

2.1.1 - RESERVATION POLICY : ADMISSION

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TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

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Part IV—Section 2

Tamil Nadu Acts and Ordinances

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 19th July 1994 and is hereby published for general information :—

ACT No. 45 OF 1994.

An Act to provide for reservation of seats in educational institutions in the State and of appointments or posts in the services under the State for the Backward Classes of citizens and for persons belonging to the Scheduled Castes and the Scheduled Tribes in the State of Tamil Nadu.

WHEREAS the policy of reservation for the social, economic and educational advancement of the people belonging to Backward Classes of citizens in admissions to educational institutions in the State and for appointments in the services under the State has been under implementation in the State of Tamil Nadu for a long time ;

AND WHEREAS the State of Tamil Nadu is a pioneer State in providing reservation for the underprivileged and the first communal Government Order was passed in the year 1921 and the proportional representation for communities was made in the year 1927 in the State of Tamil Nadu ;

AND WHEREAS a large percentage of population of Tamil Nadu suffering from social and educational backwardness for many years have started enjoying the fruits of the reservation policy and have been able to improve their lot and attain a higher standard of living ;

AND WHEREAS clause (4) of Article 15 of the Constitution enables the State to make any special provision for the advancement of any socially and educationally Backward Classes of citizens or for the Scheduled Castes and the Scheduled Tribes ;

AND WHEREAS clause (4) of Article 16 of the Constitution enables the State to make any provision for the reservation of appointments or posts in favour of any Backward Class of citizens which, in the opinion of the State, is not adequately represented in the services under the State ;

AND WHEREAS under clause (1) of Article 38 of the Constitution, the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of the national life ;

AND WHEREAS under clause (2) of Article 38 of the Constitution, the State shall, in particular, strive to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations ;

AND WHEREAS under clause (b) of Article 39 of the Constitution, the State shall, in particular, direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good ;

AND WHEREAS under clause (c) of Article 39 of the Constitution, the State shall in particular, direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment ;

AND WHEREAS under Article 46 of the Constitution, the State shall promote, with special care, the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation ;

AND WHEREAS the representatives of the various political parties and social forums representing backward classes have requested the State Government to consider all the ramifications of the Supreme Court judgment, dated the 16th day of November 1992 in *Indra Sawhney Vs. Union of India* (AIR. 1993 SC 477) regarding reservations under clause (4) of Article 16 of the Constitution and take steps to protect their interests adequately ;

AND WHEREAS in the opinion of the State Government, Backward Classes of citizens, and the persons belonging to the Scheduled Castes and the Scheduled Tribes, who constitute the majority of the total population of the State are not adequately represented in the services under the State in proportion to their population in the State of Tamil Nadu ;

AND WHEREAS the State Government have, after careful consideration, taken a policy decision that the existing level of sixty-nine per cent reservation in admission to educational institutions in the State and in the services under the State, for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, should be continued for ensuring the advancement of the majority of the people of the State of Tamil Nadu ;

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-fourth Year of the Republic of India as follows :—

title,
and
commencement.

1. (1) This Act may be called the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993.

(2) It extends to the whole of the State of Tamil Nadu.

(3) (a) Sections 2, 3, 4, 5, 6 and 8 shall be deemed to have come into force on the 16th day of November 1992.

(b) Section 7 shall be deemed to have come into force on the 15th day of March 1993.

duration.

2. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles laid down in Part IV and in particular, in Article 38, clauses (b) and (c) of Article 39 and Article 46 of the Constitution.

definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Backward Classes of citizens" means the class or classes of citizens who are socially and educationally backward, as may be notified by the Government in the *Tamil Nadu Government Gazette*, and includes the Most Backward Classes and the Denotified Communities ;

(b) "educational institution" means—

(i) any college or other educational institution, maintained by the State, or receiving aid out of the State funds, or affiliated to any university established by law including an university college and a constituent college; or

(ii) any institute or training centre recognised or approved by the Government,

with the object of preparing, training or guiding its students for any certificate, degree or diploma or other academic distinctions granted or conferred by any University, or authority established or approved in this behalf by the Government;

(c) "Government" means the State Government;

(d) "Scheduled Castes" shall have the same meaning as in the Constitution;

(e) "Scheduled Tribes" shall have the same meaning as in the Constitution.

4. (1) Notwithstanding anything contained in any judgment, decree or order of any court or other authority, having regard to the social and educational backwardness of the Backward Classes of citizens and the persons belonging to the Scheduled Castes and the Scheduled Tribes who constitute the majority of the total population of the State of Tamil Nadu, the reservation in respect of the annual permitted strength in each branch or faculty for admission into educational institutions in the State, for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, shall be sixty-nine per cent.

Reservation
of seats in
educational
institutions.

(2) The reservation referred to in sub-section (1) shall, in respect of the persons belonging to the Backward Classes, the Most Backward Classes and Denotified Communities, the Scheduled Castes and the Scheduled Tribes, be as hereunder:—

(a) Backward Classes Thirty per cent.

(b) Most Backward Classes and Denotified Communities. Twenty per cent.

(c) Scheduled Castes Eighteen per cent.

(d) Scheduled Tribes One per cent.

5. (1) Notwithstanding anything contained in any judgment, decree or order of any court or other authority, having regard to the inadequate representation in the services under the State, of the Backward Classes of citizens and the persons belonging to the Scheduled Castes and the Scheduled Tribes, who constitute the majority of the total population of the State of Tamil Nadu, the reservation for appointments or posts in the services under the State, for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, shall be sixty-nine per cent.

Reservation
in appoint-
ments or
posts in the
services under
the State.

Explanation.—For the purposes of this Act, "services under the State" includes the services under—

(i) the Government;

(ii) the Legislature of the State;

(iii) any local authority;

(iv) any corporation or company owned or controlled by the Government; or

(v) any other authority in respect of which the State Legislature has power to make laws.

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(2) The reservation referred to in sub-section (1) shall, in respect of the persons belonging to the Backward Classes, the Most Backward Classes and Denotified Communities, the Scheduled Castes and the Scheduled Tribes, be as hereunder :—

- (a) Backward Classes Thirty per cent.
- (b) Most Backward Classes and Denotified Communities.} Twenty per cent.
- (c) Scheduled Castes Eighteen per cent.
- (d) Scheduled Tribes One per cent.

reservations
not to be
affected.

6. Notwithstanding anything contained in sections 4 and 5, the claims of the students or members belonging to the Backward Classes of citizens or the Scheduled Castes or the Scheduled Tribes, shall also be considered for the unreserved seats, appointments or posts which shall be filled on the basis of merit and where a student or member belonging to the Backward Classes of citizens or the Scheduled Castes or the Scheduled Tribes, is selected on the basis of merit, the number of seats, appointments or posts reserved for the Backward Classes of citizens or for the persons belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, shall not in any way be affected.

classifi-
cation of
Backward
Classes of
citizens.

7. The Government may, from time to time, based on the reports presented at the appropriate periods to the Government by the Tamil Nadu Backward Classes Commission constituted in G.O. Ms. No. 9, Backward Classes and Most Backward Classes Welfare Department, dated the 15th day of March 1993, by notification, classify or sub-classify the Backward Classes of citizens for the purposes of this Act.

power to
make rules.

8. (1) The Government may make rules for carrying out the purposes of this Act.

(2) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

Validation.

9. Notwithstanding anything contained in any judgment, decree or order of any court or other authority, the reservation of sixty-nine per cent made, and anything done or any action taken on the basis of such reservation, by the Government for admissions into educational institutions in the State and for appointments or posts in the services under the State, for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, during the period commencing on the 16th day of November 1992 and

ending with the date of the publication of this Act in the *Tamil Nadu Government Gazette*, shall, for all purposes be deemed to be and to have always been, validly made, done or taken in accordance with law, as if this Act had been in force at all material times when such reservation has been made and such thing done, or action taken.

10. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the *Tamil Nadu Government Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty :

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of two years from the date of the publication of this Act in the *Tamil Nadu Government Gazette*.

(By order of the Governor)

M. MUNIRAMAN,
Secretary to Government,
Law Department.