

Bill No. XIII of 2008

THE CONSTITUTION (AMENDMENT) BILL, 2008

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further to amend the Constitution of India.

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 Constitution (Amendment) Act, 2008.

Short title and
commencement.

(2) It shall come into force, at once.

5 2. In article 148 of the Constitution, —

Amendment
of art. 148

(i) after clause (1) the following shall be inserted, namely:—

"Provided that no serving bureaucrat other than that belonging to the Indian Audit and Accounts Service shall be eligible for appointment under clause (1)."

(ii) after clause (4) the following shall be inserted, namely:—

10 "*Explanation:* In this clause office includes the office of Governor of a State, Lt. Governor or Administrator of a Union Territory or any other office like the Chairman of the Finance Commission, - etc. whose appointment is made by the President or Governor of a State on the advice of the Council of Ministers of the Union or the State, as the case may be."

STATEMENT OF OBJECTS AND REASONS

The office of the Comptroller and Auditor-General of India is one of the most pivotal offices in the Government of India as provided in the Constitution. In the words of Dr. B.R. Ambedkar, the architect of our Constitution, the Comptroller and Auditor-General is the most important officer as he is the guardian of Indian purse and ensures that not a farthing is spent out of the Consolidated Fund of India or of a State without the authority of the appropriate legislature. It is, therefore, essential that this office should be independent of any control of the executive.

In order to ensure the independence of this office of any control of the executive, provision has been made in the Constitution that the CAG once appointed, can be removed in like manner and on the like grounds as a Judge of the Supreme Court. His salary and other conditions of service cannot be varied to his disadvantage after his appointment. Further to ensure his impartiality and uprightness it has been laid down that he shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

However, in actual practice during the last over 50 years there have been serious violations of the principles laid down for ensuring impartiality of this office in so far as a number of serving and retired bureaucrats have been appointed as Controller and Auditor General. Moreover in one case of CAG after retirement was appointed as the Chairman of the Finance Commission and another retired CAG was appointed as a Governor in 2002. Obviously such appointments are against the spirit of the provisions of the Constitution relating to this office. Accordingly Clauses 1 and 4 of Article 148 of the Constitution are proposed to be amended to ensure that such violations are not repeated.

Hence this bill.

RAJEEV CHANDRASEKHAR

RAJYA SABHA

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further to amend the Constitution of India.

(Shri Rajeev Chandrasekhar, M.P.)