

L. A. BILL No. I OF 2024.

A BILL

to specify certain communities as the Socially and Educationally Backward Classes in relation to the State of Maharashtra and to provide for reservation of seats for admission in educational institutions in the State and for reservation of posts for appointments in public services and posts under the State to such Socially and Educationally Backward Classes in the State of Maharashtra for their advancement and for matters connected therewith or incidental thereto.

(As passed by the Legislative Assembly on the 20th February, 2024.)

(As passed by the Legislative Council on the 20th February, 2024.)

WHEREAS it is expedient to specify certain communities as the Socially and Educationally Backward Classes in relation to the State of Maharashtra and to provide for reservation of seats for admission in educational institutions in the State and for reservation of posts for appointments in public services and posts under the State to such Socially

and Educationally Backward Classes in the State of Maharashtra for their advancement and for matters connected therewith or incidental thereto; it is hereby enacted in the Seventy-fifth Year of the Republic of India, as follows :—

Short title and commencement.

1. (1) This Act may be called the Maharashtra State Reservation for Socially and Educationally Backward Classes Act, 2024.

(2) It shall come into force on the date of publication of this Act in the *Official Gazette*.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “admission authority”, in relation to admissions to educational institutions, means the authority having supervisory and controlling powers over the educational institutions responsible for admissions to particular educational institutions ;

(b) “appointing authority”, in relation to public services and posts, means the authority empowered to make appointments to such services and posts ;

(c) “Competent Authority” means the Competent Authority appointed under section 7 ;

(d) “educational institutions” includes the educational institutions in the State of Maharashtra owned and controlled by the Government, which receives grant-in-aid from the Government, universities established by or under the relevant Maharashtra Acts, private educational institutions, whether aided or un-aided by the State, other than the minority educational institutions referred to in clause (1) of article 30 of the Constitution of India.

Explanation.—For the purposes of this clause, the expression “private educational institutions” means institutions which have been given either prior to coming into force of this Act or thereafter, aid in the form of Government land at concessional rates or any other monetary concessions by the Government, or are recognized, permitted, supervised or controlled by the Government ;

(e) “establishment” means any office of the Government or of a local authority or statutory authority constituted under any Act of the State Legislature for the time being in force, or university or company or corporation or co-operative society in which share capital is held by the Government or any Government aided institutions.

Explanation.—For the purposes of this clause, the expression “Government aided institutions” shall also include institutions or industries which have been given, either prior to coming into force of this Act or thereafter, aid in the form of Government land at concessional rates or any other monetary concessions by the Government or is recognized, licensed, supervised or controlled by the Government ;

(f) “Government” or “State Government” means the Government of Maharashtra ;

(g) “prescribed” means prescribed by rules made under this Act ;

(h) “public services and posts” means the services and posts in connection with the affairs of the State and includes services and posts in,—

(i) a local authority ;

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XXIV of
1961.

(ii) a co-operative society registered under the Maharashtra Co-operative Societies Act, 1960, in which the Government is a share holder ;

18 of 2013.

(iii) a board or a corporation or a statutory body established by or under a Central Act or a State Act which is owned and controlled by the Government, or a Government company as defined in the Companies Act, 2013 ;

(iv) an educational institution owned and controlled by the Government, which receives grant-in-aid from the Government including a university established by or under a Maharashtra Act; and

(v) any other establishment in respect of which reservation was applicable by Government orders on the date of commencement of this Act and which are not covered under sub-clauses (i) to (iv) ;

(i) “reservation” means the reservation of seats, for admission in educational institutions and reservation of posts for appointments in the public services and posts to the persons belonging to Socially and Educationally Backward Classes in the State ;

(j) “Socially and Educationally Backward Classes” means the Socially and Educationally Backward Classes as specified under this Act for the purposes of the State of Maharashtra in accordance with article 342A of the Constitution of India ;

(k) “State” means the State of Maharashtra.

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2004.

(2) The words and expressions used in this Act, but not defined, shall have the same meanings respectively assigned to them in the Maharashtra State Public Services (Reservation for Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes) Act, 2001.

3. The Maratha Community is hereby specified as the Socially and Educationally Backward Class for the purposes of the State.

Socially and
Educationally
Backward
Class in
State.

4. (1) This Act shall apply to all the direct recruitments and appointments made in the public services and posts in the State except,-

Applicability.

(a) the super specialized posts in medical, technical and educational field ;

(b) the posts to be filled by transfer or deputation ;

(c) the temporary appointments of less than forty-five days duration ; and

(d) the post which is single (isolated) in any cadre or grade.

(2) This Act shall also apply, for admissions in educational institutions including private educational institutions, whether aided or un-aided by the State, other than the minority educational institutions referred to in clause (1) of article 30 of the Constitution of India.

(3) The State Government shall, while entering into or renewing an agreement with any educational institution or any establishment for the grant of any aid as provided in the explanation to clauses (d) and (e) of section 2, respectively, incorporate a condition for compliance of the provisions of this Act, by such educational institution or establishment.

(4) For the removal of doubts, it is hereby declared that nothing in this Act shall affect the reservation provided to the Other Backward Classes under the Maharashtra State Public Services (Reservation for Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes) Act, 2001 and the Maharashtra Private Professional Educational Institutions (Reservation of seats for admission for Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes and Other Backward Classes) Act, 2006.

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2006.

Reservation
of seats for
admission in
educational
institutions,
appointments
in public
services and
posts under
State for
Socially and
Educationally
Backward
Classes.

5. (1) Notwithstanding anything contained in any judgment, decree or order of any court or other authority, and subject to the other provisions of this Act,—

(a) ten per cent. of the total seats in educational institutions including private educational institutions, whether aided or un-aided by the State, other than minority educational institutions referred to in clause (1) of article 30 of the Constitution of India ; and

(b) ten per cent. of the total appointments in direct recruitment in public services and posts under the State,

shall be separately reserved for the Socially and Educationally Backward Classes :

Provided that, the above reservation shall not be applicable to the posts reserved in favour of the Scheduled Tribes candidates in the Scheduled Areas of the State under the Fifth Schedule to the Constitution of India as per the notification issued, from time to time, by the Governor, in this behalf.

(2) The principle of Creamy Layer shall be applicable for the purposes of reservation to the Socially and Educationally Backward Classes under this Act and reservation under this Act shall be available only to the persons belonging to the Socially and Educationally Backward Classes who are not falling in Creamy Layer.

Explanation.—For the purposes of this sub-section, the expression “Creamy Layer” means the person falling in the category of Creamy Layer as declared by the Government by general or special orders issued in this behalf, from time to time.

Reservation
not to be
affected.

6. Notwithstanding anything contained in section 5, the claims of students or persons belonging to Socially and Educationally Backward Classes shall also be considered for the allotment on unreserved seats and appointments on public services and posts which shall be filled on the basis of merit, and where students or persons belonging to such classes is selected on the basis of merit, the number of seats and appointments reserved for the Socially and Educationally Backward Classes, shall not in any way be affected.

Competent
Authority.

7. (1) The Government may, by notification in the *Official Gazette*, appoint any officer not below the rank of the District Social Welfare Officer to be the Competent Authority for such area as may be specified in such

notification for the purposes of carrying out the provisions of this Act and the rules made thereunder.

(2) The Competent Authority shall exercise such powers and perform such functions, as may be prescribed.

8. (1) If in respect of any recruitment year, any vacancy reserved for Socially and Educationally Backward Classes of persons remains unfilled, such vacancy shall be carried forward upto five years in case of direct recruitment :

Carrying forward of reserved vacancies.

Provided that, on the date of commencement of this Act, if any Government Order, Resolution, Circular and Office Memorandum regarding filling of posts is in force then, the same shall continue to be in force unless modified or revoked by the Government :

Provided further that, if the sanctioned posts are not adequate to allocate atleast one post for each reserved category, then the reserved post shall be filled in by applying the principle of rotation in accordance with the Government roster orders or rules as may be prescribed or modified in this behalf.

(2) When a vacancy is carried forward as provided in sub-section (1), it shall not be counted against the quota of the vacancies reserved for the concerned classes of persons for the recruitment year to which it is carried forward :

Provided that, the appointing authority may, at any time, undertake a special recruitment drive to fill up such unfilled vacancies and if such vacancies remain unfilled even after such special recruitment drive then, it shall be filled up in the manner prescribed by the Government.

9. (1) The Government may, by order in writing, entrust upon every admission authority or appointing authority or any officer under such authority, with the responsibility of ensuring the compliance with the provisions of this Act.

Responsibility and powers for compliance of Act.

(2) The Government may, in the like manner, invest the admission authority or appointing authority or officer with such powers or authority as may be necessary for such authority or officer, to effectively discharge such duty assigned to such authority or officer.

10. (1) Any admission authority or appointing authority or officer or employee entrusted with the duty or responsibility who willfully acts in a manner intended to contravene or defeat the purposes of this Act shall, on conviction, be punished with imprisonment for a term which may extend to ninety days or fine, which may extend to twenty-five thousand rupees, or with both.

Penalty.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government or officer authorized in this behalf by the Government.

11. When it comes to the notice of the Government or is brought to its notice that any person belonging to Socially and Educationally Backward Classes is adversely affected, on account of non-compliance with the provisions of this Act or the rules made thereunder or the Government orders

Power to call for records.

issued in this behalf, by any admission authority or appointing authority, it may call for such records and pass such appropriate orders as it deems fit.

- Procedure of issuance of Caste Certificate and Validity Certificate. **12.** The provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 and the Maharashtra Scheduled Castes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Rules, 2012, shall *mutatis mutandis* apply for issuance of Caste Certificate and Validity Certificate for Maratha Community as Socially and Educationally Backward Class, for the purposes of this Act. Mah. XXIII of 2001.
- Representation in selection committee. **13.** The Government may, by an order, provide for nomination of officers belonging to Socially and Educationally Backward Classes in selections, screening and departmental committee for the purpose of selecting persons for appointment to public services and posts.
- Irregular admissions and appointments void. **14.** Any admissions or appointments made in contravention of the provisions of this Act shall be void.
- Competent Authority to be public servant. **15.** The Competent Authority appointed under section 7 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.
- Protection of action taken in good faith. **16.** No suit, prosecution or other legal proceeding shall lie against the Competent Authority or its officers, for anything which is in good faith done or intended to be done under this Act or the rules or orders made thereunder.
- Power to make rules. **17.** (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.
(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in any rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of notification of such decision 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 or omitted to be done under that rule.
- Savings. **18.** (1) The provisions of this Act shall not apply to the cases in which selection process has already been initiated before the commencement of this Act, and such cases shall be dealt with in accordance with the provisions of law and the Government orders as they stood before such commencement.
Explanation.—For the purposes of this section, the selection process shall be deemed to have been initiated where, under the relevant service rules,—
(i) recruitment is to be made on the basis of written test or interview only, and such written test or the interview, as the case may be, has started; or

(ii) recruitment is to be made on the basis of both, written test and interview and such written test has started.

(2) The provisions of this Act shall not apply to admissions in educational institutions and the cases in which the admission process has already been initiated before the commencement of this Act and such cases shall be dealt with in accordance with the provisions of law and the Government orders, as they stood before such commencement.

Explanation.- For the purposes of this section, the admission process shall be deemed to have initiated where,—

(i) admission is to be made on the basis of any entrance test, and procedure for such entrance test has started; or

(ii) in case of admission to be made other than on the basis of entrance test, the last date for filling the form is lapsed.

19. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Power to
remove
difficulty.

Provided that, no such order shall be made after expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Mah. LXII of 2018. **20.** (1) The Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments in the public services and posts under the State) for Socially and Educationally Backward Classes (SEBC) Act, 2018 is hereby repealed.

Repeal and
savings.

1 of 1904. (2) The provisions of section 7 of the Maharashtra General Clauses Act with regard to effect of repeal shall apply.

**MAHARASHTRA LEGISLATURE
SECRETARIAT**

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**[SHRI EKNATH SHINDE,
Chief Minister.]**

**[As passed by the Legislative
Assembly on the 20th February, 2024.]**

**[As passed by the Legislative
Council on the 20th February, 2024.]**

**JITENDRA BHOLE,
Secretary (1) (I/C),
Maharashtra Legislative Council.**