

A talk on “Societies Acts” in India

By

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Legal position and judicial response to Society

- ▶ “Society” in general means an association of persons having common interest, beliefs, objects or profession.
- ▶ A registered “Society is a body corporate” having characteristics of an incorporated company such as having perpetual succession, common seal, regular meetings of managing body, and general members, power to sue and be sued, power to enter into contracts, acquire properties for the society etc. Winding up and dissolution is as per law.

Some of important case laws:

1. In *Satyavart Sidhantalankar vs. Arya Samaj, Bombay, AIR, 1946 Bom. 516*, it was held that a registered society is a legal entity capable of suing and being sued in its own name.
2. In *P.C. Bohra and Others vs. National Sports Club of India, AIR 1991 N.O.C. 78 (Del.)* it was held that majority decision is binding on all.
3. In *Ramcharan Agarwal vs. Sridhar Mishra, AIR 1962 All. 610* it was held that the provisions regarding dissolution and the assets to be given to some other Society and not to its Members is for “public benefit” and in “public interest”.

Article 246 of Constitution of India empowers Parliament and State Legislatures to make laws on subject matters listed in Seventh Schedule

Union List (I)

Entry No.43:

Incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations but not including co-operative **societies**.

State List (II)

Entry No. 32:

Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other **societies** and associations; **co-operative societies**.

Legislative measures

- ▶ Societies Registration Act, 1860 (Central Act 21 of 1860) (pre-independence Act).
- ▶ It contains 20 Sections Under Chapter I.
- ▶ After adoption of the Constitution of India, the Central Act continues to be in existence but the State Legislatures are given powers to amend the principal Act by inserting Chapter II providing “Special Provisions in respect of Societies financed wholly or substantially from the funds of the State Governments”.

Preamble:

Whereas it is expedient that provision should be made for improving the legal condition of Societies established for the promotion of literature, science, or the fine arts, or for diffusion of useful knowledge, the diffusion of political education or for the charitable purposes

Formation of Society:

- ▶ Any 7 or more persons associated for the purpose form themselves into a Society under the Act.
- ▶ Subscribe their names to Memorandum of Association
- ▶ Filing of MoA and Rules and Regulations (Bye Laws) with the Inspector-General of Registration (under Indian Registration Act, 1908)

Section 2: Memorandum of Association (MoA)

- ▶ MoA shall contain -
- ▶ Name of the Society
- ▶ Objects of the Society
- ▶ Names and addresses and occupations of Governors, Council, Directors, Committee, or other governing body to whom, by the Rules of the Society, the management of its affairs is entrusted.
- ▶ At least 3 members should certify that the Rules and Regulations of the Society shall be filed with MoA.

Section 3: Registration and fee & Certification by Inspector General. The fee paid shall be accounted for the State Government.

Section 4: Annual list of managing body to be filed with Inspector General.

Section 5: Property of Society how vested - in the governing body of Society for the time being. All civil and criminal proceedings may be described as the property of the governing body of such Society in their proper title.

- ▶ Section 6: Suits by and against Societies. A registered society may sue and be sued in the name of the President, Chairman, or Principal Secretary or Trustees as shown in the Rules and Regulations.
- ▶ Section 7: Suits not to abate. Even when the person is changed, the suit or proceeding shall continue in the name or against the successor of such person (office bearer).
- ▶ Section 8: Enforcement of judgment against Society. Against the property of the Society only.

- ▶ Section 9: Recovery of pecuniary penalty imposed for breach of any rule or bye law may be recovered accruing under the bye-law. Recovered through civil court.
- ▶ Section 10: Members liable to be sued as strangers. (for arrears of subscription amounts, injure or destroy property of Society)

Members liable for offences

Section 11: Members guilty of offences punishable as strangers.

(steal, purloin, embezzle any money or property or wilfully and maliciously destroy or injure any property of Society or forge any deed, bond, security for money, receipt, or other instruments, whereby the funds of the Society may be exposed to loss).

Section 12: Power to amend, alter, extend or abridge the purposes of Society.

Requires 10 days notice to all Members of proposed amendments to be approved at a special meeting, and approved by 3/5th of members present.

Section 13: Dissolution of societies - to be approved by 3/5th of members. If State Government is a Member, then consent of State Govt. is mandatory.

Civil Courts have jurisdiction to settle disputes

Section 14: Upon dissolution, no member to receive profit, after satisfaction of all its debts and liabilities. But shall be given to some other Society to be determined by votes not less than $3/5^{\text{th}}$ of members present in meeting at the time of dissolution. In default thereof, Court may decide.

Section 15 : Disqualified member - if arrears in subscription are there after admission. Not entitled to vote whose subscription in arrears exceeds 3 months.

Section 16 : Governing body defined. (Governors, Council, Directors, Committee, Trustees etc. to whom affairs are entrusted by Rules and Regulations.

Section 17 : Registration of Societies formed before Act 1860.

Section 18 : Such societies to file Memorandum etc. with Inspector General.

Section 19: Inspection of documents - to be obtained from Inspector General on payment of nominal fee.

(two annas for every hundred words of such copy or extract !!)

Section 20: To what Societies Act applies:

Charitable Societies, the military orphan funds or Societies established at the several presidencies of India, Societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, the diffusion of political education, the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public, or public museums and galleries of painting and other works or art, collections of natural history, mechanical and philosophical inventions, instruments or designs.

State Law

- ▶ The Andhra Pradesh Societies Registration Act, 2001 (contains 32 Sections divided into V Chapters)
- ▶ (Received assent of Governor on 9.10.2001 and published on 10.10.2001 in AP Gazette).
- ▶ Aims to consolidate and amend the law relating to registration of societies.

- ▶ According to Section 18, Society is to be a 'body corporate' having perpetual succession with common seal, which can sue and be sued by others, enter into contracts, acquire properties in its own name and carry on all activities authorised by its MoA and Bye-Laws.
- ▶ Section 32 : Repeals Societies Registration Act, 1860 in its application to the Andhra area of the State of A.P. and the A.P. (Telangana Area) Public Societies Act, 1350 F.

Your queries

Thank you
&
wish you distinguished public service

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