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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill Which was introduced on the 10th March, 2016 by Shri Shailesh Parmar, M.L.A. is Published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 22 OF 2016

SERVICES UNDER THE STATE) BILL, 2016.

A BILL

to provide for the reservation of seats in educational institutions in the State and of appointments and posts in the services under the State for economically backward classes and for matters connected therewith or incidental thereto.

WHEREAS the Preamble to the Constitution of India has among other things emphasized on securing to all citizens justice, economical and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and promoting them among all,

AND WHEREAS Article 38(2), Directive Principles to the State Policy, states that the State shall, in particular, strive to minimize inequalities in income, and endeavor 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 the Union Government and the State Govt. as such have adopted policy for advancement of backward classes. As a result, the Union Govt. has constituted at the central level. A separate Commission for Scheduled Tribes and Scheduled Castes and the Gujarat Govt. has also constituted at the state level a Commission for Socially and Educationally backward Classes and Nomadic Tribes and De-notified Tribes for advancement of people belonging to these categories,

AND WHEREAS the policy of reservation for the advancement of the people belonging to Scheduled Castes, Scheduled Tribes and Socially and Educationally backward Classes including Nomadic Tribes and De-notified Tribes in the educational institutions and in appointments and posts in the services under the State has been under implementation since long,

AND WHEREAS as a result of such policy a large percentage of population of Gujarat who was suffering from social and educational backwardness for many years have now been able to get opportunities for inclusive growth and to improve their lot and attain a high standard of living,

AND WHEREAS, a significant percentage of population, who have not been covered under either of the reservation policies, is feeling that very injustice has been done to them by not covering them under either category of reservation even if they are economically backward than the rest. The poorest class people of the unreserved category, due to their economic weakness, are unable to compete with the affluent class people, as a result of which they are gradually becoming socially and educationally backward day by day. It is therefore, the need of the hour to identify and examine the requirements of those economically backward class people of general categories who are not covered under the existing reservation benefits available to the Scheduled Castes, Scheduled Tribes and Socially and Educationally Backward Classes including Nomadic Tribes and De-notified Tribes,

AND WHEREAS looking to the extra ordinary situation prevailing in the State since last year, extension of reservation in admissions to educational institutions and in appointments and posts in the services under the State to economically backward people in the State has to be ensured for their advancement, continuing the existing policy of the State of reservation for Scheduled Castes, Scheduled Tribes and Socially and Educationally Backward Classes and Nomadic and de-notified Tribes,

NOW THEREFORE it is hereby enacted in the Sixty-seventh Year of the Republic of India as follows:-

Short title,
extent and
commencement

1. (1) This Act may be called the Gujarat Economically Backward Classes (Reservation of Seats in Educational Institutions in the State of Appointments and Posts in Services under the State) Act, 2016.
- (2) It extends to the whole of the State of Gujarat.
- (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-
 - (a) 'Committee' means the committee appointed by the State Government under section 6 of this Act;
 - (b) 'Economically Backward Classes' means the classes consisting of persons not included in any other category of reservation, declared as such by the State Govt. by notification in the official gazette, for the purposes of this Act;
 - (c) 'prescribed' means prescribed by rules made under this Act;
 - (d) 'Services under the State' means the public services and posts in connection with the affairs of the State and includes the services and posts in;
 - (i) Any local authority,

Definitions

- (ii) Any corporation or company owned or controlled, wholly or substantially, by the State Government,
- (iii) Any other authority or body constituted by or under an Act of the State Legislature and funded, wholly or substantially, by the State Govt.; and
- (iv) 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 (iii);

3. The reservation in respect of the annual permitted strength for admission into such educational institutions and courses in the State, as may be prescribed, for Economically Backward Classes, shall be twenty percent.

Reservation of seats in educational institutions and courses

4. (1) The reservation of appointments and posts in the services under the State for the Economically Backward Classes shall be twenty percent.

Reservation of Appointments and posts in the services under the State

(2) Notwithstanding anything contained in sub-section (1), reservation in matters of promotion shall be only for the Scheduled Castes and Scheduled Tribes.

5. Notwithstanding anything contained in section 4, ...

... shall be eligible (reserved) in any cadre or grade.

6. (1) A committee consisting of not more than five eminent and expert persons shall be appointed by the State Government within thirty days of the coming into force of this Act.

Committee

(2) The chairman of the committee shall be appointed by the State Government.

7. (1) The committee after considering all the aspects suggest a criteria to be fixed for identifying and recognizing the economic backwardness for considering the reservation.

Functions of the committee

(2) The committee shall also consider suggestions received from public and tendered by the State Government.

8. (1) The committee shall submit its report to the State Government within sixty days of the constitution of the committee.

Report of the Committee

(2) The State government shall cause it to be laid before the State Legislature in the session immediately following.

9. (1) The remuneration, pay and allowances to be paid to the chairman and the members shall be such as may be prescribed by the State Government.

Pay and allowances and secretarial facilities

(2) The State Government shall render all the secretarial and other facilities to the committee at once.

Power to make rules 10. (1) The State Government may, make rules for carrying out the purposes of this Act.

(2) All rules made under this section shall be laid, as soon as may be after they are so made, before the house of the State Legislature, while it is in session, for a period of not less than thirty days, which may be comprised in one session or in two successive sessions and, if before the expiry of the sessions in which they are so laid or of the sessions immediately following, the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rules thereafter shall have effect only in such modified form or be of no effect, as the case may be, so however that any modification or annulment shall be without prejudice to the validity of anything previously done there under.

Removal of difficulties 11. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order published in the official Gazette, do anything, not inconsistent with the provisions of this Act, which appears to it necessary or expedient for removing the difficulty;

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

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

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 there under.

Savings 13. (1) The existing reservation for Scheduled Castes, Scheduled Tribes and Socially and Educationally backward Classes and Nomadic Tribes and De-notified Tribes shall be continued.

(2) Nothing in this Act shall have effect to the existing provisions for reservation for Scheduled Castes, Scheduled Tribes or Socially and Educationally Backward Classes and Nomadic Tribes and De-notified Tribes.

STATEMENT OF OBJECTS AND REASONS.

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 Gujarat for a long time. A large percentage of population of Gujarat suffering from social and educational backwardness for many years have been provided support structure by the reservation policy and which would enable them to improve their standard of living.

Our Country has adopted a policy of Welfare State. Hence the policy of reservation for Scheduled Castes and Scheduled Tribes as adopted by the Central Government is in force in the State of Gujarat since the inception of Gujarat State. The Gujarat Government has also adopted a policy for reservation of Socially and Educationally Backward Classes, Nomadic Tribes and De-notified Tribes since more than three decades and the State Government has constituted the Commission for Socially and Educationally Backward classes for this purpose. This Commission has identified some castes and communities as socially and educationally backward and accordingly the State Government has declared those castes and communities as such and reservation has been provided to them. This commission has identified those castes and communities as backward people based only on the ground of their social and educational backwardness. But large section of economically backward people who are actually economically backward

economically backwardness. Some States like Rajasthan have adopted policy for reservation on the ground of economically backwardness and have implemented it in their States.

With a view to fulfill a long standing demand from the poorest classes of the unreserved categories a legislation therefore is required to be passed by the State Legislative Assembly to this effect. This Bill therefore provides for constituting a committee of eminent and expert persons to decide as to what criteria should be adopted to consider the economical backwardness. The committee shall submit its report on this matter to the State Government within sixty days and the State Government shall with or without modification thereto, implement it within thirty days. This Bill ensures justice and equality as enshrined in our Constitution and continues the existing policy of reservation of the State and the Central Government and extends the benefits of reservation also to the Economically Backward Class people of the State in educational Institutions and of appointment and post of the tune of twenty percentage.

Hence this Bill.

Gandhinagar,
Dated the 18th February, 2016.

SHAILESH PARMAR
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill, empowers the State Government to prescribe the educational institutions and courses in which reservation would be applicable.

Clause 6 of the Bill empowers the State Government to appoint chairman and members of the committee.

Clause 9 of the Bill empowers the State Government to prescribe remuneration, pay and allowances to be paid to the chairman and members of the committee.

Clause 10 of the Bill empowers the State Government to make rules for carrying out the purposes of the Act.

The proposed delegation is of normal character.

Gandhinagar,
Dated the 18th February, 2016.

SHAILESH PARMAR
M.L.A.

FINANCIAL MEMORANDUM

Clause 9 of the Bill provides for payment of remuneration, pay and allowances to the chairman and members of the committee and rendering secretarial and other facilities to the committee. This Bill if enacted and brought into operation is estimated to involve from the Consolidated Fund of the State a no-recurring expenditure of about ten lac Rupees in the initial year.

Gandhinagar,
Dated the 18th February, 2016.

SHAILESH PARMAR
M.L.A.

Gandhinagar
Dated the 10th March, 2016.

D. M. PATEL
Secretary,
Gujarat Legislative Assembly.