

CSR AMENDMENT RULES COULD PUT DEVELOPMENT SECTOR ON VENTILATOR

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The Ministry of Corporate Affairs has recently invited public comments on the Companies Amendment Rules, 2020. The same is still in public domain and open for comments till 28th March, 2020. At a time when the country faces a coronavirus pandemic and where the development sector is doing a humanitarian service through communication, advocacy and on-ground work to help the communities they serve, the ministry has silently tabled this at a critical juncture.

The heart of development in India has been through the non government sector, including Trusts and Societies. Many of them have been also been generously funded by companies after their committee evaluates the NGO, checks its track record and impact. The ministry's new plan could systematically make NGOs irrelevant, which are at the very heart of development and have timelessly worked to shape the nation.

Over 90 percent of NGOs in India are Trusts and Societies, duly registered under Laws passed as an Act of Parliament--to merely exclude them from the rules is draconian and cruel.

NGOs work passionately with limited resources and humane concerns. Soliciting funds from companies to create social impact was one of the decent means to work towards nation building.

This absurd draft rule to exclude trusts and societies means to paralyse funding, which meant survival for many NGOs, which meant job opportunities for many social workers and which meant real world development in the eyes of stakeholders and communities, importantly the most vulnerable.

What is in India's interest?

The Ministry must urgently realise that governance by exclusion is not in India's interest. The Prime Minister is working hard to build brand India at a world level and on the other hand such rules are killing the nation silently.

The framed draft rules must urgently add "Registered" Trusts and Societies with proven track record to be included in the rules and not just favour section eight companies alone.

Companies must also be encouraged to work with NGOs where the company stakeholders are not involved. Only then will there be synergy created in the true spirit of development.

The draft proposed new Rule 4 should read as follows: "CSR Implementation

(1) The Board shall ensure that the CSR activities are undertaken by the company itself or through:

(a) Registered public charitable trust under Indian Registration Act 1908 invoking principles of Public Trust or section 8 company or a society registered under the Act of 1860 (as may be amended by state legislature) and having proven track record with demonstrable professional touch.

(b) Any entity registered or established under an Act of Parliament or a State legislature or any entity registered under an Act of Parliament or a State legislature including a public charitable trust or a society (as may be amended by state legislature).

Provided that such company/entity covered under clause (a) or (b), shall register itself with the central government for undertaking any CSR activity by filing the e-form CSR-1 with the Registrar along with prescribed fee.

Provided further that the provisions of this sub-rule shall not affect the CSR projects or programmes that were approved prior to the commencement of the Companies (CSR Policy) Amendment Rules, 2020."

Only once the Ministry of Corporate Affairs makes these changes, will Indian NGOs stand protected and can re-discover the essential Industry-NGO interaction and work together. The government therefore must be mindful to protect and defend NGOs who have worked hard for the nation and not merely discard them in a manner tabled right now.

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