



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ५, अंक १३]

सोमवार, मे २०, २०१९/वैशाख ३०, शके १९४१

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असाधारण क्रमांक २५

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 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) (Amendment and Validation) Ordinance, 2019 (Mah. Ord. XIII of 2019), 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.

[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) (Amendment and Validation) Ordinance, 2019 (Mah. Ord. XIII of 2019), published under the authority of the Governor].

GENERAL ADMINISTRATION DEPARTMENT

Mantralaya, Madam Cama Marg, Hutatma Rajguru Chowk,
Mumbai 400 032, dated the 20th May 2019.

MAHARASHTRA ORDINANCE No. XIII OF 2019.

AN ORDINANCE

to amend 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.

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

Mah. LXII AND WHEREAS the Governor of Maharashtra is satisfied that circumstances
of 2018. exist which render it necessary for him to take immediate action to amend 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, for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

Short title and Commencement.

1. (1) This Ordinance 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) (Amendment and Validation) Ordinance, 2019.

(2) It shall deemed to have come into force with effect from 30th November 2018.

Amendment of section 16 of Mah. LXII of 2018.

2. In section 16 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 (hereinafter referred to as “the principal Act”), in sub-section (2), in the Explanation,—

Mah. LXII of 2018.

(a) after clause (i), the following clause shall be inserted and shall always be deemed to have been inserted, namely :—

“(ia) in case of admission to be made to the courses on the basis of National Eligibility-cum-Entrance Test or any other National Entrance Test and other eligibility criteria for admission in State quota seats in Government Colleges and all seats in Private Colleges, notwithstanding anything contained in clause (i) or in any order, judgement or direction of any Court, the last date for filing up of application form for admission to such courses to State quota to the Admission Regulatory Authority or the Commissioner of State CET is lapsed ; or” ;

(b) in clause (ii), after the words “other than on the basis of the entrance test” the words, brackets and letters “referred to in clause (i) or the National Eligibility-cum-Entrance Test and other eligibility criteria referred to in clause (ia)” shall be inserted and shall always be deemed to have been inserted.

Validation.

3. Notwithstanding anything contained in any law, rule, document or instrument to the contrary, or in any judgment, order or direction of any Court, any action taken including any admission made or taken or seat allotted (including any procedure followed thereat) in accordance with the provisions of the principal Act, as amended by this Ordinance and the provisions of the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015 or any other law for the time being in force, during the period commencing on the date of commencement of the principal Act and ending on the date of publication of this Ordinance in the *Official Gazette*, shall be valid and shall always be deemed to have been validly taken or done or made in accordance with the principal Act and any other law for the time being in force applicable therefor.

Mah. XXVIII of 2015.

Declaration and removal of doubt.

4. For the removal of doubt, it is hereby declared that, in view of the provisions of section 3,—

(a) all acts or things done by the State Government or any officer of the State Government or any admission made by the authority shall, for all purposes be deemed to be, and to have always been done or taken in accordance with the provisions of the law and the procedure prescribed by the Regulatory Authority ;

(b) no suit, appeal, application, or other proceedings shall lie or be maintained or be maintained or continued in any Court or before any Tribunal, officer or authority, in respect of admissions on the basis of National Eligibility-*cum*-Entrance Test and other eligibility criteria for admission in State-Quota seats in Government colleges and all seats in Private Colleges, in accordance with the law as it stood immediately before the date of publication of this Ordinance in the *Official Gazette* ;

(c) no court, Tribunal or officer or other authority shall, enforce any decree or order directing any admission on the basis of National Eligibility-*cum*-Entrance Test and other eligibility criteria for admitting students in Government Colleges and other private colleges, in accordance with the law, as it stood immediately before the date of publication of this Ordinance in the *Official Gazette*.

STATEMENT

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. LXII of 2018) provides 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 the Socially and Educationally Backward Classes of Citizens (SEBC) in the State of Maharashtra for their advancement and for matters connected therewith or incidental thereto.

2. Clause (a) of sub-section (1) of section 4 of the said Act, provide that, notwithstanding anything contained in any judgment, decree or order of any Court or other authority, and subject to the other provisions of the said Act, 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 shall be separately reserved for the Socially and Educationally Backward Classes (SEBC) including the Maratha Community.

3. In consonance with the provisions of the said Act, reservation in admission to Medical and Dental post graduate Courses to SEBC class for the educational year 2019-20 was implemented while providing admission to the State quota seats in Government Colleges and all seats in Private Colleges. However, the Hon'ble Bombay High Court, Nagpur Bench, has, in the case of Dr. Sanjana d/o Narendra Wadewale Vs. the State of Maharashtra (W.P. No. 2790 of 2019), *vide* its judgement and order dated 2nd May 2019, *inter alia*, declared that the revised seat matrix published on 27th March 2019 providing for reservation of SEBC candidates to be arbitrary, violative of the mandate of section 16(2) of the SEBC Act, 2018 and as being not in accordance with the procedure established by law in as much as it creates unequal competition and violates principles of rule of law. The Hon'ble High Court has further directed that, the category of SEBC candidates, shall not be given effect to for the limited purpose of SEBC reservation in current admission process and the admission process shall be conducted and completed it in accordance with the applicable law, rules and orders in force before commencement of the SEBC Act.

4. The Special Leave Petition Nos. 11813 to 11815 of 2019 filed by the State Government, against the said order of the Hon'ble High Court, in the Hon'ble Supreme Court were disposed of by the Hon'ble Supreme Court *vide* its order dated the 9th May 2019.

5. National Eligibility-*cum*-Entrance Tests (NEET) (known as NEET-PG and NEET-MDS), are conducted by the National Board of Examination, New Delhi, for determining the eligibility for admission to all the seats of the Post Graduate Medical and Dental Courses in Government Institutions, Private Institutions and Deemed Universities in India.

NEET-PG is an eligibility-*cum*-ranking examination prescribed as the single entrance examination to various MD/MS and PG Diploma Courses as per of the Indian Medical Council Act, 1956 (102 Of 1956).

NEET-PG is a single window entrance examination for PG courses. No other entrance examination, either at State or Institution level, shall be valid for entry to MD/MS/PG Diploma Courses as per the Indian Medical Council Act, 1956, with effect from the year 2017.

Regarding NEET-PG 2019, the National Board of Examinations, New Delhi has made available the Information Bulletin on the 2nd November 2018 onwards, and from 2nd November to 22nd November 2018, Online submission

of application forms were called from the students and the examination was conducted on 6th January, 2019 and results were declared on 31st January 2019. In para 4 of the said Information Bulletin, the students were instructed to contact Medical Counselling Committee (MCC), Directorate General of Health Services, Ministry of Health and Family Welfare, Govt. of India for seat availability, counselling etc., for All India 50% Quota seats, Medical Educational Institutions of Central Govt., Universities established by an Act of Parliament and Deemed Universities. Contact details of MCC, ADG(ME), Directorate General of Health Services, Ministry of Health and Family Welfare and the details regarding for the purpose were stated in para 4 of the said Bulletin. In para 5 of the said Information Bulletin, the students were also instructed to contact the concerned State Counselling Authorities for eligibility, seat availability, reservation policies, counselling ,etc. for State Quota seats/admission to Private Medical Colleges/ Institutes/ Universities. The Medical Council of India has, *vide* its notification No. MCI-18(1)/2017-Med./174629, dated the 20th February 2018, issued in exercise of the powers conferred by section 33 of the Indian Medical Council Act, 1956 (102 of 1956), with previous sanction of the Government of India, amended the Post Graduate Medical Education Regulations, 2000, and declared the admission Schedule from the academic year 2018-19 onwards for Post Graduate courses (broad speciality). In the said admission Schedule, the Medical Council of India has provided the admission programme for Central Counselling for All India Quota and for Deemed Universities and Central Institutes and for State Counselling for State Quota in Government Colleges and all Private Colleges. From the said Information Bulletin and from the said admission Schedule, it is evident that the different procedure for admission to Post Graduate Courses in Medical Sciences is provided for admission to the seats allotted on the basis of the all India quota and the State quota.

Similar admission programme is also provided by the National Board of Examination, New Delhi as per the directions of the Dental Council of India for admission to the Post Graduate Courses in Dental Sciences.

6. Thus, the actual process for admission in State quota seats in Government Colleges and all seats in Private College starts only after the declaration of the results of the said Tests, as per the schedule of admission contained in the Regulations made by the Medical Council of India or the Dental Council of India, as the case may be, which, at every stages of rounds, follows the admission to the Central Quota.

7. In view of the above, the difficulties are faced for implementing the said Act for applying the reservation in admission to Medical and Dental Post Graduate Courses to SEBC class for the educational year 2019-20.

8. It is the intention of the State Government to comply with the provisions of the said Act of 2018, both in letter and spirit and to provide for reservation in favour of the SEBC candidates for admissions for the educational year 2019-20.

9. It is considered expedient to ensure that the intention in enacting the said Act of 2018 is manifest by making express provisions by inserting a suitable clause in Explanation to sub-section (2) of the section 16 of the said Act, for applying the reservation in admissions to SEBC class in respect of all admissions effected after the date of coming into force of the said Act of 2018. It is also considered expedient to ensure that in respect of Medical and Dental Graduate and Post Graduate Courses, there shall be reservation in favour of SEBC class from the educational year 2019-20 and also for admission to other educational courses including under Graduate Courses requiring passing of the National Eligibility-*cum*-Entrance Test or any other National Entrance Test.

10. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to amend 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. LXII of 2018), for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,
dated the 20th May 2019.

CH. VIDYASAGAR RAO,
Governor of Maharashtra.

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

SHIVAJI DAUND,
Secretary to Government.