

The Tamil Nadu Backward Class Muslims (Reservation of Seats in Educational Institutions including Private Educational Institutions and of Appointments or Posts in the Services under the State) Act, 2007

TAMILNADU

India

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Act 33 of 2007

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The Tamil Nadu Backward Class Muslims (Reservation of Seats in Educational Institutions including Private Educational Institutions and of Appointments or Posts in the Services under the State) Act, 2007 Tamil Nadu Act 33 of 2007 Statement of Objects and Reasons. - As per the report submitted by the Tamil Nadu Second Backward Classes Commission headed by Thiru J.A. Ambasankar in 1985, out of 27,05,960 people belonging to Muslim minorities in the State, 25,60,195 were included in the list of Backward Classes which works out to 94.61% of the total Muslim population of the State. Similarly, among Christian minorities, out of 31,91,988 of the total population, 24,69,519 were included in the list of Backward Classes and 78,675 in the list of Most Backward Classes which works out to 77.36% and 2.46%, respectively, of the total Christian population of the State. Compared to the total population of Christians, the Christians included in the list of Most Backward Classes is negligible. The Muslims and Christians included in the list of Backward Classes and Most Backward Classes are now availing the benefit of 30% and 20% reservation provided for Backward classes and Most Backward classes and Denotified Communities, respectively, in admission to educational institutions including private educational institutions and appointments in sendees under the State under the provisions of the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of Appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994) and

the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Private Educational Institutions) Act, 2006 (Tamil Nadu Act 12 of 2006). There has been consistent representations from the Christian and Muslim communities included in the list of Backward Classes for providing a separate reservation for them in admission to the said educational institutions, appointments in the services under the State as they could not compete with other communities in the list of Backward Classes so as to get their legitimate share. The issue of providing a separate reservation for the Christian and Muslim communities listed in the Backward Classes was considered by the Tamil Nadu Backward Classes Commission for their recommendations. The said Commission has forwarded the recommendations to the Government in this regard. After examining the recommendations of the Tamil Nadu Backward Classes Commission, the Government have decided to provide a reservation for Backward Class Muslims and Backward Class Christians within the reservation provided for Backward Classes. Accordingly, the Tamil Nadu Backward Class Christians/and Backward Class Muslims (Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the services under the State) Ordinance, 2007 (Tamil Nadu Ordinance 4 of 2007) was promulgated by the Governor on 12th September, 2007 and the same was published in the Tamil Nadu Government Gazette Extraordinary, dated the 15th September 2007.2. The Bill seeks to replace the said Ordinance. Words 'Backward Class Christians And' omitted by Act 51 of 2008, w.e.f 22.10.2008. An Act to provide for reservation of seats in educational institutions including private educational institutions in the State and of appointments or posts in the services under the State to [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] Backward Class Muslims in the State of Tamil Nadu within the thirty per cent reservation for Backward Classes. Whereas, the policy of reservation for the social and educational advancement of the people belonging to the 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 Tamil Nadu for a long time; And Whereas, the State of Tamil Nadu is a pioneer State in providing reservation for the underprivileged and the first communal Government Order was passed in the year 1921 and the proportional representation for communities was made in the year 1927 in the State of Tamil Nadu; And Whereas, a large percentage of population of Tamil Nadu suffering from social and educational backwardness for many years have started enjoying the fruits of the reservation policy and have been able to improve their lot and attain a higher standard of living; And Whereas, the Tamil Nadu Legislature passed the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994); And Whereas, the Constitution (Seventy-sixth Amendment) Act, 1994, added the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994) enacted by the Tamil Nadu Legislature, to the IX Schedule, so as to give protection to the State Act, under Article 31-B of the Constitution; And Whereas, the Constitution (Ninety-third Amendment) Act, 2005 incorporating clause (5) of Article 15 of the Constitution enables the making of any special provisions, by law, for the advancement of any socially and educationally Backward Classes of citizens or for the Scheduled Castes or Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions whether, aided or unaided by the State other than minority educational institutions referred to in clause (1) of

Article 30 of the Constitution; And Whereas, by virtue of clause (5) of Article 15 of the Constitution and also after taking a policy decision that the existing level of sixty-nine per cent reservation, in admission to educational institutions other than minority educational institutions referred to in clause (1) of Article 30 of the Constitution in the State for the Backward Classes of Citizens and for the persons belonging to the Scheduled Castes and Scheduled Tribes, should be continued for ensuring the advancement of the majority of the people of the State of Tamil Nadu, the Tamil Nadu Legislature passed the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Private Educational Institutions) Act, 2006 (Tamil Nadu Act 12 of 2006); And Whereas, the Backward Class Christians and Backward Class Muslims in this State requested for a separate reservation for them as they could not compete with other communities in the list of Backward Classes published by the Government so as to get their legitimate share in admissions to educational institutions and of appointments or posts in the services under the State; And Whereas, the issue of providing reservation for Christians and Muslims based on, their social and educational backwardness was considered by the Tamil Nadu Backward Classes Commission; And Whereas, the said Commission, having considered the issue elaborately, forwarded the recommendations to the Government in which the Commission has recommended the, need for reservation to the Backward Class Christians and, Backward Class Muslims in the State on the basis of their population within the reservation now available for Backward Classes; And Whereas, it has become imperative to provide for Backward Class Christians and. Backward Class Muslims their due and legitimate share of percentage of reservation from the existing level of reservation of thirty per cent intended for Backward Classes, in the admission to educational institutions including private educational institutions and of appointments or posts in the services under the State; And Whereas, the State Government have, after careful consideration, taken a policy decision that in the existing level of thirty per cent reservation to Backward Classes, in admission to educational institutions including private educational institutions in the State and of appointments or posts in the services under the State, three and one-half percent for .Backward Class Christians and three and one-half percent for Backward Class Muslims shall be reserved for ensuring the advancement of the Backward Class Christians and Backward Class Muslims in the State of Tamil Nadu; Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-eighth Year of the Republic of India as follows:-

1. Short title extent and commencement.

(1) This Act may be called the Tamil Nadu [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] and Backward Class Muslims (Reservation of Seats in Educational Institutions Including Private Educational Institutions and of Appointments or Posts in the Services under the State) Act, 2007. (2) It extends to the whole of the State of Tamil Nadu. (3) It shall be deemed to have come into force on the 15th day of September 2007.

2. Definitions.

- In this Act, unless the context otherwise requires, -[* * *] [Clause (a) omitted by Act 51 of 2008, w.e.f 22.10.2008.] (b) "competent authority" means class or classes of citizens belonging to Muslim religion who are socially and educationally backward and notified by the Government under clause

(a) of section 3 of the 1994 Act in the Tamil Nadu Government Gazette as Backward Class;(c)"competent authority" means the competent authority appointed under section 6;(d)"educational institution" shall have the same meaning as defined in the 1994 Act;(e)"Government" means the State Government;(f)"prescribed" means prescribed by the rules made under this Act;(g)"private educational institution" shall have the same meaning as defined in the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Private Educational Institutions) Act, 2006 (Tamil Nadu Act 12 of 2006) (hereinafter referred to as the 2006 Act);

3. Reservation of seats in educational institutions including private educational institutions for the [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] Backward Class Muslims.

- Notwithstanding anything contained in the 1994 Act or the 2006 Act and notwithstanding anything contained in any judgment, decree or order of any Court or other authority, having regard to the social and educational backwardness of the [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] Backward Class Muslims, the reservation, in respect of annual permitted strength in each branch or faculty for admission into educational institutions in the State including private educational institutions, for the [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] Backward Class Muslims shall be [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] three and one-half per cent, [* * *] [Words 'respectively,' omitted by Act 51 of 2008, w.e.f. 22.10.2008.] within the thirty per cent reservation for Backward Classes as provided in the 1994 Act and in the 2006 Act.

4. Reservation in the appointments or posts in the services under the State.

- Notwithstanding anything contained in the 1994 Act and notwithstanding anything contained in any judgment, decree or order of any Court or other authority, having regard to the inadequate representation in the services under the State, of the [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] Backward Class Muslims, the reservation for appointments or posts in the services under the State for the [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] Backward Class Muslims shall be [* * *] [Words 'three and one-half per cent and' omitted by Act 51 of 2008, w.e.f. 22.10.2008.] three and one-half per cent, [* * *] [Words 'respectively,' omitted by Act 51 of 2008, w.e.f 22.10.2008.] within the thirty per cent reservation for Backward Classes as provided in the 1994 Act. Explanation. - For the purpose of this Act, the services under the State includes the services under-(i)the Government;(ii)the Legislature of the State;(iii)any local authority;(iv)any Corporation or Company owned or controlled by the Government; or(v)any other authority in respect of which the State Legislature has power to make laws.

5. Reservation not to be affected.

- Notwithstanding anything contained in sections 3 and 4, the claims of the students or members belonging to the [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] Backward Class Muslims shall also be considered for the unreserved seats, appointments or posts which shall be filled on the basis of merits and where a student or member belonging to the [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] Backward Class Muslims is selected on the basis of merit, the number of seats, appointments or posts reserved for [* * *] [Words 'Backward Class Christians and' omitted by Act 51 of 2008, w.e.f 22.10.2008.] Backward Class Muslims [* * *] [Words ', as the case may be,' omitted by Act 51 of 2008, w.e.f. 22.10.2008.] shall not in any way be affected.

6. Competent authority.

(1)The Government may, by notification, appoint any officer not below the rank of District Backward Classes and Minorities Welfare Officer to be the competent authority for the purposes of carrying out the provisions of this Act and the rules made thereunder in respect of private educational institutions.(2)The competent authority shall exercise such powers and perform such functions as may be prescribed.

7. Power of Government to give direction.

(1)The Government may, in the public interest, by order, direct the competent authority to make an enquiry or to take appropriate proceedings under this Act in any case specified in the order, and the competent authority shall report to the Government the result of the enquiry made or the proceedings taken by him within such period as may be prescribed.(2)On receipt of the report from the competent authority under sub-section (1), the Government shall give such direction as they deem fit and such direction shall be final and binding.

8. Competent authority to be public servant.

- The Competent authority appointed under section 6 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

9. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the competent authority, Government or its Officers for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

10. Power to make rules.

(1)The Government may make rules for carrying out the purposes of this Act.(2)(a)All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.(b)All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.(3)Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the Table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

11. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty:Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

12. Repeal and saving.

(1)The Tamil Nadu Backward Class Christians and Backward Class Muslims (Reservation of seats in Educational Institutions including Private Educational Institutions and of appointments or posts in the services under the State) Ordinance, 2007 (Tamil Nadu Ordinance 4 of 2007) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.