparency International and other individuals.

5. While considering the Bill, the Committee took note of the following documents/information placed before it:-

- (i) Background note on the Bill submitted by the Legislative Department, Ministry of Law and Justice;

(ii)

- (ii) Views/suggestions contained in the memoranda received from various organisations/institutions/individuals/experts on various provisions of the Bill and the comments of the Legislative Department thereon; and
  - (iii) Replies of State Government of Rajasthan to Questionnaire prepared by the Secretariat on the issues dealt with by the Bill.
6. The Committee adopted the Report in its meeting held on the 27<sup>th</sup> November, 2013.
7. For the facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

**New Delhi;**  
27<sup>th</sup> November, 2013

**SHANTARAM NAIK**  
*Chairman,*  
*Department-related Parliamentary Standing*  
*Committee on Personnel, Public Grievances, Law and Justice*

# **REPORT**

The Rajasthan Legislative Council Bill, 2013 seeks to amend Article 168 of Constitution as well as relevant Schedule/Section of the Representation of People Act, 1951 for the purpose of creating Legislative Council (Vidhan Parishad) for the State of Rajasthan with sixty six members.

2. So far six out of twenty eight States have bicameral legislatures. Those States Andhra Pradesh, Bihar, Jammu and Kashmir, Karnataka, Maharashtra and Uttar Pradesh. Legislative Councils in the States of Punjab and West Bengal have been abolished. Legislative councils in the States of Tamilnadu and Madhya Pradesh are yet to be made operational. However, legislative measures are being taken to abolish Legislative Council in the State of Tamilnadu.

3. Article 168 of Constitution provides for Constitution of State Legislature. The procedural for creation and abolition of Legislative Council is enumerated under Article 169 of the Constitution. Entry Nos. 37, 38 and 39 of State list enumerated under Seventh Schedule of Constitution are relatable to Legislative Council of the State.

3.1 In accordance with the provision of Article 169(1), the Legislative Assembly of the State of Rajasthan has passed the following resolution on 18<sup>th</sup> April, 2012 by special majority to that effect:

*"Whereas*, the House is of the view that to provide extensive representation to the people in the State Legislature and to establish healthy and strong democratic traditions, it is necessary to create Legislative Council in the State.

*Therefore*, in pursuance of clause (1) of Article 169 of the Constitution of India, the House resolves that a law may be passed by the Parliament to create Legislative Council in the State of Rajasthan".

That resolution has received support of 152 Members against 4 Members out of 156 members of that House present and voting on that day. That resolution was forwarded to Union Government on 4<sup>th</sup> May, 2012 which received the approval of the Union Cabinet on 18<sup>th</sup> April, 2013.

4. Category wise representation of Members as per Article 171 (3) of Constitution is given below:-

a)	Members elected by the State : Legislative Assembly	22(1/3 of total strength)
b)	Members elected by the Local Bodies	: 22(1/3 of total strength)
c)	Members elected from the Graduates' Constituency	: 06(1/12 of total strength)
d)	Members elected from the Teachers' Constituency	: 06(1/12 of total strength)
e)	Members nominated by the Governor	: 10(1/6 of total strength)
<u>Total</u>		<u>: 66</u>

The State Government of Rajasthan has mentioned that all elected members of Municipal Corporation, Municipal Council, Municipal Boards, Gram Panchyats, Cantonment Boards, Panchayat Samiti and Zila Parishad would be the local bodies for the purpose of election of Legislative Council.

5. The Committee heard NGOs and members of Civil Society in Delhi and Jaipur. It had also heard recognized political parties of Rajasthan and State Government of Rajasthan at Jaipur. Following important views have been expressed on the Bill:-

- a) Article 169 of Constitution is an experimental provision. There was no unanimity on the existence of second chamber in State in Constituent Assembly. Citing the Tamilnadu experience about creation/abolition of second chamber it was pointed that Article 169 is highly politicized in present days. There is a need to evolve national policy regarding the existence of second chamber for all States uniformly by amending Article 169 to ensure that second chamber once created cannot be abolished at the whims and fancy of a newly elected Government.
- b) Legislative Council in the State is not only second chamber but also secondary to Legislative Assembly in its role. Unlike Rajya Sabha, it can only delay ordinary legislation for a maximum period of four months. Moreover, Article 197 of the Constitution is also putting restriction on

powers of Legislative Councils as to Bills other than money Bills. From utility point of view Legislative Council should be abolished in all States.

- c) Creation of Legislative Council in Rajasthan would pose huge financial burden on the State exchequer.
  - d) Legislative Council in the State would provide opportunity to the particular tribe/caste who does not get elected to Legislative assembly because of their lesser numerical strength.
  - e) Pre-legislative consultation at village and taluq levels and operationalisation of Wards Committee mentioned under Article 243 (S) of Constitution was preferred to creation of Legislative Council for the time being to enable the elected representatives of Legislative Assembly to get filtered view of people at grass root level.
  - f) As to composition of Legislative Council, representation should be exclusively made from local self Government institutions and for nominated members dispensing with Teachers' and Graduates' constituencies which were rare and respected soon after independence.
6. All recognized political parties in Rajasthan except CPI & CPI(M) have supported creation of Legislative Council in the State of Rajasthan.
7. State Government of Rajasthan in their reply to the questionnaire of the Committee have submitted that creation of Legislative council in that State would involve an expenditure amounting to ₹100/-crores approximately which the State has the capacity to bear.
8. **The Committee after examining views expressed about creation of Legislative Council for the State of Rajasthan, unanimously recommends to Parliament to pass the legislation in larger public interest.**
9. **The Committee, however takes note of the following suggestions made to it during consideration of the Bill:**
- (i) **There is a need to evolve a national policy conscientious with regard to creation/abolition of Legislative Council particularly in regard to the fact that the status of Second**

**Chamber cannot be of temporary in nature depending on the mood of the Government of the day nor can be abolished once created, only at the whims and fancy of a newly elected Government in the State.**

- (ii) There is a need for a detail review of composition of the Legislative Councils particularly with reference to representations of local bodies which should not remain limited to urban local bodies only. There is a need for proper representation of elected representatives of both the Panchayati Raj and urban local self Government bodies and ward Committees as mentioned in Article 243S of the Constitution.**
- (iii) Comprehensive review of present constituencies like members elected by the State Legislative Assemblies, Graduates & Teachers is required considering todays' changing scenario.**

**10. The Committee feels these suggestions need urgent consideration by Government and can be addressed at appropriate time in the future.**

# **MINUTES**

**RELEVANT MINUTES OF THE MEETINGS OF  
THE DEPARTMENT RELATED PARLIAMENTARY STANDING  
COMMITTEE ON PERSONNEL, PUBLIC GRIEVANCES,  
LAW AND JUSTICE**

**III**

**THIRD MEETING**

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 3:00 P.M. on Friday, the 27<sup>th</sup> September, 2013 in Room No. G 074, Parliament House Library, New Delhi.

**PRESENT**

1. Shri Shantaram Naik - *Chairman*

**RAJYA SABHA**

2. Smt. Anu Aga
3. Shri Ram Vilas Paswan
4. Shri Sukhendu Sekhar Roy
5. Shri Bhupender Yadav

**LOK SABHA**

6. Shri E.T. Mohammed Basheer
7. Shri Shailendra Kumar
8. Shri Arjun Meghwal
9. Shri Pinaki Misra
10. Shri S.S.Ramasubbu
11. Shri Abhijit Mukherjee
12. Shri Vijay Bahadur Singh
13. Dr. Prabha Kishore Taviad

**SECRETARIAT**

1. Shri Alok Kumar Chatterjee, Joint Secretary
2. Shri K.P.Singh, Director
3. Shri Ashok K. Sahoo, Joint Director
4. Smt. Niangkhanem Guite, Assistant Director
5. Smt. Catherine John L., Assistant Director

**I. THE RAJASTHAN LEGISLATIVE COUNCIL BILL, 2013**

**Ministry of Law & Justice**

• **Legislative Department**

1. Shri. P.K.Malhotra, Secretary;
2. Dr. M. Vijayawargiya, Joint Secretary; and
3. Smt. Veena Kothavale, Deputy Legislative Counsel

## **II. THE RIGHT TO INFORMATION (AMENDMENT) BILL, 2013**

### **Ministry of Personnel, Public Grievances and Pensions**

- **Department of Personnel and Training**

1. Dr. S.K. Sarkar, Secretary;
2. Shri .Manoj Joshi, Joint Secretary; and
3. Shri. Sandeep Jain, Director (IR).

- **Legislative Department**

1. Dr. Sanjay Singh, Additional Secretary;
2. Shri. Udaya Kumara, Additional Legislative Counsel; and
3. Shri. K.V.Kumar, Deputy Legislative Counsel.

### **The Rajasthan Legislative Council Bill, 2013**

2. The Chairman welcomed the Members of the Committee, Secretary, Legislative Department and senior officers of the Legislative Department to the meeting. He then requested the Secretary, Legislative Department to place before the Committee, the views of his Department on the Rajasthan Legislative Council Bill, 2013.

3. The Secretary, Legislative Department while making a power point presentation, touched upon various aspects of the Legislative Councils and said that presently the States *viz.*, Andhra Pradesh, Bihar, Jammu and Kashmir, Karnataka, Maharashtra and Uttar Pradesh have Legislative Councils. He further said that in West Bengal and Punjab, the Legislative Councils were abolished. In Madhya Pradesh and Tamil Nadu, although Legislative Councils have been created, they are not operational and also steps are being taken for its abolition in Tamil Nadu.

4. He further stated that the Rajasthan Legislative Assembly passed a resolution on 18<sup>th</sup> April, 2012 in order to provide extensive representation to the people of the state and to establish healthy and strong democratic traditions, it is necessary to create Legislative Council in the State, and that in pursuance of Clause (1) of Article 169 of the Constitution of India, the House resolved that a law may be passed by the Parliament to create Legislative Council in the State of Rajasthan.

5. He apprised the Committee that it was decided to create Legislative Council for the State of Rajasthan and thus the Rajasthan Legislative Council Bill, 2013 was introduced wherein Clause 3 of the Bill provides for creation of Legislative Council for

the State of Rajasthan with effect from the date to be appointed by the president. He clarified that Article 171 of the Constitution provides that the total number of Members in the Legislative Council of a State having such a Council shall not exceed one third of the total number of members in the Legislative Assembly of that state, provided that the total number of members in the Legislative Council of a State shall in no case be less than forty and that 66 Members are proposed in the Legislative Council in Rajasthan.

6. Some queries were raised by Members regarding the various provisions of the Bill, and the same were responded to by the Secretary.

*(The witnesses then withdrew)*

7. \* \* \*

8. \* \* \*

9. \* \* \*

10. \* \* \*

11. A verbatim record of the proceedings of the meeting was kept.

12. The Committee then adjourned at 4.32 P.M.

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\*\*\* Relates to some other matter.

## IV

### **FOURTH MEETING**

The Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice met at 3:00 P.M. on Wednesday, the 30<sup>th</sup> October, 2013 in Committee Room 'A', First Floor, Parliament House, New Delhi.

#### **PRESENT**

1. Shri Shantaram Naik - *Chairman*

#### **RAJYA SABHA**

2. Ms. Anu Aga
3. Shri Ram Vilas Paswan
4. Shri Sukhendu Sekhar Roy

#### **LOK SABHA**

5. Shri T.R. Baalu
6. Shri E.T. Mohammed Basheer
7. Shri Arjun Meghwal
8. Shri Pinaki Misra
9. Shri Abhijit Mukherjee
10. Shri S.D. Shariq
11. Smt. Meena Singh
12. Shri Vijay Bahadur Singh

#### **SECRETARIAT**

1. Shri Alok Kumar Chatterjee, Joint Secretary
2. Shri K.P.Singh, Director
3. Shri Ashok K. Sahoo, Joint Director
4. Smt. Catherine John L., Assistant Director

#### **I. LIST OF NON-OFFICIAL WITNESSES**

1. Shri. Rangasayee Ramakrishna, M.P (Rajya Sabha);
2. Shri. Subash C. Agrawal, RTI Activist;
3. Shri. P.N. Mendola, Jaipur;
4. Shri. Chouth Mal Gupta, Jaipur; and
5. Shri. Bal Mukund Sanaday, Rajasthan

#### **II. LEGISLATIVE DEPARTMENT, MINISTRY OF LAW AND JUSTICE**

1. Dr. Mukulita Vijaywargiya, JS & LC.

2. Divergent views were expressed by the non-official witnesses for creation of second chamber for the State of Rajasthan.

3. Views expressed in support of the Bill were that provisions of Article 169 of Constitution which relates to abolition or creation of Legislative Council for the State was an experimental provision leaving the decision mainly to the concerned State. It was stated that there was no unanimity on that issue in the Constituent Assembly. Citing the Tamil Nadu experience about creation/abolition of second chamber it was pointed out that Article 169 is highly politicized in present days. In order to avoid that there is need to evolve a uniform national policy regarding the existence of second chamber for all States by amending Article 169 to ensure that second chamber once created cannot be abolished at the whim and fancy of a newly elected Government. As to composition of Legislative Council, representation should be exclusively made from local self Government institutions and for nominated members dispensing with Teachers' and Graduates' constituencies which were rare and respected soon after independence.

4. Views expressed in opposition to the creation of Legislative Council held that there was no utility of second chamber. Unlike Rajya Sabha, Legislative Council is not only second chamber but also secondary to Legislative Assembly which can not disagree but delay the legislation passed by lower house to the maximum period of four months. It was, therefore, pleaded that second chamber in all States should be abolished and the Article 169 of Constitution should be deleted from the Constitution. Since it has no utility, it would pose huge financial burden on the state exchequer thereby affects developmental work.

5. Referring to the Statement of Objects and Reasons of the Bill which mentions that better opportunities to people's participation in governance and decision making would be ensured by making operational 'Wards Committees' mentioned under Article 243(S) of Constitution. It was also pointed out that second chamber is being created to rehabilitate defeated politicians and their relatives in the legislature enabling them to get pay, perquisite, allowance which would be a burden on the State without having any definite utility.

6. On the issue of composition of Legislative Council, one of the Members referred to Jammu and Kashmir Constitution where Teachers' and Graduates' Constituencies have

been deleted in order to insulate educational institutions from politics. Some other Members opposed abolition of Teachers' Constituencies in the State for second chamber.

*(The witnesses then withdrew)*

7. Verbatim record of meeting of the Committee was kept.

8. The meeting adjourned at 4.25 P.M. to meet again at 11 A.M. on 6<sup>th</sup> November, 2013.

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