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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. 426-L.—7th March, 2013.—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 and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 6 of 2013

**THE WEST BENGAL STATE HIGHER EDUCATIONAL INSTITUTIONS
(RESERVATION IN ADMISSION) BILL, 2013.**

A
BILL

to provide for reservation of seats for admission of the students belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes domiciled in the State of West Bengal to certain Higher Educational Institutions in the State of West Bengal which are established, maintained or aided by the State Government, and for such matters connected therewith and incidental thereto.

WHEREAS it is expedient to provide for reservation of seats for admission of the students belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes of West Bengal to certain Higher Educational Institutions in the State of West Bengal, established, maintained or aided by the State Government to enable and encourage them to get access to the higher education;

*The West Bengal State Higher Educational Institutions
(Reservation in Admission) Bill, 2013.*

(Clauses 1, 2.)

It is hereby enacted in the Sixty-fourth 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 State Higher Educational Institutions (Reservation in Admission) Act, 2013.
- (2) It extends to the whole of West Bengal.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—
 - (a) “Academic session” means the period in a calendar year, or a part thereof, during which a Higher Educational Institution remains open for teaching, learning and instruction in any branch or course or study;
 - (b) “annual permitted strength” means the total number of seats in a course or study or programme, available for admission of students in a Higher Educational Institution for the purpose of giving instruction or teaching and learning in any branch of study, which is authorized by an appropriate authority for a particular academic session;
 - (c) “appropriate authority” means every authority, constituted or established either by the University Grants Commission or the Bar Council of India or the Medical Council of India or the All India Council for Technical Education or the National Council for Teacher Education and includes such other statutory body as may be established by or under any Central or State Act, for determination, co-ordination and maintenance of the quality and standards of higher education;
 - (d) “creamy layer” means the category of persons for whom the reservation of seats shall not be applicable as may be determined and prescribed by the Backward Class Welfare Department, Government of West Bengal;
 - (e) “faculty” means the faculty of a Higher Educational Institution;
 - (f) “Higher Educational Institution”, for the purpose of this Act, shall mean—
 - (i) a University, established and incorporated by or under an Act of State Legislature and aided fully or partly out of the State’s fund; or
 - (ii) a Government College, established or maintained by the State Government, whether directly or indirectly, and affiliated to a University; or
 - (iii) a College, receiving aid from the State Government in any form, or in any manner, whether fully or partly; or
 - (iv) any other institution as may be declared as such, by the State Government;
 - (g) “Minority Educational Institution” means an institution established and administered by any minority, whether based on religion or language who enjoys the privileges incorporated under clause (1) of article 30 of the Constitution of India and also the institutions declared as such by an Act or Notification of the Central or the State Government or declared as such by National Commission for Minority Educational Institutions, constituted

*The West Bengal State Higher Educational Institutions
(Reservation in Admission) Bill, 2013.*

(Clause 3.)

under the National Commission for Minority Educational Institutions Act, 2004;

2 of 2005.

- (h) “Other Backward Classes” means the class or classes of persons belonging to socially and educationally backward sections of the society as may be determined as per provisions made under clause (c) of section 2 of the West Bengal Commission for Backward Classes Act, 1993, and declared as such, by the Backward Class Welfare Department, Government of West Bengal, from time to time, in the *Official Gazette*;
- (i) “Other Backward Classes Category-A and Other Backward Classes Category-B” means the Other Backward Classes as may be determined and notified as such, by the Backward Class Welfare Department, Government of West Bengal, from time to time;
- (j) “Prescribed” means prescribed by rules made under this Act;
- (k) “Scheduled Castes” means the category of persons declared as such, under the provisions of article 341 of the Constitution of India;
- (l) “Scheduled Tribes” means the category of persons declared as such, under the provisions of article 342 of the Constitution of India;
- (m) “State Government” means the State Government of West Bengal in the Higher Education Department;
- (n) “Stream” means subjects bunched together under broad streams such as Humanities or Science or Medicine or Social Science or Engineering and Technology or Vocational Science and includes such other streams leading three principal levels of qualification at bachelor, masters and doctoral levels, as may be determined and prescribed by any appropriate authority, from time to time.

West Ben. Act
1 of 1993.

Reservation of
seats in State
Higher
Educational
Institutions.

3. (1) The reservation of seats for admission in a Higher Educational Institution shall be made in the following manners, namely:—

- (a) out of the total annual permitted strength in each stream of every Higher Educational Institution, twenty-two *percent* seats shall be reserved for the students belonging to Scheduled Castes; and
- (b) out of the total annual permitted strength in each stream of every Higher Educational Institution, six *percent* seats shall be reserved for the students belonging to Scheduled Tribes; and
- (c) out of the total annual permitted strength in each stream of every Higher Educational Institution, ten *percent* seats shall be reserved for the persons belonging to Other Backward Classes of Category-A; and
- (d) out of the total annual permitted strength in each stream of every Higher Educational Institution, seven *percent* seats shall be reserved for the students belonging to Other Backward Classes of Category-B.

(2) The reservation of seats in any Higher Educational Institution made under this Act shall, under no circumstances, exceed beyond fifty *percent* of the total annual permitted strength of any such Institution for any particular academic session.

(3) In every case, admission of students under any of the category referred under sub-section(1) of this section shall only be made in order to their merit and in such manner so that the quality and standard of the Higher Educational Institution may not be compromised.

(4) The State Government shall have right to determine and to rank the Higher

*The West Bengal State Higher Educational Institutions
(Reservation in Admission) Bill, 2013.*

(Clauses 4-6.)

Educational Institutions in accordance of their quality considering their standard of academic instructions and degrees offered by them and such other matter connected therewith and incidental thereto.

Act not to apply
in certain cases.

4. The provisions of section 3 of this Act shall not apply to,—

(1) The students belonging to creamy layer of the society;

(2) any institutions of excellence, research institutions, and institutions of national and strategic importance as may be notified in the *Official Gazette* by the State Government from time to time;

(3) any Educational Institution established and administered by any Minority, whether based on religion or language; and

(4) any course or programme at a higher level of specialization, including at the post-doctoral level, within any branch of study or faculty such as super speciality studies in Medicine or Engineering and Technology or such other subjects or stream as the State Government may, in consultation with the appropriate authority, specify from time to time.

Mandatory
increase of seats.

5. (1) Notwithstanding anything contained in clause (c) and clause (d) of sub-section(1) of section 3 and in any other law for the time being in force, every Higher Educational Institution shall, with the prior approval of the appropriate authority where necessary, increase the number of seats over and above its annual permitted strength so as to ensure that the number of seats, excluding those reserved for the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes, is not less than the number of such seats available for any academic session immediately preceding the date of this Act coming into force.

(2) Where necessary, in order to enable the Higher Educational Institutions to create the physical, academic and other infrastructure so as to cater to the increase in the number of seats, a maximum period of six years beginning with the academic session following the commencement of this Act shall be allowed, and the extent of reservation for the Other Backward Classes as provided in clause (c) and clause (d) of sub-section(1) of section 3 shall be limited for that academic session in such manner that the number of available seats to the Other Backward Classes for each academic session are commensurate with overall increase in the number of seats.

(3) In respect of those Higher Educational Institutions where expansion of capacity is not feasible for unavailable infrastructure-related or other reasons, the State Government may, upon being satisfied, re-distribute its quota of stream-wise reserved seats to other institutions in such a manner and to such extent as may be practicable keeping in mind the total seats available for all Higher Educational Institutions in the State taken together for a particular academic session.

Reservation of
seats in admission
to begin
immediately.

6. (1) Every Higher Educational Institutions shall, with funding support from the State Government, take all necessary steps required for giving effect to the provisions of sections 3, 4 and 5 of this Act, for the purposes of reservation of seats in admissions to its academic sessions commencing on and from the academic year, 2014-15.

(2) It shall be the duty of Higher Educational Institution of the State to prepare an action plan for achieving the targets laid down under this Act and shall submit a Detailed Project Report in a prescribed manner to the State Government.

*The West Bengal State Higher Educational Institutions
(Reservation in Admission) Bill, 2013.*

(Clauses 7-10.)

Commissioner of
Reservation for
Higher
Educational
Institutions.

7. (1) The State Government shall appoint a Commissioner of Reservation for Higher Educational Institutions in the State for the purpose of monitoring the implementation of the objectives laid down in this Act.

(2) The powers and functions of the Commissioner including the qualification for appointment and conditions of service of the Commissioner shall be such as may be prescribed.

(3) Notwithstanding anything contained in the preceding section, the Commissioner shall have power to de-reserve the seats available for admission for any academic session in such manner as may be prescribed.

Power to make
rules.

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

(2) Every rule made under this Act shall be laid as soon as may be after is made, before the State Legislature, while it is in session.

Power to give
directions.

9. Notwithstanding anything contained in any other law for the time being in force, the State Government shall have power to give directions to every State-aided University or State-aided Colleges or institutions in achieving the objectives of this Act and also to entrust them with such duties and functions as it may deem necessary.

Removal of
difficulties.

10. If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order, take such steps as deemed necessary for the purpose of removing the difficulty in giving effect to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS.

The State Government has been considering measures to enable the socially and economically weaker sections of society, also known as the Other Backward Classes (OBCs), in gaining greater access to higher educational institutions in the State. Further, as the present system of reservation of seats in higher educational institutions for the Scheduled Castes and Scheduled Tribes is based on executive orders, the Government deems it necessary to bring about a comprehensive legislation to provide for reservation of seats in the State's higher educational institutions for students belonging to the Scheduled Castes, Scheduled Tribes and the Other Backward Classes.

2. Accordingly, it is felt expedient to enact a law for the purposes mentioned above.
3. The Bill has been framed with the above objects in view.

KOLKATA,
The 5th March, 2013.

BRATYA BASU,
Member-in-charge.

*The West Bengal State Higher Educational Institutions
(Reservation in Admission) Bill, 2013.*

FINANCIAL MEMORANDUM

For bringing about reservation of seats in admission in the State Higher Educational Institutions for providing scope of higher learning to the socially and economically backward students, the State Government in the Higher Education Department proposes to promulgate a law for the purpose.

2. To achieve the proposed 22% reservation of seats for Scheduled Castes, 6% reservation for Scheduled Tribes and 10% reservation for Category-A and 7% for Category-B of Other Backward Classes, increase of approx. 4,15,408 seats in Under Graduate and 30,334 seats in Post Graduate levels is required to be made in the Higher Educational Institutions in the State in a phased manner, spread over a six-year period beginning with the academic year 2014-15.

3. There is financial implication involved in giving effect to the provisions of the Bill. The estimated requirement of fund over a six-year period is:—

(i) Capital Cost	- Rs. 445.74 Crore approx.
(ii) Recurring cost	- Rs. 623.40 Crore approx.
Total	- Rs. 1069.14 Crore approx.

4. Necessary provisions for the purpose will be made in the budget in consultation with the Finance Department of this Government.

KOLKATA,
The 5th March, 2013.

BRATYA BASU,
Member-in-charge.

By order of the Governor,

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