

PRESENTATION ON THE WORKSHOP AT NDDDB, ANAND ON 08.10.2015  
ON “ PRODUCER COMPANIES V/S CO-OPERATIVES AFTER  
97<sup>TH</sup> AMENDMENT AS AN ENABLING LEGISLATION”

Provision under Maharashtra Co-operative Societies Act 1960 after 97<sup>th</sup> Amendment in Constitution :

Sr. No.	Provision No.	Comments
1	<p><b>243 ZJ – Number and term of members of board and its office bearers.</b></p> <p>The board shall consists of such number of directors as may be provided by Legislature of a state by law :</p> <ul style="list-style-type: none"> <li>- provided that the maximum number of directors of a co-operative society shall not exceed 21.</li> <li>- Provided further that the Legislature of a State shall by law, provide for the reservation of one set for the SC or ST and two seats for women on board of every co-operative society consisting of individuals as members and having members from such class or category of persons.</li> <li>- The Legislature of State shall by law make provisions for co-option of persons to be members of the board having experience in the field of banking,</li> </ul>	<p>While making amendment, provision has been made for maximum elected 21 directors plus 2 experts directors. Therefore, this has led to unnecessary burden on the Co-operatives. The Co-operatives could have invited experts as consultant from time to time whenever required, and there was no necessity to provide permanent expert on the Board. In fact, this provision is being misused for appointing political candidates. Though not provided, the State Govt. has introduced the provision whereby there should be one functional director for every 17 elected board members. However, in case of more than 21 elected directors, there is a provision of two functional directors which is unnecessary. This is loophole in indicating one employee representative as functional director in lieu of employee representative.</p>

	<p>management, finance or specialization in any other field relating to the objects and activities undertaken by the Co-op. society, as members of the board of such society.</p> <p>- Provide that the no. of such co-opted members shall not exceed two in addition to 21 directors specified in the first proviso to clause (1).</p>	
2	<p><b>243 ZK</b> Notwithstanding anything contained in any law made by the Legislature of a State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the office of members of the outgoing board.</p>	<p>As per this provision, the State Govt. passed orders for conducting election of the co-operatives through State Election Commission. There are 5144 (ADF) co-operatives at Primary level, 1 at district level, and 1 at State level in Maharashtra. The Election Commission though came into existence, it does not have enough staff. The Commission was suddenly given responsibility of conducting election of 1111 co-operatives. In absence of enough staff so far, only 1017 elections of co-operatives have been conducted. The Election Commission is now trying to assess the situation and is also using the Got. Staff at block level, district level for regularizing elections. The Govt. is confronted with the issue of dysfunctional dairy co-operatives which are in large number.</p>
3	<p><b>243 ZL</b> Notwithstanding anything contained in any law for the time being in force no board shall be superseded or kept under suspension for a period exceeding six months.</p>	<p>The Central and State Govt. has provided assistance to the co-op. under different schemes as assistance for installation of BMC, project of animals, installation of dairy, venture capital etc. Such assistance is meager in comparison with the turnover of the co-op, and therefore, should not be considered as major assistance by the Govt. and the reason for superseding for co-operatives.</p>
4	<p><b>243 ZM – Audit of accounts of co-operative societies.</b></p>	<p>Against this provision, the Govt. has issued an order which states to deviate from the provision</p> <p>1) The Kolhapur Zilla Sahakari Dudh Utpadak Sangh Ltd. (Gokul) has been equated with the State Level, Mahasangh and the Gokul will have to pay the audit fee at par with</p>

		<p>Mahasangh i.e. (Rs. 25 lakhs). The Kolhapur Dudh Sangh is a district level body and equating the Sangh with State Level body those against the principle of 97<sup>th</sup> amendment.</p> <p>2) The State Govt. has also provided payment of minimum fees to the auditors on panel which is unnecessary. The co-operatives should be given liberty to negotiate the fees with individual chartered accountant firm.</p>
5	<p><b>243 O - Right of member to get information :</b></p> <ul style="list-style-type: none"> <li>- The legislature of a State may, by law, provide for access to every member of a co-op. society to the books, information and accounts of the co-op. society kept in regular transaction of its business with such member.</li> <li>- The Legislature of a State may, by law, make provisions to ensure the participation of members in the management of the co-op. society providing minimum requirement of attending meeting by the members and utilizing the minimum level of services as may be provided in such law.</li> <li>- The Legislature of a State may, by law, provide for co-op. education and training for its members.</li> </ul>	<ul style="list-style-type: none"> <li>- The principle behind this provision was to provide for right to only those members who are active in the co-operatives and the provisions made for discouraging those who are not either attending the meeting of the co-operatives or are not having business with the co-operatives. Instead Govt. has provided for attending one General Body Meeting once in a five years which is very easy and is not very strict condition.</li> <li>- While making rule for active participation, the State Legislation could have provided for specific guidelines.</li> <li>- In the old legislation of the State Govt. there was a provision under 73 FF ( superstition )</li> <li>- The above provision was deleted because of amendment in the constitution. However, the State Govt. made a new provision under State Legislation under 73 CA providing similar clauses.</li> <li>- The State Govt. has introduced new clause 73 D whereby any director whose DCS is not a active member will also lose his directorship for remaining period as well as additional five years for contesting the election.</li> </ul>