



The Maharashtra State Public Services Reservation for Schedules Castes,
Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Special
Backward Category and other Backward Classes Act, 2001

Act 8 of 2004

Keyword(s):

De-Notified Tribes (Vimukta Jatis), Establishment, Nomadic Tribes, Other
Backward Classes, Public Services and Posts, Reservation, Scheduled Castes
and Scheduled Tribes, Special Backward Category

Amendment appended: 3 of 2016

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

**THE MAHARASHTRA STATE PUBLIC SERVICES
RESERVATION FOR SCHEDULED CASTES,
SCHEDULED TRIBES, DENOTIFIED TRIBES
(*VIMUKTA JATIS*), NOMADIC TRIBES, SPECIAL
BACKWARD CATEGORY AND OTHER BACKWARD
CLASSES) ACT, 2001.**

CONTENTS

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Applicability.
4. Reservation and percentage.
5. Reservation in promotion.
6. Carrying forward of reserved vacancies.
7. Responsibility and powers of compliance of Act.
8. Penalty.
9. Powers to call for records.
10. Representation in selection committee.
11. Irregular appointments void.
12. Protection of action taken in good faith.
13. Power to make rules.
14. Provisions of this Act to be in addition to any other law for the time being in force.
15. Savings.
16. Power to remove difficulties.

MAHARASHTRA ACT No. VIII OF 2004¹.

[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.]

(This Act received the assent of the Governor on the 20th January 2004 ; assent was first published in the *Maharashtra Government Gazette*, Part IV, on the 22nd January 2004.)

An Act to provide for the reservation of vacancies in a public services and posts in favour of the persons belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes of Citizens and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for the reservation of vacancies in public services and posts in favour of the persons belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Category and Other Backward Classes of Citizens and for matters connected therewith or incidental thereto ; it is hereby enacted in the Fifty-second Year of the Republic of India as follows :—

1. (1) This Act may be called 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. Short title, extent and commencement.

(2) It shall extend to the whole of the State of Maharashtra.

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

2. In this Act, unless the context otherwise requires,— Definitions.

(a) “appointing authority” in relation to public services and posts means the authority empowered to make appointment to such services or posts ;

(b) “De-notified Tribes (*Vimukta Jatis*)” means the Tribes declared as such by the Government from time to time ;

(c) “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, a Corporation or a Co-operative Society in which share capital is held by the Government or any Government aided Institutions.

¹ For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, dated the 20th July 2001, Extra-ordinary Part V, page 326.

* 29th January 2004 vide G.N. General Administration Department, No. BCC-2001/107/C.R. No. 64/2001/16-B, dated the 29th January 2004.

[2004 : Mah. VIII

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

Explanation.—For the purposes of this clause the expression “Government aided institution” 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 Government, or is recognised, licenced, supervised or controlled by Government;

(d) “Government” means the Government of Maharashtra;

(e) “Group ‘A’, ‘B’, ‘C’ or ‘D’” means the posts falling within the Group ‘A’, ‘B’, ‘C’ or ‘D’, as the case may be, as classified by Government by issuing general or special orders issued in this behalf, from time to time;

(f) “Nomadic Tribes” means the Tribes wandering from place to place in search of their livelihood as declared by Government from time to time;

(g) “Other Backward Classes” means any socially and educationally backward classes of citizens as declared by the Government and includes Other Backward Classes declared by the Government of India in relation to the State of Maharashtra;

(h) “prescribed” means prescribed by rules framed by the Government under this Act;

(i) “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;

(ii) a co-operative society established under the Maharashtra Co-operative Societies Act, 1960, in which Government is a shareholder.

Mah.
XXIV
of
1961.

(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 Companies as defined in section 617 of the Companies Act, 1956;

1 of
1956.

(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;

(v) any establishment; and

(vi) 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 (v);

(j) "recruitment year" means the English calendar year during which the recruitment is actually made ;

(k) "reservation" means the reservation of post in the services for the member of Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes ;

(l) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings, respectively assigned to them in the clauses (24) and (25) of Article 366 of the Constitution of India ;

(m) "Special Backward Category" means socially and educationally backward classes of citizens declared as a Special Backward Category by the Government.

3. (1) This Act shall apply to all appointments made in public services and posts except,— Applicability.

(a) the super specialised 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 posts which is single (isolated) in any cadre or grade.

(2) The State Government shall, while entering into or renewing an agreement with any establishment for the grant of any aid as provided in the explanation to clause (c) of section 2, incorporate a condition for compliance with the provisions of this Act, by such establishment.

4. (1) Unless otherwise provided by or under this Act, the posts reserved for the Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes shall not be filled in by the candidates not belonging to that caste, tribe, category or class for which the posts are reserved. Reservation and percentage.

(2) Subject to other provisions of this Act, there shall be posts reserved for the persons belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes, at the stage of direct recruitment in public

[2004 : Mah. VIII

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

services and posts specified under clause (j) of section 2, as provided below :—

Description of Caste/Tribe/ Category/Class	Percentage of vacancies or seats to be reserved
(1) Scheduled Castes ..	13 per cent.
(2) Scheduled Tribes ..	7 per cent.
(3) De-notified Tribes (A) ..	3 per cent.
(4) Nomadic Tribes (B) ..	2.5 per cent.
(5) Nomadic Tribes (C) ..	3.5 per cent.
(6) Nomadic Tribes (D) ..	2 per cent.
(7) Special Backward Category ..	2 per cent.
(8) Other Backward Classes ..	19 per cent.
Total ..	52 per cent :

Provided that, Government may, by an order in the *Official Gazette*, provide that the percentage of reservation for Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Special Backward Categories and Other Backward Classes, in all posts, shall be on the basis of latest census record of population of the,—

(i) State, in the case of State cadre posts, and

(ii) Concerned district, in the case of district cadre posts :

Provided further that, the principle of "Creamy Layer" shall be applicable to all categories mentioned above except Scheduled Castes and Scheduled Tribes.

Explanation I.—For the purposes of this sub-section, the expressions "De-notified Tribes (A)", "Nomadic Tribes (B)", "Nomadic Tribes (C)" and "Nomadic Tribes (D)" shall mean such Tribes or sub-Tribes, declared by Government, by general or special orders issued in this behalf, from time to time, to be "the De-notified Tribes (A)", "Nomadic Tribes (B)", "Nomadic Tribes (C)" and "Nomadic Tribes (D)".

Explanation II.—For the purposes of this sub-section, the expression "Creamy Layer" means the persons falling in the category of "Creamy Layer" as declared by Government in the Social Justice, Cultural Affairs and Sports Department by general or special orders issued in this behalf, from time to time :

Provided also that, if on the date of coming into force of this Act, if any additional reservation is in force for the Scheduled Tribes in Thane, Nashik, Dhule, Nandurbar, Raigad, Yavatmal, Chandrapur and Gadchiroli districts for direct recruitment in Groups C and D posts, under any Government orders, such reservation shall continue to be in force till such orders are modified or revoked.

(3) The reservation specified for the categories mentioned at serial numbers (3) to (6) (both inclusive) in the table under sub-section (2) shall be inter transferable. If suitable candidates for the posts reserved for any of the said categories are not available in the same recruitment year, the posts shall be filled by appointing suitable candidates from any of the other said categories.

(4) In all posts at the divisional level or district level the percentage of reservation occurring in a recruitment year in such categories of Group-C and Group-D posts as may be notified by the Government in this behalf, shall be maintained at such divisional or district level only.

5. (1) The reservation in promotion shall be at all stages of promotions. Reservation in promotion.

(2) On the date of coming into force of this Act, if any Government orders providing for reservation for any posts to be filled by promotion, are in force, the same shall continue to be in force unless modified or revoked, by Government.

6. (1) If in respect of any recruitment year, any vacancy reserved for any category of persons under sub-section (2) of section 4 remains unfilled, such vacancy shall be carried forward upto five years in case of direct recruitment and three years in case of promotion : Carrying forward of reserved vacancies.

Provided that, on the date of commencement of this Act, if any Government order regarding filling up the posts, in case of non availability of Backward Class candidates are in force, such Government orders shall continue to be in force unless modified or revoked, by Government.

(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 category 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 Government.

Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis),

Nomadic Tribes, Special Backward Category and Other Backward Classes) Act, 2001

Responsibility
and powers of
compliance of
Act.

7. (1) The Government may, by order in writing, entrust upon every 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 appointing authority or officer referred to in sub-section (1), 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, under sub-section (1).

Penalty.

8. (1) Any appointing authority or officer or employee entrusted with the duty or responsibility under sub-section (1) of Section 7 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 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.

Powers to
call for
records.

9. When it comes to the notice of the Government or is brought to its notice, that, any person belonging to any of the categories specified in sub-section (2) of section 4 is adversely affected, on account of non-compliance with the provisions of this Act or the rules made thereunder or the Government orders in this behalf, by any appointing authority, it may call for such records and pass such appropriate order as deemed fit.

Representation
in selection
Committee.

10. (1) The Government may, by order, provide for nomination of officers belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes in the selections, screening and departmental promotion committee for the purpose of selecting persons for appointment or promotions, as the case may be, to public services and posts.

(2) The Government may, by order, grant such concession in respect of fees for any competitive examination or such other similar examinations or interviews, and relaxation in upper age limit as it may be considered necessary in favour of the categories of persons specified in sub-section (2) of section 4.

(3) The Government orders in force on the date of the commencement of this Act, in respect of concessions and relaxation including concession in fees for any competitive examinations or such other similar examinations or interview and relaxation in the upper age limit shall continue to be applicable, unless modified or revoked, by Government.

Irregular
appointments
void.

11. Any appointments made, in contravention of the provisions of this Act shall be void.

Protection
of action
taken in
good faith.

12. No suit, prosecution or other legal proceedings shall lie against any authority or person for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or the rules made thereunder.

13. (1) The Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act. Power to make rules.

(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 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 such decision in the *Official Gazette*, 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.

14. The provisions of this Act shall be in addition to and not in derogation of the provisions contained in any other Act, for the time being in force. Provisions of this Act to be in addition to any other law for the time being in force.

15. The provisions of this Act shall not apply to 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 Government orders as they stood before such commencement. Savings.

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, the written test and interview and such written test has started.

16. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, on 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 removing the difficulty: Power to remove difficulties.

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

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



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष २, अंक २]

गुरुवार, जानेवारी ७, २०१६/पौष १७, शके १९३७

[पृष्ठे ३, किंमत : रुपये २७.००

असाधारण क्रमांक ३

प्राधिकृत प्रकाशन

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

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of 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] (Amendment) Act, 2015 (Mah. Act No. III of 2016), is hereby published under the authority of the Governor.

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

N. J. JAMADAR,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. III OF 2016.

(First published, after having received the assent of the Governor in the "*Maharashtra Government Gazette*", on the 7th January 2016).

An Act to amend 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.

WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to amend 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, for the purpose hereinafter appearing ; and,

Mah.
VIII of
2004.

therefore, promulgated the Maharashtra State Public Services [Reservation for Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jaties*), Nomadic Tribes, Special Backward Category and Other Backward Classes] (Amendment) Ordinance, 2015 on the 2nd December 2015 ;

Mah.
Ord.
XXIV of
2015.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Sixty-sixth Year of the Republic of India as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called 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] (Amendment) Act, 2015.

(2) It shall be deemed to have come into force on the 1st August 2014.

Amendment
of section 4 of
Mah. VIII of
2004.

2. In section 4 of 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 (hereinafter referred to as “ the principal Act ”), in sub-section (2),—

Mah.
VIII of
2004.

(a) in the third proviso, the word “ Thane, ”, shall be deleted with effect from the 1st August 2014 ;

(b) after the third proviso, the following proviso shall be added, namely :—

“ Provided also that, on the date preceding the date of formation of the Palghar District, that is preceding the 1st August 2014, the reservation including additional reservation for the Scheduled Tribes which was in force in the then Thane District for direct recruitment in Group ‘ C ’ and Group ‘ D ’ posts, under any Government orders, shall continue to be in force with effect from the 1st August 2014 in the Palghar District till such orders are modified or revoked ; and on or after the 1st August 2014, the reservation for direct recruitment in Group ‘ C ’ and Group ‘ D ’ posts in the Thane District existing from the 1st August 2014, after division of the then Thane District, shall be as provided in the Table under this sub-section. ”.

Mah. Ord. XXIV of 2015. **3. (1)** 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] (Amendment) Ordinance, 2015, is hereby repealed. Repeal of Mah. Ord. XXIV of 2015 and saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.