



# CO-OPERATIVES NOW

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## পরিচালকের প্রতিবেদন

বৎসরের শেষ সূর্য যখন দিকচক্রবালে ঢলে পড়েছে, অন্ধকারের গর্ভে যখন ২০২৫ নিজের বিদায় বার্তা জানিয়ে অতীতের পাতায় চলে গেল, তখন আমাদের ফিরে দেখার পালা। আন্তর্জাতিক সমবায় বর্ষের একেবারে শেষ প্রান্তে এসে ফিরে দেখা সেই সমস্ত শিক্ষণীয় বিষয়গুলি যা আজকের বিশ্বে সমবায় আন্দোলনের প্রাসঙ্গিকতা ও স্থিতিস্থাপকতা সম্পর্কে গুরুত্বপূর্ণ ও স্পষ্ট হয়ে উঠেছে।

প্রথমত, সমবায় প্রতিষ্ঠানগুলি প্রমাণ করেছে যে জনগণ-কেন্দ্রিক উদ্যোগমাত্রই লোকসানে নয়, অর্থনৈতিকভাবে লাভজনক হতে পারে। কৃষি, ব্যাংকিং, আবাসন, দুগ্ধশিল্প, মৎস্য এবং পরিষেবা ভিত্তিক বিষয় জুড়ে সমবায়গুলো দেখিয়েছে যে লাভজনক মানসিকতা এবং সামাজিক দায়বদ্ধতা পরস্পরবিরোধী নয়। গণতান্ত্রিক মালিকানা এবং নিজেদের মধ্যে ভাগ করে নেওয়া সুবিধাগুলো দক্ষতা ও বৃদ্ধির সাথে সহাবস্থান করতে পারে।

দ্বিতীয়ত, এই বছরটি পুনরায় নিশ্চিত করেছে যে সমবায়গুলো সামাজিক অন্তর্ভুক্তি এবং সমতাকে শক্তিশালী করে। পুঁজি বিনিয়োগ নির্বিশেষে সদস্যদের মতামত প্রকাশের সুযোগ দিয়ে, সমবায়গুলো ক্ষুদ্র উৎপাদক, নারী, যুবক এবং প্রান্তিক গোষ্ঠীর মানুষদের সক্ষম করে। তারা উদ্বৃত্তকে আরও ন্যায্যভাবে বন্টনের মাধ্যমে এবং স্থানীয় চাহিদার উপর ভিত্তি করে অর্থনৈতিক কার্যক্রম পরিচালনার মাধ্যমে বৈষম্য হ্রাস করে।

তৃতীয়ত, আমরা শিখেছি যে সংকটের সময়ে সমবায়গুলো অধিকতর সহনশীল হয়। অর্থনৈতিক ধাক্কা, জলবায়ুগত সমস্যা বা বাজারের অস্থিরতার সম্মুখীন হলেও, স্বল্পমেয়াদী লাভের উদ্দেশ্যের পরিবর্তে পারস্পরিক সমর্থন, সদস্যের আনুগত্য এবং দীর্ঘমেয়াদী দৃষ্টিভঙ্গির কারণে সমবায়গুলো প্রায়শই ভালো ফল করেছে।

চতুর্থত, আন্তর্জাতিক সমবায় বর্ষ স্থিতিশীল উন্নয়নে সমবায়ের ভূমিকা তুলে ধরেছে। অনেক সমবায় সক্রিয়ভাবে দায়িত্বশীল উৎপাদন, পরিবেশগত সুরক্ষা এবং মানব সমাজের কল্যাণকে উৎসাহিত করে, যা স্বাভাবিকভাবেই স্থিতিশীল উন্নয়ন লক্ষ্যমাত্রার (এসডিজি) সাথে সামঞ্জস্যপূর্ণ।

পঞ্চমত, এই বছরটি বেশ কিছু চলে আসা দীর্ঘমেয়াদী চ্যালেঞ্জকে সামনে এনেছে—যেমন অর্থ ব্যবস্থায় প্রবেশের সীমিত সুযোগ, পুরোনো আইনি কাঠামো, কিছু প্রতিষ্ঠানে দুর্বল শাসনব্যবস্থা এবং পেশাদার ব্যবস্থাপনার প্রয়োজনীয়তা। এটি আমাদের মনে করিয়ে দিয়েছে যে সমবায়গুলোকে অবশ্যই ক্রমাগত আধুনিকীকরণ করতে হবে, প্রযুক্তি গ্রহণ করতে হবে এবং শিক্ষা ও নেতৃত্ব বিকাশে বিনিয়োগ করতে হবে।

পরিশেষে, সবচেয়ে বড় শিক্ষা হলো যে সমবায়গুলো অতীতের কোনো নিদর্শন নয়, বরং ভবিষ্যতের প্রতিষ্ঠান। বৈষম্য, চাকরির অনিশ্চয়তা এবং জলবায়ু পরিবর্তনের এই যুগে, সমবায় মডেলটি একটি ভারসাম্যপূর্ণ পথ দেখায় যা অর্থনৈতিক দক্ষতার সাথে মানবিক মূল্যবোধকে একত্রিত করে।

আন্তর্জাতিক সমবায় বর্ষ শেষ হয়ে গেলেও, এর মূল বার্তাটি স্পষ্ট সমবায়গুলোকে শক্তিশালী করা কেবল একটি অর্থনৈতিক শাখাকে সমর্থন করা নয়, বরং একটি আরও অন্তর্ভুক্তিমূলক, গণতান্ত্রিক এবং টেকসই অর্থনীতি গড়ে তোলার দৃঢ় পদক্ষেপ।



## From the Director's Desk

As the year's last sun dipped below the horizon, and 2025, having bid its farewell, faded into the embrace of darkness and became a part of the past, it is time for us to reflect. To reflect on several important lessons, stand out about the relevance and resilience of the cooperative movement in today's world, specially, when we have observed the closing of International Cooperative Year.

First, **cooperatives have proved that people-centred enterprises can be economically viable.** Across agriculture, banking, housing, dairy, fisheries, and services, cooperatives showed that profitability and social responsibility are not mutually exclusive. Democratic ownership and shared benefits can coexist with efficiency and growth.

Second, the year reaffirmed that **cooperatives strengthen social inclusion and equity.** By giving members a voice regardless of capital contribution, cooperatives empower small producers, women, youth, and marginalized communities. They reduce inequalities by distributing surplus more fairly and rooting economic activity in local needs.

Third, we learned that **cooperatives are more resilient in times of crisis.** Whether facing economic shocks, climate stress, or market volatility, cooperatives often performed better because of mutual support, member loyalty, and long-term orientation rather than short-term profit motives.

Fourth, the International Cooperative Year highlighted the **role of cooperatives in sustainable development.** Many cooperatives actively promote responsible production, environmental stewardship, and community welfare, aligning naturally with the Sustainable Development Goals (SDGs).

Fifth, the year exposed **persistent challenges**—limited access to finance, outdated legal frameworks, weak governance in some institutions, and the need for professional management. It reminded us that cooperatives must continuously modernize, adopt technology, and invest in education and leadership development.

Finally, the biggest lesson is that **cooperatives are not relics of the past but institutions of the future.** In an era of inequality, job insecurity, and climate change, the cooperative model offers a balanced path that combines economic efficiency with human values.

As the International Cooperative Year draws to a close, the takeaway is clear: strengthening cooperatives is not just about supporting a sector, but about **taking a bold step towards a more inclusive, democratic, and sustainable economy.**





## THE WEST BENGAL STATE COOPERATIVE BANK LTD.

*Celebrated*

### **“International Year of Cooperatives (IYC) 2025”**

The West Bengal State Cooperative Bank Ltd celebrated the concluding ceremony of “International Year of Cooperatives (IYC) 2025” in a befitting manner on 23<sup>rd</sup> December 2025 at **Mahajati Sadan**, the auditorium with which the names of Gurudev Rabindranath Tagore and Netaji Subhas Chandra Bose were associated. Sri Pradip Kumar Majumdar, Hon’ble Minister-in-charge, Panchayat & Rural Development and Cooperation Department, Govt. of West Bengal was the Chief Guest. Among others present were Dr. Krishna Gupta, IAS, Addl. Chief Secretary, Cooperation Department; Dr. Moinul Hasan, Special Officer, WBSCARD Bank Ltd.; Sri Swarna Kamal Saha, MLA & Chairman, WBSCU; Sri Niranjan Kumar, IAS, RCS, West Bengal; Sri Asis Chakraborty, Chairman, HOUSFED & Shaily Jamuar, General Manager, NABARD, WB RO. The Chairmen & Special Officers of different District Central Cooperative Banks were also present in the ceremony. The auditorium was totally filled up with spontaneous presence of cooperators from different districts and specially the women from self-help groups at large. Successful cooperative entities of the State were awarded with prizes.



**Dr. Moinul Hasan**  
Special Officer, WBSCARD Bank Ltd.



**Sri Pradip Kumar Majumdar**  
Hon’ble Minister-in-charge  
Panchayat & Rural Development and  
Cooperation Department  
Govt. of West Bengal



**Dr. Krishna Gupta, IAS**  
Addl. Chief Secretary, Coop. Dept.



**Sri Niranjan Kumar, IAS**  
RCS, West Bengal



**Sri Swarna Kamal Saha, MLA**  
Chairman, WBSCU



**Sri Asis Chakraborty**  
Chairman, HOUSFED



**Sri Aveek Bhattacharya**  
Special Officer, WBSCB



**Sri Sujan Sarkar**  
Managing Director, WBSCB

**More pictures of the Celebration**





**RECENT IMPORTANT CIRCULARS ISSUED BY RESERVE BANK OF INDIA**

- 1) **RBI/2025-26/163 DOR.AML.REC.367/14.01.005/2025-26 December 29, 2025** - Reserve Bank of India (Rural Co-operative Banks – Know Your Customer) Amendment Directions, 2025
- 2) **RBI/2025-26/156 CO. DPSS.RLPD.No. S1039/04-07-001/2025-2026 December 24, 2025** - Continuous Clearing and Settlement on Realisation in Cheque Truncation System: Phase 2
- 3) **RBI/DOR/2025-26/266 DOR.AML.REC. No.185/14.01.004/2025-26 November 28, 2025** - Reserve Bank of India (Regional Rural Banks – Know Your Customer) Directions, 2025 (**Updated as on December 29, 2025**) (\*Master Circular)
- 4) **RBI/DOR/2025-26/314 DOR.ACC.REC. No.233/21.04.018/2025-26 November 28, 2025** - Reserve Bank of India (Rural Co-operative Banks – Financial Statements: Presentation and Disclosures) Directions, 2025
- 5) **RBI/DOR/2025-26/305 DOR.CRE.REC.224/07-02-006/2025-26 November 28, 2025** - Reserve Bank of India (Rural Co-operative Banks – Credit Risk Management) Directions, 2025
- 6) **RBI/DOR/2025-26/318 DOR.ORG.REC.No.237/21-04-158/2025-26 November 28, 2025** - Reserve Bank of India (Rural Co-operative Banks – Managing Risks in Outsourcing) Directions, 2025
- 7) **RBI/DOR/2025-26/311 DOR.STR.REC.230./21.04.048/2025-26 November 28, 2025** - Reserve Bank of India (Rural Co-operative Banks – Income Recognition, Asset Classification and Provisioning) Directions, 2025
- 8) **RBI/DOR/2025-26/310 DOR.LRG.REC.No.229/13-10-007/2025-26 November 28, 2025** - Reserve Bank of India (Rural Co-operative Banks – Asset Liability Management) Directions, 2025

**RECENT IMPORTANT CIRCULARS ISSUED BY RESERVE BANK OF INDIA**

- 1) **Ref. No. NB. DOR/LT Policy/PPS-9/118044-118070/2025-26 16 December 2025 Circular No. 275/DoR-67/2025** - Sanction of term loans to State Governments under Section 27 of the NABARD Act, 1981 for Contribution to share capital of cooperative credit institutions – Operational Guidelines for the year 2025-26.
- 2) **Ref. No. NB.DoR/118200/LT Policy-9/2025-26 19 November 2025 Circular No. 279/DoR-71/ 2025** - Long-term refinance for investment credit for agriculture - Long Term Rural Credit Fund 2025-26 (LTRCF) – State Cooperative Banks (StCBs)
- 3) **NB.DOR.HO./98064/DOR-ST-Policy-SoF/2025-26 Circular No. 226/DOR-46/2025-26** - Guidelines on fixation of Scale of Finance (SoF)

**PROGRAMMES CONDUCTED UNDER SOFTCOB  
DURING THE QUARTER ENDED DECEMBER 2025 AT A GLANCE**

PACS as MSC	13 to 15 October 2025	On Location Programme in collaboration with Coochbehar RO of WBStCB at Bhatibari SKUS
Diversification of Loans for Profitability	29 to 31 October 2025	In House Programme for the PACS Officials
Self-Sustenance through Improved Governance and Management	03 to 04 November 2025	On Location Workshop for the BODs of PACS in collaboration with Howrah DCCB at Udaynarayanpur LS PACS
Risk Management and ALM	11 to 13 November 2025	In House Programme for the officials of Banks
Self-Sustenance through Improved Governance and Management	25 to 26 November 2025	On Location Workshop for the BODs of PACS in collaborationwith VCCB at Digha
Self-Sustenance through Improved Governance and Management	27 to 28 November 2025	On Location Workshop for the BODs of PACS in collaborationwith VCCB at Digha



Self-Sustenance through Improved Governance and Management	02 to 03 December 2025	On Location Customised Workshop for the BODs of PACS in collaboration with Raiganj CCB at Kaliyaganj
Self-Sustenance through Improved Governance and Management	04 to 05 December 2025	On Location Customised Workshop for the BODs of PACS in collaboration with Raiganj CCB at Raiganj
Self-Sustenance through Improved Governance and Management	10 to 11 December 2025	On Location Customised Workshop for the BODs of PACS in collaboration with Burdwan CCB at Burdwan
Preparation of B/S , P/L A/C and Ratio Analysis	16 to 18 December 2025	In House Programme for the officials of PACS
NPA and Recovery Management	16 to 18 December 2025	On Location Programme for the officials of bank in collaboration with VCCB at Sanchari , Digha

**ABSTRACT OF PROGRAMMES CONDUCTED AT ACMART DURING THE QUARTER ENDED DECEMBER 2025**

PROGRAMMES CONDUCTED		
Under SOFTCOB	Others	Total
11	02	13

NUMBER OF TRAINEES		
Under SOFTCOB	Others	Total
386	33	419

NUMBER OF TRAINEE DAYS		
Under SOFTCOB	Others	Total
920	43	963

CATEGORY WISE BREAKUP UNDER SOFTCOB		
INHOUSE	ONLOCATION	CUSTOMISED
03	05	03

**ABSTRACT OF PROGRAMMES CONDUCTED AT ACMART UPTO THE QUARTER ENDED DECEMBER 2025**

PROGRAMMES CONDUCTED		
Under SOFTCOB	Others	Total
29	21	50

NUMBER OF TRAINEES		
Under SOFTCOB	Others	Total
954	619	1563

NUMBER OF TRAINEE DAYS		
Under SOFTCOB	Others	Total
2475	2999	5474

CATEGORY WISE BREAKUP UNDER SOFTCOB		
INHOUSE	ONLOCATION	CUSTOMISED
12	10	07



## Understanding Central-State Statutes and Their Relationship and Aspects of Legislative Drafting

**PARTHA BASU**

Additional Registrar of Cooperative Societies (ST Credit and Law), WB

Article 246 of the Constitution of India forms the bedrock upon which the separation of legislative powers rests. This section, along with the Seventh Schedule, offers a clear view of the comparative position of the three lists – UNION, STATE and CONCURRENT- and their relative strengths. In order to appreciate Central and State statutes, it is necessary to interpret Article 246 clearly. It is important to remember that State's power to enact laws in respect of List II (State List) is subject to Centre's powers to make laws under Lists I and III (Union and Concurrent Lists), as laid down in Articles 246(1) and 246(2) *ibid*. In case a Central Act under List I incidentally encroaches upon a matter in List II, the Central Act will still be effective and the State Act, to the extent of the encroachment by the Central act, will be ineffective. In **Special Reference (1) of 2001**, the Constitution Bench had observed that:

**'Although Parliament cannot legislate on any of the entries in the State list it may do so incidentally while essentially dealing with the subject coming within the purview of the entry in the Union List. Conversely, the State Legislature also may incidentally trench upon the subject covered in the Union List. Such incidental encroachment in either event need not make the legislation ultra vires the Constitution. The doctrine of pith and substance is sometimes invoked to find out the nature and content of the legislation. However, when there is irreconcilable conflict between the two legislations the Central Legislation shall prevail. However, every attempt would be made to reconcile the conflict.'**

Let us take an example. The introduction of a statute to safeguard the interest of depositors in the country is a significant event. Significant because not only does it classify regulated and unregulated deposit schemes but also pinpoints accountability for contravention and violations. Enacted in 2019, Banning of Unregulated Deposit Schemes Act (BUDS Act) is the first statute of its kind and envisages a transparency, a new approach towards securing borrowed capital mobilised in the form of deposits. It is also an attempt to underline the importance of trust and ensure judicious deployment of borrowed funds, precious for both the depositor as well as the deposit taker. Cooperative societies not regulated by RBI and not licensed to undertake banking business are classified as deposit takers under the BUDS Act. The Parliament enacted this statute as Banking is under UNION LIST and its sole purpose is to safeguard deposits. The First Schedule to BUDS Act lists the regulated schemes and the regulatory authorities, too. As per Sl. No.4 of the First Schedule,

'Any scheme or an arrangement made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State or Union territory' should be regulated by a State Government or Union Territory Government.

It is, therefore, clear that only the State Government can regulate deposits mobilised by an unlicensed credit entity in the cooperative sector. On the other hand, The West Bengal Cooperative Societies Act, 2006 – a state statute regulating cooperatives – contains a special section, namely 134C which lists certain autonomy granted to PACS in the matter of affiliation, investments and borrowings. However, it is silent on

deposits, a form of borrowings from both institutions as well as individuals. Section 134(7) is reproduced below:

*'A cooperative society covered under this section may obtain loans from any financial institution regulated by the Reserve Bank of India and refinance from the National Bank or any other financing agency directly or through any Reserve Bank of India's regulated financial institutions of its choice and not necessarily from the Federal Cooperative Society to which it is affiliated.'*

**Clearly, the state Statute is silent on individual borrowings in the form of deposits mobilised by PACS essentially from its members.**

**Under the aforesaid circumstances, the regulation of deposits by the State Government as laid down in BUDS Act, 2019 shall be squarely applicable to cooperative societies across the country. There is another reason behind its applicability. Article 246 of the Constitution mandates that the Central Act shall prevail notwithstanding anything contained in the State Act. Not only are the two statutes on different fields, there is no contradiction between the two, either.**

ON the other hand, Article 254 of the Constitution of India provides that a law made by a State Legislature with respect to a matter in the concurrent list if repugnant to a law made by Parliament will be void to the extent of the repugnancy unless the State Law has received the assent of the President in which case it will prevail in that state. The guiding principle in this regard is that the earlier law will give way to the latter one in respect of matters covered by it. The West Bengal Cooperative Societies Act, 2006 received the assent of the President as a proposal was sent in this regard specifying the exemption against certain laws made by the Parliament. As a result, there are provisions in the WBCS Act which run counter to the provisions of the Limitation Act, Transfer of Property Act, Indian Registration Act, to name a few. However, this special statute overrides several provisions in the central statutes. It is, therefore, necessary to understand the scope of a special act in the light of this assent.

**A few words on repugnancy shall be necessary in the above context. P. Ramanatha Aiyar's Concise Law Dictionary, Seventh Edition, describes repugnancy thus:**

**"Repugnancy between two statutes may be ascertained on the basis of the following three principles; (1) whether there is direct conflict between the two provisions; (2) whether the Parliament intended to lay down an exhaustive code in respect of the subject matter replacing the Act of the State Legislature; and (3) whether the law made by Parliament and the law made by the State Legislature occupy the same field. 'Repugnant to' really means 'inconsistent with'. One law is inconsistent with another law when the command or power or provision in the one law conflicts directly with the command or power or provision in the other."**

Two issues have been raised before the judiciary time and again over decades and perhaps centuries. These are;

- The relative position of Central and State Laws in the context of the Constitution and
- Repugnancy in provisions in two statutes.

Amongst a galaxy of judgements, two are mentioned here, both being directly related to cooperative societies, which is a State subject. In the case of **Pandurang Ganpati Chaugule**

vs Vishwasrao Patil MurgudSahakari Bank Limited [CIVIL APPEAL NO. 5674 OF 2009], the Supreme Court had carefully analysed the Central and State Lists and the various subjects covered by each. Although the matter related to the application of SARFAESI Act, 2002 to cooperative banks, the Hon'ble Court had examined the application of the Central Statutes, namely, SARFAESI and BR Acts to cooperative banks irrespective of the provisions of the State Statute governing cooperatives and had segregated the authority of these statutes on different aspects. While registration and management were to be regulated by the State Act, BR Act and SARFAESI Act, 2002 would prevail in respect of all banking related matters including recovery of loans due to financial institutions. Consequently, the apex court had upheld the applicability of SARFAESI Act in cooperative banks.

Another judgement of a recent nature traversed the abovestated aspects. In the case of **Sri Partha Sarothi Adhikary & Ors. Vs. The State of West Bengal & Ors. in W.P.A.26822** of 2025, the Calcutta High Court had referred to the above judgement of the apex court in delineating Centre-State legislative powers as the issue in the state case related to application of BR Act with regard to tenure of directors in cooperative banks. The latest amendment to the BR Act, 1949 restricting the tenure of such directors to 10 consecutive years was challenged as it concerned a State Subject and the State law namely, The West Bengal Cooperative Societies Act, 2006 had prescribed disqualifications for office bearers apart from laying down general disqualifications of directors including cessation of office. It was held that the latest BR Act amendment which had come into effect from 01.08.25 would be squarely applicable to cooperative banks and that a director who had served two successive 5-year terms would be disqualified for the third successive term. Therefore, the Hon'ble Court had addressed the twin issues of application of the Central Statute to Cooperative Banks and repugnancy in dismissing the petitioner's contention that he was eligible for a third successive term in an institution engaged in Banking business under RBI permission.

#### LEGISLATION AND DRAFTING

Appreciating a piece of legislation involves understanding the same and its components. In general, the following are the main parts of every piece of legislation: -

- I. **LONG TITLE:** Denoting the main or principle purpose for which an act is enacted but it cannot control the express provisions contained in the operative portion or chapters or sections of the Act.
- II. **PREAMBLE:** A recital wherein the object, intent and purpose of the Act are given. It states the objects and the policy of the legislation and the evils and inconveniences it seeks to remedy. [Generally, starts with 'Whereas']. The classic preamble to the Constitution of India is a case in point.
- III. **SHORT TITLE:** Mandatory for all Acts, to facilitate the reference to each Act.
- IV. **CHAPTERS:** Arrangement of subject matter helps to bring clarity and simplicity in the legislation.
- V. **HEADINGS**
- VI. **DEFINITION OR INTERPRETATION CLAUSE:** The key to understanding the scope of the statute and its purpose.
- VII. **MARGINAL NOTES:** To facilitate indication of the contents of each section. Must be precise and short.
- VIII. **SECTIONS, SUB-SECTIONS & CLAUSES:** Clauses could be divided into sub-clauses and items.
- IX. **PROVISIONS & EXCEPTIONS:** An exception to some rule contained within the main section and is in the nature of a qualification, which, but for the proviso, would be within the purview of the section.

X. **EXPLANATIONS & ILLUSTRATIONS:** The purpose of an **Explanation** is to explain certain words, phrases or some aspect or concept of the main provision. Its objects are to explain the meaning and intention, to eliminate obscurity or vagueness, providing additional support and removing gaps.

XI. **SCHEDULES & FORMS:** Attachments to the Act to avoid unnecessary bulkiness. To simplify presentation of an Act, its subject-matter is divided into chapters, sections and schedules. Sections set out the matters of principle and latter contains matters of details. Schedule is as much a part of a statute as sections or chapters.

A look at the WBCS Act will reveal that all the above are present and it is a piece of legislation complete in itself apart from being a special statute. Moreover, in order to grasp the scope of a statute, it is necessary to study the definition clauses carefully. These clauses are similar to the reliefs sought for by a plaintiff in a petition. Also, one must read the examples and illustrations found in several statutes to appreciate a particular section/sub-section. These examples are not exhaustive but are nevertheless extremely helpful. Two other aspects are vital, namely, 'the long title', which is similar to the Statement of Objects and Reasons in a bill, and the 'provisions and exceptions' to a section/sub-section.

The true test of a legislation lies in its ability to stand up to judicial scrutiny which generally covers the following areas: -

- ✓ What is the object of the enactment,
- ✓ What was the existing law before the legislation was passed,
- ✓ What was the mischief or defect for which the existing law had not provided,
- ✓ What remedy the legislation has provided for, and
- ✓ The reasons for such remedy.

Legislative drafting is an art. The key to it is simplicity of language. The four essential aspects of simplicity are: economy of words, directness, familiarity of language and orderliness. The most durable statutes in the country possess all these features and lucidity and directness have been hailed as two of the essential characteristics. There is also the issue of intent which is more important than content. If the purpose of enactment is to override a judicial pronouncement and/or reintroducing a provision that the judiciary has set aside in an oblique manner, such an enactment is likely to be struck down after judicial review. It is, therefore, a matter of fine balance.

A few words on subordinate legislation are necessary at this point. While legislation concentrates on framing of legislative policy, the administrative or procedural matters are delegated to the executive authorities, government or municipal or local self-governments by whatever name they are called. These matters are set out in the Rules, Regulations, Byelaws, orders and notices issued by the aforementioned authorities and constitute 'subordinate legislation'. For example, we have the West Bengal Cooperative Societies Rules and Byelaws which emanate from these Rules. The genesis of this Rule making power lies in Section 22 of the General Clauses Act, 1897 which provides for making of rules or byelaws and issuing of orders between passing and commencement and commencement of enactment. It has been provided that these Rules 'shall not take effect till the commencement of the Act or Regulation.' In fine, legislation is the sum total of primary act, subordinate legislation, byelaws, orders and notices.

#### Suggested readings:

1. BR Atre's Legislative Drafting
2. GP Singh's Principles of Statutory Interpretation
3. P. Ramanatha Aiyar's Concise Law Dictionary
4. The General Clauses Act, 1897.



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