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Impact of Maharashtra Co-operative Societies Act,1960

Abstract-

The history of Co-operative movement in India has its roots in agricultural and various allied sector. There are many types of co-operative societies like dairying credit, production, textiles, banks, sugar and handlooms co-operatives have achieved success to very great extent. The object of co-operative societies is to provide good service to all people who face similar problems. The co-operative societies play an important role in socio-economic development of country. There are different types of co-operative societies, which are registered under the Maharashtra Co-operative Societies Act-1960. There was a need for uniformity in co-operative legislation, particularly in respect of crucial for autonomous and democratic functioning of co-operative therefore this act is formed.



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Introduction-

The aim of commercial organization is to maximizing the profit but in co-operative organization profit is not aim. The object of co-operative societies is to make available goods and services in required quantity, better quality and at reasonable prize to its member.

With view to providing development of co-operative movement in state of Maharashtra. Maharashtra Co-operative Societies Act is enacted in 1960. It extends to whole state of Maharashtra. Every state has separate act. In 2012 constitution amendment comes in force in which each state was given mandate to amend their respective state acts to bring it in conformity with amend newly inserted position in constitution. Maharashtra state has amended its local co-operative act which got Governer's assent on 13 August 2013 and effective from 19 February 2013.

Impact of act-

Co-operative movement in our country shall not only stay but also grow in times to come these societies positively contributed to economic development and growth of country. In

Maharashtra almost 60% GDP contributed from co-operative societies. There are almost 54 types of co-operative societies depending upon objects with which they are formed like sugar co-operative, co-operative bank. The rough statistics in Maharashtra we have 1.80 lacks societies almost 90,000 societies are housing societies and out of which 40,000 societies are there in Mumbai and Thane. The 97th amendment to constitution enshrines within article 19(1)(c) the right to form co-operative societies and co-operative societies in public authorities and hence come under ambit of RTI act.

Information-

Terms used in the Act-

Registrar- Registrar means the central registrar appointed by central Government in relation to multi-state co-operative societies and registrar for co-operative societies appointed by state government under law made by legislature of state in relation to co-operative societies.

Bye-Laws- All laws of the society registered under the Maharashtra co-operative societies act including registered amendments therein come under the umbrella of bye-laws

Committee- committee is defined as any management committee or board of directors managing the day to day affairs of the society as per the laws drafted in section 73 of the act.

Registration of society- Any society formed with the objective to offer general welfare and promotion of economic interest of its members or public at large can register as a society under the Maharashtra co-operative societies act, 1960

Condition of registration- A society must have on a panel a minimum of ten persons who are qualified to become members. Each family must be from a different family and residing within the area of operation of the society in question.

Application for registration- The application of society registration must be signed by minimum ten persons, all of whom should be members of the society committee. Four copies of the proposed bye-laws must be attached with the application and the prescribed fee.

Recent Changes in Maharashtra co-operative society Act-1960

Section 24 of act state that which person is become member of co-operative societies. Before amendment there is requirement of 5 share now 10 share is require for membership. There is new provision of Active member and Non active member. Active member includes economic participation and attending meetings.

Election of management committee must be notified six month in advance from due date of election of society and to be held under supervision of newly constituted state co-operative elective authority. Casual vacancy in management committee to be informed to Election Authority and co-option is not allowed.

The committee shall consist of 11/13/15/17 members of society. The strength includes the reservation of seat as provided under act. If there is 100 members in society then there is reservation is-General-6, woman-2, SC/ST-1, OBC-1, VJ/NT-1. If there is no woman candidate for election then this seat is keep vacant. The quorum for meeting is six members of committee. The officer of society hold office for period of five years includes chairman, secretary, treasurer.

As per Maharashtra Co-operative Society Act, registered co-operative society need to furnish information to registrar. These are referred as mandatory returns. There are basically 6 mandatory returns which need to be submitted by co-operative society.

According to this act, on 31th March committee shall have classify portfolio of society. This act also provide for independent professional audit in which appointment of auditors but auditors should be a panel auditors for period of three years. Audit rectification memo needs to be submitted to registrar in O form within 3 months from the date of the audit report and even auditor has to give remarks on that audit report.

The last date of AGM (Annual general meeting) before amendment is 14 August and after amendment is 30th September. Audit report upload on 31th August or 15th September. Mandatory annual return by society is 30th September.

After amendment there is provision that sinking fund can be utilized by society and there is no need of permission of registrar but there is need of permission of general body is required. NOC of society for transfer of flat or property is not required.

Cash expenses before amendment is 4500/- but after amendment the limit is 1500/- and cash in hand at close of the day limit increased from Rs.300 to Rs.5000/-.

The structural audit of building aging of 15-30 years is once in five years and for building aging more than 30 years is once in three years by BMC approved structural engineers. The concept of Emergency planning scheme and fire safety Audit introduced. The Maharashtra Fire Prevention and Life Safety Measures Rules, 2009, made it mandatory for building owners and residents to conduct half-yearly fire safety audits and submit the report to the fire department.

One time limit for repairs and maintenance expenses management committee can sanction max Rs.1 lacks but general body permission is must.

Jurisdiction-

Co-operative judiciary is a separate wing of state judiciary and it is constituted under the provision of the MCS Act, 1960. Co-operative Judges have limited powers of dealing with disputes covered

under section 91 of MCS act. There are 25 co-operative courts in the state of Maharashtra and they are under the control of the Maharashtra state co-operative Appellate court, Mumbai. Which has its branches at Nagpur, Pune and Aurangabad.

There is also Maharashtra State Co-operative Appellate Court is constituted to exercise the powers and discharge the functions conferred on it by or under this Act.

The co-operative society under act is to be treated as association of person which includes in definition of 'Person' under Income Tax Act- 1961 therefore co-operative society is taxable entity under Income Tax Act. Co-operative Societies are taxed as per income of societies as income of society is upto 10000/- then it is payable to 10%, upto 20000/- then it is payable to 20% and above 20000 then it is payable to 30%.

In petition of Jalgaon Jilla Urban Co-operative Banks Association Ltd. V State of Maharashtra, 2017 seeking exemption from the RTI act. The Aurangabad High Court state that co-operative society come under RTI act.

Recent Case Laws of MCS Act, 1960

Dinanath Co-op. Housing Society Vs State of Maharashtra and Ors. 2016

Epitome Residency Pvt. Ltd Vs State of Maharashtra and Ors. 2019

Sahakari Bank Karmachari Sangh Vs The Commissioner, Co-operative Societies. 2017

Shri Datta Nagari Sahakari Patsanstha Maryadeet Vs State of Masarashtra. 2019

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Penalties-

In Maharashtra Co-operative Societies Act, section 146 states offences and section 147 states punishments

If management committee is failed to complete its responsibility it dismissed and not contest election for next five years.

Dismissal of committee if the election due date is not intimated or mandatory returns are not filed and non submission of audit rectification report etc.

Penalty of RS.25,000/- on management committee introduced for not allowing inspections of documents of housing society provided in act.

For encroachment of common areas by members to be charged at 5 times of monthly maintenance charges for period of such encroachment. If society fails to upload detailed report will be committed offence.

Penalties prescribed for various offenses and consolidated penalty for all defaults to be Rs.5000/- maximum in any financial year.

Conclusion-

After the 97th amendment i.e right to form co-operative societies and its including in art 19 of conclusion due to this forming co-operative societies has become one of fundamental right of Indian citizen. Thus societies has given the status of local self government and due to this it come under ambit of RTI act. There are many reasons for failure of co-operatives in country like Dormant membership, lack of active participation of members in management of co-operatives, bureaucratic control interference in management, political interference and over politicization. Government has adopted co-operatives as an effective instrument of socio-economic change. Hence, the Government offers a number of grants, loans and financial assistance to the co-operative societies to make their working more effective. According to amendment in 2012 of this act made some effective changes for implementation of this act.

References-

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