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EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills have been introduced in the Rajya Sabha on the 22nd July, 2022:—

I

BILL No. XXVII OF 2022

A Bill further to amend the Waqf Act, 1995.

BE it enacted by Parliament in the Seventy-third year of the Republic of India as follows:—

1. (1) This Act may be called the Waqf (Amendment) Act, 2022.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1995.

2. For section 54 of the Waqf Act, 1995, (hereinafter referred to as the principal Act), the following section shall be substituted, namely—

Substitution of
section 54.

“54. (1) In the event of any encroachment being made on any land, building, space or other property which is waqf property and if such encroachment was done without the sanction of the competent authority, it shall be lawful for the Chief Executive

Removal of
encroachment
from waqf
property.

Officer to summarily abate or remove any such encroachment or cause any article whatsoever hawked or exposed for sale to be removed and the expenses incurred therein shall be leviable from the person in occupation of the waqf property encroached upon or used as aforesaid.

(2) The person responsible for such encroachment or who is in unauthorised occupation of the waqf property so encroached upon shall pay, if the waqf property encroached upon forms part of an assessed survey number, assessment for the entire survey number for the whole period of the encroachment, and if the waqf property has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar waqf property used for the same purpose.

(3) Such person as referred to in sub-section (2) shall pay in addition to the amount under sub-section (2), a fine which shall be not less than one thousand rupees but not more than ten thousand rupees if the encroached waqf property is used for an agricultural purpose, and if used for a purpose other than agriculture a fine not exceeding fifty thousand rupees:

Provided that if such person is caught hawking or selling any articles on the encroached waqf property, he shall be liable to pay fine of a sum not exceeding one thousand rupees as the Chief Executive Officer may determine.

(4) The Chief Executive Officer may, by notice duly served to the person responsible for encroachment, specifying the particulars of the encroachment, prohibit or require the abatement or removal of encroachments on any such waqf property, and shall fix in such notice a date, which shall be a reasonable time after such notice, on which the same shall take effect.

(5) Every person who makes, causes, permits or continues any encroachment on any waqf property referred to in a notice issued under sub-section (4), shall in addition to the penalties specified in sub-section (3), be liable at the discretion of the Chief Executive Officer to a fine not exceeding five hundred rupees in the case of encroachment for agricultural purposes and one thousand rupees in other cases for every day during any portion of which the encroachment continues after the date fixed for the notice to take effect.

(6) An order passed by the Chief Executive Officer under this section shall be subject to appeal before waqf Tribunal and revision before the State Government in accordance with the provisions of this Act.

(7) Nothing contained in sub-sections (1) to (5) shall prevent any person from establishing his rights in a Waqf Tribunal within a period of six months from the date of the final order under this Act.

(8) Nothing in this section shall prevent the Chief Executive Officer, if the person making the encroachment so desires, to charge the said person a sum not exceeding five percent of the value of the waqf property so encroached upon and to fix a rent not exceeding five times of the ordinary rent as per lease rules thereon and to allow the person on lease to the encroacher on such terms and conditions as the Chief Executive Officer may impose subject to rules made in this behalf.

(9) For the purposes of this section, the value of waqf property that has been encroached upon shall be fixed by the Chief Executive Officer according to the market value of similar land in the same neighbourhood at the time of such valuation and the annual revenue of such property shall be assessed at the same rate as the land revenue of similar property in the vicinity.

(10) The Chief Executive Officer's decision as to the value of waqf property shall be conclusive."

3. For section 55 of the principal Act, the following shall be substituted:

Substitution of section 55.

"55. (1) If in the opinion of the Chief Executive Officer, any person is unauthorisedly occupying or wrongfully in possession of any waqf property or is not entitled or has ceased to be entitled to continue the use, occupation or possession of any such property by reason of the expiry of the period of lease or termination of the lease or breach of any of the conditions annexed to the tenure, it shall be lawful for the Chief Executive Officer to evict such person.

Enforcement of orders made under section 54.

(2) Before evicting any such person, the Chief Executive Officer shall give him a reasonable opportunity of being heard and the Chief Executive Officer Waqf Board may make a summary enquiry, if necessary:

Provided that the Chief Executive Officer shall record his reasons, for arriving at any opinion.

(3) The Chief Executive Officer shall, on their finding as aforesaid, serve a notice on such person requiring them within such time as may appear reasonable after receipt of the said notice to vacate the waqf property and if such notice is not complied with, the Chief Executive Officer may remove them from such property.

(4) A person unauthorisedly occupying or wrongfully in possession of waqf property after they have ceased to be entitled to continue the use, occupation or possession by virtue of any of the reasons specified in sub-section (1), shall also be liable at the discretion of the Chief Executive Officer to pay a penalty not exceeding ten times the rent for the property, for the period of such unauthorised use or occupation.

(5) After summary eviction of any person under this section, any building or other construction erected on the waqf property or any crop raised in the property shall, if not removed by such person after such written notice as the Chief Executive Officer may deem reasonable, be liable to forfeiture or to summary removal.

(6) Forfeitures under this section shall be adjudged by the Chief Executive Officer and any property so forfeited shall be disposed of as the Chief Executive Officer may direct and the cost of the removal of any property under this section shall be recoverable as an arrear of land revenue."

4. Section 55A of the principal Act shall be omitted.

Omission of section 55A.

STATEMENT OF OBJECTS AND REASONS

In the last few decades, encroachments on Waqf properties has increased exponentially. This has created an undue obstruction of such properties through unauthorized means. It creates a barrier for easementary rights and goes against the right to unobstructed use of such land. While the Waqf Act, 1995 does have provisions to deal with such encroachments, it has been observed that provisions that deal with such removal of encroachments entail a multiplicity in the proceedings required, before such encroachments can be legally removed. Chapter II of the Act deals notification of properties listed as Waqf properties and includes a dispute resolution mechanism. Hence, it becomes pertinent to amend Sections 54 and 55, while omitting Section 55A, in order to remove multiplicity of proceedings. Additionally, the Supreme Court has time and again directed authorities to rigorously remove such encroachments. To enable this, the powers of the Chief Executive Officer of the Waqf Board need enhancement for summarily removing such obstructions. There is a need to improve the procedure for the removal of unauthorized encroachments upon such Waqf properties and safeguard the rights of the Waqf.

Hence, this Bill.

DR. FAUZIA KHAN

II

BILL NO. XXXIII OF 2022

A Bill further to amend the Right of Children to Free and Compulsory Education Act, 2009.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2022.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

35 of 2009.

2. In the long title of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), for the words “age of six to fourteen years”, the words “age of six to seventeen years”, shall be substituted.

Amendment
of the long
title.

3. Throughout the principal Act, for the words “elementary education”, “age of six to fourteen years”, and “fourteen years”, wherever they occur, the words “school education”, “age of six to seventeen years” and “seventeen years” shall respectively, subject to section 7 of this Act and such changes as the rules of grammar require, be substituted.

Substitution
of references
to certain
expressions
by certain
other
expressions.

Amendment
of section 2.

4. In section 2 of the principal Act,—

(a) clause (f) shall be omitted; and

(b) after clause (n), the following clause shall be inserted, namely:—

"(na) "school education" means the education from first class to twelfth class;"

Amendment
of section 30.

5. For section 30 of the principal Act, the following section shall be substituted, namely:—

Examination
and
completion
certificate.

"30. (1) No child shall be required to pass any Board examination till completion of his education of class eighth.

(2) Every child completing his education in class eighth shall be awarded a certificate, in such form and in such manner, as may be prescribed."

Amendment
of section 38.

6. In clause (o) of sub-section (2) of section 38 of the principal Act, for the words "elementary education", the words "education of class eighth" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Education has a very important role in the development of the nation. As a developing nation, it is important that all children in the country get free school education till class twelfth.

2. The Bill proposes amendments to the Right of Children to Free and Compulsory Education Act, 2009, to provide that every child be given the right to full time elementary, secondary and higher secondary education in a formal school. Accordingly, it is proposed to amend the definition of the "child" by enhancing their age to seventeen years for considering them as a child and also providing them free school education up to class twelfth by suitably proposing amendments to the Act.

3. Only free and compulsory education monitored and ensured by the system can ensure the achievement of the purpose.

4. The proposed legislation, hence, is required to ensure free and compulsory education up to the class twelfth to every male and female child of the age of six to seventeen years, and thereby resulting in the progress of the nation.

5. The Bill seeks to achieve the above objectives.

DR. V. SIVADASAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to extend the free and compulsory education from elementary education to higher secondary education. The Bill, if enacted, would involve additional expenditure from the Consolidated Fund of India and it is very difficult to estimate the expenditure at this juncture.

III

BILL NO. XXVI OF 2022

A Bill further to amend the Constitution of India.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

- | | |
|---|-------------------------------|
| 1. (1) This Act may be called the Constitution (Amendment) Act, 2022. | Short title and commencement. |
| (2) It shall come into force at once. | |
| 2. In article 4 of the Constitution, clause (2) shall be omitted. | Amendment of article 4. |
| 3. In article 55 of the Constitution, in the proviso to the Explanation, for the figure "2026", the figure "2051" shall be substituted. | Amendment of article 55. |
| 4. In article 81 of the Constitution, for the proviso to clause (3), the following proviso shall be substituted, namely:— | Amendment of article 81. |

"Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2051 have been published, be construed,—

(i) for the purpose of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and

(ii) for the purpose of sub-clause (b) of clause (2) as a reference to the 2011 census."

Amendment
of article 82.

5. In article 82 of the Constitution, for the third proviso, the following proviso shall be substituted, namely:—

"Provided also that until the relevant figures for the first census taken after the year 2051 have been published, it shall not be necessary to readjust—

(i) the allocation of seats in the House of People to the States as readjusted on the basis of the 1971 census; and

(ii) the division of each State into territorial constituencies as may be readjusted on the basis of the 2011 census, under this article."

Amendment
of article 170.

6. In article 170 of the Constitution,—

(a) in clause (2), in the proviso to the Explanation, for the figure "2026", the figure "2051" be substituted; and

(b) in the third proviso to clause (3), for the figure "2026", the figure "2051" shall be substituted.

Amendment
of article 330.

7. In article 330 of the Constitution, in the proviso to the Explanation, for the figures "2026" and "2001", the figure "2051" and "2011" shall respectively be substituted.

Amendment
of article 332.

8. In article 332 of the Constitution,

(a) in clause (3A), for the figure "2026, the figure "2051" shall be substituted; and

(b) in clause (3B), for the figure "2026", the figure "2051" shall be substituted.

Amendment
of article 368.

9. In article 368 of the Constitution, in clause (2), for sub-clause (a), the following sub-clause shall be substituted, namely:—

"(a) article 2, article 3, article 54, article 55, article 73, article 162, article 241 or article 279A or".

STATEMENT OF OBJECTS AND REASONS

India is called a Union of States and therefore the States are an indestructible and integral part of it. Most of the States have completed more than half a century of existence as stable political entities. The different States now present in India not only denote the particular territorial regions or the administrative divisions, but also represent a culturally integrated democratic community, which has become central to the lives of the people in the States.

2. India being a democratic country upholding federal principles, the States should not be altered without the consensus of the people of these States. Therefore, it is required that the existence of all the States should be protected from any alteration by law with a simple majority in the Parliament. Hence, any changes made to the States should have the protection of article 368 of the Constitution of India.

3. By the Constitution (Eighty-fourth Amendment) Act, 2001, the share of seats of the States in the Parliament was protected from change. This protection is only upto the year 2026. The rationale for undertaking this amendment was ensuring justice to the States who have lowered their population growth through consistent efforts.

4. Keeping in view of the difference in the degrees progress of family planning programmes in different parts of the country, there is a need to extend the current freeze on the number of representatives (Members of Parliament and Members of Legislative Assembly) by not undertaking fresh delimitation up to the year 2051 as a measure so that the States which have succeeded in the adoption of family planning methods are not affected adversely by the reduction in the respective seats allotted to them in the Parliament.

5. At the same time, in order to promote the empowerment of the marginalized sections there is a need to re-fix the number of seats reserved for the Scheduled Castes and Scheduled Tribes in the House of the People and the Legislative Assemblies of the States on the basis of the population ascertained at the census for the year 2011 in such a manner that the respective share of the States in the Parliaments is not altered.

6. The Bill seeks to achieve these objectives.

DR. V. SIVADASAN

IV

BILL NO. XXXIV OF 2022

A Bill to provide for compulsory voting by the electorate in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Compulsory Voting Act, 2022.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means—

(i) in the case of a State, the Government of that State;

(ii) in the case of an Union Territory having its own legislature, the Government of that Union Territory; and

(iii) in other cases, the Central Government.

(b) "prescribed" means prescribed by the rules made under this Act;

(c) "voter" in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualification mentioned in section 16 of the Representation of the People Act, 1950.

43 of 1950.

3. It shall be compulsory for every voter who is eligible to vote at an election to exercise his right to vote when called for by the Election Commission:

Compulsory voting.

Provided that a voter may be exempted from exercising his right to vote—

(a) if he is physically incapacitated from an illness of a serious nature and produces a medical certificate from a registered medical practitioner certifying such incapacity; or

(b) if the Election Commission or such other authority as may be empowered by the Election Commission, on receipt of a request either before or after the poll, from the voter, is satisfied that there are genuine and *bona fide* grounds for such exemption.

4. The Election Commission shall ensure protection and safety of all voters who come to polling booths to cast their votes.

Protection and safety for voters at polling booths.

5. The Election Commission shall send a list of names of all eligible voters, who have not cast their votes, to Central Government or the State Government, as the case may be, in such manner as may be prescribed.

Sending of list of names of voters not casting their votes to the Government.

6. (1) There shall be set up adequate number of polling booths at convenient locations.

(2) The polling booths shall be set up in such a way—

(a) that number of voters in each booth shall be equal to the extent possible;

(b) that the distance between one polling booth and another shall not exceed five hundred meters:

Adequate number and spacing of polling booths.

Provided that in hilly regions and desert areas polling booths may be set up according to density of population, in such manner as may be prescribed.

7. There shall be made suitable arrangements enabling the persons deployed in connection with the polling duty to cast their votes.

Special arrangements for poll staff.

8. There shall be made separate arrangement in every polling booth for senior citizens, physically challenged persons and pregnant women to enable them to cast their votes.

Special arrangements for senior citizens, etc.

9. Any person, who fails to cast his vote shall be liable to—

Punishment.

(a) a fine of rupees five hundred, or two day's imprisonment, or forfeiture of his ration card;

(b) be rendered ineligible for contesting any election for a period of ten years from the date of his conviction;

(c) be ineligible for entitlement to any welfare scheme announced by the appropriate Government from time to time:

Provided that if such person is an employee of the Union Government or the State Government or the Union Territory Administration or any public sector undertaking owned

or controlled by Union Government or the State Government or the Union Territory Administration, such person shall also be punished with—

(a) forfeiture of ten days' salary; and

(b) delay in promotion for a period of two years.

Incentive for voting.

10. Any voter who, despite his illness or physical incapacity has exercised his right to vote at an election or any voter who has exercised his right to vote at all elections held during a period of fifteen years preceding the commencement of this Act without any break, shall be—

(a) given preference in jobs in the services under the Central Government; and

(b) given preference in admission to the institutions of higher education.

Central Government to provide funds.

11. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Power to make rules.

12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should be of no effect, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be. However, any such modification or annulment of that rule shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Our country is the largest democracy in the world having population of around 139 crores. The Constitution has adopted the system of universal adult suffrage to secure political justice.

A strong Parliamentary system is there. Since 1951, free and fair elections have been conducted at regular interval for both Houses of Parliament, State Legislatures and Local Bodies. Election in India sets norms for many other countries.

But it has been observed that only around sixty per cent voters use their right to vote. It has been observed during almost all elections in the country that the number of voters actually voting is very less than that of eligible voters. Hence, average polling remains very low. This tendency of election clearly indicates us that taking appropriate steps to encourage citizens for exercising their voting rights to elect their representatives is needed so that the results of elections may reflect the intents of all voters and not only of a part of them. In many cases, citizens knowingly do not cast votes or even they boycott elections. Hence, the purport of this Bill is to make voting compulsory for every voter subject to certain restrictions to increase the percentage of voting in the country. However, under this Act such voters, who are either physically incapacitated or have genuine grounds for not doing so, have been exempted.

Since voting is being made compulsory, punishment for those who are not voting has been proposed. Moreover, those voters have been proposed to be given incentives who despite their illness, have continuously exercised their right to vote at elections.

Some of the countries that introduced mandatory voting laws were Belgium in 1892. Argentina in 1914 and Australia in 1924. Countries that enforce compulsory voting are Argentina, Australia, Austria, Bulgaria, Brazil, Chile, Cyprus, Ecuador, Fiji, Greece, Lichtensteen, Mexico, Nauru, Peru, Singapore, Switzerland (One Canton only), Turkey and Uruguay. Compulsory voting is a system in which electors are bound to vote in elections or attend a polling place on voting day. Compulsory voting system confers a higher degree of political legitimacy.

Hence, this Bill.

DEEPAK PRAKASH

FINANCIAL MEMORANDUM

Clause 6 provides for setting up of adequate polling booths in every constituency. Clauses 7 and 8 provide for special arrangements for persons deployed for poll duty and for senior citizens, physically challenged persons and pregnant women to enable them to cast their votes. Clause 11 requires the Central Government to provide adequate funds for carrying out the purposes of the Act.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees eight thousand crore is likely to be involved. A non-recurring expenditure of about rupees five thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill which will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

V

BILL NO. XXXII OF 2022

A Bill to provide for the erection and management of a national memorial to perpetuate the memory of those from Bengal, who have fought and struggled for the freedom of India, from the oppressive British Raj, belonging to the territorial jurisdiction of Bengal Presidency (1765—1947), presidency of the British Indian Empire.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Bengal Freedom Fighters Memorial Act, 2022.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Memorial" means the Bengal Freedom Fighters Memorial to perpetuate the memory of those from Bengal, in the territorial jurisdiction of Bengal Presidency (1765—1947), Presidency of the British Indian Empire who laid down their lives or who have made notable contribution to the independence movement of India;

(b) "Trust" means the trust for the erection and management of the Memorial.

(c) "trustees" means the trustees of the Bengal Freedom Fighters Memorial.

3. The objects of the Trust shall be—

Objects of the Trust.

(a) to erect and maintain suitable buildings, structures and parks adjacent to the side of the Victorial Memorial in the city of Kolkata, State of West Bengal to perpetuate the memory of those from Bengal, in the territorial jurisdiction of Bengal Presidency (1765—1947), Presidency of the British Indian Empire who laid down their lives or who have made notable contribution to the freedom of India, on the said site;

(b) to acquire lands, buildings and other properties for the purposes of the trust; and

(c) to raise and receive funds for the purposes of the Memorial.

4. (1) The trustees of the Memorial shall be the following, namely:—

Trustees of the Memorial.

(a) the Prime Minister—Chairperson,

(b) the Union Minister in-charge of the Ministry of Culture,

(c) the Leader of Opposition recognised as such in the House of the People or where there is no such Leader of Opposition, the Leader of the single largest opposition party in that House;

(d) the Governor of the State of West Bengal;

(e) the Chief Minister of the State of West Bengal;

(f) three eminent persons to be nominated by the Central Government.

(2) The trustees shall be a body corporate with perpetual succession by the name of the "Trustees of the Bengal Freedom Fighters Memorial" and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts and to do all acts necessary for, and consistent with, the purposes of this Act.

5. The trustees nominated under clause (f) of sub-section (1) of section 4 shall be trustees for a period of five years, and shall be eligible for re-nomination.

Term of office of nominated Trustees.

6. All the funds and property, whether movable or immovable, which may hereafter be given, bequeathed or otherwise transferred for the purposes of the Memorial or acquired for the said purposes shall vest in the trustees.

Property vested in Trustees.

7. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the trusts, grants of such sums of money as the Central Government may think fit, for the purposes of this Act.

Grants of money by the Central Government.

8. (1) For the purposes of managing the affairs of the trust, the trustees may, pass resolution at a meeting, appoint a committee of management, and to entrust it such powers, duties and functions, under such directions and limitations, as may be defined by such resolution.

Power of Trustees to appoint committee of management.

(2) The trustees may appoint any person as members of the committee of management, whether such person are trustees or not, and may, from time to time, vary or rescind any resolution passed by it under this section.

9. The Trust shall meet at least once in a year to approve the audited accounts of the trust and shall transact such other business as may be considered necessary.

Power to approve audited accounts.

10. No act of the trustees shall be deemed to be invalid merely by reason any vacancy in, or any defect in the constitution of the body of trustees.

Validity of acts of Trustees not to be questioned by reason of vacancy, etc.

Accounts and
audit.

11. (1) The accounts of the trust shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the trust to the Comptroller and Auditor-General.

(2) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the trust under this Act, shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the trust.

(3) The accounts of the trust as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the trust and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Power to
make rules.

12. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which funds belonging to the Memorial shall be kept deposited or invested;

(b) the mode of authentication of orders for payment of money by the trustees;

(c) the form in which accounts shall be kept by the trustees and the audit and publication of such accounts;

(d) the laying out, erection, improvement, maintenance and management of the memorial and the care and custody of the properties thereof;

(e) the condition under which the public shall have access to the Memorial or particular parts thereof and the regulation of the conduct of persons entering the precincts of the Memorial; and

(f) the preservation of, and the prevention of injury to or interference with, any property vested in the trustees and the prevention of persons from trespassing into any particular part of the Memorial.

(3) A rule made under this section may provide that a breach of any rule made under clauses (e) and (f) of sub-section (2) shall be punishable with fine which may extend to one hundred rupees.

Power of
Trust to make
regulations.

13. The Trust may make regulations consistent with the provisions of this Act for all or any of the following purpose, namely:—

(a) the manner in which meetings of the trustees shall be convened, the quorum for the transaction of any business and the procedure at such meetings;

(b) the manner in which a majority decision of the trustees shall be obtained by circulation to the trustees of the matter requiring decision;

(c) the term of office of members of the committee of management, their powers and duties, and the circumstances in which and the conditions subject to which such powers and duties may be exercised; and

(d) the appointment of such officers and servants as may be necessary for the purpose of the trust and their terms and conditions of service.

14. Every rule or regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in Session, for a total period of thirty days which may be comprised in one Session or in two or more successive Sessions, and if, before the expiry of the Session immediately following the Session or the successive Sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

STATEMENT OF OBJECTS AND REASONS

The Great Indian struggle for freedom from the oppressive British Raj started with the fall of the Nizam of Bengal in the decisive battle of Plassey on 23rd June, 1757. Between 1765—1947 in the territorial jurisdiction of Bengal Presidency, hundreds and thousands have laid down their lives and many more thousands and lakh of Indians stood against the tyranny of the British Raj.

The very concept of the great Memorial conceived under this Bill is to give space to mention their story and contribution so that every sung and unsung heroes who made notable contribution is remembered forever and our future generation will get an opportunity to learn from the true history of our ancestors and to uphold their ideals and be proud of our great race.

By the creation of this Memorial we shall honour and glorify our brave sons of Bengal. That everyone who laid down his or her life and contributed to the epic freedom struggle spanning over to centuries shall not go down as unsung heroes. The Memorial shall give space to each and every freedom Fighter with their photographs and their contribution to the freedom struggle.

The Memorial to be erected adjacent to the Victoria Memorial will bring forth its truest meaning.—the oppressor verses the oppressed, that such dark history of oppression should not be repeated in future to our holy mother India.

The need is, therefore, to recognize the sacrifice made by the people of Bengal Presidency (1765—1947) who contributed for our freedom movement from the area constituting Bengal Presidency by providing for establishment of the Bengal Freedom Fighters Memorial to perpetuate the memory of both known heroes and unsung heroes.

The Memorial will bring forth the fact that India won its independence through collective zeal of many.

Hence, this Bill.

SHANTA CHHETRI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the trust to erect and maintain suitable buildings, structures and parks adjacent to the site of the Victoria Memorial in the city of Kolkata; to acquire lands, buildings and other properties for the purposes of the trust; and to raise and receive funds for the purposes of the Memorial. Clause 7 provides for making grants to the trustees by the Central Government after the appropriation by Parliament by law for the purpose of the Act.

The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, it is difficult to estimate the amount required for the purpose, as it would depend upon the decisions of the trust.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Clause 13 empowers the Trust to make regulations for the prescribed purposes. The rules and regulations will relate to matters of details only, and as such, the delegation of legislative power is of a normal character.

VI

BILL NO. XXXV OF 2022

A Bill to provide for the constitution and regulation of a new army regiment to be known as the Indian National Army Regiment for defending the borders of India against all foreign enemies and in honour of the members of Indian National Army of the Azad Hind Fauj and for matters connected therewith or incidental thereto.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian National Army Regiment Bill, 2022.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the Context otherwise requires,—

(a) "battalion" means the unit of the Regiment constituted as a battalion by the Central Government;

(b) "Commandant" when used in any provision of the Act, with respect to any unit of the Regiment means the officer whose duty is under the rules of discharge with respect to that unit, the functions of a Commandant in regard to the matters of the description referred to in that provision;

(c) "Criminal Court" means a court of ordinary criminal Justice in any part of India;

(d) "Deputy-Inspector General" means a Deputy Inspector General of the Regiment appointed under section 4;

(e) "Director General" means the Director-General of the Regiment appointed under section 4;

(f) "Government" means the Central Government;

(g) "Inspector-General" means the Inspector-General of the Regiment appointed under section 4;

(h) "notification" means notification published in the Official Gazette;

(i) "offence" means any act or omission punishable under this Act and includes a civil offence;

(j) "officer" means a person appointed or in pay as an officer of the Regiment but does not include a subordinate officer or an under officer;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Regiment" means Indian National Army Regiment constituted under section 3;

(m) "regiment custody" means the arrest or confinement of a member of the Regiment according to rules;

(n) "rule" means, a rule made under this Act;

(o) "Security Regiment Court" means a court for trial of offences under the Act, to be converted in such manner as may be prescribed;

(p) "superior officer" when used in relation to a person subject to this Act, means—

(i) any member of the Regiment to whose command such person is for the time being, subject in accordance with the rules; and

(ii) any officer of higher rank or class or of a higher grade in the same class; and includes when such person is not an officer, a subordinate officer or an under officer of higher rank, class or grade;

(q) "subordinate officer" means a person appointed or in pay as Subedar-Major, as a Sub-Inspector of the Regiment; and

(r) "under-officer" means a Head Constable, Naik and Lance Naik of the Regiment.

Constitution
of the Indian
National
Army
Regiment.

3. (1) There shall be an armed Regiment of the Union called the Indian National Army Regiment with its headquarter situated in Kalimpong district, in the State of West Bengal to ensure the security of the country.

(2) Subject to the provisions of this Act, the Regiment shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Regiment shall be such as may be prescribed.

4. (1) The general superintendence, direction and control of the Regiment shall vest in and be exercised by the Central Government and subject thereto and to the provisions of this Act and rules made thereunder, the command and superintendence of the Regiment shall vest in an officer to be appointed by the Central Government as the Director-General of the Regiment.

Direction and control of the Regiment.

(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such member of the rank of Inspector General, Deputy Inspector General, Commandants and other officers as may be prescribed.

5. (1) The persons to be enrolled to the Regiment, the mode of enrolment and the procedure for enrolment shall be such as may be prescribed.

Enrolment to the Regiment.

(2) Notwithstanding anything contained in this Act and the rules made thereunder, every person who has, for a continuous period of three months been in receipt of pay as a person enrolled under this Act and borne on the rolls of the Regiment shall be deemed to have been duly enrolled.

6. Every member of the Regiment shall be liable to serve in any part of India as well as outside India as and when required by the Government during his term of engagement.

Liability for service outside India.

7. No member of the Regiment shall be at liberty, —

Resignation and withdrawal from the post.

(a) to resign his appointment during the term of this engagement; or

(b) to withdraw himself from all or any of the duties of this appointment, except with the prior permission in writing of the prescribed authority.

8. Every person subject to this Act shall hold office during the pleasure of the President.

Tenure of service.

9. Subject to the provisions of this Act and rules, the Central Government may dismiss or remove any person from service.

Termination of service by Central Government.

10. A subordinate officer or an under-officer or other enrolled person who is retired, discharged, released, removed or dismissed from service shall be presented by the officer, to whose command he is subject, with a certificate in the language which is the mother tongue of such person and also in Hindi or English language setting forth—

Certificate of termination of service.

(a) the authority terminating his service;

(b) the cause for such termination; and

(c) the full period of his service in the Regiment.

11. (1) The Director-General or any Inspector General may dismiss or remove from the service or reduce to a lower grade or rank or ranks any person subject to this Act other than an officer.

Dismissal, removal or reduction by the Director General and by other officer.

(2) An officer not below the rank of Deputy Inspector General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or subordinate officer of such rank or ranks as may be prescribed.

(3) Any officer not below the rank of Deputy Inspector General or any prescribed officer may reduce to a lower grade or rank or ranks any person under his command except an officer or a subordinate officer.

(4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules made thereunder.

Mutiny.

12. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) begins, incites, causes or conspires with any other person to cause any mutiny in the Regiment or in the Army, Naval or Air Forces of India or any forces co-operating therewith; or

(b) joins in any such mutiny; or

(c) being present at any such mutiny, does not use his utmost endeavor to suppress the same; or

(d) knowing or having reason to believe in the existence of any such mutiny or of any intention to mutiny or of any such conspiracy, does not without delay, give information thereof to his commandant or other superior officer; or

(e) endeavors to seduce any person in the Regiment or in the Army, Naval or Air Forces of India or any forces co-operating therewith from his duty or allegiance to the Union,

shall, on conviction by a Security Regiment Court, be liable to suffer death or such less punishment as is mentioned in this Act.

Absence
without leave.

13. Any person subject to this Act who commits any of the following offences that is to say—

(a) absents himself without leave; or

(b) without sufficient cause overstays leave granted to him; or

(c) without sufficient cause fails to appear at the time appointed at the parade or place fixed for exercise or duty; or

(d) when on parade, or on the line of march without sufficient cause or without leave from his senior officer, quits the parade or line of march; or

(e) without leave from his senior officer or without due cause, absents himself from any school when duly ordered to attend there,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto five years.

Misbehaviour
with a senior
officer.

14. Any officer, subordinate officer or under officer applies criminal force on a person that holds such a post as is under this Act or misbehave with him, shall on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto ten years.

Extortion and
corruption.

15. Any person subject to this Act who commits any of the following offences that is to say—

(a) commits extortion; or

(b) without proper authority exacts from any person money, provisions or service,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto ten years.

False
accusations.

16. Any person subject to this Act who commits any of the following offences, that is to say—

(a) make a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(b) in lodging a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and willfully suppresses any materials facts,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto three years or such less punishment as is in this Act mentioned.

17. Any person subject to this Act who disobeys in such manner as to show a willful defiance of authority any lawful command given personally by his senior officer in the execution of his office whether the same is given orally or in writing or by signal or shall on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto twenty years or such less punishment as a provided in this Act.

Disobedience
to Senior
Officer.

18. Any person subject to this Act who commits any of the following offences, that is to say—

Offence
relating to
Security
Regiment
Court.

(a) being duly summoned or ordered to attend as witness before a Security Regiment Court, willfully or without reasonable excuse makes default in attendance; or

(b) refuses to take an oath or make an affirmation legally required by a Security Regiment Court to be taken or made; or

(c) refuses to provide or deliver any document in his power or control legally required by a Security Regiment Court to be produced or delivered by him; or

(d) refuses, when a witness, to answer any question which he is by law bound to answer; or

(e) is guilty of contempt of the Security Regiment Court by using insulting or threatening language or by causing any interruption of disturbance in the proceedings of such court,

shall on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is mentioned in this Act.

19. (1) Punishment may be inflicted in respect of offences committed by persons subject to this Act and convicted by Security Regiment court according to the scale following, that is to say—

Punishment
awardable by
Security
Regiment
Court.

(a) death; or

(b) imprisonment which may be for the term of life of any other lesser term but excluding imprisonment for a term not exceeding three months in Regiment Custody; or

(c) dismissal from service; or

(d) imprisonment for a term not exceeding three months in Regiment custody;
or

(e) reduction to the ranks or to a lower rank or grade or a place in the list of their rank in the case of under-officer; or

(f) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion; or

(g) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose; or

(h) fine in respect of civil offences; or

(i) severe reprimand or reprimand except in the case of person below the rank of an under-officer; or

(j) forfeiture of pay and allowances for a period not exceeding three months for an offence committed in active duty; or

(k) forfeiture in case of person sentenced to dismissal from service of all the arrears of pay and allowances and other public money due to him at the time to such dismissal; or

(1) stoppage of pay and allowances until any proved loss or damage occasioned by the offence for which he is convicted is made good.

(2) Each of the punishment specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Minor
Punishment.

20. A Commandant or such officer as is with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person subject to this Act, otherwise than as an officer or a subordinate officer who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the following punishment, that is to say—

(a) imprisonment in Regiment custody upto twenty-eight days; or

(b) detention upto twenty-eight days; or

(c) confinement to the lines upto twenty-eight days; or

(d) extra guards or duties; or

(e) deprivation of any special position or special employments or any acting rank or reduction to a lower grade of pay; or

(f) forfeiture of good service and good conduct pay; or

(g) severe reprimand or reprimand; or

(h) fine upto fourteen days pay in any one month; or

(i) deduction from his pay of any sum required to make good such compensation for any expense, loss, damage, or destruction caused by him to the Central Government or to any building or property.

Punishment to
persons of and
below the rank
of subordinate
officer by
Deputy
Inspector
General and
others.

21. (1) An officer who is not below the rank of Deputy Inspector General or any other officer specified by the Director General with the consent of the Central Government shall initiate proceedings against any subordinate officer or one of the rank of subordinate officer who is the accused of any offence under this Act, in the prescribed manner and shall award one or more punishment of the following punishments, that is to say—

(a) forfeiture of seniority or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by a Security Regiment Court; or

(b) severe reprimand or reprimand; or

(c) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

(2) In every case in which punishment has been awarded under sub-section (1), certified true copies of the proceedings shall be forwarded in the prescribed manner by

the officer awarding the punishment to the prescribed senior authority who may, if the punishment awarded appears to him to be illegal, unjust or excessive, cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

22. (1) Whenever any weapon or part of a weapon or ammunition, forming part of the equipment of a unit of the Regiment, is lost or stolen, an officer not lower than the rank of the commandant of a battalion may, after making such enquiry as he thinks fit and subject to such rules, impose a collective fine upon the subordinate officers, under-officers and men of such a unit or upon so many of them, as in his judgment be held responsible for such loss or theft.

Collective fines.

(2) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

23. The Central Government shall after due appropriation made by Parliament by law in this behalf, provide requisite funds, from time to time, for carrying out the purposes of this Act.

Central Government to provide funds.

24. The Central Government may give such directions to the Government of State concerned within the territorial jurisdiction of a State for carrying out in the State any provision of this Act or any rule made thereunder.

Power to give directions.

25. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Indian National Army also known as Azad Hind Fauj, under the command of Netaji Subash Chandra Bose, led an epic fight for liberation of India through Myanmar. Indian National Army Regiment shall honour and keep alive the great contribution of the Azad Hind Fauj and also inspire this Regiment.

Indian National Army Regiment may form brigades in the name of great soldiers of Indian National Army such as Captain Mohan Singh Battalion, Rash Behari Bose Battalion, Netaji Subash Chandra Bose Battalion, and so on and so forth. The ideals and sacrifices of The Indian National Army soldiers shall inspire this Regiment for time immemorial.

The women wing of the Indian National Army Regiment may be called Rani of Jhansi Battalion, just as it were in Azad Hind Fauj. This Battalion shall uphold the women power and bravery of Indian women to defend the nation.

Every Indian irrespective of sex, caste, creed or religion, etc. shall be eligible to join this truly complete Indian specific regiment, belonging to all Indians as a whole. Upholding the concept of article 16 of the Constitution of India in both letter and spirit, no citizen shall be discriminated on the basis of race, caste, religion, creed, descent or place of birth in respect of joining this Regiment.

Indian National Army Regiment shall not only strengthen the security of the borders but will also act as a gesture of respect to the great sacrifices and values of Azad Hind Fauj.

Hence, this Bill.

SHANTA CHHETRI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Indian National Army Regiment. Clause 4 provides for appointment of certain officers of the Regiment. Clause 23 lays down that Central Government shall provide requisite funds for carrying out the purposes of the Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. At this juncture, it is not possible to quantify the funds that may be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is, therefore, of a normal character.

VII

BILL NO. XXV OF 2022

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2022;

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After clause (2) of article 246 of the Constitution, the following proviso shall be inserted, namely:—

Amendment of
article 246.

"Provided that the power of the Parliament to make laws with respect to any of the matters enumerated in the Concurrent List shall be subject to ratification by the

Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill seeking such provisions is presented to the President for assent."

Amendment of
article 254.

3. In clause (1) of article 254 of the Constitution, after the words, figure and brackets "subject to the provisions of clause (2)", the words, figures and brackets "and proviso to clause (2) of article 246" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India commences with the sentence “*India, that is Bharat, shall be a Union of States*”. While resolving the above terms, the founding fathers would have borne in mind the need to enshrine, enrich and encourage the rich diversity of the Nation. There won’t be an iota of doubt that the Union Government has a bounden duty to enrich federalism, diversity and pluralism in the Country. Union Government and its instrumentalities are expected to perform in a befitting manner to uphold and nurture the democratic and federal values that the framers of our Constitution had infused into it. Insofar as the legislative powers are concerned, the basic structure of the Constitution is not unitary but quasi-federal in character.

The distribution of legislative powers of Parliament and State Legislatures are mainly delineated in Articles 245 to 253 under Part XI of the Constitution read with the Seventh Schedule thereto. Similarly, Article 254 elucidates the position in case of inconsistency between laws made by Parliament and laws made by the Legislatures of States.

But there are reasonable perturbations now-a-days in respect of legislations put forth by the Union Government with respect to the matters enumerated in List III in the Seventh Schedule (Concurrent List). Such actions will obliterate the values of co-operative federalism and social fabric of the States. Introduction of National Eligibility cum Entrance Test (NEET) applying to all States taking away their sovereignty to regulate medical education in the States, apparently conducting Common University Entrance Test (CUET) for admission to Central Universities without giving any weightage for Class XII marks awarded by the State Boards, insertion of Part IXB in the Constitution *vide* the Constitution (Ninety Seventh Amendment) Act, 2011 *vis-a-vis* the Co-operative Societies (which was subsequently struck down by the Supreme Court as far as it relates with the co-operative societies working within a State, by declaring that Part IXB of the Constitution is operative only insofar as it concerns multi-State cooperative societies both within the various States and in the Union territories of India), etc. are some examples of this inclination by the Union Government.

Any legislation by the Parliament with respect to the matters enumerated in the Concurrent List ought to have been made only after due consultations and deliberations with States, by taking the State Governments into confidence. It is pertinent to note that the frontline activities of the State Governments put them in the vanguard for the people and to judge the requirements better. Hence consultations and concurrence with the State Governments will ensure a new legislation by the Parliament with respect to the matters enumerated in the Concurrent List more reasonable, justifiable, democratic and inclusive.

In view of the above, there is a need to amend article 254(1) and to insert a new Proviso to article 246(2) of the Constitution of India to ensure inclusive legislation by the Parliament with respect to the matters enumerated in List III in the Seventh Schedule.

Hence, this Bill.

JOHN BRITTAS

VIII

BILL NO. XXXI OF 2022

A Bill to provide for safeguarding the interests and entitlement of States in the eventuality of disinvestment of Central Public Sector Enterprises and to ensure fairness and transparency in the process and for matters connected therewith or incidental thereto.

BE it enacted the by the Parliament in the Seventy-third Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Central Public Sector Enterprises (Protection of Interests of States) Act, 2022.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

18 of 2013.

(a) “Central Public Sector Enterprise” means a company incorporated under the Companies Act, 2013 or under any previous company law, or institutions formed in pursuance of any Act of Parliament, in which not less than fifty-one per cent of the share capital is held by the Central Government or by any other CPSE or CPSEs, or partly by the Central Government and partly by one or more CPSEs, or partly by the Central Government and partly by one or more States with majority share capital with the Central Government, and includes a company which is a subsidiary company of such as institution;

(b) “CPSE” means Central Public Sector Enterprise;

(c) “disinvest” or “disinvestment” means disinvestment by transfer, by way of sale or allotment in any manner whatsoever, in whole or in part of the share capital in a CPSE to any person or private entity, whether incorporated or not, by the Central Government or any other CPSEs, with or without transfer of management control;

(d) “management control” means and includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(e) “notification” means notification published in the Official Gazette and the expression “notified” with its cognate meanings and grammatical variations shall be construed accordingly;

(f) “prescribed” means prescribed by rules made by the Central Government under this Act;

(g) “State” means a State or States which contributed land free of cost or at subsidized rates or assisted by cash or in kind or resources for the incorporation or functioning of a CPSE, whether or not holding shares in that CPSE.

18 of 2013.

(2) Words and expressions used but not defined in this Act shall have the meanings respectively assigned to them in the Companies Act, 2013.

3. (1) In the eventuality of the Central Government or its instrumentalities resolving to disinvest a CPSE, the valuation of the CPSE shall be done beforehand, which shall, under no circumstances whatsoever, be done through, or by availing the assistance of, a private entity.

Procedure for disinvestment and protection of interests of States.

(2) The valuation of a CPSE shall be in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(3) The valuation report of the CPSE shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the CPSE to the Comptroller and Auditor-General of India.

(4) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the valuation report of a CPSE shall have the same rights, privileges and authority in connection with such audit as the comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices and assets of the CPSE.

(5) The valuation report, as audited by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded to the Central Government, which shall cause the same to be laid before each House of Parliament and shall also make the valuation report available to the State.

(6) The State, referred to in clause (g) of section 2, shall be preferred to in the disinvestment by being given the right of first refusal of the purchase of the CPSE for the valuation amount so arrived at :

Provided that in the case of more than one State involved in the contribution of land free of cost or at subsidized rates, or assistance by cash or in kind or resources, for the incorporation or functioning of a CPSE, the right of first refusal shall be given to all such States in descending order in direct proportion to the total value of contribution and/or assistance, as the case may be, rendered by each of such States.

(7) The Central Government or its instrumentalities may proceed with disinvestment, if and only if the State referred to in clause (g) of section 2 refuses to purchase the CPSE for the amount arrived at the valuation, subject to the condition that any sort of disinvestment in such an eventuality shall be by resorting to competitive bidding in such manner as may be prescribed.

(8) In addition to, and not in derogation of, the rights conferred by the provisions in the preceding sub-sections, all States including, but not limited to, the States referred to in clause (g) of section 2 as well as its instrumentalities including State PSUs, both jointly or severally, be entitled to participate in the competitive bidding for disinvestment:

Provided that no qualification or disability criteria shall be insisted for states or its instrumentalities for participation in the bidding for disinvestment.

(9) The competitive bidding shall, under no circumstances whatsoever, be done through, or by availing the assistance of a private entity.

Distribution of
the proceeds
of
disinvestment.

4. Without prejudice to a State or States, referred to in clause (g) of section 2, failing to purchase a CPSE during the disinvestment process, it shall be entitled for rateable distribution by way of apportionment, from the proceeds of disinvestment, the value, present value or pro rata share of the total bid amount, whichever is higher, for the land, cash or services provided by it for the incorporation or functioning of the CPSE.

Act to have
overriding
effect.

5. Notwithstanding anything inconsistent therewith contained in any other law or rules or regulations for the time being in force, and any instrument having force of law, the provisions of this Act shall have overriding effect.

6. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

According to the founding fathers of our Nation, Central Public Sector Enterprises (CPSEs) are the 'temples of modern India'. CPSEs have played a significant role in the growth of economy of the Nation during post-independence era. The CPSEs can be broadly classified into three types, viz. Departmental Undertakings—directly managed by concerned Ministry or Department (e.g. Railways, Posts, etc.), Non-Departmental Undertakings - Public Sector Undertakings (e.g. Hindustan Petroleum Corporation Limited, Indian Oil Corporation Limited, etc.) and Financial Institutions (e.g. State Bank of India, Life Insurance Corporation, etc.). CPSEs represent a significant portion of the Indian economy. It comprises public services and enterprises and provides services for the benefit of the nation. The rationale behind the establishment of CPSEs was industrialisation and the establishment of capital goods industries and basic industries. CPSEs played a colossal role in the country in the creation of industrial base, employment opportunities, infrastructure, resources to the Government, reduction of inequalities, accelerating the economic growth and development of the country, ensuring social justice, etc. This sector was vital for the generation of capital in the Indian economy for several decades. CPSEs function for the welfare of the public and the overall development of the country at large. Public sector also enables the Government to administer social control on trade and industry for ensuring equitable distribution of goods and services.

Nevertheless, the disinvestment of these CPSEs, once called as crown jewels of the Nation, began in 1991. Any disinvestment of CPSE needs to be viewed in the context of the contributions rendered by States by way of providing land free of cost or at subsidized rates or assistance by cash or in kind or resources for the incorporation or functioning of that CPSE. The present policy of disinvestment doesn't consider this cardinal point. The intent of the Bill is to provide an opportunity to such States to take over the control of such CPSEs or to entitle such States the right to have rateable distribution by way of apportionment, from the proceeds of disinvestment, the value, present value or pro rata share of the total bid amount, whichever is higher, for the land, cash or services provided by it for the incorporation or functioning of the CPSE.

Further there are instances of glaring aberrations in the disinvestment modality also. The proceeds from the disinvestment of the PSUs will be generally meagre when compared to the real value of the CPSEs. There are several factors attributing to this stark contrast. The modality developed by DIPAM to appoint private entities and to delegate them the task of valuation of CPSEs, collection and evaluation of bids, etc. is flawed. A private entity is outside the ambit of 'the Right to Information Act, 2005' or auditing by the Comptroller & Auditor General of India. Delegation of the responsibilities of the Government to external private entities to do the valuation of CPSEs, technical evaluation, collection of bids, etc. attract public criticism, while the responsibility of the Executive to ensure a fair and transparent process will get largely thinned.

Also, the Central Government is at present denying permission to the State Governments or State PSUs in participating in the strategic disinvestment of CPSEs. It will be against the basic values of co-operative federalism enshrined in our Constitution if the Union Government comes forward to infringe the rights of a State or its PSUs in participating in an open bid for the sale of a CPSE. There are no cogent and convincing reasons in preventing States from purchasing CPSEs or participating in the disinvestment process.

In addition, those States which contributed land free of cost or at subsidized rates or assisted by cash or in kind or resources for the incorporation or functioning of a CPSE, whether or not holding shares in that CPSE, are entitled to have preference in the disinvestment process by being given the right of first refusal of purchase of the CPSE directly.

This Bill, therefore, seeks to introduce provisions to safeguard the interests and entitlement of States in the eventuality of disinvestment of Central Public Sector Enterprises as well as to ensure fairness and transparency in the process.

Hence, this Bill.

JOHN BRITTAS

MEMORANDUM REGARDING DELAGATED LEGISLATION

Sub-clause 2 of clause 3 of the Bill empowers the Central Government to provide by rules the form of valuation of a CPSE. Sub-clause 7 of clause 3 of the Bill empowers the Central Government to provide by rules the manner in which the competitive bidding for the disinvestment of a CPSE shall be done. Similarly Clause 6(1) empowers the Central Government to make and notify rules to carry out the provisions of this Act.

The matters in respect of which rules may be made under the aforesaid provisions are matters of procedure or administrative details only, and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers is, therefore, of a normal character.

IX

BILL NO. XXIX OF 2022

A Bill to provide for the establishment of a National Commission for Welfare of Home-based Workers and for matters connected therewith.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the National Commission for Welfare of Home-based Workers Act, 2022.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "employer" means any person who employs, either directly or through another person, on behalf of himself or any other person for remuneration, any home-based worker;

(c) "home-based work" means work carried out by a person, in his or her home or in other premises of his or her choice, other than the workplace of the employer; for remuneration; which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used;

(d) "home-based worker" means workers who produce goods or provide services for the market in their own home or in any other premises of his or her choice, other than the workplace of the employer;

(e) "National Commission" means the National Commission for the Welfare of Home-based Workers established under section 3; and

(f) "prescribed" means prescribed by rules made under this Act.

Establishment
of a National
Commission
for the
Welfare of the
Home-based
Workers.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Commission to be known as the National Commission for Welfare of Home-based Workers to improve the conditions of home-based workers in the country.

(2) The Commission shall consist of —

(a) a Chairperson;

(b) a Deputy Chairperson; and

(c) three members

to be appointed by the President by warrant under his signature and seal from amongst the persons having special knowledge and vast experience in the field of home-based work.

(3) The Central Government may appoint such number of officers and staff including experts to the Commission as may be required for its efficient functioning.

(4) The salary and allowances payable to, and other terms and conditions of service of the Chairperson, Deputy Chairperson, members, officers, staff and experts of the Commission shall be such as may be prescribed.

(5) The National Commission shall have the power to regulate its own procedure.

Functions of
the National
Commission.

4. (1) It shall be the duty of the National Commission to take such steps, as it may deem appropriate, for the welfare and protection of the rights of home-based workers and their dependant family members.

(2) Without prejudice to the generality of the foregoing provision, the National Commission shall ensure the following provisions for the benefit and welfare of home-based workers, namely:—

(a) recognise and accepting home-based workers as workers in their own right through legislative and administrative actions;

(b) conducting a national survey for the collection of statistics of home-based workers on a regular basis and not as a one off National Sample Survey module by adopting the official international statistical definition of 'home-based workers', and ensuring that such national surveys include a question on 'place of work' and 'source of work (contractor or firm or self)' so that the distinction between self-employed own account home-based workers and sub-contracted home-based workers becomes clear;

(c) undertaking the registration of home-based workers at the national and state level by assisting the appropriate Government and issuing a Home-based Worker Identification number (HBWIN card) for each of them;

(d) ensuring legal equality to home-based workers in status and rights in relation to other wage earners performing same work;

(e) ensuring decent wage, social security and occupational health and safety provisions for home-based workers through appropriate legislative and administrative measures;

(f) identifying, preventing and mitigating potential human rights violations that affect home-based workers;

(g) drafting a national policy for the welfare of the home-based workers;

(h) ensuring legal recognition of the home-based workers in global supply chains and include the protection of the rights and welfare of home-based workers in all due diligence processes applicable to such companies involved therein;

(i) promoting community-based skill-building trainings for the home-based workers by coordinating with the state and local governments;

(j) ensuring financial and digital inclusion of home-based workers;

(k) collaborating with all relevant stakeholders including the representatives of home-based workers, NGOs and trade unions in pursuance of the objective of the National Commission.

(l) submitting reports to the President regarding the working of safeguards on an annual basis or at such intervals as it thinks fit including measures for protection, welfare and social development of home-based workers.

5. (1) The President shall cause to be laid before each House of Parliament all the reports submitted to him under clause (1) of sub-section (2) of section 4 along with a memorandum explaining the reasons for not accepting any of the recommendations made thereto.

President to lay report.

(2) Where the report, or any of its part is related to any of the issue connected with the State Government, a copy of such report shall be forwarded to the Governor of that State, who shall in turn, along with an explanatory memorandum concerned with the action taken or proposed to be taken on the recommendations related to the State, if any, and reasons for not accepting any of the recommendations, cause such report to be laid before the State legislature.

6. The National Commission shall, while investigating any matter referred to in sub-section (2) of section 4, have all the powers of a Civil Court trying a suit and, in particular in respect of the following matters, namely:—

National Commission to have powers of Civil Court.

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commission for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

7. The appropriate Government shall consult the National Commission on all policies affecting the interests of the home-based workers.

Appropriate Government to consult the National Commission.

Central Government to provide adequate funds to the National Commission.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the National Commission for carrying out the purposes of this Act.

Power to remove difficulties.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

Act to have overriding effect.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Home-based workers are workers who produce goods or provide services for the market in their own home or in a structure attached to their own home. Most of the home-based workers produce goods for global supply chains across the world. The work they do can vary greatly and may include stitching garments and weaving textiles, stitching shoe uppers and footballs, producing craft products, processing and preparing food items, rolling incense sticks, cigarettes and cigars, assembling or packaging electronics, automobile parts, and pharmaceutical products etc. Although they remain largely invisible, home-based workers are engaged in many branches of industries—old and new—and represent a significant share of employment in global supplychains.

According to the 2017-18 India Periodic Labour Force Survey, there were about 35 million home-based workers representing 9.8 per cent. of all workers. A recent survey of 340 garment factories in Delhi and Bengaluru showed that 58 per cent. of surveyed factories outsource to home workers. These workers may be contracted directly by factories or through third party contractors.

Home-based workers are the most vulnerable among all informal economy workers. Relegated to the bottom of supply chains, they have the least bargaining power, the most insecure work, and low incomes. Majority of the workers lack social security, income security and health security. They also lack access to basic services such as water, health care, sanitation, and electricity which severely affect their lives and livelihoods.

Although home-based workers belong to the most vulnerable categories of workers, there is no official policies, programmes and schemes that protect their rights and welfare. The term home-based worker is not legally recognised. Hence, they remain as an exploited and invisible class of workers living under the mercy of global brands for whom they do the hard-work. It is critical for the Government to recognise and identify the problems of these large majority of workers and safeguard their legitimate rights and welfare through legislative and administrative actions. Considering the intensity and gravity of the problem, it is understood that an institutional framework with necessary powers, functions and capacity is an urgent policy priority.

Hence, the Bill seeks to attain the objectives mentioned above through the establishment of the National Commission for the Welfare of Home-based Workers.

SANDOSH KUMAR P.

FINANCIAL MEMORANDUM

Clauses 3 of the Bill provides for establishment of the National Commission for the Welfare of Home-based Workers to carry out the responsibilities assigned to it. It also provides for appointment of a Chairperson, Deputy Chairperson, members, officers, staff and experts to the Commission. Clause 8 provides for the Central Government to provide adequate funds for the functioning of the Commission.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India which cannot be estimated at present. Recurring expenditure is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

P. C. MODY,
Secretary-General.