

Extra No. 28

વાર્ષિક લવાજમનો દર રૂ. ૩૫૦૦/-



सत्यमेव जयते

The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. LVIII]

MONDAY, JULY 3, 2017/ASADHA 12, 1939

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

PART IV

**Acts of Gujarat Legislature and Ordinances promulgated and Regulations
made by the Governor.**

**AGRICULTURE, CO-OPERATION AND FARMER WELFARE
DEPARTMENT**

Sachivalaya, Gandhinagar, Dated the 3rd July, 2017.

GUJARAT ORDINANCE NO. 1 OF 2017.

AN ORDINANCE

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

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Co-operative Societies Act, 1961;

Guj. X of 1962.

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NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:-

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

(2) It shall come into force at once.

2. **Guj. X of 1962 to be temporarily amended.-** During the period of operation of this Ordinance, the Gujarat Co-operative Societies Act, 1961 (therein after referred to as “ the principal Act ”) shall have effect subject to the amendment specified in section 3. Guj. X of 1962.

3. **Deletion of section 74CC of Guj. X of 1962.-**In the principal Act, section 74CC shall be deleted.

STATEMENT

The Parliament enacted the Constitution (Ninety-Seventh Amendment) Act, 2011, thereby inserting PART IXB after PART IXA 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 has been inserted, has 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 made in the said Act.

As the Legislative Assembly of the State of Gujarat is not in session, the Gujarat Co-operative Societies (Amendment) Ordinance, 2017 is promulgated to amend the said Act to achieve the aforesaid objects.

Dated the 1st July, 2017.

O. P. KOHLI,
Governor of Gujarat.

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

DR. S MURALI KRISHNA,
Secretary to Government.

Government Central Press, Gandhinagar.