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SAHAKARA DHARMA PEETAM

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Letter No. SDP/27/2022

Date: 6-6-2022

To,

The Governor

Reserve Bank of India RBI
Mumbai.

Respected Sir,

**Subject: Managing Committee of a Cooperative Bank may unable to honour the guide lines –
May not issue Shares to Non-members–Section 12(1) of Banking Regulation(Amndnt.)
Act-2020 can't be legally implementable–Hence the guide lines needs to be withdrawn
- Sahakara Dharma Peetam appeals- Reg.**

Reference : Notification of RBI/2022-23/31 DOR.CAP.REC.22/09.18.201/2022-23, dated 19-04-2022.

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Sahakara Dharma Peetam is a dharmika samstha, propagating the Sahakar dharm among the public, which are the noble ideals prevailing in the Universe. Dharma will not prevail, unless Sahakara dharma is implemented. The implementation of the Cooperative Sector is an obligatory for the governments to achieve the goals of the Preamble of our Constitution. Strong Cooperative Sector is the guarantee for the Private Sector for it's survival, where in the democracy would be flourished.

With reference to the above subject and the referred letter in the reference, the Sahakara Dharma Peetam brings the facts about non implementable of the Section 12(1) of the Banking Regulation(Amendment) Act-2020 and appeals the RBI to withdraw the notification referred in the reference in the larger interests of the Indian economy, particularly of the Cooperative Sector vis-à-vis Indian rural economy.

The Rural Cooperative Credit structure is being built in 75 years with the sacrifices of the Farmers and the staff of Primary Agricultural Cooperative Societies PACS. If it is, dismantled with this notification, it is unnatural and a sin. It is impossible to re built again in this aggressive Market economy. Rural economy will be paralysed, socio-economic unrest prevail. Think of strengthening the Indian economy. Think as a patriotic Citizen. Strengthening of Cooperative Sector and the Private Sector is must for the healthy economy of India. It is a prime duty of the RBI to look after the Private Sector and the Cooperative Sector. As a Father, would you kill the younger Son to benefit the elder Son? No. So let us allow the surviving of the Cooperative Banks and let the dharma is prevailed.

The implementation of this Section is the sign of exhibiting the damn face of the Private Sector and drags the Indian rural economy to the back ages of 1840s and sowing a seed for the another movement for the economic democracy of India. Instead of impressing the Political Authority about the need of surviving the Cooperative sector in the present aggressiveness of the Market economy, the RBI is being supporting the Private Sector in capturing the Cooperative Sector. With great respect and honour to the RBI, but with great anguish this action reminds me of stabbing the Raja by his Senaadhpathi. Very sad. The RBI has to answer the History.

Section 12(1) of Banking Regulation(Amendment) Act-2020 can't be legally implementable, How?

1. The RBI is the regulatory authority of the Banking Sector, to implement this Section, RBI is bypassing the limit of its authority.
2. Cooperative system in the rural India is the national economic policy given by the Constitution of India through the Article 43.
3. The Cooperatives will not come under the Article 12 of the Constitution which defines the Governments Property, Supreme Court declared in the case no. 9017/2013. Hence Cooperatives are not Government property. Then how could the Central Government have the right to privatize the Farmers owned Cooperative Banks?
4. If the Section is implemented;
 - a) The Ideals enshrined in the Preamble of the Constitution,
 - b) Article 19(1)(g),
 - c) Article 38(1),(2),
 - d) Article 39(a), (b), (c) and
 - e) Article 43, are all deemed to have no effect or removed. The Hon'ble Parliament did not discuss these.
5. Further the Cooperation is the State Subject. Supreme Court had strike down a part, which dealt in encroaching the States rights, in the 97th Constitutional Amendment Act, in July 20, 2021. These Cooperative Banks are registered under State Cooperative Act, where in, the issue of Shares to Members is dealt. Then how could the Shares issue is again incorporated in Central Act; the Banking Regulation(Amendment) Act-2020. Hence this Section 12(1) is deemed to be un-Constitutional.
6. Any authority comes from the Act or the basic Principles of the Organization. In this case Cooperative Principles are the base, on which the Cooperative Act is emerged. Selling of Shares in open market or to the non-members is not allowed in the Cooperative Principles. Hence the Member/Managing Committee won't have the authority to sell to non-members.
7. Cooperative system is organized in the interest of the whole community. The Cooperative Principles are enunciated by the International Cooperative Alliance ICA, are being incorporated in our Cooperative Acts. If any member does not like the Principles or system, he or the Managing Committee had no right to change them, the option is to withdraw from member ship. Then how could the Managing Committee of the Cooperative Bank proceed in issuing the Shares to non-members? It can't be. It is a violation to the Cooperative Principles and Cooperative Act.
8. If this Section is implemented, the basic nature of the Indian Constitution would be changed. i.,e. hereafter the credit needy Citizen could not have the right to do jointly the Cooperative Banking business. To be clear, that the small farmers, rural artisans and agriculture labourers would lost their right to do Cooperative Banking business through their Primary Cooperatives. That means in India, the Private Banking only prevail.
9. After privatization of the Cooperative Banks, the emblem and Cooperative word would be continued to exhibit. That means the Government would be allowing to mislead the Public and the Depositors, to make them to belief as if it is a Cooperative Bank.

The above 9 points makes it clear that the Section 12(1) of the Banking Regulation(Amendment) Act-2020 is not implementable one. Hence, the above referred notification needs to be withdrawn for honouring the Constitution of India.

Fact No.1

Cooperative Sector Vs Private Sector

Private Sector	Cooperative Sector
1. Aim; To earn income on Shares.	1. Aim; To get the services and to become economic self-reliant
2. Association of Capital	2. Association of Human beings(Users)
3. Share Capital is an investment from the income of an individual (Investor).	3. Share Capital is the portion set aside from the User (member) necessities, not an investment from the income of the member.
4. Investor's economy.	4. User's economy.
5. Joint Stock Company form of business is its main tool.	5. Federation of Primary Cooperatives is the main tool and it is a back bone for the Cooperative movement
6. Regulated by the Company Act and Partnership Act.	6. Regulated by the Cooperatives Acts.
7. Profit distribution is in the ratio of their share Capital.	7. Surplus distribution; it is patronage dividend.
8. Control vests in accordance with the size of the Shares holding.	8. Control vests in the members equally and democratically controlled.
9. Centralizes the 'Production', 'Marketing' and the 'Wealth'.	9. Decentralizes the 'Production', 'Marketing' and the 'Wealth'.
10. Exploitation is in its' nature.	10. Principle action is to eliminate the exploitation.
11. Economic rights of the people are suppressed.	11. Promotes the economic rights of the people.
12. Curtails the peoples' economic democracy.	12. Seeks to establish the economic democracy.
13. The fittest only survives.	13. Makes all the User members economically self-reliant.
14. It is an Exclusive Growth Strategy	14. It is an Inclusive Growth Strategy.

With the above table it is ample clear that the Private Sector and the Cooperative Sector are different economic systems having their independent Identity.

Fact No. 2

Adopting the Cooperative System is the Constitutional obligation;

In India, the adopting the Cooperative system is not an option for the Governments, but it is a Constitutional obligation for them. The Constitutional Committee headed by Dr. B.R. Ambedkar, placed the Cooperative Policy implementation in such a way that, it is not an option but a constitutional obligatory for the governments by considering the drawbacks of the Private sector and the ethics & value based Cooperative sector.

Neither of the goals of the Preamble of the Constitution would be achieved through the implementation of the Private sector but it widens the gap between Haves and Have nots, hence the Constitutional Committee headed by Dr. B.R. Ambedkar did not make the Cooperative policy implementation an option but an obligation.

Here, are the provisions of the Constitution of India.

Preamble of the Constitution;

1 WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a 1 [SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens:
JUSTICE, social, economic and political;
LIBERTY of thought, expression, belief, faith and worship;
EQUALITY of status and of opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the 2 [unity and integrity of the Nation];

1. **38. State to secure a social order for the promotion of welfare of the people.—**

1 (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

2. 2 (2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

3. **39. Certain principles of policy to be followed by the State.—**

The State shall, in particular, direct its policy towards securing—

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

4. **43. Living wage, etc., for workers.—**

The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or **co-operative basis in rural areas.**

5. **43B. Promotion of co-operative societies.—**

The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.]

6. **19. Protection of certain rights regarding freedom of speech, etc.—**

(1) All citizens shall have the right—

(c) to form associations or unions 2 [or co-operative societies];

(g) to practise any profession, or to carry on any occupation, trade or business.

7. **246. Subject-matter of laws made by Parliament and by the Legislatures of States.—**

(3) Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the —State List||).

Fact No.3

International Cooperative alliance ICA stated that:

- Cooperation means the system of People voluntarily associated, working together on terms of equality to eliminate their economical exploitation by middlemen in respect of any economic need common to them, simultaneously themselves, eschewing the economic exploitation of other.
- Cooperative system is organized in the interest of the whole community and is based upon mutual self-help and the cooperative movement seeks to substitute this system for the profit making regime.

Cooperative system recognizes the concept of “surplus” and the need of the “Capital”. Cooperatives are association of human beings, not of Capital. The Cooperatives pays limited interest which may have below the bank rate on the Share Capital. Cooperative is a distinct economic system based on its own Principles, having the comprehensive properties of inter-relation, producing the results and the answers to the principal economic problems.

A Cooperative Society is a human association, with the principles of;

1). Voluntary and Open Membership, 2). Democratic Member Control and 3). Education, Training and Information.

Cooperation is an economic enterprise and a system providing the inter-relation among Cooperatives and with the rest of the other economies with the principle of;

1). Member Economic Participation, 2). Autonomy and Independence 3). Cooperation among Cooperatives and 4). Concern for Community.

Identity of Cooperatives;

I. Limited Interest is on Share Capital

Members join the Cooperative to get the services, not to accumulate interest on share capital.

In Private sector, the shareholders buy shares to earn income on shares.

II. Cooperatives Shares can't be sold/transferred.

As per the Cooperative Principles and its Philosophy, the Shares in the Cooperatives can't be sold or transferred. It is the basic and core principle of the Cooperative System, universally accepted and as enunciated by the International Cooperative Alliance (ICA), accordingly our State Cooperative Acts and Multi State Cooperative Act are being incorporated the same principle and all the Cooperatives are following.

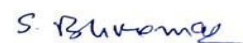
III. It is Surplus, not Profit in Cooperatives.

There is no Profit in Cooperatives, it is Surplus. Dividend is paid from the Surplus. Surplus is, what remains after all the expenses of running a Cooperative enterprise are met. “Cooperative movement refuses to recognize profit, either as the objective or obligation of the cooperative enterprises or the yardstick of its efficiency”.

Thanking you Sir. We hope that the notification would be withdrawn.

Note: The letter addressed to SCB/DCCBs is attached.

Sincerely



(Sambharapu Bhoomaiah)
Dharmakartha
Sahakara Dharma Peetam

Copy Submitted to;

1. All the Chief Ministers and the Cooperative Ministers
2. NCUI, NAFSCOB NAFCOB and other Federations
3. All SCBs and DCCBs