

Bill No. 42 of 2022

THE CONSTITUTION (AMENDMENT) BILL, 2022

By

SHRI KULDEEP RAI SHARMA, M.P.

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
5 may, by notification in the official Gazette, appoint.

Amendment
of Article 80.

2. In article 80 of the Constitution:—

(a) in clause (1), after sub-clause (a), the following sub-clause shall be inserted, namely:—

“(aa) three persons with benchmark disabilities to be nominated by the President;” and

(b) after clause (5), the following Explanation shall be inserted, namely:—

“*Explanation.*— In this article and in articles 171A, 331A and 333A, the expression, “persons with benchmark disabilities” means a person with not less than forty per cent. of disability where disability refers to long term physical, mental, intellectual or sensory impairment of a person which hinders his full and effective participation in society equally with others.”.

Insertion of
new Article
171A.

3. After article 171 of the Constitution, the following article shall be inserted, namely:—

Representation
of persons with
benchmark
disabilities in
the Legislative
Council of
States.

“**171A.** Notwithstanding anything in article 171, the Governor may, if he is of opinion that the persons with disabilities are not adequately represented in the Legislative Council of a State, nominate three members being persons with benchmark disabilities to the Legislative Council of a State.”.

Insertion of
new Article
331A.

4. After article 331 of the Constitution, the following article shall be inserted, namely:—

Representation
of persons
with bench-
mark
disabilities in
the House of
the People.

“**331A.** Notwithstanding anything in article 81, the President may, if he is of opinion that the persons with disabilities are not adequately represented in the House of the People, nominate not more than three members being persons with benchmark disabilities to the House of the People.”.

Insertion of
new Article
333A.

5. After article 333 of the Constitution, the following article shall be inserted, namely:—

Representation
of the persons
with bench-
mark
disabilities in
the Legislative
Assemblies of
the State.

“**333A.** Notwithstanding anything contained in article 170, the Governor of a State may, if he is of opinion that the persons with benchmark disabilities need representation in the Legislative Assembly of the State and are not adequately represented therein, nominate three members being persons with benchmark disabilities to the Assembly.”.

STATEMENT OF OBJECTS AND REASONS

The year 2019 was declared as the “Year of Accessible Elections”. The Election Commission of India carried out a booth-wise mapping of persons with disability, made accessibility enhancements at booths, updated their websites to be accessibility-friendly and launched awareness campaigns. In the Budget 2022 speech, the Hon’ble Finance Minister announced that the parent or guardian of a differently-abled person can take an insurance scheme for them along with a proposal to allow the payment of annuity and lump sum amount to the differently-abled dependents during the lifetime of parents.

While these are laudable steps, in order to truly empower the specially-abled, it is imperative that they be included in the nation’s primary decision making and enjoy adequate representation. As per the 2011 census, there are 14.9 million men and 11.9 million women with disabilities in the country. Social group-wise analysis shows 2.45 per cent of the total disabled population belong to the Scheduled Castes (SC), 2.05 per cent to the Scheduled Tribes (ST) and 2.18 per cent to other than SC/ST. Thus, to ensure that the voices of so many Indians are heard and their perspectives put forth when any law is being made, reserving seats for them becomes necessary.

Article 21 of the Constitution guarantees the right to live with dignity to all people, including those who are specially-abled. Article 41 of Constitution of India declares that the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want.

Furthermore, article 46 lays down an obligation on the State to promote with special care the educational and economic interests of the weaker sections of the people, and protect them from social injustice and all forms of exploitation.

The Hon’ble Supreme Court of India in *Javed Abdi vs. Union of India and Ors.* observed that it is the prime objective of the Rights of Persons with Disabilities Act, 2016 to create a barrier free environment for persons with disabilities and to make special provision for the integration of persons with disabilities into the social mainstream apart from the protection of rights, provisions of medical care, education, training, employment and rehabilitation.

The most efficient way to fulfil the constitutional obligations and objectives would be to give the persons with benchmark disability a place in the legislature, so that by virtue of their lived experiences, they can help the country make laws that are sensitive to the cause of the specially-abled and further their interests and empowerment. The objective of this Bill is to thus, bolster the voices of the persons with benchmark disability.

Hence this Bill.

NEW DELHI;
16 February, 2022

KULDEEP RAI SHARMA

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

* * * * *

Composition of
the Council of
States.

80. (1) The Council of States shall consist of—

(a) twelve members to be nominated by the President in accordance with the provisions of clause (3); and

(b) not more than two hundred and thirty-eight representatives of the States and of the Union territories.

* * * * *

(5) The representatives of the Union territories in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

* * * * *

LOK SABHA

A

BILL

further to amend the Constitution of India.

(Shri Kuldeep Rai Sharma, M.P.)