



**THE ODISHA PANCHAYAT LAWS (AMENDMENT) BILL 2021.**

A

BILL

FURTHER TO AMEND THE ODISHA GRAMA PANCHAYAT ACT, 1964,  
THE ODISHA PANCHAYAT SAMITI ACT, 1959 AND  
THE ODISHA ZILLA PARISAD ACT, 1991.

Be it enacted by the Legislature of the State of Odisha in the Seventy-second Year of the Republic of the India as follows:—

CHAPTER I  
PRELIMINARY

Short title and Commencement.

1. (1) This Act may be called the Odisha Panchayat Laws (Amendment) Act, 2021.
- (2) It shall come into force on such date, as the State Government may, by notification, appoint.

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## CHAPTER II

## AMENDMENT TO THE ODISHA GRAMA PANCHAYAT ACT, 1964.

Amendment of  
section 10.

2. In section 10 of the Odisha Grama Panchayat Act, 1964,—

Odisha Act 1  
1965.

(i) in sub-section (3), for clause (b-1), the following clause shall be substituted, namely:—

“(b-1) Seats shall be reserved in favour of backward class of citizens as referred to in clause (6) of article 243-D of the Constitution, in every Grama Panchayat to such extent not exceeding twenty-seven per centum subject to limit of fifty per centum of total number of seats of such Grama Panchayat including seats so reserved for Scheduled Castes, Scheduled Tribes under clause (a) and backward class of citizens taken together and shall be allotted by rotation to different wards thereof.” ; and

(ii) in sub-section (5), for clause (c), the following clause shall be substituted, namely:—

“(c) Offices of Sarpanchs in Grama Panchayats shall also be reserved in favour of the backward class of citizens as referred to in clause (6) of article 243-D of the Constitution to such extent not exceeding twenty-seven per centum subject to ceiling limit of fifty per centum of total number of offices of Sarpanch of such Grama Panchayats including the offices so reserved for Scheduled Castes and Scheduled Tribes under clause (a) taken together and shall be allotted by rotation to different Gramas ; ”.



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## CHAPTER III

## AMENDMENT TO THE ODISHA PANCHAYAT SAMITI ACT, 1959.

Amendment of  
section 16.

3. In section 16 of the Odisha Panchayat Samiti Act, 1959, —
- (i) in sub-section (2), for clause (b-1) including the proviso thereto, the following clause shall be substituted, namely:—

Odisha Act 7 of  
1960.

“(b-1) Seats to be filled up by direct election, shall be reserved in favour of backward class of citizens as referred to in clause (6) of article 243-D of the Constitution, in every Samiti to such extent not exceeding twenty-seven per centum subject to limit of fifty per centum of total number of seats of such Samiti including seats so reserved for Scheduled Castes, Scheduled Tribes under clause (a) and backward class of citizens taken together and shall be allotted by rotation to different constituencies thereof.” ; and

- (ii) in sub-section (3-a), for clause (ii-a), the following clause shall be substituted, namely:—

“(ii-a) Offices of Chairman in Samiti shall also be reserved in favour of the backward class of citizens as referred to in clause (6) of article 243-D of the Constitution to such extent not exceeding twenty-seven per centum subject to ceiling limit of fifty per centum of total number of offices of Chairman of such Samiti including the offices so reserved for Scheduled Castes and Scheduled Tribes under clause (i) taken together; “.

## CHAPTER IV

## AMENDMENT TO THE ODISHA ZILLA PARISHAD ACT, 1991

Amendment  
of section 6.

4. In section 6 of the Odisha Zilla Parishad Act, 1991( hereinafter referred to as the Zilla Parishad Act), in sub-section (3), for clause (b-1) including the proviso thereto, the following clause shall be substituted, namely:—

Odisha Act 7 of  
1991.

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“(b-1) Seats to be filled up by direct election, shall reserved in favour of backward class of citizens as referred to in clause (6) of article 243-D of the Constitution, in every Parishad to such extent not exceeding twenty seven percentum subject to limit of fifty percentum of total number of seats of such Parishad including seats so reserved for Scheduled Castes, Scheduled Tribes under clause (a) and backward class of citizens taken together and shall be allotted by rotation to different constituencies thereof ;”.

Amendment of  
section 8.

5. In section 8 of the Zilla Parishad Act, in sub-section (2), for clause (c), the following clause shall be substituted, namely:—


“(c) Offices of Presidents in Parishads shall also be reserved in favour of backward class of citizens as referred to in clause (6) of article 243-D of the Constitution to such extent not exceeding twenty-seven percentum subject to ceiling limit of fifty percentum of total number of offices of Presidents of such Parishads including the offices so reserved Scheduled Castes, Scheduled Tribes under clause (a) taken together ;”.



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## STATEMENT OF OBJECTS AND REASONS

1. The 73<sup>rd</sup> Amendment to the Constitution aims at constitutional guarantee to safeguard the interest of the Panchayati Raj Institutions to enable them to function as Local Self Government at grass root level. It also aims at three tier system of Panchayati Raj Institutions in the Country for the purpose of economic development and social justice. In our State, Grama Panchayats, Panchayat Samitis and Zilla Parishads have been constituted under the Odisha Grama Panchayats Act, 1964, the Odisha Panchayat Samiti Act, 1959 and the Odisha Zilla Parishad Act, 1991. At every level of 3-tier Panchayati Raj Institutions, reservations of seat for Schedule Caste and Schedule Tribe have been made in conformity with provisions of Article 243-D of the Constitution of India. The aforementioned Acts also comply the provisions of section 4(g) of the PESA Act, 1996.
2. Clause (6) of Article 243-D of the Constitution empowers the State legislature to make law making provisions for reservation of seats in any Panchayat or offices of the Chairpersons in the Panchayats at every level in favour of backward class of citizens and accordingly, reservation of 27% of the total seats has been made in favour of backward class of citizens at every level of the Panchayat and provisions for such reservation are available in the Odisha Gram Panchayat Act, Odisha Panchayat Samiti Act and Odisha Zilla Parishad Act.
3. The principle for reservations has been decided in the case of K. Krishna Murthy vrs. Union of India reported in (2010) 7 SCC 202, wherein the thumb rule laid down by the Apex Court is that total quantum of reservation should not exceed 50%. In case it exceeds 50%, it violates Article 14 and 21 of the Constitution. Hon'ble High Court of Odisha in their Judgment dated 18.4.2018 passed in WP(C) No.17362 of 2016 in the matter of Subhash Ch. Biswal Vrs. State of Odisha have observed that as per the provisions of Articles 141 and 143 of the Constitution of India, the Constitution Bench Judgment of the Apex Court rendered in K. Krishna Murthy is binding on all concerned and the same, having been considered as the law of the land, should be implemented in letter and spirit. In case the State Government is allowed to breach the upper limit of 50% in the vertical reservations, so far as Schedule Caste and Schedule Tribe and BCC are concerned, the said action would be unconstitutional.

  
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The Hon'ble Court have further directed the State Govt. to see that the upper limit of reservation of seats in respect of Schedule Caste, Schedule Tribe and BCC taken together does not exceed 50%, which is subject to the exception of PESA Act. The aforementioned Judgment of the High Court was challenged by the State of Odisha in the Supreme Court and the Hon'ble Supreme Court in their order dated 28.9.2018 passed in a batch of cases of SLP (Civil) No.27819/2018 have dismissed the SLP.

4. In view of the facts discussed above, it is felt necessary and considered expedient to amend Section-10(3)(b-1) and Section-10(5)(C) of Odisha Grama Panchayats Act, 1964, Section-16(2)(b-1) and Section-16(3-a)(ii-a) of Odisha Panchayat Samiti Act, 1959 and Section-6(3)(b-1) and Section-8(2)(C) of the Odisha Zilla Parishad Act, 1991 suitably to the effect that the total reservation for Schedule Caste, Scheduled Tribe and Backward Class of Citizens does not exceed 50 (Fifty) per centum and enabling the authority to provide appropriate percentage for reservation of Backward Class of Citizens.

The Bill seeks to achieve the above objects.



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Member-In-Charge

## Annexure

[Extract from the Odisha Grama Panchayat Act, 1964 (Odisha Act1 of 1965)]

- 10.(1) xxx      xxx      xxx      xxx      xxx  
 (2) xxx      xxx      xxx      xxx      xxx  
 (3) (a) xxx      xxx      xxx      xxx  
 (b) xxx      xxx      xxx      xxx

(b-1) As nearly as may be, but not less than, twenty-seven per centum of the seats of every Grama Panchayat shall be reserved in favour of Backward Class of Citizens as referred to in Clause (6) of Article 243-D of the Constitution in the prescribed manner; 2-A and shall be allotted by rotation to different Wards thereof.

- (4) xxx      xxx      xxx      xxx      xxx  
 (5)(a) xxx      xxx      xxx      xxx      xxx  
 (b) xxx      xxx      xxx      xxx      xxx

(c) as nearly as may be, but not less than, twenty-seven per centum of the Offices of Sarpanches in Grama Panchayats shall also be reserved in favour of Backward Class of Citizens as referred to in Clause (6) of Article 243-D of the Constitution and shall be allotted by rotation to different Gramas;

[Extract from the Odisha Panchayat Samiti Act, 1959 (Odisha Act 7 of 1960)]

- 16.(1) xxx      xxx      xxx      xxx      xxx  
 (2) (a) xxx      xxx      xxx      xxx  
 (b) xxx      xxx      xxx      xxx

(b-1) As nearly as may be, but not less than, twenty seven per centum of the total number of seats to be filled up by direct election in every Samiti shall be reserved in favour of backward class of citizens as referred to in Clause (6) of Article 243-D of the Constitution in the prescribed manner and shall be allotted by rotation to different constituencies thereof;

Provided that where, after reservation of the required number of seats for the Schedule Caste and the Schedule Tribes in a Samiti, the remaining seats are found to be insufficient for the purpose of reservation in favour of Backward class of citizens as nearly

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as may be, but not less than, twenty seven per centum of the remaining seats shall be reserved in favour of such citizens in that Samiti.

- (3) (a) (i) xxx                      xxx                      xxx                      xxx  
 (ii)    xxx                      xxx                      xxx                      xxx

(ii-a) as nearly as may be, twenty-seven percentum of the offices of Chairman in Samitis shall also be reserved in favour of backward class of citizens as referred to in Clause (6) of Article 243-D of the Constitution;

**[Extract from the Odisha Zilla Parishad Act, 1991 (Odisha Act 17 of 1965)]**

6. (1) xxx                      xxx                      xxx                      xxx                      xxx  
 (2) xxx                      xxx                      xxx                      xxx                      xxx  
 (3) (a) xxx                      xxx                      xxx                      xxx  
 (b) xxx                      xxx                      xxx                      xxx

(b-1) As nearly as may be, but not less than, twenty-seven per centum of the total number of seats to be filled up by direct election in every Parishad shall be reserved in favour of backward class of citizens as referred to in Clause (6) of Article 243-D of the Constitution in the prescribed manner and shall be allotted by rotation to different constituencies thereof:

Provided that where, after reservation of the required number of seats for the Schedule Caste and the Schedule Tribes in a Parishad, the remaining seats are found to be insufficient for the purpose of reservation in favour of Backward class of citizens as nearly as may be, but not less than, twenty seven per centum of the remaining seats shall be reserved in favour of such citizens in that Parishad.

8. (1) xxx                      xxx                      xxx                      xxx                      xxx  
 (2) (a) xxx                      xxx                      xxx                      xxx  
 (b) xxx                      xxx                      xxx                      xxx

(c) as nearly as may be, twenty-seven per centum of the offices of Presidents in Parishads shall also be reserved in favour of backward class of citizens as referred to in Clause (6) of Article 243-D of the Constitution;



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