

Registered No. HSE/49

[Price : Rs. 2-40 Paise.



తెలంగాణ రాజపత్రము
THE TELANGANA GAZETTE
PART IV-A EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 6] HYDERABAD, SUNDAY, APRIL 16, 2017.

TELANGANA BILLS
TELANGANA LEGISLATIVE ASSEMBLY

The following Bill was introduced in the Telangana
Legislative Assembly on 16th April, 2017.

L.A. BILL No. 6 OF 2017.

**A BILL 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 SCHEDULED TRIBES IN THE
STATE OF TELANGANA AND FOR MATTERS
CONNECTED THEREWITH OR INCIDENTAL
THERETO.**

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WHEREAS, the policy of reservation for the social, economic and educational advancement of the 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 combined State since a long time;

AND WHEREAS, the State of Telangana has come to be formed with effect from 02-06-2014 in terms of the provisions under the Andhra Pradesh Reorganisation Act, 2014 (Central Act 6 of 2014);

AND WHEREAS, clause (4) of Article 15 of the Constitution of India 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 (5) of Article 15 of the Constitution enables the State to make any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30;

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, according to 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, a Commission of Inquiry set up by the Government of Telangana in March, 2015 to study socio-economic and educational conditions of Muslims in Telangana, submitted its report in August, 2016, and the said report was referred to the Telangana State Commission for Backward Classes constituted in October, 2016, to examine the report in detail and give its advice and recommendations;

AND WHEREAS, the said Backward Classes Commission after studying carefully the relevant material, the reports containing quantifiable data and appropriate methodology of measuring deprivation, established backwardness among certain Backward Classes under category BC-E in the Telangana State whose concentration is higher in Telangana region, observing that the newly formed State of Telangana has much higher proportion of Backward Classes / Weaker sections particularly the 'BC.E' communities compared to the undivided State of Andhra Pradesh; and there is sufficient data to show the social and educational backwardness among 'BC.E' groups in many respects and they suffer even more discrimination as well as deprivation, and after engaging with public discourse, recommended to provide additional 6% reservation for 'BC.E' group;

AND WHEREAS, a Commission of Inquiry for Scheduled Tribes has been constituted by the Government of Telangana in the year 2015 to study and prepare a comprehensive report on the relative increase of the Scheduled Tribes population in the State and their social and economic backwardness etc. and accordingly the Commission after issuing public notifications, conducting public hearings and intensive village study of certain villages in the State, collecting the required data at the village level, having interviews with certain eminent personalities including Civil Society Organisations, inspecting the Integrated Tribal Development Agencies and other organisations / officers working for the development for the Tribals, *inter-alia* recommended to fix the reservation of 9.08% from the existing 6% in favour of the Tribals in the State according to the population percentage of the Tribals in Telangana State;

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 Telangana;

AND WHEREAS, the State Government have, after careful consideration of the said reports along with the recommendations, keeping in view the population of the Backward Classes of citizens and the persons belonging to the Scheduled Castes and Scheduled Tribes in the State, their social and educational backwardness, inadequate representation in proportion to their population, come to a conclusion that there is every need for revision of the existing level of reservation in admission to educational institutions in the State and in the services under the State for them and accordingly decided to revise the percentage of reservation for the Backward Classes of citizens and for the persons belonging to the Scheduled Tribes, in admission to educational institutions in the State and in the services under the State for ensuring their advancement in the State of Telangana;

Be it enacted by the Legislature of the State of Telangana in the Sixty-eighth Year of the Republic of India, as follows:-

1. (1) This Act may be called the Telangana 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, 2017.

Short title extent and commencement.

(2) It extends to the whole of the State of Telangana.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

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.

Declaration.

**Defini-
tions.**

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 Telangana State Gazette from time to time.

(b) "Educational Institutions" 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 of Telangana;

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

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

**Reserva-
tion of
seats in
educatio-
nal Insti-
tutions.**

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 Telangana, 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 62% percent.

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

I. Backward Classes - Thirty Seven percent

Group - A - Seven per cent.

Group - B - Ten per cent.

Group - C - One per cent.

Group - D - Seven per cent.

Group - E - Twelve per cent.

II. Scheduled Castes - Fifteen per cent.

III. Scheduled Tribes - Ten per cent.

5. (1) Notwithstanding anything contained in any judgement, decree or order of any Court or other authority, having regard to the inadequate representation in the services, 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 Telangana, 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 62% percent.

Reserva-
tion 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. State Government;

ii. State Legislature of Telangana;

iii. any local authority;

iv. any Corporation or Company, entity, owned and controlled by the Government; or

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

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

I. Backward Classes - Thirty Seven per cent.

Group - A - Seven per cent.

Group - B - Ten per cent.

Group - C - One per cent.

Group - D - Seven per cent.

Group - E - Twelve per cent

II. Scheduled Castes - Fifteen per cent.

III. Scheduled Tribes - Ten 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 belong to the Scheduled Castes or the Scheduled Tribes, as the case may be, shall not in any way be affected.

Classification of Backward Classes of citizens.

7. The Government, may from time to time, based on the advice and recommendations made by the Telangana Backward Classes Commission, from time to time, may 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 Telangana 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 under this Act shall immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall with effect from the date of notification of such modification or annulment in the Telangana Gazette, be notified have effect only in such modified form or shall stand annulled, 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.

9. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Telangana 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
difficul-
ties.

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

STATEMENT OF OBJECTS AND REASONS

The policy of reservation for the social, economic and educational advancement of the Backward Classes of citizens in admissions to educational institutions and for appointments in the services under the State has been under implementation in the combined State since a long time and it was on the population ratio in the entire State including the Telangana region.

The Hon'ble Supreme Court of India in their judgement in *Indra Sawhney vs. Union of India* reported in AIR 1993 SC 477 *inter alia* observed that reservations under clause (4) of article 16 of the Constitution may exceed 50% of the appointments or posts by making out a case showing existence of extraneous circumstances for exceeding the limit.

Subsequently, article 15 and 16 of the Constitution have been amended vide Constitution (Ninety-third Amendment) Act, 2005 and Constitution (Eighty-first Amendment) Act, 2000 respectively and on challenge of the same, the Hon'ble Supreme Court of India in their judgments in *M. Nagaraj & others vs. Union of India & others* [(2006) 8 SCC 212] and *Ashoka Kumar Thakur vs. Union of India* [(2008) 6 SCC.1] *inter-alia* laid down that if a State wants to exceed 50% of reservation, then it is required to base its decision on the quantifiable data.

The formation of the Telangana State on 2nd June, 2014, was the culmination of a long and dedicated struggle to fulfil the aspirations of the people of Telangana. Its population according to the Census of 2011 was 3.51 crores. One of the major concerns raised during the formation of this new State was inclusive development of its marginalized populations. The proportion of various communities such as Scheduled Castes (SCs), Scheduled Tribes (STs) and religious minorities particularly the Muslims in Telangana has increased post-bifurcation. This is mainly due to the higher concentration of those communities in the Telangana region *vis-a-vis* Rayalaseema and Coastal Andhra regions of undivided Andhra Pradesh. Thus, post bifurcation, the share of Scheduled Tribes in the State increased from 7.11% in the undivided Andhra Pradesh to 9.08% in newly formed Telangana State. Similarly, the share of Muslims in Telangana increased from 9.56% in the undivided Andhra Pradesh to 12.68% (44.64 lakhs) in Telangana.

Keeping the above in view, the State Government constituted two Commissions of Inquiry, to examine the need for special measures including enhancing percentage of the reservation for the socially and educationally Backward Classes / Communities to uplift Backward Classes of citizens and persons belonging to Scheduled Castes and Scheduled Tribes from their backwardness and bring them on par with other sections of the society.

The Commission of Inquiries set up by the Government of Telangana under the Chairmanship of Sri G. Sudhir, I.A.S. (Retd.) to study socio-economic and educational conditions of Muslims in Telangana, submitted its report to the Government on 12-08-2016 and the report has been referred to the Telangana State Commission for Backward Classes constituted on 22-10-2016 to examine the report in detail and give its advice and recommendations.

The said Backward Classes Commission after studying carefully the relevant material, the reports containing quantifiable data and appropriate methodology of measuring deprivation, established backwardness among certain Backward Classes under category 'BC.E' in the Telangana State whose concentration is higher in Telangana region, observing that the newly formed State of Telangana has much higher proportion of Backward Classes / Weaker sections particularly the 'BC.E' communities compared to the undivided State of Andhra Pradesh; and there is sufficient data to show that the social and educational backwardness among 'BC.E' groups in many respects and they suffer even more discrimination as well as deprivation, and after engaging with public discourse, recommended to provide additional 6% reservation for 'BC.E' group.

The Commission of Inquiries constituted under the Chairmanship of Sri S. Chellappa, I.A.S. (Retd.) for Scheduled Tribes by the State Government in the year 2015, mainly to study and prepare a comprehensive report on the relative increase of the Scheduled Tribes population in the State and their social and economic backwardness etc., after issuing public notifications, conducting public hearings and intensive village study of certain villages in the State, collecting the required data at the village level, having interviews with certain eminent personalities including Civil Society Organisations, inspecting the Integrated Tribal Development Agencies and other organisations/officers working for the development for the Tribals, *inter-alia* recommended to enhance the reservation of 9.08% from the existing 6% in favour of the Tribals in the State according to the population percentage of the Tribals in Telangana State.

The State Government have, after careful consideration of the said reports along with the recommendations, keeping in view the population of Backward Classes of citizens and the persons belonging to the Scheduled Castes and Scheduled Tribes in the State, their social and educational backwardness, inadequate representation in proportion to their population, come to a conclusion that there is every need for revision of the existing level of reservation in admission to educational institutions in the State and in the services under the State for them from 50% and accordingly decided to revise the percentage of reservation from 50% to 62% for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, in admission to educational institutions in the State and in the services under the State for their amelioration and ensuring their advancement in the State of Telangana.

This Bill seeks to give effect to the above decision.

K. CHANDRASEKHAR RAO,
Chief Minister.

MEMORANDUM UNDER DELEGATED LEGISLATION

Clauses 1(3), 7 and 8 of the Bill authorise the Government to issue notifications or to make in respect of matters specified therein and generally to carry out the purposes of the Act. All such rules so made or notifications issued which are intended to cover the matters mostly of procedural in nature are to be laid on the Table of the Legislature of the State and will be subject to any modifications made by the State Legislature.

The above provisions of the Bill regarding Delegated Legislation are thus of normal type and are mainly intended to cover matters of procedure.

K. CHANDRASEKHAR RAO,
Chief Minister.

**MEMORANDUM UNDER RULE 95 OF THE RULES OF
PROCEDURE AND CONDUCT OF BUSINESS IN THE
TELANGANA LEGISLATIVE ASSEMBLY.**

The Telangana Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of appointments or posts in the services under the State) Bill 2017, after it is passed by the Legislature of the State, may be reserved by the Governor for the consideration and assent of the President under Article 31 C. of the Constitution of India.

K. CHANDRASEKHAR RAO,
Chief Minister.

Dr. S. RAJA SADARAM,
Secretary to State Legislature.

