

# **SECOND REPORT**

**STANDING COMMITTEE ON URBAN & RURAL  
DEVELOPMENT  
(1993-94)**

**(TENTH LOK SABHA)**

**MINISTRY OF URBAN DEVELOPMENT**

**THE CONSTITUTION (SEVENTY-SEVENTH AMENDMENT)  
BILL, 1992**



*Presented to Lok Sabha on 20 August, 1993*

*Laid in Rajya Sabha on 20 August, 1993*

**LOK SABHA SECRETARIAT  
NEW DELHI**

**August, 1993/Sravana, 1915 (Saka)**

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**LIST OF THE MEMBERS OF THE COMMITTEE  
ON URBAN AND RURAL DEVELOPMENT  
(1993-94)**

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**CHAIRMAN**

Shri Prataprao B. Bhosle

**MEMBERS**

**LOK SABHA**

2. Shri P.P. Kaliaperumal
3. Shri N. Sundararaj
4. Shri Bh. Vijaya Kumar Raju
5. Shri Sajjan Kumar
6. Shri Sanipalli Gangadhara
7. Shri Rajesh Khanna
8. Shri Prabhulal Rawat
9. Shri J. Chokka Rao
10. Dr. Y.S. Rajasekhar Reddy
11. Shri Vijayaramaraju Satrucharla
12. Shri Prithviraj D. Chavan
13. Shri K.M. Mathew
14. Shri Surendra Pal Pathak
15. Shri Rampal Singh
16. Shri Devi Bux Singh
17. Shri Madan Lal Khurana
18. Shri Karia Munda
19. Shri Girdhari Lal Bhargava
20. Shri Ram Singh Kashwan
21. Shri Mohd. Ali Ashraf Fatmi
22. Shri Sukhdeo Paswan
23. Shri Gulam Mohammad Khan
24. Shri Sudhir Giri
25. Shri Subrata Mukherjee
26. Shri Dharmabhiksham

27. Shri N. Murugesan
28. Shri Sobhanadreeswara Rao Vadde
29. Shri Shailendra Mahato
30. Shri Frank Anthony

## **RAJYA SABHA**

31. Shri Ramdeo Bhandari
32. Shri Debabrata Biswas
33. Shri Shivprasad Chanpuria
34. Chaudhary Harmohan Singh
35. Shri Satyanarayana Dronamraju
36. Shri Sangh Priya Gautam
37. Shri B.K. Hariprasad
38. Shri Jagmohan
39. Shri Shivajirao Giridhar Patil
40. Shri Ramchandran Pillai
41. Shri Thennala Balakrishna Pillai
42. Shri Ramsinh Rathwa

## **SECRETARIAT**

- |                       |                               |
|-----------------------|-------------------------------|
| Shri G.L. Batra       | — <i>Additional Secretary</i> |
| Shrimati Revathi Bedi | — <i>Deputy Secretary</i>     |
| Shri Haripal Singh    | — <i>Under Secretary</i>      |

## **INTRODUCTION**

I, the Chairman of the Standing Committee on Urban and Rural Development (1993-94) having been authorised by the Committee to submit the Report on their behalf, present this Second Report on the Constitution (Seventy-Seventh Amendment) Bill, 1992.

2. The Bill was referred to the Committee by the Hon'ble Speaker under rule 331 E (b) of Rules of Procedure & Conduct of Business in Lok Sabha. The Bill was considered by the Committee at their sitting held on 4 August, 1993.

3. The Report was considered and adopted by the Committee at their Sitting held on 6 August, 1993.

**PRATAPRAO B. BHOSLE  
CHAIRMAN  
STANDING COMMITTEE ON  
URBAN & RURAL DEVELOPMENT  
(1993-94)**

**NEW DELHI;**

**AUGUST 6, 1993**

**SRAVANA 15, 1915 (SAKA)**

**STANDING COMMITTEE ON URBAN & RURAL  
DEVELOPMENT  
(1993-94)  
(Tenth Lok Sabha)**

**SECOND REPORT**

**THE CONSTITUTION (SEVENTY-SEVENTH AMENDMENT)  
BILL, 1992**

1. The above Bill was referred to the Committee on Urban and Rural Development under Rule 331 E(B) of the Rules of Procedure and Conduct of Business in Lok Sabha by the Hon'ble Speaker for making a report thereon. The Bill seeks to amend Article 323 (B) of Part XIV (A) of the Constitution to insert a new special clause after sub-clause (6) to enable the appropriate legislature of States and Union Territories to enact legislation for the establishment of rent tribunals. The Constitutional amendment will exclude the writ and other jurisdiction of the High Court as provided under Articles 226, 227 and 228 of the Constitution. As in the case of Central Administrative Tribunal, only the jurisdiction of the Supreme Court under Article 136 of the Constitution will be retained in the new set up for adjudicating rent control cases in different States. The proposed amendment is an important element of the Model Rent Legislation which has been approved by the Cabinet.

2. The proposal for setting up rent tribunals has been inspired by the observations of the Supreme Court in 1986 about need to release the Supreme Court and High Court of the heavy burden of rent litigation and to expedite the entire process of litigation. The Supreme Court proposed a National Rent Tribunal on all India basis with quicker procedures. The Jha Commission on Economic and Administrative Reforms recommended the entrustment of administration of Rent Control Legislation to quasi-judicial tribunals. The Jha Commission and the National Commission on Urbanisation appreciated the fact that prolonged litigation to regain possession by the landlords in genuine cases for self-occupation acts as a deterrent disincentive for letting out premises. This results in a large number of vacant flats in a number of cities. The pendency of cases of rent control is as much as 78,000 in Bombay, 39,000 in Calcutta, 23,500 in Karnataka, 17,000 in Punjab and 17,600 in Uttar Pradesh. The annual number of cases instituted in Delhi in the last few years has been of the order of 8,000 to 9,000 cases and the cumulative number of cases from 1972-87 is 1.5 lakhs.

3. The Committee considered the Bill at its sitting held on 4th August, 1993. The Committee appreciated the timely introduction of the amendment of Article 323 (B) of Part XIV(A) of the Constitution.

4. The Committee are of the view that sub-clause 'h' of clause 2 regarding "rent, its regulation and control and tenancy issues" is only an enabling clause. State Governments/Legislatures have been given the discretion to provide for the adjudicating of cases by setting up Tribunals. The Committee have been informed that most of the State Governments have expressed a desire in favour of taking rent control out of the jurisdiction of the Civil Courts and entrusting cases to a separate tribunal with a simple and quick procedure for adjudication. While some States supported a National Level Rent Tribunal, Madhya Pradesh suggested state level tribunals and Kerala suggested district level/state level tribunals. The States of Haryana, Karnataka, Manipur, Meghalaya and Sikkim felt there was no need for Rent Tribunals. The Committee have been further informed that the scheme for setting up rent tribunals will be recommended by Government of India to the State Governments after the constitutional amendment comes into effect.

5. The Committee feel that since this is only an enabling clause it will not be incumbent upon State Governments to set up rent control tribunals. The Committee would like to recommend that legislation by the States in connection with setting up of rent tribunals be passed within one year after the proposed Amendment Bill becomes an Act.



**ANNEXURE**  
**AS INTRODUCED IN LOK SABHA ON 14.7.1992**

**Bill No. 103 of 1992.**

**THE CONSTITUTION (SEVENTY-SEVENTH  
AMENDMENT) BILL, 1992**

**A  
BILL**

*further to amend the Constitution of India.*

**BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows: —**

**1. (1) This Act may be called the Constitution (Seventy-seventh Amendment) Act, 1992.**

**Short  
title  
and**

**(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.**

**com-  
mence-  
ment.**

**2. In article 323B of the Constitution, in clause (2) :—**

**(a) sub-clauses (h) and (i) shall be re-lettered as sub-clauses (i) and (j), and before sub-clause (i), as so re-lettered, the following sub-clause shall be inserted, namely: —**

**Amend-  
ment of  
article.  
323B.**

**(h) rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants;”**

**(b) in sub-clause (i), as so re-lettered, for the brackets and letter “(g)”, the brackets and letter “(h)” shall be substituted;**

**(c) in sub-clause (j), as so re-lettered, for the brackets and letter “(h)”, the brackets and letter “(i)” shall be substituted.**

## STATEMENT OF OBJECTS AND REASONS

The operation of the Rent Control Legislations, as are today in various States, suffers from major weaknesses and has led to various unintended consequences. Some of the deleterious legal consequences include mounting and unending litigation, inability of the courts to provide timely justice, evolution of practices and systems to bypass the operations of rent legislations and steady shrinkage of rental housing market.

2. The Supreme Court, taking note of the precarious state of rent litigation in the country, in the case of *Prabhakaran Nair and others Vs. State of Tamil Nadu* (Civil Writ Petition 506 of 1986 and other writs) observed that the Supreme Court and the High Courts should be relieved of the heavy burden of rent litigation. Tiers of appeals should be curtailed. Laws should be simple, rational and clear. Litigations must come to end quickly. The idea of a National Rent Tribunal on an all-India basis with quicker procedure should be examined.

3. It is proposed to amend article 323B in Part XIVA of the Constitution so as to give timely relief to the rent litigants by providing for setting up of, State-level Rent Tribunals in order to reduce the tiers of appeals and to exclude the jurisdiction of all courts, except that of the Supreme Court, under article 136 of the Constitution.

4. The Bill seeks to achieve the aforesaid objects.

SHEILA KAUL.

NEW DELHI;

*The 23rd June, 1992.*

## EXTRACTS FROM THE CONSTITUTION OF INDIA

•            •            •            •

**323B.** (1) The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, for other complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature has power to make laws.

(2) The matters referred to in clause (1) are the following, namely: —

•            •            •            •

(h) offences against law with respect to any of the matters specified in sub-clauses (a) to (g) and fees in respect of any of those matters;

(i) any matter incidental to any of the matters specified in sub-clauses (a) to (h).

•            •            •            •