PACS as Business Correspondents: Untenable Step of NABARD

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(Note submitted for discussion at the National Workshop on PACS being organized by NCUI on 6th September, 2013 at New Delhi)

The recent circular (22nd July, 2013) of National Bank for Agricultural and Rural Development (NABARD) advising District Central Cooperative Banks (DCCBs) and State Cooperative Banks (StCBs) to convert Primary Agricultural Credit Societies (PACS) as their business correspondents (BCs) by taking over their asset and liabilities has expectedly raised strong reactions from certain sections of the co-operative sector. The critics have dubbed it as one with the potential to end the very existence of PACS which could severely harm the farmer level access to credit.

The subsequent press release issued by NABARD clarifying its own guidelines though apparently has allayed some of the fears but leaves many valid questions unanswered about the approach of NABARD in implementing the policy of PACS as BCs. NABARD’s step comes in the wake of the recommendations made by an Expert Committee of Reserve Bank of India (RBI) about the future role of Short-term Credit Cooperative Societies in India. While the recommendation of the Expert Committee of Reserve Bank of India (RBI) on PACS prompting action from NABARD itself may need a debate going by the reactions; what is ominous is the entire approach of NABARD in implementing the recommendation. The manner in which NABARD has gone about implementing the decision smacks of high handedness with utter disregard for the autonomy of the states and the spirit of the independence of co-operatives enunciated in the Constitution post Ninety-seventh amendment.

The circular of NABARD, among others, advise StCBs and DCCBs: (i) to transfer all lending related assets and liabilities and deposits of PACS to DCCBs/SCBs, (ii) to stop PACS from accepting deposits and own lending, (iii) to transfer loan linked share capital of PACS, and (iv) make loanees and depositors of PACS as members of DCCBs/SCBs. The DCCBs/SCBs and PACS have to enter into agreements to accomplish the said transfers.

There were clear qualifications made by the Expert Committee and RBI for implementing these recommendations. The Expert Committee of RBI had stated that such a step should go with ‘suitable amendments in the respective state cooperative societies act with necessary changes in rules and byelaws’. RBI in its advice to NABARD had indicated that ‘the recommendations of the Committee to transfer assets and liabilities of PACS to CCBs may be accepted subject to legal provisions, if any and as applicable to functioning of the PACS…..’

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Despite these stipulations, NABARD’s advice fully ignores the role expected of the states to bring about the required changes in the cooperative legislations to make the transfer legally tenable. The circular is silent as to whether the extant legal provisions are adequate or not, and if not, in what way states can facilitate this. Moreover, it fails to give any kind of choice to PACS as autonomous entities owned by the farmers to decide their own destiny. It is this stance of NABARD, more than the BC concept, which stands exposed for its legal and constitutional impropriety. RBI/NABARD may enjoy certain privileges over state governments on regulatory matters especially pertaining to cooperative banks; the rights of the states and the cooperatives, however, cannot be ignored when it comes to issues that affect the basic character of the cooperatives as member owned bodies. Even the transparency of the process adopted by NABARD is under a cloud as it has not revealed, for the information of all stakeholders, the further clarifications issued by RBI on the issue as alluded by NABARD in its circular.

NABARD’s circular claims that the changes envisioned do not alter the organizational form of PACS except for their business orientation. On the contrary, the advice that PACS no longer can take-up lending and savings activities and that all their primary members along with the assets and liabilities stands transferred to DCCBs/StCBs clearly alters the basic character of PACS. PACS were established for credit and savings activities at the primary level. Without savings and credit activity and primary members the basic form of PACS does not remain same. Even the form of DCCBs which are federal cooperatives drawing their membership from primary societies may change significantly if they enroll the primary members of PACS. These steps affect not just the form of the cooperatives but even the interests of the members. No regulatory authority, how-so-ever authorized, can directly make such an advice without involving the state. The least NABARD could have done was clarifying the existing legal provisions on the changes visualized.

The new constitutional framework as laid down by the Ninety-seventh amendment emphasizes on guarding the autonomy and democratic character of cooperatives when it comes to regulatory and governance matters. Thus, the method adopted by NABARD in directing these cooperatives to change their basic form contravenes the constitutional spirits. In all these measures, DCCBs/StCBs which are supposed to benefit by such a transfer by way of augmentation of their capital base are being advised to act on behalf of PACS as if they are the owners. The need of neo-liberal regulatory requirement thus is coming at the cost of compromising the democratic character of cooperatives.

While much of the subsequent clarifications issued by NABARD have been aimed at rationalizing the stand of NABARD and the Expert Committee, a major saving grace is the view expressed at the end that only those co-operatives which wish to shift may adopt the BC mode. If giving choice for PACS is important and envisioned, the original circular of NABARD needs to be rectified with a more formal clarification rather than by way of a mere press release by chairman of NABRD which may not hold waters legally. The argument that RBI had already issued instruction in 2010 that PACS can act BCs of commercial banks ignores the fact that this was not a compulsion imposed on PACS.

The approach of Expert Committee in arriving at its stand also warrants a few comments here. The Committee which was chaired by the head of NABARD failed to conduct a wider
consultation on the issue. The state governments were never taken on board in the process. May be NABARD being a wholesale lender itself had a vested interest in deciding the fate of cooperatives in a certain way. The PACS whose basic form was under scrutiny were given no opportunity to air their views though only indirectly certain national level associations like NAFSCOB made representation on their behalf. There was an attempt to short-circuit the discussion in the committee by the Chairman as the Committee could meet only twice. A study conducted by this author on behalf of the Expert Committee brought out many of the challenges that would emerge if any restructuring of the three-tier cooperative credit system were to be attempted by overlooking the existing strengths. Despite these, the Committee members agreed for the recommendations as certain safeguards were included in the report by way exploring the legal provisions clearly by the state governments and the cooperatives before the recommendations were accepted and implemented. These safeguards, if adhered to, would have automatically brought the state governments and cooperatives into the picture to have a say at least before the recommendations were implemented however sound they were as per the Expert Committee. By ignoring this, NABARD was not just acting in haste but was displaying its top-down ethos towards the cooperatives.

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