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महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक १६२

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

IndiaCode

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of 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 (Mah. Act No. LXII of 2018), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,
Secretary (Legislation) to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. LXII OF 2018.

[First published, after having received the assent of the Governor in the "*Maharashtra Government Gazette*", on the 30th November 2018.]

An Act 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 Socially and Educationally Backward Classes of Citizens (SEBC) in the State of Maharashtra for their advancement and for matters connected therewith or incidental thereto.

WHEREAS it is expedient 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 Socially and Educationally Backward *Classes of Citizens* (SEBC) in the State of Maharashtra for their advancement

and for matters connected therewith or incidental thereto ; it is hereby enacted in the Sixty-ninth Year of the Republic of India, as follows :—

Short title and commencement.

1. *(1)* This Act may be called 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.

(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 appointment to such services and posts ;

(c) "Competent Authority" means the Competent Authority appointed under section 6 ;

(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, including a University established by or under the relevant Maharashtra Acts, 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.

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 a University or a Company or a Corporation or a 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 ;

Mah. XXIV of 1961.

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

(*iii*) a Board or a Corporation or a statutory body established by or under a Central or a State Act which is owned and controlled by the Government, or a Government company as defined in the Companies Act, 1956 or the Companies Act, 2013 ;

1 of 1956. 18 of 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 of posts for appointments in the public services and posts to the members of Socially and Educationaly Backward Classes of Citizens (SEBC) in the State ;

(j) "Socially and Educationally Backward Classes of Citizens (SEBC)" includes the Maratha Community declared to be Educationallly and Socially Backward Category (ESBC)in pursuance of the Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments or posts in the public services under the State) for Educationally and Socially Backward Category (ESBC) Act, 2014.

Mah. I of 2015.

(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.

Mah. VIII of 2004.

3. *(1)* This Act shall apply to all the direct recruitments, appointments made in 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 admission 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 with the provisions of this Act, by such educational institution or establishment.

(4) For the removal of doubts it is herby 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.

Mah. VIII of 2004. Mah. XXX of 2006.

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

4. *(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*) sixteen 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*) sixteen 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 (SEBC) including the Maratha Community :

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 on the 9th June 2014 in this behalf.

(2) The principle of Creamy Layer shall be applicable for the purposes of reservation to the Socially and Educationally Backward Classes (SEBC) under this Act and reservation under this Act shall be available only to those persons who are below 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 in the Social Justice and Special Assistance Department, by general or special orders issued in this behalf, from time to time.

Reservation not to be affected.

5. Notwithstanding anything contained in section 4, the claims of students or members belonging to Socially and Educationally Backward Classes (SEBC) 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 a student or member 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 (SEBC), shall not in any way be affected.

Competent Authority.

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

Carrying forward of reserved vacancies.

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

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.

Responsibility and powers for compliance of Act.

8. *(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.

(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.

Penalty.

9. *(1)* Any admission authority or appointing authority or officer or employee entrusted with the duty or responsibility who wilfully acts in a manner intended to contravene or defeat the purpose 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 five thousand rupees, or with both.

(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.

Power to call for records.

10. 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 (SEBC) is adversely affected, on account of non-compliance with the provisions of this Act or the rules made thereunder or the Government orders 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.

Representation in selection Committee.

11. The Government may, by an order, provide for nomination of officers belonging to Socially and Educationally Backward Classes (SEBC) in selections, screening and Department Committee for the purpose of selecting persons for appointment to public services and posts.

Irregular admissions and appointments void.

12. Any admissions or appointments made in contravention of the provisions of this Act shall be void.

Competent Authority to be public servant.

45 of 1860.

13. The Competent Authority appointed under section 6 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith.

14. 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.

15. *(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.

16. *(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 up the application form is lapsed.

Power to remove difficulty.

17. *(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 :

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.

Repeal and savings.

18. (*1*) On the commencement of this Act, the Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments or posts in the public services under the State) for Educationally and Socially Backward Category (ESBC) Act, 2014 shall stand repealed. Mah. I of 2015.

(2) The repeal of the said Act shall not affect,—

(i) anything done or any action taken or purported to have been done or taken including any rule, notification, order, circular or direction issued under the Act so repealed ; or

(ii) any appointment made, any selection process initiated, admissions taken in any educational institutions, any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed ; or

(iii) any penalty, confiscation or punishment incurred in respect of any contravention under the Act so repealed ; or

(iv) any investigation, legal proceeding or remedy instituted before the commencement of this Act may be continued or enforced as if this Act has not been enacted.

Mah. I of 2015.

(v) any declaration made in pursuance of the provisions of the Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments or posts in the public services under the State) for Educationally and Socially Backward Category (ESBC) Act, 2014 and such declaration shall continue to be in force as if it is made under this Act.

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