

Bill No. LXV of 2023

THE CONSTITUTION (AMENDMENT) BILL, 2023

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BILL

further to amend the Constitution of India.

BE it enacted by the Parliament in the Seventy-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Constitution (Amendment) Act, 2023.

Short title and commencement.

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

2. For article 155 of the Constitution, the following be substituted, namely:—

Substitution of article 155.

“155.—The Governor of a State shall be appointed by the President by warrant under his hand and seal in consultation with a Committee comprising the Prime Minister of India, Chief Justice of India and Chief Minister of the concerned State:

Appointment of Governor.

Provided that if the same person is appointed as Governor of two or more States, the Chief Ministers of the concerned States shall also be included in the Committee.”

Insertion of new article 156A.

3. After article 156, the following article shall be inserted, namely: —

Procedure for impeachment of the Governor.

“156A. (1) When a Governor is to be impeached for violation of the Constitution, the charge shall be preferred by either the State Legislative Assembly or the State Legislative Council, if any. 5

(2) No such charge shall be preferred unless—

(a) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days’ notice in writing signed by not less than one-fourth of the total number of members of the Assembly or the Council, as the case may be, has been given of their intention to move the resolution, and 10

(b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the Assembly or the Council, as the case may be.

(3) In the case of a bicameral legislature, when a charge has been so preferred by either House of the State legislature, the other House shall investigate the charge or cause the charge to be investigated and the Governor shall have the right to appear and to be represented at such investigation. 15

(4) If as a result of the investigation, a resolution is passed by a majority of not less than two-thirds of the total membership of the Assembly or the Council, as the case may be, by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the Governor has been sustained, such resolution shall have the effect of removing the Governor from his office as from the date on which the resolution is so passed.” 20

Substitution of article 200.

4. For article 200, the following article shall be substituted, namely:—

Assent to Bills.

“200. When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President, within a span of four months from the date on which the Bill was presented to the Governor: 25 30

Provided that the Governor may, within the stipulated time span, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom: 35

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.” 40

Substitution of article 201.

5. For article 201, the following article shall be substituted, namely:—

Bills reserved for consideration

“201. When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom, within a span of six months from the date on which the Bill was presented to the President: 45

5 Provided that, where the Bill is not a Money Bill, the President may, within the stipulated time span, direct the Governor to return the Bill to the House, or as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the first proviso to Article 200 and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House or Houses with or without amendment, it shall be presented again to the President for his consideration forthwith.”

STATEMENT OF OBJECTS AND REASONS

1. One of the most significant constitutional positions, the Office of the Governor has been fully covered in articles 153 to 167 of the Indian Constitution.

2. The President of India appoints the Governor of a State by warrant bearing his signature and seal (article 155). This typically means that the President follows the Union Council of Ministers' recommendations, which may be biased in favor of the welfare of the state if the ruling party at both the Union and State levels is different. A Committee should be established to select the Governor, as suggested by the Sarkaria Commission and the National Commission to Review the Working of the Constitution. Therefore, it is suggested in this Bill that the Committee should be made up of the Prime Minister, the State's Chief Minister, and the Chief Justice of India and it is necessary to amend article 155 in order to carry out this suggestion. This would strengthen India's federal structure and prevent rifts between the Governor and the State Government, which have become widespread in recent years.

3. The impeachment of the Governor is not permitted by the Indian Constitution. The President and Governor are not chosen by the general public in a direct election. However, unlike the President, who is chosen by an electoral college, the Governor is not chosen by the same process. However, article 61 of the Constitution allows for the President's impeachment. Therefore, a procedure for the Governor's impeachment is also required, in the event that the Governor does not act in accordance with the wishes of the State Government and the State's citizens. The process for impeaching the Governor may resemble that for impeaching the president.

4. When a Bill is presented to the Governor for his/her assent, he/she has four options:

- Give assent to the Bill
- Withhold assent to the Bill
- Send back to the State legislature for reconsideration
- Reserve the Bill for President's assent

In all the above four options, there is no time-frame for the Governor within which he/she should make a decision. This leads to piling up of bills before the Governor which will be detrimental to the welfare of the people of the State. Hence, a time frame is required for efficient policy implementation.

5. There is no time frame for the President to decide how to proceed when a Bill is reserved for the President's consideration by the Governor. This results in a backlog of Bills that the President must deal with, which is bad for the state's citizens' wellbeing. Therefore, a time frame is required to limit such unwelcome delays.

6. The Bill seeks to achieve the aforesaid objectives.

PRIYANKA CHATURVEDI

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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155. Appointment of Governor.—The Governor of a State shall be appointed by the President by warrant under his hand and seal.

156. Term of office of Governor.—(1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office

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200. Assent to Bills.—When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom:

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.

201. Bills reserved for consideration.—When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that, where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the first proviso to article 200 and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House or Houses with or without amendment, it shall be presented again to the President for his consideration.

RAJYA SABHA

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further to amend the Constitution of India.

(Shrimati Priyanka Chaturvedi, M.P.)