

Bill No. 102 of 2019

THE COMPANIES (AMENDMENT) BILL, 2019

By

SHRIMATI SUPRIYA SULE, M.P.

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BILL

further to amend the Companies Act, 2013.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 2019.

Short title and
commencement.

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

18 of 2013. 5 **2.** In section 135 of the Companies Act, 2013 (hereinafter referred to as the principle Act),—

Amendment
of section
135.

(a) in sub-section (3),—

(i) after clause (a), the following proviso shall be inserted, namely:—

10 "Provided that while formulating and recommending Corporate Social Responsibility Policy, the activities mentioned under entries (i), (ii), (iia), (iv) and (v) of the Schedule VII relating to health and education shall be given priority in expenditure to be undertaken by the Company;"

(ii) for clause (b), the following clause shall be substituted, namely:—

"(b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a) on priority basis, with at least sixty per cent. of the Corporate Social Responsibility expenditure by the companies shall be incurred in health and education related activities mentioned under entries (i), (ii), (iia), (iv) and (v) of the Schedule VII;" 5

(b) in sub-section 4, after clause (a), the following proviso shall be inserted, namely:—

"Provided that the Corporate Social Responsibility Policy of the company shall have provision for priority spending of at least sixty per cent. of its Corporate Social Responsibility expenditure on activities mentioned under entries (i), (ii), (iia), (iv) and (v) of the Schedule VII;" 10

(c) in sub-section (5), for the second proviso and explanation thereto, the following proviso and explanation thereto shall be substituted, namely:—

"Provided further that the company shall spend at least sixty per cent. of the amount earmarked for Corporate Social Responsibility on activities mentioned under entries (i), (ii), (iia), (iv) and (v) of the Schedule VII including expenditure on health and education in vernacular languages; 15

Explanation.— For the purposes of this section —

(a) "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198; and 20

(b) "expenditure on education in vernacular languages" shall mean investment to promote primary and secondary education in local languages."

3. In Schedule VII of the principal Act,—

(a) after entry (ii), the following entry and explanation thereto shall be inserted, namely:— 25

"(iia) promotion of primary and secondary education in vernacular languages.

Explanation.—For the purpose of this clause, "vernacular languages" shall mean any local language in which education is imparted to at least fifty students; and". 30

STATEMENT OF OBJECTS AND REASONS

Article 350A of the Constitution of India, under Special Directives, directs the States and local authorities to provide facilities for instruction of education in the mother-tongue at primary level. It reads as—'It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities'.

Thus Government has the responsibility and the child has the right to have primary education in the local and vernacular languages prevalent in the State, so long as there is sufficient demand for it. This importance of primary education to the child in mother-tongue is recognised by various Education Commissions constituted since 1948. For example, the Conference of Education Ministers of the State (1948) recommended that mother-tongue be adopted as a medium of instruction in schools at primary and secondary levels. Research study by UNESCO on the impact of mother-tongue based instruction on children learning at primary levels, revealed that mother tongue based education particularly benefited children from linguistic minorities, rural areas and girls. In such cases, there were found to be less dropouts and better learning outcomes. As per another research study in 2002, parents are also more likely to participate in the education process of their child and communicate with teachers, when education is provided to children in mother-tongue.

Another research suggests that the ability of the child to learn a second language is not inhibited, when the medium of instruction in the primary school is their mother-tongue. On the contrary, studies establish that literacy in mother-tongue lays down strong linguistic and cognitive foundation for learning a second language.

Despite this importance of health and education, the Corporate Social Responsibility (CSR) earmarked expenditure on health and education out of the total CSR expenditure has not increased much. In 2014-15 just eighteen per cent. of CSR expenditure was spent on healthcare and only twenty-six per cent on education, totalling development sector spending to around forty-four per cent. In the next two financial years, the CSR related expenditure on health and education plateaued off around forty-four per cent — forty-eight per cent.

The Bill, therefore, seeks to amend the Companies Act, 2013 with a view to:—

- (a) recognise the importance of primary and secondary education in the mother tongue;
- (b) provide for spending of at least sixty per cent. amount earmarked for Corporate Social Responsibility (CSR) by companies, on priority basis on health and education in mother-tongue at primary and secondary level; and
- (c) provide for companies to spend on primary and secondary education in local languages, as long as there are at least fifty students demanding it.

The Bill thus champions for the availability of healthcare services, primary education in local languages, rights of linguistic minorities, by mandating individual companies to prioritise their CSR expenditure in them.

Hence this Bill.

NEW DELHI;
June 6, 2019.

SUPRIYA SULE

ANNEXURE

EXTRACT FROM THE COMPANIES ACT, 2013

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135. (1) * * * * * Corporate
(2)* * * * * Social
* * * * * Responsibility.

(3) The Corporate Social Responsibility Committee shall,—

(a) formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII;

(b) recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and

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(4) The Board of every company referred to in sub-section (1) shall,—

(a) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and

* * * * *

(5) The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy:

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:

Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount.

Explanation.— For the purposes of this section —average net profit shall be calculated in accordance with the provisions of section 198.

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SCHEDULE VII

(See section 135)

Activities which may be included by companies in their Corporate Social Responsibility Policies Activities relating to:—

(i) eradicating extreme hunger and poverty;

(ii) promotion of education;

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BILL

further to amend the Companies Act, 2013.

(Shrimati Supriya Sule, M.P.)