

Bill No. 311 of 2019

THE CONSTITUTION (AMENDMENT) BILL, 2019

By

DR. SUJAY RADHAKRISHNA VIKHE PATIL, M.P.

A

BILL

further to amend the Constitution of India.

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

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

Short title,
extent and
commence-
ment.

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

5 2. After 21A of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
21B

"21 B (1) The State shall provide accessible and affordable healthcare facilities to all its citizens in such manner as the State may by law, determine.

Right to
Affordable
and Accessible
Healthcare.

10 (2) **The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, descent, place of residence or any of them while providing the right to affordable and accessible healthcare.**

(3) **The State shall spend not less than ten percent of the annual estimated receipts of the State for achieving the right to affordable and accessible healthcare as provided under clause (1)."**

STATEMENT OF OBJECTS AND REASONS

Constitution of the World Health Organization provides that "Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." The Constitution has no express provision to recognize the fundamental right to health. The scope and ambit of article 21 has been broadened over the years through judicial pronouncements and the expression life in this article means a life with human dignity and not mere survival or animal existence. The right to health is inherent to a life with dignity, and article 21 should be read with articles 38, 42, 43 and 47 to understand the nature of the obligation of the State in order to ensure the effective realization of this right.

Health is considered as a vital parameter of human development and human development is the basic ingredient to analyze the economic and social development of a country. The Bill seeks to grant a fundamental right status to healthcare by amending article 21 of the Constitution which will create a legal obligation on the State to ensure access to timely, acceptable, and affordable healthcare of appropriate quality as well as to providing for the underlying determinants of health, such as safe and potable water, sanitation, health-related information and education, and gender equality. In order to realize this goal it is important to cast an obligation on the State to support the right to health through increased spending on healthcare. It is imperative that in order to enforce the right to health it should be done without any kind of discrimination on any grounds.

India's healthcare market may see a threefold jump in value terms to reach \$372bn. by 2022. India has the lowest Government spend and public spend, as a proportion of Gross Domestic Product (GDP), and the lowest per capita health spend. Indians met more than 62 per cent. of their health expenses from their personal savings, called "out-of-pocket expenses", compared with 13.4 per cent. in the US, 10 per cent in the UK and 54 per cent. in China.

The Committee constituted by the 15th Finance Commission has also suggested that India should get ready to declare the 'right to health' as an Independence Day announcement in 2022. It is the primary duty of the State to provide for secured health to its citizen. As the legal guardian responsible for the safety and security of all its citizens, the State is duty bound to protect its citizens from mortality and morbidity which has been on the rise due to increase in diseases as a result of lifestyle. An important objective of this Bill is to make health a fundamental right which would thus give citizens the power to hold the state accountable for fulfilling its responsibility toward them.

Hence this Bill.

NEW DELHI;
November 6, 2019.

SUJAY RADHAKRISHNA VIKHE PATIL

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for making the right to affordable and accessible healthcare a fundamental right. It also provides that the State shall spend not less than ten percent. of the annual estimated receipts of the State for achieving the right to affordable and accessible healthcare. The Bill, therefore, if enacted, will involve expenditure-recurring and non-recurring from the Consolidated Fund of India as well as Consolidated Fund of the concerned State. However, it is not possible to assess the actual financial expenditure likely to be incurred at this stage.

LOK SABHA

A
BILL
further to amend the Constitution of India.

(Dr. Sujay Radhakrishna Vikhe Patil, M.P.)