

AS INTRODUCED IN THE RAJYA SABHA
ON THE 4TH FEBRUARY, 2022

Bill No. VI of 2022

THE CONSTITUTION (AMENDMENT) BILL, 2022

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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 with immediate effect.

5 2. In the Seventh Schedule to the Constitution:—

(1) In List 1 — Union List, after entry 97, the following entries shall be inserted, namely:—

Amendment of
Seventh
Schedule to the
Constitution.

"98. Notwithstanding other entries contained in this list, admissions to technical, medical, dental, vocational and legal educational institutions and

universities that are established, funded or administered or affiliated by the Union Government.

99. Education in schools or higher educational institutions established, funded, affiliated or administered by the Union Government";

- (2) In List II— State List, after entry 10, the following entries shall be inserted 5
namely:—

“11. Education in schools or higher educational institutions that are established, funded, administered, approved or affiliated by the State Government; private schools.

11A. Notwithstanding other entries contained in this list, admissions to 10
technical, medical, dental, vocational and legal educational institutions and universities that are established, funded, administered, approved or affiliated by the State Government.”

- (3) In List III — Concurrent List, entry 25 shall be deleted.

STATEMENT OF OBJECTS AND REASONS

India is a Union of States. Each State in India has its unique culture, language and way of life. The peaceful co-existence of the States is key to maintaining unity in diversity.

Our Constitution is a dynamic, living document and must embrace the ever changing needs of the people and society from time to time. If impediments to such changing needs are not removed, the Constitution would suffer from atrophy. Democracy and Co-operative Federalism are essential features of our Constitution and part of its basic structure. The spheres of legislative competence of Parliament and State Legislatures have been divided under the Constitution in the Seventh Schedule. The division of the spheres is the result of protracted debate and discussion by the Constituent Assembly. The States have been given full autonomy qua certain subjects which they would be best placed to deal with, mindful that the State Governments are closer to the people and are able to judge their needs better. In certain fields where both the Union and the State would need to legislate, the Constitution has created a path for reconciliation of conflicting laws, in the form of Article 254.

Education was a field which the framers of our Constitution felt that should be in the sole domain of the State Legislatures. Therefore, when the Constitution was drafted and adopted, education was placed as entry 11 of the State List. However, the Constitutional (Forty-second) Amendment Act, 1976 passed during the emergency removed education from the State list and placed it as entry 25 in the Concurrent List. The need for the Union to be able to regulate admissions to institutions and universities established by it or funded or administered by it cannot be gainsaid. In fact, the Union has established several reputed medical institutions like All India Institute of Medical Sciences and other such institutions. Similarly, the Union must also be able to establish and run schools like Kendriya Vidyalaya.

However, placing education in the Concurrent List, which cedes primacy in the sphere to Parliament has gravely circumscribed the ability of States to regulate admissions to institutions and universities established by the State, at its own cost. The example of National Eligibility cum Entrance Test applying to all States, removing their autonomy to regulate medical education is a glaring example of this ill. Many States have been heavily investing in medical and technical education since independence. The results are there for all to see. Several States have achieved high rates of literacy through dedicated investment in education infrastructure. However, suddenly, through the introduction of NEET, the State's power to regulate admission to institutions established by it has been taken away. Further, the policy of the Union and States on education often differs and leads to a direct conflict with the State laws. The State's Policy on reservation also have a direct conflict with Union's reservation in seats in institutes and universities under the State which ultimately impact the State's literacy rates and socio-economic development.

School education lays the foundations of a person's life. That is why the education policies of each State differ and the State would want to impart education in line with the State's unique culture, identity, language and history. However, since education as a whole has been placed in the Concurrent List, any policy of the Union like that of 'National Educational Policy' is likely to have an adverse input on the diversity in education across India. The philosophy of one nation, one education policy is inappropriate in the field of education. In education, the outlook should be inclusive and broad, not exclusive and narrow. Under the current regime, even if laws are enacted by the State Legislature pertaining to school education, they can be modified by Union laws. Assent of the Hon'ble President can be withheld on the advice of the Union Government to State Legislation which contradicts Union Legislation. Thus, effectively, the Union Government can take control over schools established, funded and run by the States. Only the States can ensure that education reaches the grass root level. Welfare schemes for a State specific community/caste can be brought

and implemented only by the State. Therefore, allowing the aforesaid subjects to continue in the Concurrent List is against the Federal Structure.

Therefore, while maintaining the Union's right to regulate education, admissions to institutions and universities established by it and to run schools established by it, the States' equal power to do the same, without interference, must be preserved. Therefore, there is a need to amend the Seventh Schedule to the Constitution of India by deleting entry 25 from the Concurrent List (List III) and partitioning the powers equally between the States and the Union, by inserting the powers in List II and List I respectively, in such a manner that one cannot interfere with the other.

Hence, this Bill.

P. WILSON

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

SEVENTH SCHEDULE

(Article 246)

List III — Concurrent List

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25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.

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RAJYA SABHA

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further to amend the Constitution of India.

(Shri P. Wilson, M.P.)