

Bill No. LXXIX of 2024

THE CONSTITUTION (AMENDMENT) BILL, 2024

A

BILL

further to amend the Constitution of India

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2024.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In article 368 of the Constitution, clauses 4 and 5 shall be omitted.

Short title and commencement.

Amendment of article 368.

STATEMENT OF OBJECTS AND REASONS

Clauses (4) and (5) were inserted into article 368 of the Constitution by the Constitution (Forty-Second Amendment) Act, 1976 to provide that any amendment that is carried out in the Constitution shall not be called into question before any court on any ground and that the Parliament has no limitation on its powers to amend the Constitution. In effect, the Parliament got absolute power to amend the Constitution in any way it deemed fit. This amendment was in direct contravention to the landmark judgement of Kesavananda Bharati delivered by the Supreme Court of India in the year 1973 that held that there was an implied limitation on the power of the Parliament to amend the Constitution of India.

Clauses (4) and (5) of article 368 were eventually declared to be unconstitutional by the Supreme Court of India in the year 1980 by the landmark judgment in the case of Minerva Mills. However, these provisions have continued to remain in the Constitution for more than four decades after being declared as unconstitutional. These provisions do not reflect the law of the land, and are in contravention to the spirit of the Rule of Law.

It is important for the Constitution of India to be reflective of the actual law of the land and to recognise that the Parliament is bound by the provisions of the Constitution and is not above it.

The Bill seeks to achieve the above-said objectives.

MAUSAM B NOOR

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

* * * * *

PART XX

AMENDMENT OF THE CONSTITUTION

368. (1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.

Power of the Parliament to amend the Constitution and procedure therefor.

(2) * * * * *

(3) * * * * *

(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976 shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article.

* * * * *

RAJYA SABHA

A

BILL

further to amend the Constitution of India.

(*Shrimati Mausam B Noor, M.P.*)