

The



Kolkata Gazette

सत्यमेव जयते

Extraordinary
Published by Authority

JYAISTHA 18]

FRIDAY, JUNE 8, 2012

[SAKA 1934]

PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 781-L.—8th June, 2012.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

Bill No. 17 of 2012

**THE WEST BENGAL BACKWARD CLASSES (OTHER THAN
SCHEDULED CASTES AND SCHEDULED TRIBES)
(RESERVATION OF VACANCIES IN SERVICES AND
POSTS) BILL, 2012.**

**A
BILL**

to provide for the reservation of vacancies in services and posts for the Backward Classes of citizens other than the Scheduled Castes and Scheduled Tribes.

WHEREAS clause (4) of article 15 of the Constitution enables the State to make any special provisions for the advancement of any socially and educationally Backward Classes of citizens;

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 Classes of citizens which in the opinion of the State is not adequately represented in the services under the State;

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(Clauses 1, 2.)

AND WHEREAS clause (1) of article 38 of the Constitution states that, 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 minimize the 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 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 the 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 under 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 shall protect them from social injustice and all forms of exploitation;

AND WHEREAS the members of the Backward Classes of citizens other than the Scheduled Castes and Scheduled Tribes who are socially and economically backward, are not adequately represented in the services and posts within the State of West Bengal;

AND WHEREAS it is expedient to provide for the reservation of vacancies in services and posts for them;

It is hereby enacted in the Sixty-third Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Act, 2012.
 - (2) It extends to the whole of West Bengal.
 - (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—
 - (a) “appointing authority”, in relation to a service or post in an establishment, means the authority empowered to make appointment to such service or post;
 - (b) “cadre” means the strength of a service or a part of a service sanctioned as a separate unit;
 - (c) “establishment” means any office of the State Government, a local authority or statutory authority constituted under any State Act for the time being in force, or a corporation in which not less than fifty-one *per cent* of the paid up share capital is held by the State Government, and includes universities and colleges affiliated to the universities, primary and secondary schools and also other educational institutions which are owned or aided by the State Government, and an establishment in public sector;
 - (d) “establishment in private sector” means any industry, trade, business or occupation which is not an establishment in public sector;

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(*Clauses 3-5.*)

- (e) “establishment in public sector” means any industry, trade, business or occupation owned, controlled or managed by—
 - (i) the State Government or any Department of the State Government,
 - (ii) a Government company as defined in section 617 of the Companies Act, 1956 or a corporation established by or under a Central Act or State Act, in which not less than fifty-one *per cent*, of the paid up share capital is held by the State Government,
 - (iii) a local or statutory authority, constituted under any State Act for the time being in force;
- (f) “lists” means list prepared by the Government of West Bengal from time to time for purposes of making provision for the reservation of appointments or posts in favour of Backward Classes of citizens which, in the opinion of the Government, are not adequately represented in the services under the Government of West Bengal or any local or other authority within the territory of the State of West Bengal or under the control of the Government of West Bengal;
- (g) “notification” means a notification published in the *Official Gazette*;
- (h) “Other Backward Classes” shall mean such classes of citizens as specified in Schedule I, other than Scheduled Castes and Scheduled Tribes, and includes such classes as the State Government may, by notification in the *Official Gazette*, specify from time to time;
- (i) “Schedule” means the Schedule appended to this Act;
- (j) “single post cadre” means a cadre which has the strength of one post only;
- (k) “State Government” means the Government of West Bengal.

1 of 1956.

Act not to apply in relation to certain employment.

- 3. This Act shall not apply in relation to,—
 - (a) any employment under the Central Government;
 - (b) any employment to the cadre of Higher Judicial Officers;
 - (c) any employment in private sector;
 - (d) any employment in domestic service;
 - (e) any employment in single post cadre.

Certain categories of persons to be excluded from reservation.

Backward vacancies filled up by recruitment.

- 4. Persons or sections from Other Backward Classes specified in column 3 of Schedule II shall be excluded from the purview of this Act.

- 5. After the commencement of this Act, all appointments to services and posts in establishments which are to be filled up by direct recruitment shall be regulated in the following manner, namely,—

- (a) subject to the other provisions of this Act, ten *per cent* of the vacancies shall be reserved for candidates belonging to the Other Backward Classes denoted as “Other Backward Classes Category A” category and seven *per cent* of the vacancies shall be reserved for candidates belonging to the “Other Backward Classes Category B” category of the Other Backward Classes in the manner set out in Schedule III:

Provided that the State Government may, from time to time, by notification in the *Official Gazette*, increase the percentage in the manner that the overall reservation for the Scheduled Castes, the Scheduled Tribes and Other Backward Classes shall not exceed fifty *per cent*;

- (b) the members of the Other Backward Classes qualifying on merit in an open competition on the same standard as of the unreserved candidates for appointment to any unreserved post in a service or post in an establishment to be filled up by direct recruitment shall not be adjusted

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(*Clauses 6, 7.*)

against the quota reserved in such service or post for such candidate under sub-section (1).

Explanation.—For the purpose of this Act, Other Backward Classes Category A shall mean the “More Backward Classes” and the Other Backward Classes Category B shall mean the “Backward Classes”.

Certificate of identification.

6. A candidate who claims to be a member of either Other Backward Classes Category A or Other Backward Classes Category B category shall support his candidature by such certificate of identification to be issued by such competent authority in such manner as may be prescribed.

De-reservation of reserved vacancy.

7. (1) There shall be no de-reservation of any reserved vacancy by any appointing authority to any post in an establishment which is required to be filled up by direct recruitment. In the absence of any qualified candidate from Other Backward Classes, the vacancy shall remain unfilled.

(2) Notwithstanding anything contained in sub-section (1), if in the public interest, it is necessary to fill up any vacancy as aforesaid, remaining unfilled on account of non-availability of a qualified candidate from “Other Backward Classes”, the appointing authority shall refer the vacancy to the State Government for de-reservation. Upon such reference, the State Government may, if it is satisfied that it is necessary or expedient so to do, by order, de-reserve the vacancy, subject to the condition that the reservation against the vacancy so de-reserved shall be carried forward against the subsequent unreserved vacancy available at the time of passing the order of de-reservation or any unreserved vacancy which shall occur in future:

Provided that the State Government may, if it is satisfied that the appointing authority by genuine mistake or on account of an error of judgment or owing to ignorance has filled up any reserved vacancy otherwise than by a candidate for whom the vacancy is reserved and that there has been no *malafide* intention in this regard on the part of the appointing authority, by order in writing, regularize the appointment, if so applied for by the appointing authority, on the basis of the carry-forward principle. In such case, reservation against the reserved vacancy already filled up otherwise than by a candidate belonging to the Other Backward Classes for whom the vacancy was originally reserved, shall,—

- (a) If such vacancy relates to an establishment other than the establishment in Universities and Colleges affiliated to the Universities, Primary and Secondary Schools and also other educational institutions which are owned or aided by the State Government, be carried forward to the nearest unreserved vacancy available at the time of consideration of any application; or
- (b) If such vacancy relates to an establishment in Universities and Colleges affiliated to the Universities, Primary and Secondary Schools and also other educational institutions which are owned or aided by the State Government, be carried forward to the nearest unreserved vacancy available at the time of consideration of any application or to any unreserved vacancy which shall occur in future:

Provided further that the State Government may, if it considers necessary or expedient so to do, by notification in the *Official Gazette*, empower any other authority not below the rank of District Magistrate and District Commissioner for Reservation to exercise the power of the State Government to de-reserve a reserved vacancy under this sub-section.

(3) The appointing authority shall, for the purposes of sub-section (2), make an application to the State Government in such Form and in such manner, as may be prescribed by the State Government.

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(*Clauses 8-10.*)

(4) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, if, in the public interest, it is necessary or expedient to fill up any vacancy, in any post in any primary, secondary or higher secondary school, in any district owned or aided by the State Government, caused by deputation or leave of the incumbent of that post for a period not exceeding ten months and remaining unfilled on account of non-availability of a qualified candidate from the Other Backward Classes, the appointing authority may refer the vacancy to the District Commissioner for Reservation, referred to in section 8, of the concerned district for de-reservation and upon such reference, the District Commissioner for Reservation may, if he is satisfied that it is necessary or expedient so to do, by order, de-reserve the vacancy, subject to the condition that the reservation against the vacancy so de-reserved shall be carried forward against the subsequent unreserved vacancy in any such post caused by such deputation or leave for such period.

Explanation I.—For the purpose of this Act, for Kolkata, the references to District Commissioner for Reservation shall be construed as references to the Joint Commissioner for Reservation.

Explanation II.—For the purpose of this Act “Kolkata” shall mean the town of Kolkata as defined in section 3 of the Kolkata Police Act, 1866.

Ben. Act IV of 1866.

Commissioners to enforce reservation.

8. (1) There shall be a Commissioner, a Joint Commissioner, a Deputy Commissioner and an Assistant Commissioner for reservation for the State and a District Commissioner for reservation for each district, for the purpose of enforcing the provisions of this Act.

(2) Save as otherwise expressly provided in this Act, every officer referred to under sub-section (1) shall be the same officer as provided for in the West Bengal Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1976.

West Ben. Act XXV of 1976.

(3) If any appointing authority having territorial jurisdiction throughout West Bengal, or having its offices and fixed territorial jurisdiction in Kolkata or having its offices in Kolkata without having any fixed territorial jurisdiction, contravenes any provisions of this Act, and thereby commits an offence punishable under section 10, the Commissioner, or the Joint Commissioner, or the Deputy Commissioner, or the Assistant Commissioner or any officer not below the rank of Inspector of Backward Classes Welfare Department authorised by him in this behalf, may file a complaint in any court having jurisdiction against such appointing authority.

(4) If any appointing authority having territorial jurisdiction in the whole, or in any part, of the district, or having no fixed territorial jurisdiction in the district, but having his office in the district to which the jurisdiction of the District Commissioner extends, contravenes any provisions of this Act, and thereby commits an offence punishable under section 10, the District Commissioner or any officer not below the rank of Inspector of Backward Classes Welfare Department authorised by him in this behalf, may file a complaint in any court having jurisdiction against such appointing authority.

Territorial jurisdiction.

9. For the purpose of section 8,—

- (a) territorial jurisdiction shall, in relation to an appointing authority, mean the area to which its administrative jurisdiction extends; and
- (b) an appointing authority, whose administrative jurisdiction does not extend to any fixed area, shall be deemed to be an appointing authority without having any fixed territorial jurisdiction.

Penalty for contravention of provisions by an appointing authority.

10. If an appointing authority contravenes any provision of this Act, he shall be punishable with imprisonment for a term which may extend to five years, or with fine of two thousand and five hundred rupees, or with both:

Provided that nothing contained in this section shall apply in relation to an appointment to any service or post of which the appointing authority is the Governor.

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(*Clauses 11-19.*)

Cognizance of offence.

11. No court shall take cognizance of an offence punishable under this Act save upon complaint made by the Commissioner or the District Commissioner, or an officer not below the rank of Inspector of Backward Classes Welfare Department duly authorised in this behalf.

Previous sanction of the State Government necessary for prosecution.

12. No prosecution for an offence under this Act shall be instituted except by, or with the sanction of, the State Government.

Burden of proof.

13. Where a complaint is filed in any court having jurisdiction against an appointing authority under sub-section (3) or sub-section (4) of section 8 for contravening any provision of this Act the burden of proof that no contravention of any provision of this Act has been made by him, shall lie with him.

Protection of action taken in faith.

14. No suit, prosecution or other legal proceeding shall lie against any person for anything, which is in good faith done or intended to be done under this Act.

Removal of difficulties.

15. If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders not inconsistent with the provisions of this Act, as the State Government may consider necessary for removing the difficulty.

Power to amend any Schedule.

16. The State Government may, by order published in the *Official Gazette*, add to, amend or alter any Schedule.

Submission of annual report, maintenance of other records and inspection thereon.

17. (1) Every appointing authority shall maintain such records and documents as may be prescribed by rules made in this behalf and shall furnish to the State Government in the prescribed manner an annual report on the appointments made by it during the previous year reckoned according to the British calendar.

(2) Any officer authorised by the State Government in that behalf may inspect any record or documents which are maintained in relation to appointments made by such appointing authority.

(3) It shall be the duty of the appointing authority to produce such records or documents for inspection by the officer authorized under sub-section (2), and furnish such information or afford such assistance as may be necessary for him to carry out his functions under this Act.

(4) Notwithstanding anything contained in the West Bengal Services (Duties, Rights and Obligations of the Government Employees) Rules, 1980 any member of the Other Backward Classes who is adversely affected on account of the non-compliance with the provisions of this Act or the rules made thereunder by any appointing authority, may bring the fact to the notice of the State Government and upon application made by him the State Government may call for such records or take such action thereon as it may think fit.

Power to make rules.

18. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely,—

- (a) form in which every establishments shall submit annual report to the State Government regarding the number of persons recruited in such establishments;
- (b) any other matter which has to be or may be prescribed by rules made in this behalf.

Saving.

19. Actions taken in pursuance of any notifications, orders etc. issued for the purpose prior to coming to force of this Act shall be deemed to have been taken under the provisions of this Act.

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(Schedule I.)

SCHEDULE I
[See section 2(h)]

Sl.	More Backward (Category A)	Sl.	Backward (Category B)
1.	Abdal	1.	Baishya Kapali
2.	Baidya Muslim	2.	Bansi-Barman
3.	Basni/Bosni	3.	Barujibi, Barui
4.	Beldar Muslim	4.	Betkar (Bentkar)
5.	Bepari/Byapari Muslim	5.	Bhar
6.	Bhatia Muslim	6.	Bharbhaja
7.	Bhatiyara	7.	Bhujel
8.	Chowduli	8.	Bungchheng
9.	Chutor Mistri	9.	Chasatti (Chasa)
10.	Dafadar	10.	Chitrakar
11.	Dhukre	11.	Christians converted from Scheduled Castes
12.	Dhunia	12.	Devanga
13.	Fakir/Sain	13.	Dewan
14.	Gayen	14.	Dhimal
15.	Ghosi	15.	Gangot
16.	Hajjam	16.	Goala-Gope (Pallav Gope, Ballav Gope, Yadav Gope, Gope, Ahir and Yadav)
17.	Hawari	17.	Hel/Halia/Chasi-Kaibartta
18.	Jamadar	18.	Kahar
19.	Jolah (Ansari-Momin)	19.	Kansari
20.	Kalander	20.	Kapali
21.	Kan	21.	Karani
22.	Kasai	22.	Karmakar
23.	Khotta Muslim	23.	Keori/Koiri
24.	Laskar	24.	Khen
25.	Mahaldar	25.	Kumbhakar, Kumar
26.	Majhi/Patni Muslim	26.	Kurmi
27.	Mal Muslim	27.	Malakar
28.	Mallick	28.	Mangar
29.	Midde	29.	Moira-Modak
30.	Molla	30.	Nagar
31.	Muchi/Chamar Muslim	31.	Napit
32.	Muslim Barujibi/Barui	32.	Nembang
33.	Muslim Biswas	33.	Newar
34.	Muslim Haldar	34.	Rai (including Chamling)
35.	Muslim Mali	35.	Raju
36.	Muslim Mondal	36.	Sampang
37.	Muslim Pyada	37.	Sarak
38.	Muslim Sanpui/Sapui	38.	Satchasi

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(Schedule I.)

Sl.	More Backward (Category A)	Sl.	Backward (Category B)
39.	Nashya-Sekh	39.	Shankakar
40.	Nehariya	40.	Sunuwar
41.	Nikari	41.	Sutradhar
42.	Patidar	42.	Swarnakar
43.	Penchi	43.	Tamboli/Tamali
44.	Rajmistri	44.	Tanti, Tantubaya
45.	Rayeen/Kunjira	45.	Teli, Kolu
46.	Sardar	46.	Thami
47.	Shershabadia	47.	Turha
48.	Siuli (Muslim)	48.	Yogi-Nath
49.	Tutia	49.	Darji/Ostagar/Idrishi
50.	Dhanuk	50.	Dhali (Muslim)
51.	Jogi	51.	Pahadia-Muslim
52.	Khandait	52.	Tal-Pakha Benia
53.	Kosta/Kostha	53.	Adaldar (Muslim)
54.	Lakhera/Laahera	54.	Akunji/Akan/Akhan (Muslim)
55.	Roniwar	55.	Bag (Muslim)
56.	Sukli	56.	Chaprashi (Muslim)
57.	Bhangi (Muslim)	57.	Churihar
58.	Dhatri/Dai/Dhaity (Muslim)	58.	Daptari (Muslim)
59.	Gharami (Muslim)	59.	Dewan (Muslim)
60.	Ghorkhan	60.	Dhabak (Muslim)
61.	Goldar/Golder (Muslim)	61.	Gazi (Muslim)
62.	Halsana (Muslim)	62.	Khan (Muslim)
63.	Kayal (Muslim)	63.	Kolu Muslim (Shah, Sahaji, Sadhukhan, Mondal)
64.	Naiya (Muslim)	64.	Majhi
65.	Shikari/Sikari (Muslim)	65.	Malita/Malitha/Malitya (Muslim)
66.		66.	Mistri (Muslim)
67.		67.	Paik (Muslim)
68.		68.	Pailan (Muslim)
69.		69.	Purkait (Muslim)
70.		70.	Sana (Muslim)
71.		71.	Sareng (Muslim)
72.		72.	Sardar (Muslim)
73.		73.	Sarkar (Muslim)
74.		74.	Shah (Fakir/Shah/Sha/Sahaji)
75.		75.	Tarafdar (Muslim)
76.		76.	Gavara
77.		77.	Mouli (Muslim)
78.		78.	Sepai (Muslim)

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(Schedule II.)

SCHEDEULE II

(See section 4)

Sl.	Description of category	To whom rule of exclusion will apply
I.	CONSTITUTIONAL POSTS	Son(s) and daughter(s) of— (a) President of India; (b) Vice-President of India; (c) Chairman and Members of Union Public Service Commission and of the State Public Service Commission, Chief Election Commissioner, Comptroller and Auditor General of India; and (d) Persons holding Constitutional positions of like nature.
II.	SERVICE CATEGORY A. GROUP A/CLASS I officers of the All India Central and State Services (Direct Recruitment)	Son(s) and daughter(s) of— (a) Parents, both of whom are Class I officers; (b) Parents, either of whom is a Class I officer; (c) Parents, either of whom is a Class I officer, but one of them dies or suffers permanent incapacitation; (d) Parents, either of whom is a Class I officer and such parent dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc. for a period of not less than 5 years; and (e) Parents, both of whom are Class I officers die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc. for a period of not less than 5 years: Provided that the rule of exclusion shall not apply in the following cases:— (i) Sons and daughters of parents either of whom or both of whom are Class I officers and such parent(s) dies/die or suffers/suffer permanent incapacitation; (ii) A lady belonging to Other Backward Class category has got married to a Class I officer, and may herself like to apply for a job.
	B. GROUP B/CLASS II officers of the Central and State Services (Direct Recruitment)	Son(s) and daughter(s) of— (a) Parents both of whom are Class II officers; (b) Parents of whom only the husband is a Class II officer and he gets into Class I at the age of 40 or earlier; (c) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation and either of them has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc. for a period of not less than 5 years before such death or permanent incapacitation;

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(Schedule II.)

Sl.	Description of category	To whom rule of exclusion will apply
		<p>(d) Parents of whom the husband is a Class I officer (direct recruitment of pre-forty promoted) and the wife is a Class II officer and the wife dies or suffers permanent incapacitation; and</p> <p>(e) Parents of whom the wife is a Class I officer (direct recruitment or pre-forty promoted) and the husband is a Class II officer and the husband dies or suffers permanent incapacitation:</p> <p>Provided that the rule of exclusion shall not apply in the following cases:—</p> <p>Sons and daughters of—</p> <p>(i) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation;</p> <p>(ii) Parents both of whom are Class II officers and both of them die or suffer permanent incapacitation, even though either of them had the benefit of employment in any International Organization like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation.</p>
C.	Employees in Public Sector Undertaking etc.	The Criteria enumerated in A and B above in this category will apply <i>mutatis mutandis</i> to officers holding equivalent or comparable posts in Public Sector Undertakings, Banks, Insurance Organizations, Universities, etc. and also to equivalent or comparable posts and positions under private employment, pending the evaluation of the posts on equivalent or comparable basis in those institutions, the criteria specified in Category VI below will apply to officers in those institutions.
III.	ARMED FORCES INCLUDING PARA MILITARY FORCES (<i>persons holding civil posts are not included</i>)	<p>Son(s) and daughter(s) of parents either or both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and in the Air Force and the Para Military Forces:</p> <p>Provided that:—</p> <p>(a) If the wife of an Armed Forces officer is herself in the Armed Forces (i.e. the category under the consideration) the rule of exclusion will apply when she herself has reached the rank of Colonel;</p> <p>(b) The service ranks, below Colonel, of husband and wife shall not be clubbed together;</p> <p>(c) If the wife of an officer in the Armed Forces is in civil employment, this will not be taken into account for applying the rule of exclusion unless she falls in the service category under item No. II in which case the criteria and conditions enumerated therein will apply to her independently.</p>

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(Schedule II.)

Sl.	Description of category	To whom rule of exclusion will apply
IV.	<p>PROFESSIONAL CLASS AND THOSE ENGAGED IN TRADE AND INDUSTRY</p> <p>(i) <i>Persons engaged in profession as a doctor, lawyer, chartered accountant, income-tax consultant, dental surgeon, engineer, architect, computer specialists, film artists, and other film professionals, author, playwright, sports persons, sports professionals, media professional, or any other vocations of like status.</i></p> <p>(ii) <i>Persons engaged in trade, business and industry.</i></p>	Criteria specified against Category VI will apply;
V.	<p>PROPERTY OWNERS</p> <p>A. <i>Agricultural holdings.</i></p> <p>B. <i>Plantations</i></p> <p>(i) <i>Coffee, tea, rubber etc.</i></p> <p>(ii) <i>Mango, citrus, apple plantations etc.</i></p>	<p>Son(s) and daughter(s) of persons belonging to a family (father, mother and minor children) which owns—</p> <p>(a) Only irrigated land which is equal to or more than 85% of the statutory ceiling area, or</p> <p>(b) Both irrigated and unirrigated land, as follows:—</p> <p>(i) The rule of exclusion will apply where the pre-condition exists that the irrigated area (having been brought to a single type under a common denominator) is 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the unirrigated portion). If this pre-condition of not less than 40% exists, then only the area of unirrigated land will be taken into account. This will be done by converting the unirrigated land on the basis of the conversion formula existing, into the irrigate type. The irrigated area so computed from unirrigated land shall be added to the actual area of the irrigated land and if after such clubbing together the total area in terms of irrigate land is 80% or more of the statutory ceiling limit for irrigated land, then the rule of exclusion will apply and disentitlement will occur;</p> <p>(ii) The rule of exclusion will not apply if the land holding of a family is exclusively unirrigated.</p> <p>Criteria of income or wealth specified in Category VI below will apply.</p> <p>Deemed as agricultural holding and hence criteria at A above under this category will apply.</p>

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(Schedule II.)

Sl.	Description of category	To whom rule of exclusion will apply
	<i>C. Vacant land and/or building in urban areas or urban agglomerations.</i>	Criteria specified in Category VI below will apply. <i>Explanation.</i> —Building may be used for residential, industrial or commercial purpose and the like two or more such purposes.
VI.	INCOME/WEALTH TAX.	Son(s) and daughter(s) of (a) Persons having gross annual income of Rs. 4.5 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three years. (b) Person(s) in Categories I, II, III and VA who are not disentitled to the benefit of reservation but have income from other sources of wealth which will bring them within the income/wealth criteria mentioned above. <i>Explanation.</i> —Income from salaries and agricultural land shall not be clubbed.

Explanation.—Wherever the expression “permanent incapacitation” occurs in this Schedule, it will mean incapacitation which results in putting an officer out of service.

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(Schedule III.)

SCHEDULE III
(See section 5)

The reservation for the members of the Other Backward Classes in services or posts in an establishment shall be given effect to in the following manner, namely:—

(i) A roster of one hundred vacancies will be necessary to give effect to the reservation of vacancies for the Other Backward Classes for direct recruitment. The roster given below shall be adopted for the purpose by each establishment:—

1st Vacancy	Scheduled Caste
2nd Vacancy	Unreserved
3rd Vacancy	Unreserved
4th Vacancy	Scheduled Tribe
5th Vacancy	Unreserved
6th Vacancy	Other Backward Classes Category A
7th Vacancy	Scheduled Caste
8th Vacancy	Unreserved
9th Vacancy	Other Backward Classes Category B
10th Vacancy	Unreserved
11th Vacancy	Scheduled Caste
12th Vacancy	Unreserved
13th Vacancy	Other Backward Classes Category A
14th Vacancy	Unreserved
15th Vacancy	Scheduled Caste
16th Vacancy	Unreserved
17th Vacancy	Unreserved
18th Vacancy	Scheduled Caste
19th Vacancy	Other Backward Classes Category B
20th Vacancy	Unreserved
21st Vacancy	Scheduled Caste
22nd Vacancy	Unreserved
23rd Vacancy	Unreserved
24th Vacancy	Scheduled Tribe
25th Vacancy	Unreserved
26th Vacancy	Other Backward Classes Category A
27th Vacancy	Unreserved
28th Vacancy	Scheduled Caste
29th Vacancy	Other Backward Classes Category B
30th Vacancy	Unreserved
31st Vacancy	Unreserved
32nd Vacancy	Scheduled Caste
33rd Vacancy	Unreserved
34th Vacancy	Unreserved
35th Vacancy	Unreserved
36th Vacancy	Scheduled Caste
37th Vacancy	Unreserved
38th Vacancy	Other Backward Classes Category A
39th Vacancy	Unreserved
40th Vacancy	Scheduled Caste
41st Vacancy	Unreserved
42nd Vacancy	Unreserved
43rd Vacancy	Scheduled Tribe
44th Vacancy	Unreserved
45th Vacancy	Other Backward Classes Category A
46th Vacancy	Unreserved

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(Schedule III.)

47th Vacancy	Scheduled Caste
48th Vacancy	Unreserved
49th Vacancy	Other Backward Classes Category B
50th Vacancy	Unreserved
51st Vacancy	Scheduled Caste
52nd Vacancy	Other Backward Classes Category A
53rd Vacancy	Unreserved
54th Vacancy	Scheduled Tribe
55th Vacancy	Unreserved
56th Vacancy	Unreserved
57th Vacancy	Scheduled Caste
58th Vacancy	Unreserved
59th Vacancy	Other Backward Classes Category B
60th Vacancy	Unreserved
61st Vacancy	Scheduled Caste
62nd Vacancy	Unreserved
63rd Vacancy	Other Backward Classes Category A
64th Vacancy	Unreserved
65th Vacancy	Scheduled Caste
66th Vacancy	Unreserved
67th Vacancy	Unreserved
68th Vacancy	Scheduled Caste
69th Vacancy	Other Backward Classes Category B
70th Vacancy	Unreserved
71st Vacancy	Scheduled Caste
72nd Vacancy	Unreserved
73rd Vacancy	Unreserved
74th Vacancy	Scheduled Tribe
75th Vacancy	Unreserved
76th Vacancy	Other Backward Classes Category A
77th Vacancy	Unreserved
78th Vacancy	Scheduled Caste
79th Vacancy	Unreserved
80th Vacancy	Unreserved
81st Vacancy	Unreserved
82nd Vacancy	Scheduled Caste
83rd Vacancy	Unreserved
84th Vacancy	Other Backward Classes Category A
85th Vacancy	Unreserved
86th Vacancy	Scheduled Caste
87th Vacancy	Unreserved
88th Vacancy	Unreserved
89th Vacancy	Other Backward Classes Category B
90th Vacancy	Scheduled Caste
91st Vacancy	Unreserved
92nd Vacancy	Unreserved
93rd Vacancy	Scheduled Tribe
94th Vacancy	Unreserved
95th Vacancy	Unreserved
96th Vacancy	Unreserved
97th Vacancy	Scheduled Caste
98th Vacancy	Unreserved
99th Vacancy	Other Backward Classes Category A
100th Vacancy	Unreserved

The West Bengal Backward Classes (Other than Scheduled Castes and Scheduled Tribes) (Reservation of Vacancies in Services and Posts) Bill, 2012.

(Schedule III.)

- (ii) Before making any appointment by direct recruitment, the appointing authority shall ascertain by consulting the register whether the vacancy is reserved or unreserved and if it is reserved, for whom it is reserved. Immediately after an appointment is made the particulars thereof shall be entered in the register and signed by the appointing authority.
- (iii) The roster is a running account from year to year and shall be maintained accordingly. If recruitment in a particular year stops at a particular point of a cycle, say at the 5th point, recruitment in the subsequent year shall begin at the next point, that is, at the 6th point.
- (iv) The roster shall be maintained separately for permanent and temporary vacancies.
- (v) A vacancy due to whatever cause, except termination of service during probation, shall be treated as a fresh vacancy.

STATEMENT OF OBJECTS AND REASONS.

The reservation of vacancies in services and posts in the State Government and Government aided establishment for candidates belonging to Other Backward Classes is dealt with by executive Order issued by the State Government from time to time.

2. Now, the State Government have considered it necessary and expedient to enforce in the public interest, a suitable legislation to implement its reservation policy relating to Other Backward Classes in the manner similar to the statute in respect of the Scheduled Castes and Scheduled Tribes.

- 3. The Bill has been framed with the above objects in view.
- 4. The Bill does not have any financial implication.

KOLKATA,
The 8th June, 2012.

UPENDRA NATH BISWAS,
Member-in-charge.

By order of the Governor,

MALAY MARUT BANERJEE,
*Secy. to the Govt. of West Bengal,
Law Department.*