

Bill No. 18 of 2008

THE DELIMITATION (AMENDMENT) BILL, 2008

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BILL

further to amend the Delimitation Act, 2002.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Delimitation (Amendment) Act, 2008.

Short title and
commence-
ment.

(2) It shall be deemed to have come into force on the 14th day of January, 2008.

5 2. In section 10 of the Delimitation Act, 2002 (hereinafter referred to as the principal Act),—

Amendment
of section 10.

(i) in sub-section (4), the following proviso shall be inserted, namely:—

“Provided that nothing in this sub-section shall apply to the delimitation orders published in relation to the State of Jharkhand.”;

10 (ii) in sub-section (6), for the words “within two years of the constitution of the Commission”, the words “within a period not later than 31st day of July, 2008” shall be substituted.

Insertion of
new sections
10A and 10B.

3. After section 10 of the principal Act, the following sections shall be inserted,
namely:—

Deferment of
delimitation in
certain cases.

“10A. (1) Notwithstanding anything contained in sections 4, 8 and 9, if the
President is satisfied that a situation has arisen whereby the unity and integrity of
India is threatened or there is a serious threat to the peace and public order, he may, by
order, defer the delimitation exercise in a State. 5

(2) Every order made under this section shall be laid before each House of
Parliament.

Delimitation
Commission's
order with
respect to the
State of
Jharkhand not
to have any
legal effect.

10B. Notwithstanding anything contained in sub-section (2) of section 10, the
final orders relating to readjustment of number of seats and delimitation of constituencies
in respect of the State of Jharkhand published under the said section *vide* Order O.N.
63(E), dated 30th April, 2007 and O.N. 110(E), dated 17th August, 2007 shall have no
legal effect and the delimitation of the constituencies as it stood before the publication
of the said Orders shall continue to be in force until the year 2026 in relation to every
election to the House of the People or to the Legislative Assembly, as the case may be,
held after the commencement of the Delimitation (Amendment) Act, 2008.”. 15

Repeal and
savings.

4. (1) The Delimitation (Amendment) Ordinance, 2008 is hereby repealed. Ord.
1 of 2008.

(2) Notwithstanding such repeal, anything done or any action taken under the principal
Act, as amended by the said Ordinance, shall be deemed to have been done or taken under
the corresponding provisions of the principal Act, as amended by this Act. 20

STATEMENT OF OBJECTS AND REASONS

Parliament enacted the Delimitation Act, 2002 and under its provisions, a Delimitation Commission was set-up to readjust the division of each State and Union territory into territorial constituencies for the purpose of elections to the House of the People and to the State Legislative Assemblies on the basis of 2001 Census. The Delimitation Commission has since completed the delimitation exercise in 25 States/Union territories.

2. As the work of the Delimitation Commission progressed, new issues started coming to the fore and several concerns have been expressed regarding the on going delimitation exercise. The concerns expressed in regard to delimitation are varying in nature. They include issues, such as, shifting of constituencies, making reserved constituencies unreserved or *vice versa*, migration of people from tribal States to non-tribal States, migration of people in a State from rural areas to urban areas, etc. In the North-East States, even the census figures had been questioned in courts as incomplete and defective. The issues in regard to delimitation of constituencies are serious and very sensitive in nature and they may have impact even on the law and order situation in some parts of the country.

3. In this background, the Government considered the amendments in the Delimitation Act, 2002 with a view to reducing the adverse impact of the delimitation exercise and it was decided that:

(i) new section 10A may be added which should *inter alia* enable the President to defer delimitation exercise in a State in order to preserve and protect the national unity and integrity or where there is a serious threat to the peace and public order;

(ii) Delimitation Commission's order made with respect to the State of Jharkhand may be nullified and to continue the existing delimitation orders until the year 2026 in respect of that State.

4. In view of the exigencies explained in the preceding paragraphs, it became necessary to promulgate an Ordinance to insert a suitable provision (section 10A) in the Delimitation Act, 2002 for the deferment of the delimitation exercise in the North-East States; and to take care of the situation obtaining in the State of Jharkhand to insert a new section 10B and a proviso to sub-section (4) of section 10 of the Act so as to reduce the adverse impacts of the delimitation.

5. As Parliament was not in session and the President was satisfied with the circumstances which rendered it necessary for her to take immediate action to take care of the situation in the North-East States and the Jharkhand by promulgation of the Delimitation (Amendment) Ordinance, 2008 on the 14th January, 2008.

6. The Delimitation (Amendment) Bill, 2008 seeks to replace the Delimitation (Amendment) Ordinance, 2008.

NEW DELHI;

HANS RAJ BHARDWAJ.

The 21st February, 2008.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill provides for insertion of new section 10A which empowers the President to make an order for deferment of delimitation exercise in any State, if he is satisfied that a situation has arisen whereby the unity and integrity of India is threatened or there is a serious threat to the peace and public order.

2. The clause empowers the Government to assess the situation in the North-East States, namely, Arunachal Pradesh, Assam, Manipur and Nagaland as to whether the conditions prevailing there are conducive for the conduct of delimitation exercise by the Delimitation Commission and enable the Government to take follow-up action, if necessary, by advising the President to defer the delimitation exercise in such States.

3. The order made under the Bill is also required to be laid before Parliament. The delegation of legislative powers is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE DELIMITATION ACT, 2002

(33 OF 2002)

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10. (1) * * * *

Publication of orders and their date of operation.

(4) Subject to the provisions of sub-section (5), the readjustment of representation of the several territorial constituencies in the House of the People or in the Legislative Assembly of a State and the delimitation of those constituencies provided for in any such order shall apply in relation to every election to the House or to the Assembly, as the case may be, held after the publication in the Gazette of India of that order and shall so apply in supersession of the provisions relating to such representation and delimitation contained in any other law for the time being in force or any order or notification issued under such law in so far as such representation and delimitation are inconsistent with the provisions of this Act.

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(6) The Commission shall endeavour to complete and publish each of its orders referred to in sub-section (1) in the manner provided in that sub-section, within two years of the constitution of the Commission under section 3.

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LOK SABHA

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BILL
further to amend the Delimitation Act, 2002.

(Shri Hans Raj Bhardwaj, Minister of Law and Justice)