

We have been receiving submissions from different ULBs to accord permission for Registration of the City Level Federation under the Co-operative Registration Act instead of the Society Registration Act. A basic comparison between the Co-operative Registration Act and the Society Registration Act has been drawn up and presented below.

1. Cooperative Society Registration Act is to facilitate formation of cooperative societies for the promotion of thrift and self-help among agriculturists, artisans and persons of limited means.

The Statement of Objects and reasons states as follows – (a) Cooperative Society can be established for purpose of credit, production or distribution. (b) Agricultural credit societies must be with unlimited liability. (c) Unlimited society is not best form of cooperation for agricultural commodities. However, the provision is continued as in several States such societies do exist and are working. It is not intended to give them undue encouragement, but to legalise their existence. (d) Unlimited society can distribute profits with permission of State Government.

Society Registration Act- to provide for registration of literary, scientific and charitable societies, Societies established for promotion of science, literature, or for fine arts * Societies established for instruction and diffusion of useful knowledge, diffusion of political education * Societies established for maintenance of libraries or reading rooms for general public * Societies established for Public museums and galleries for paintings or other works of art, collections of natural history, mechanical and philosophical inventions, instruments or designs, Societies established for betterment of citizen.

2. Who can form a society –

Cooperative Society can be formed with at least 10 members of age above 18 years. If object of society is creation of funds to be lent to its members, all the members must be residing in same town, village or group of villages or all members should be of same tribe, class, caste or occupation, unless Registrar otherwise directs. The provision of minimum 10 members or residing in same town/village etc. is not applicable if a registered society is member of another society. The last word in name of society should be 'Limited'. If the Society is registered with limited liability. Registrar is empowered to decide whether a person is agriculturist or non-agriculturist or whether he is resident of same town/village or whether the members belong to same caste/tribe etc. and his decision will be final.

Society can be formed with any seven or more persons associated for literary, scientific or charitable purpose can register a trust by subscribing their names to memorandum of association. The Act envisages filing the memorandum with Registrar of Joint Stock Companies. Practically, the memorandum will have to be filed with Registrar appointed under corresponding State Act. The memorandum of association shall contain name and objects of society and names and addresses of governors/council/ directors or other governing body. Copy of rules and regulations of society will also have to be filed along with memorandum.

3. Restrictions on society with limited liability –

Cooperative Society- If a society has limited liability, any individual member of such society cannot have share capital more than one-fifth of total capital. An individual member cannot have interest in shares exceeding Rs 1,000. This restriction of 20% shares or Rs 1,000 shares value is not applicable to a registered society which is member of another society. Thus, if a registered society is member of another society, it can hold shares exceeding 20% or exceeding Rs 1,000 in value.

In the Society there is no restriction as such.

4. Rights and liabilities of members –

Cooperative Society-If liability of members is not limited by shares, each member shall have one vote irrespective of amount of his interest in the capital. If liability of members of a registered society is limited by shares, each member will have as many votes as may be prescribed in bye-laws. If a registered society has invested in shares of other registered society, it can vote by appointing a proxy. A member of registered society shall not exercise his rights as member, unless he has made payment to society in respect of membership or has acquired interest in society, as may be prescribed by rules or bye-laws. Thus, if there is any default in payment to society, the member cannot exercise his rights.

Society-OFFICE BEARERS NOT PERSONALLY LIABLE – Section 8 makes it clear that though suit against society is instituted in name of some person, he is not personally liable, but property of society will be liable.

5. Body corporate –

A registered Cooperative Society is a body corporate with perpetual succession and common sea. (just like a company). It can hold property, enter into contracts, institute and defend suit and other legal proceedings and to do all things necessary for the purposes of its constitution.

Society is not a body corporate. This is evident from following – (a) Entry 32 in List II of Schedule to Constitution itself uses the words ‘unincorporated’ (b) As per section 4, property of society vests in governing body, if not vested in trustees. Thus, property does not vest in society as such. (c) Section 6 states that suit by or against society can be only in name of President, Chairman, Principal Secretary or Trustees, as determined by rules of society. Thus, suit cannot be in name of society as such.

6. Priority claim of society dues from member –

A registered Cooperative Society is entitled to priority to other creditors and enforce outstanding demand due to society from any member. However, the priority is subject to prior claims of (a) Government dues in respect of land revenue or (b) Dues of landlord in respect of rent receivable by the landlord. The priority of society is in respect of following – (a) Supply of seed or manure or loan for purchase of seed or manure. The priority is upon the crops or other agricultural produce upto 18 months from date of supply of seed/manure or loan. (b) Supply of cattle or fodder of cattle, agricultural implements or machinery or raw materials or loan for these. The priority is upon the cattle/fodder/ machinery / raw materials supplied or any articles manufactured from raw materials supplied or purchased form loan given by society.

MEMBERS OF SOCIETY – A member is a person who is admitted according to rules and regulations of society and who pays subscription, or signed the roll or list of members, and who has not resigned from membership. A member can be sued as stranger for arrear in subscription or if he injures or destroys property of society. Member guilty of offence of stealing, embezzlement or wilful destruction of society property can be punished as stranger, i.e. not a member.

7. Dissolution of society –

Cooperative Society -Registrar, after inspection or inquiry, or on application received from 75% of members of society, may cancel the registration of society, if in his opinion, the Society should be dissolved. Any member can appeal against the order of Registrar within two months to State Government or other Revenue Authority authorised by State Government. If no appeal is filed within two months, the order of dissolution shall become effective. If appeal is filed, the order will become effective only after it is confirmed by appellate authority.

Society can alter, extend or abridge its purposes, or amalgamate with other society after approval of general meeting of members. Society can be dissolved if three-fifths of members determine to do so. Upon dissolution, balance amount should be given to other society and not to any member.

As per the 'Revised Operational Guidelines' for Social Mobilisation & Institution Development (SM&ID) under the DAY-NULM programme issued vide No.K-11/12/2017-UPA-III (E-3146312) dated 18th July, 2018, it has been clearly mentioned under point 2.2 (copy at the cp-1-2) 'Area Level Federation may be formed with 10 – 20 SHGs covering an area of Ward or slum or such other geographical unit with the minimum of 2 (two) members (nominated representative) per SHG'.

It has been further explained in point No.2.3 (copy at the cp-1-2) 'An ALF should be registered as a Society/ an Association under the relevant law of the State. Model Bye-laws for ALFs are at Annexure-II. However these are only indicative and ALF should be encouraged to make their own bye-laws.

Similarly for the CLF as mentioned in point No.3.1 (copy at the cp-3-4) of the Operational Guidelines 'ALFs will come together to form a City Level Federation (CLF). It is expected that the each City will have atleast 1 (one) CLF. The CLF should be registered as Society/ Association under relevant law of the State. All ALFs in a City should be represented at the CLF.

Therefore in the context mentioned above, we may examine the issue to register the ALF/ CLF under the Co-operative Society Registration Act instead of the Society Registration Act as is being done currently.

The entire issue may be examined by the Law Officer in the context of the NULM guidelines and the provisions of the Co-operative Society Registration Act and the Society Registration Act.

In this connection, the letter from Chairman, Madhyamgram Municipality placed at cp-5 may kindly be seen.

Law Officer

Chandhan
09.10.19
AMD

1. It appears from the previous note sheet ALF/CLF which are running currently are being registered under the Societies Registration Act 1860. Section 20 of the said Act 1860 lays down that the societies which are basically established for charitable purposes are Governed by the provision by this act.
2. On the otherhand, West Bengal Co-operative Societies Act 2006 has been introduced to promote Co-operative Societies for their equity, justice and economy development to fulfil Directive Principal of the State Policy. In the preamble of this Act, It has been stated that is the object of the legislature to promote self help, mutual aid, among the people with needs and interest in common.
3. As per point no. 2.3 at CP-1 and ALF should be registered as society/an association under relevant law of the State.
4. Therefore, the proposal of Madhyamgram Municipaity may be considered if desire by the higher authority.

L.O.
Shatterjee
17/10/19

Notes at page-1-5/N may kindly be seen.

This is the proposal to permit Area Level Federations (ALFs) & City Level Federations (CLFs) to be registered under the West Bengal Co-operative Registration Act, 2006. The matter has been examined by the Law Officer of SUDA and her opinion is mentioned at page-5/N. This would then enable the ALF & CLF to transact business with other entities which is the key to increase in livelihood of the SHG members.

Director, SUDA

Shankar
24/10/19
AMD

LO's view above.
A consolidated proposal be placed with
ALF/CLF details for submission before
the department.

Self 01/11/19

~~AMD/SET~~

S. Panni SMM

Chandhan

17/1/19

This is the proposal for registration of Area Level Federation (ALF)/ City Level Federation (CLF) under the Co-operative Registration Act instead of the Society Registration Act.

Under the NULM programme, representatives from the SHGs in a Ward constitute an ALF (there should be atleast 10 SHGs in a Ward for ALF to be constituted). Similarly with representatives from the ALF from the Ward a CLF is to be constituted.

So far, the ALFs and the CLFs have been registered under the Societies Registration Act, 1860. As per Section-20 of the said Act, the Societies are basically established for charitable purposes and are governed by the provisions of this act.

Business/ commercial activities are not permitted within the Societies Registration Act.

Instead it is proposed that the ALF and the CLF may be registered under the West Bengal Co-operative Registration Act, 2006 wherein it is permissible to transact business/ commercial activities by the ALFs and the CLFs. Enhancement of the livelihood is contingent on business/ commercial activities. Therefore, we may be permitted to register the ALFs and the CLFs under the West Bengal Co-operative Registration Act, 2006. Presently there are 1792 ALFs already in place and it is expected that almost all Wards have an ALF and CLF to be constituted in a Town by the end of fiscal 2019.

Director, SUDA

Chandhan
24.11.2020
AMD