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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 23rd February, 2001:—

I

BILL No. VII OF 2001

A Bill to provide for the establishment of a permanent Bench of the High Court of Gujarat at Surat.

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

1. This Act may be called the High Court of Gujarat (Establishment of a Permanent Bench at Surat) Act, 2001.

Short title.

2. There shall be established a permanent Bench of the High Court of Gujarat at Surat and such Judges of the High Court of Gujarat being not less than three in number, as the Chief Justice of that High Court may from time to time depute, shall sit at Surat in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Valsad, Surat, Bharuch, Dang and Narmada.

Establishment of a permanent Bench of the High Court of Gujarat at Surat.

STATEMENT OF OBJECTS AND REASONS

There has been a persistent demand for setting up of a permanent Bench of the High Court for Surat and Valsad regions of the State for the past many years. More than one lac, six thousand cases have been pending in Gujarat High Court for quite a long time.

Surat city is a prominent central place for Surat and Valsad where all infrastructure facilities including communication and transport are available. At present, the people belonging to the districts of this region of the State have to travel a long distance to reach Gandhinagar in connection with their cases which is a time consuming and expensive affair. In the interest of cheap and speedy justice and for the convenience of the litigant public, and also keeping in view of the recommendations of Justice Palekar Commission in 1985, it is felt necessary to set up a permanent Bench of High Court of Gujarat at Surat.

Hence this Bill.

SAVITA SHARDA

II**BILL NO. VIII OF 2001*****A Bill further to amend the Constitution of India.***

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

1. This Act may be called the Constitution (Amendment) Act, 2001.

Short title.

2. In article 130 of the Constitution, the following proviso shall be inserted namely:—

“Provided that the Supreme Court shall hold its sittings in Hyderabad the capital city of Andhra Pradesh for at least three months in a year as the Chief Justice of India may decide from time to time to dispose of the cases arising in the Southern States of the country.”

Amendment
of article
130.

STATEMENT OF OBJECTS AND REASONS

There has been a persistent demand for setting up of a permanent Bench of a Supreme Court outside Delhi to meet the hardship caused to common man in Southern States who incur heavy expenses in addition to the extra expenditure in meeting the expenses for lawyers etc. This also involves lot of expenditure in appointing lawyers locally who demand exorbitant as compared to their southern counterparts. Sitting of three months in a year will help in reducing the expenses of each States or person of Southern States and to some extent it will also reduce the burden of the Supreme Court in providing speedy justice. It will give great pleasure to Southern States.

Hence it is necessary to have a sitting for three months in a year of Supreme Court at Hyderabad.

RUMANDLA RAMACHANDRAIAH

III**BILL NO. VI OF 2001**

A Bill to provide for securing a life with dignity, peace and security to the aged and for their welfare and for matters connected therewith.

BE it enacted by Parliament in the Fifty-Second Year of the Republic of India as follows.—

1. (1) This Act may be called the National Commission for the Aged Act, 2001.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,
extent and
Commence-
ment.

2. In this Act, unless the context otherwise requires.—

Definitions.

(a) “Aged” means any person being a citizen of India, above the age of sixty years;

(b) “appropriate Government” means the State Government in respect of any State and the Central Government in all other cases;

(c) “Indigent” means an aged person who because for any age related infirmity or disability is incapable to earn his livelihood, nor has any source of livelihood;

(d) “National Policy” means the National Policy for the Aged, as provided under Section 3;

(e) "prescribed" means prescribed by rules made under this Act; and

(f) "Regulatory Authority" means Regulatory Authority appointed under Section 7.

Formulation
of National
Policy for
Aged.

3. The Central Government shall, by notification in the Official Gazette, lay down a National Policy for the Aged in consultation with the National Commission constituted under Section 4 to secure to the aged, besides freedom from want, a sense of participation in community life, self-fulfilment and dignity of life.

National
Commission
for the Aged.

4. (1) The Central Government shall, by notification in the Official Gazette, set up a Commission to be called the National Commission for the Aged.

(2) The National Commission shall consist of the following, namely:—

(a) the Union Minister of Social Justice and Empowerment who shall be the Chairman of the National Commission;

(b) the Secretary to the Union Ministry of Social Justice and Empowerment who shall be the *ex-officio* Secretary to the National Commission;

(c) the Union Ministers of Health and Family Welfare, Labour and Finance, the Deputy Chairman of the Planning Commission and the Chairman of Central Social Welfare Board as the *ex-officio* members of the National Commission;

(d) three members of Parliament, two from the Lok Sabha and one from the Rajya Sabha who shall be elected by the respective House of Parliament as members of the National Commission for a period of one year.

(e) five members of the National Commission to be appointed by the Central Government in the manner as may be prescribed.

Functions of
the Commis-
sion.

5. The National Commission shall perform all or any of the following functions namely:—

(1) to evolve a National Policy for securing to the aged, besides freedom from want, a sense of participation in community life and fulfilment to lead a life with dignity and for harnessing the reserve of wisdom, maturity of mind and experience available amongst the aged, in the service of the nation;

(2) to lay down schemes and programmes to achieve the objectives set out in clause (1);

(3) to create and generate funds for financing welfare schemes for the aged;

(4) to evolve and float health insurance schemes for the aged through appropriate Financial Institutions and Insurance Companies;

(5) to promote a network of Old-Age Homes through the appropriate Governments;

(6) to lay down Old Age Pension Schemes and its operation through appropriate Governments;

(7) to make a review of the provisions of the Indian Penal Code, insofar as they relate to the aged, so as to ensure due peace and security of life and to secure to them a life with dignity and to suggest amendments thereto;

(i) to monitor the working of various policies, programmes and schemes laid down by it, and to issue directives for proper implementation of the National Policy laid down under clause (1);

(ii) to lay down norms for recognition and registration of Voluntary Organisations and trusts engaged in welfare of the aged.

Meeting of
National
Commission.

6. The National Commission shall meet at least once in every six months.

7. (1) The appropriate Government shall by notification in the Official Gazette, appoint a Regulatory Authority for each territorial division, created for the purpose;

Appointment
of Regulatory
Authority.

(2) It shall be the duty of the Regulatory Authority—

(a) to maintain a Register of the Aged, residing in its territorial jurisdiction, classifying them in three categories, namely,—

(i) the aged who are employed or engaged in any vocation or profession;

(ii) the aged who wish to be employed in any vocation, profession or other work, including social and honorary work; and

(iii) the aged who are destitute, needing economic, social support and care including health care.

(b) to evolve plans and programmes with the approval of appropriate Government to aid and advise the aged seeking employment or engagement in productive and constructive channels in the best interests of the society and the nation, with or without the help of employment exchanges;

(c) to utilise their services in bodies where public interest needs to be represented or protected, on a voluntary basis keeping in view the knowledge, experience and background of such Aged persons;

(d) to ensure due implementation of the plans, programmes and schemes laid down by the National Commission; and

(e) to operate Old Age Pension Schemes as provided for by the appropriate Government under section 8.

8. The appropriate Government shall lay down an Old Age Pension Scheme for rendering financial aid to each Aged indigent person and the amount of pension payable to such persons every month shall be linked with the cost of living Index and shall be so fixed as to ensure to decent living.

Old Age
pension
Scheme.

9. Every Aged person shall have the right to receive free medical aid in such manner as may be prescribed.

Free medical
aid.

10. To provide and secure due place in society to the aged, the appropriate Government shall—

(a) reserve adequate number of seats for the Aged in Panchayats and local bodies;

(b) ensure adequate representation of the Aged persons in different welfare and social bodies, like Social Welfare Boards and Consumer Protection Fora at Central and State levels;

(c) provide training and other assistance to the Aged for securing suitable employment, vocation and social service opportunities;

(d) reserve at least five per cent of all housing units constructed under various Welfare Housing Schemes;

(e) provide free travel facilities by rail, road, or inland waterways in public transport, to the aged, in such manner as may be prescribed;

(f) provide for recreational tours, including religious pilgrimages like Haj, to the aged, in such manner as may be prescribed;

(g) to provide facilities for Yoga and Sports for the aged, in such manner as may be prescribed;

(h) provide for interest free loans for housing and self-employment needs.

Measures to
secure due
place in
society for
Aged persons.

Old Age Fund.

11. The appropriate Government may provide for an Old Age Fund for payment of old age pensions and for implementing other schemes for the Aged, under this Act.

Right of aged persons to be supported by their children.

12. The aged parents shall have the right to be supported by their children, in accordance with the social and economic status of their family, enforceable through the Regulatory Authority, who for that purpose shall have the powers of a Judicial Magistrate.

Power to make rules.

13. The Central Government may, by notification in the Official Gazette, make rules for carrying out purpose of this Act.

STATEMENT OF OBJECTS AND REASONS

One of every 10 persons on earth is over 60 years of age. In India over 6 per cent of the population is over 60 years, which is likely to grow up to 10 per cent by 2016 A.D.

In view of the fast growing population of the aged (60 plus) in the world, the United Nations had declared the year 1999 as the International Year of the Older People. The Government of India has formulated a National Policy for the Old (sixty plus) persons to help them in the last phase of their life. This policy document, outlines a series proposals for providing social and economic security to the aged. It has also mooted the idea of observing the year 2000 as the National Year of the Older Persons.

The Principal areas of intervention and action strategies suggested in the Policy for the aged include the following:—

1. Financial Security for Older Persons working in the formal sector as well those in the informal sector;
2. Health Care & Nutrition to enable Older Persons to cope with health and other problems commonly associated with old age with particular emphasis upon preventive strategies;
3. Shelter/housing keeping in view the life style of older persons;
4. Emphasis upon education, training and information needs of older persons along with promotion of research and advocacy in the field;
5. Priority attention to especially vulnerable group such as the destitute, widows and the disabled older persons;
6. Establishment of a welfare fund for Older Persons;
7. Special attention to protection of life and property of Older Persons;
8. Provision of appropriate concessions, rebates and discounts to Older Persons;
9. Full participation of Non-Government Organisations in the sector;
10. Formation of self help groups of older persons;
11. Strengthening of the family and reinforcing intergenerational relationships between children and Older Persons;
12. Development of trained manpower in the sector particularly in medical colleges and schools of social work;
13. Use of experts in Public Administration to coordinate and monitor the implementation of the policy.

It may appear from this formulation that the national policy seeks to address only economic needs of sustenance of the aged. It fails to recognise the enormous store of wisdom, intelligence and experience available amongst the aged, and the need to impart amongst them a sense of active participation in community life, self-fulfilment and dignity in society, which can go a long way in contributing to the development of the nation. The national policy really falls too short of the nation. The national policy really falls too short of the UN Principles for the Older Persons (resolution 6/91) adopted by the UN General Assembly in 1991 calling upon world Governments to incorporate them into national programmes. The 18 principles adopted under the Resolution called for action in many areas including:

Independence: Older Persons should have access to food, water, shelter, clothing health care, work and other income generating opportunities; education, training, and a life in safe environment.

Participation: Older Persons should remain integrated into community life and participate actively in formulation of policies affecting the well-being of the nation.

Care: Older Persons should have access to social and legal services and to health care, so that they maintain an optimum level of physical, mental and emotional well-being. This should include full respect for dignity, beliefs, needs and privacy.

Self-fulfilment: Older Persons should have access to education, cultural, spiritual and recreational resources and be able to develop their full potential.

Dignity: Older Persons should be able to live in dignity and security, be free from exploitation and physical or mental abuse and be treated fairly, regardless of age, gender and social or ethnic background.

The necessary provisions are, therefore, to be made in conformity with the UN Declaration. Provisions should not only be made to provide economic independence to the aged, but also to ensure that they remain integrated into community life and actively participate in the formulation of policies for their own well-being and the well-being of the nation. They should thus have access to educational, cultural and recreational resources to develop their potential to the full, and to lead a life with dignity, social status and security.

Apart from the National Policy and programme for the aged, it is necessary to provide them, not only economic freedom from want for food, water, shelter, clothing and health care, but also to ensure their active participation in community life and opportunities for self fulfilment and to lead a life with dignity.

KARAN SINGH.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of a National Commission for the Aged. Clause 5 provides for generation of funds for financing schemes for Aged and promotion of network of old-Age homes. Clause 7 of the Bill provides for appointment of a Regulatory Authority. Clause 8 provides for old Age pension. Clause 9 provides for free medical aid to the Aged. Clause 10 provides for training, suitable employment, vocation, free travel facilities etc. to the Aged persons. Clause 11 of the Bill provides for creation of an Old Aged Fund.

The Bill, therefore, if enacted, will involved expenditure from the Consolidated fund of India. It is estimated that an annual recurring expenditure of about rupees Ten crore will be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of about rupees Five crore is also likely to be involved.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. The delegation of legislative powers is of a normal character, as the matters to be prescribed are of detail only.

IV

BILL NO. V OF 2001

A Bill further to amend the Constitution of India.

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

- | | |
|---|--|
| 1. This Act may be called the Constitution (Amendment) Act, 2001. | Short title |
| 2. In clause (1) of article 103 of the Constitution, the words, brackets and figure “clause (1) of” shall be omitted. | Amendment of article 103 |
| 3. In clause (1) of article 192 of the Constitution, the words, brackets and figure “clause (1) of” shall be omitted. | Amendment of article 192 |
| 4. For the Tenth Schedule to Constitution, the following Schedule shall be substituted, namely:— | Substitution of new schedule for the Tenth Schedule. |

“TENTH SCHEDULE

[ARTICLES 102(2) AND 191(2)]

Provisions as to disqualification on ground of defection

1. Interpretation.—In this Schedule, unless the context otherwise requires,—

(a) “House” means either House of Parliament or the Legislative Assembly or, as the case may be, either House of the Legislature of State;

(b) "Legislature party" in relation to a member of a House belonging to any political party in accordance with the provisions of paragraph 2 means the group consisting of all the members of that House for the time being belonging to that political party.

(c) "paragraph" means a paragraph of this Schedule.

(d) "political party" in relation to a member of a House, means the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2;

Disqualifica-
tion on
ground of
defection.

2. (1) A member of a House belonging to any political party shall be disqualified for being a member of the House,—

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation—For the purposes of this sub-paragraph,—

(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;

(b) a nominated member of a House shall,—

(i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party;

(ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or article 188, as the case may be.

(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

(3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after complying with the requirements of article 99 or article 188, as the case may be.

Exemption.

3. Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under this Schedule,—

(a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party; or

(b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

Rules.

4. (1) Subject to the provisions of sub-paragraph (2) of this paragraph, the Chairman or the Speaker of a House may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for—

(a) the maintenance of registers or other records as to the political parties, if any, to which different members of the House belong;

(b) the report which the leader of a legislature party in relation to a member of a House shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (1) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(c) the report which a political party shall furnish with regard to admission to such political party of any member of the House and the office of the House to whom such reports shall be furnished; and

(2) The Chairman or the Speaker of a House may, without prejudice to the provisions of article 105 or article 194, as the case may be, and to any other power which a member of legislature may have under this Constitution direct that any wilful contravention, by any member of Legislative, of the rules made under this paragraph may be dealt with in the same manner as a breach of privilege of the House.

STATEMENT OF OBJECTS AND REASONS

The Tenth Schedule to the Constitution, which is known as anti-defection law, was added in early 1985 to combat the evil of political defection lest it undermined the very foundations of our democracy and the principles which sustained it. It provides inter alia for disqualification of an elected member of Parliament or a State Legislature on the ground of defection if he voluntarily relinquishes his membership of the political party by which he was set-up as a candidate for election as such a member or he votes or abstains from voting in the House, contrary to any direction issued by the political party to which he belongs. However, as the experience has shown during the last fifteen years of the working of the anti-defection law, the concepts of 'split' in, and 'merger' of, a political party in the House have provided escape routes to the defectors. These escape routes got widened and smoothened for intending defectors by some of the rulings of Presiding Officers. In fact, the number of incidents of defections in State Legislatures and Parliament have been quite large during the last decade and continuous threat of defection has been creating hindrances in decision making by the political parties.

Hence, for combating the malaise of Political defections these two concepts of "split" and "merger" have to be eliminated. If some elected representatives do not agree with the policies and programmes adopted by their parties, they should resign and seek fresh mandate from their constituents. Again the power to decide questions as to disqualification on ground of defection should be vested, as in other cases of disqualification under articles 103 and 192 of the Constitution, in the President of India to be exercised with the advice of the Election Commission of India. This will certainly help in injecting stability in the democratic system of governance of the Country. The Bill seeks to achieve this objective.

S. RAMACHANDRAN PILLAI

R.C. TRIPATHI,
Secretary-General.