

Bill No. 197 of 2019

THE CONSTITUTION (AMENDMENT) BILL, 2019

By

SHRIMATI RITI PATHAK, M.P.

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further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2019.

Short title.

2. After article 30 of the Constitution, the following heading and article thereunder shall be inserted, namely:—

Insertion of new article 30A.

"Right to water and sanitation

30A. (1) Every citizen shall have access to adequate potable water and sanitation.

Right to clean drinking water and sanitation.

(2) The State shall, within two years of the coming into force of the Constitution (Amendment) Act, 2019, by law, ensure proper implementation and monitoring of the right to potable water and sanitation.

(3) For the purposes of implementation and monitoring of the right to potable water and sanitation,—

(i) the Central Government shall ensure that,—

(a) sufficient funds are provided to the State Governments;

(b) Sanitation and Water Service Authority be constituted at the national level to oversee the implementation and monitoring of the right to potable water and sanitation; 5

(c) a permanent River Authority is constituted at the national level to ensure proper cleaning and maintenance of inter-State rivers and to decide on the distribution of water of such rivers among the riparian States; 10

(ii) every State Government shall ensure that,—

(a) the funds provided by the Central Government are distributed to the Panchayats in an equitable manner for providing water and sanitation facilities in each district;

(b) local bodies within the State constitute special Sanitation and Water Service Authorities at the district level with the following functions:— 15

(i) to arrange adequate number of piped water connections;

(ii) to remove refuse from premises;

(iii) to sweep and water streets;

(iv) to provide and maintain at suitable places facilities for deposit, disposal or destruction of refuse; 20

(v) to provide and maintain public drinking water facilities and public sanitary conveniences; and

(vi) every person or authority responsible for providing or maintaining or monitoring water and sanitation facilities under the law is held liable in the event of failure to perform his functions under the law. 25

Explanation.—In this article, the expression "State Government", in the case of a Union territory means the "Union territory administration."

STATEMENT OF OBJECTS AND REASONS

Access to clean drinking water and sanitation is essential for dignified living of human beings on the earth. Lack of water and sanitation facilities lead to various health hazards and make people vulnerable to diseases particularly water borne diseases. In our country water resources are adequate. However, due to ineffective implementation of water and sanitation management policies, the water resources have remained untapped for human use. Therefore, there is an acute shortage of drinking water in almost every part of the country.

The right to clean drinking water and sanitation does not find any explicit mention in our national law and is also not enshrined as a fundamental right in our Constitution. However, the courts in India including the Supreme Court have interpreted article 21 of the Constitution as encompassing the right to safe water and sanitation.

While citizens have the right to access to safe and clean drinking water, the right to sanitation is equally important. The people should also have facilities and services like collection, transport, treatment and disposal of human excreta, domestic waste water and solid waste and associated hygiene promotion. Water must also be available for good personal hygiene. Toilets must be within or in the immediate vicinity of each household or workplace. Above all, access to clean drinking water and sanitation facilities must be affordable.

It is true that several social and economic rights take years to be realized fully. There is no dispute that the Union Government as well as the State Governments are making continued efforts to provide clean drinking water and sanitation facilities to citizens. However, these basic rights are still not available to the citizens in absolute terms. It is, therefore, necessary that some time limit be imposed on the State within which the citizens must start enjoying these rights as fundamental rights. Such an amendment of the Constitution would ensure better services by the authorities responsible for implementing and monitoring the water and sanitation schemes as there would be a fear of being dragged to the courts for violation of fundamental rights of citizens.

Hence this Bill.

NEW DELHI;
July 19, 2019.

RITI PATHAK

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that Central Government shall provide sufficient funds to the State Governments. It also provides for constitution of Sanitation and Water Service Authority and River Authority at National level by the Central Government. It further provides that Sanitation and Water Service Authorities are constituted within the State by the local bodies at the district level to arrange adequate number of piped water connection, provide and maintain public drinking water facilities, etc. The expenditure relating to States shall be borne out of the Consolidated Funds of the States concerned. However, the expenditure relating to Union territories shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

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(Shrimati Riti Pathak, M.P.)