

Mizoram Scheduled Tribes and Scheduled Castes (Regulation of Issuance and Verification of) Community Certificates Act, 2014

MIZORAM

India

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Act 5 of 2014

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Mizoram Scheduled Tribes and Scheduled Castes (Regulation of Issuance and Verification of) Community Certificates Act, 2014(Act No. 5 of 2014)Last Updated 12th February, 2020(Received the assent of the Governor of Mizoram on the 11th July, 2014).An act to provide for the regulation of issuance and verification of the Community Certificates to the persons belonging to the Scheduled Tribes and Scheduled Castes in the State of Mizoram.Whereas it is considered necessary to devise and provide for the regulation of the issuance and verification of the Community Certificates to the persons belonging to the Scheduled Tribes and Scheduled Castes in the State of Mizoram;And Whereas in order to curb effectively the evil practices of securing such certificates by persons other than those belonging to the Scheduled Tribes and Scheduled Castes for claiming the benefits of reservation and such other benefits meant for the Scheduled Tribes and the Scheduled Castes and to make provisions for prescribing punishment therefore and to provide for matters connected therewith or incidental thereto;It is enacted by the State Legislature in the Sixty fifth year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Mizoram Scheduled Tribes and Scheduled Castes (Regulation of Issuance and Verification of) Community Certificates Act, 2014.(2)It extends to the whole of the State of Mizoram.(3)It shall come into force on such date, as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)"Community Certificate" means the Certificate issued by the Competent Authority to the person indicating therein the Scheduled Tribes or Scheduled Castes, as the case may be, to which the person belongs;(b)"Competent Authority" means any officer or authority authorized by the Government by notification to perform the functions of the competent authority under this Act, for such an area or for such purposes as may be specified in the notification;(c)"Educational Institution" means any School, College, University, other educational institutes and any other institution imparting education as may be notified by the Government from time to time;(d)"Government" means the Government of Mizoram(e)"Local Authority" means in relation to local areas comprised within the jurisdiction of the concerned Municipal Council, Local Council/Village Council having jurisdiction over such local areas;(f)"prescribed" means prescribed by rules made by the Government under this Act;(g)"Scheduled Tribes and Scheduled Castes" shall have the meanings respectively assigned to them in clause (24) and clause (25) of Article 366 of the Constitution of India;(h)"Scrutiny Committee" means the State Scrutiny Committee constituted under sub-section(i) of Section 6 under this act for the Scheduled Tribes and Scheduled Castes for verification of the Community Certificate and to perform the function of the Scrutiny Committee under this Act;

3. Application for a Community Certificate.

(1)Any person belonging to any of the Scheduled Tribes or Scheduled Castes shall in order to claim the benefit of any reservation provided to such Tribes and Castes either for any public appointment or for admission into any educational institution in the State or outside the state for the students of the State or any other benefit under any special provisions made under Clause(4) of Article 15 of the Constitution of India or for the purpose of contesting for elective post in any local authority or for elective posts in the Co-operative Societies; or for purchase or transfer of land from a tribal land holder or any other purposes specified by the Government from time to time, apply in such form and in such manner as may be prescribed to the Competent Authority for the issue of a Community Certificate.(2)Any person belonging to a Scheduled Tribe may, for the purpose of claiming any benefit or protection meant for Scheduled Tribes under any notification, direction or regulation made under the Sixth Schedule to the Constitution of India, or under any Act, Rule, Regulation or Order for the time being in force in the Scheduled Areas, make an application in such form and in such manner as may be prescribed, to the Competent Authority for the issue of Community Certificate.Explanation. - For the purposes of this section, 'Scheduled Areas' means the areas as defined in paragraph 6 to the Fifth Schedule to the Constitution of India.

4. Community Certificate to be issued by Competent Authority.

(1)The Competent Authority may, on an application made to it under section 3, after satisfying itself about the genuineness or otherwise of the claim made therein and thereafter issue a Community Certificate within such period and in such form as may be prescribed or reject the application in writing.(2)Before the issue or rejection of a certificate under sub-section (1) the Competent Authority shall follow such procedure as may be prescribed.(3)The Community Certificate issued by

the Competent Authority shall be valid only subject to the verification and grant of validity Certificate by the Scrutiny Committee.(4)A community Certificate issued by any other person, officer or authority other than the Competent Authority under this Act shall be invalid.

5. Appeal.

(1)Any person aggrieved by an order of rejection of an application passed by the Competent Authority under sub-section (1) of section 4 may within thirty days from the date of receipt of order, appeal to the Appellate Authority specified by the Government by notification in the Official Gazette.(2)The Appellate Authority may within a period of three months, after giving the appellant an opportunity of being heard and after satisfying itself about the genuineness or otherwise of the claim of the appellant either confirms the rejection or set aside the order of the Competent Authority and direct the Competent Authority to issue the Community Certificate.

6. Constitution of Scrutiny Committee and its powers.

(1)The State Government shall constitute by notification in the Official Gazette, State Scrutiny Committee for verification of community certificate issued by the Competent Authority under sub-section (1) of section 4.(2)The Committee shall consist of the following Members :-

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| (a) the Joint Secretary, Home Department, Government of Mizoram | :: Chairman |
| (b) the Director, Social Welfare Department, Government of Mizoram or any other officer not below the rank of Deputy Director duly authorized by him | :: Member |
| (c) the Director, Art & Culture Department, Government of Mizoram or any other officer not below the rank of Deputy Director duly authorized by him | :: Member |
| (d) the Director, Economics & Statistics Department, Government of Mizoram or any other officer not below the rank of Deputy Director duly authorized by him | :: Member |

(3)Subject to any general or special order of the State Government, provisions of this Act and rules made thereunder, the Committee shall have powers-(a)to verify social status of a person in whose favour a certificate is issued under section 4;(b)to make an inquiry in connection with the contravention of any provisions of this act;(c)to issue notice to any person or authority in such manner as may be prescribed;(d)to call for information from any person or authority for the purpose of satisfying itself whether there has been any contravention of any provision of this Act or any rule or order made or direction issued thereunder;(e)to require any person or authority to produce or deliver any document or thing useful or relevant to the inquiry;(f)to examine any person acquainted with the facts and circumstances of the case;(g)to validate the Community Certificates issued by the Competent Authority after due verification of the genuineness of the Certificate.(h)to scrutinize complaints relating to availing of benefits on the basis of false Community Certificate and the matters connected therewith.(i)to summon and enforce attendance of any person from any part of the State and examining him/her on oath.(j)to issue commissions for the examination of witnesses or documents; and(k)to requisition any public record or copy thereof from any court or office.(4)The Committee shall meet at such place and time, and the meeting shall be conducted in such manner, as may be prescribed.(5)All order or direction of the Committee shall be authenticated

by the Chairman or by such officer of the Committee as may be authorized by the Chairman on this behalf.

7. Cancellation and confiscation of false Certificate.

(1)Where, before or after the commencement of this Act, a person not belonging to any of the Scheduled Tribes and Scheduled Castes has obtained a false Community Certificate to the effect that either himself or his children belongs to such Tribes or Castes, the Scrutiny Committee may, suo motu or on a written complaint by any person, call for the record and enquire into the correctness of such certificate and if it is of the opinion that the Certificate was obtained fraudulently, it shall, by an order cancel and confiscate the certificate after giving the person concerned an opportunity of being heard, and communicate the same to the concerned person and the concerned authority, if any. This includes confiscation of immovable properties fraudulently obtained by the defaulting person on ground of false certificate or impersonation.(2)The order passed by the Scrutiny Committee under this Act shall be final and binding upon the parties.

8. Burden of proof.

- Where an application is made to the Competent Authority under section 3 for the issue of a community certificate in respect of Scheduled Castes or Scheduled Tribes or in any enquiry conducted by the Competent Authority under this Act or any other Authority empowered to cancel the community certificate or any trial of offence under this Act, the burden of proving that the person belongs to such Castes or Tribes shall be on the applicant/claimant.

9. Powers of the Civil Court to Competent authority, Appellate Authority and Scrutiny Committee.

- The Competent Authority, Appellate Authority and Scrutiny Committee shall, while holding an enquiry under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 and in particular in respect of the following matters, namely:-(a)summoning and enforcing the attendance of any person and examining him on oath;(b)requiring the discovery and production of any document;(c)receiving evidence on affidavits;(d)requisitioning any public record or copy thereof from any Court or Office; and(e)issuing commissions for the examination of witnesses or documents.

10. Benefits secured on the basis of false community certificate to be withdrawn.

(1)Whoever, not being a person belonging to any of the Scheduled Tribes or Scheduled Castes secures admission in any educational institution against a seat reserved for such Tribes or Castes or secures any appointment in the Government, local authority or in any other Company or Corporation, owned or controlled by the Government or in any Government aided institution or Co-operative Society against a post reserved for such Tribes or Castes by producing a false

community certificate shall, on cancellation of the Community Certificate by the Scrutiny Committee, be liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said employment forthwith and any other benefits enjoyed or derived by virtue of such admission or appointment by such person as aforesaid shall be withdrawn forthwith.(2)Any amount paid to such person by the Government or any other agency by way of scholarship, grant, allowance or other financial benefit shall be recovered from such person as an arrears of land revenue.(3)Notwithstanding anything contained in any Act for the time being in force, any Degree, Diploma or any other educational qualification acquired by such person after securing admission in any educational institution on the basis of a Community Certificate which is subsequently proved to be false shall also stand cancelled, on cancellation of such Community Certificate, by the Scrutiny Committee.(4)Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for being a member of any statutory body if he has contested the election for local authority, Co-operative Society or any Statutory body on the seat reserved for any of Scheduled Tribes or Scheduled Castes by producing false Community certificate as belonging to such Tribes or Castes on such false Community Certificate being cancelled by the Scrutiny Community, and any benefits obtained by such person shall be recoverable as arrears of land revenue and the election of such person shall be deemed to have been terminated retrospectively.

11. Offences and penalties.

(1)Whoever -(a)obtains a false Community Certificate by furnishing false information or filing false statement or documents or by any other fraudulent means; or(b)not being a person belonging to any of the Scheduled Tribes or Scheduled Castes secures any benefits or appointment exclusively reserved for such Tribes or Castes in the Government, local authority or any other company or corporation owned or controlled by the Government or in any Government aided institution, or secures admission in any educational institution against a seat exclusively reserved for such Tribes or Castes or is elected to any of the elective offices of any local authority or Co-operative Society against the office, reserved for such tribes or castes by producing a false Community Certificate; shall, on conviction, be punished, with rigorous - imprisonment for a term which shall not be less than six months but which may extend upto two years or with fine which shall not be less than two thousand rupees, but which may extend upto twenty thousand rupees or both.(2)No court shall take cognizance of an offence punishable under this section except upon a complaint, in writing, made by the Scrutiny Committee or by any other officer duly authorized by the Scrutiny Committee for this purpose.

12. Offences to be cognizable and non-bailable.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 -(a)Offences punishable under this Act, shall be cognizable and non-bailable;(b)every offence punishable under this Act, shall be tried summarily by any Magistrate of First Class and provisions of sections 262 except sub-section(2) to 265 both inclusive of this Code, shall as far as possible may be applied to such trial.

13. Penalty for issuing false Community Certificate.

(1) Any person or authority performing the functions of Competent Authority under this Act, who intentionally issues a false Community Certificate, shall on conviction, be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years or with fine which shall not be less than two thousand rupees, but which may extend upto twenty thousand rupees or both. (2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government.

14. Penalty for abetment.

- Whoever abets any offence punishable under this Act shall be punished with the punishment provided for in this Act for such offence.

15. Bar of jurisdiction of Civil Courts.

- No Civil Court shall have jurisdiction in respect of any order passed by any officer or authority under this Act and no stay or injunction shall be granted by a court in respect of any action taken or to be taken by such officer or authority under this Act in pursuance of any power conferred by or under this Act.

16. Protection for acts done in good faith.

- No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

17. Act to overwrite other laws.

- The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

18. Power to make rules.

(1) The State Government may, make rules for carrying out the provisions of this Act. (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly.

19. Transitional Provision.

- A Community Certificate issued by any authority competent to issue the same under the relevant rules or orders/guidelines before the commencement of this Act shall, unless it is cancelled under the provision of this Act, be valid and shall be deemed to have been issued under the provisions of this Act.

20. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government, may by order, published in the Official Gazette, not inconsistent with the provisions of this Act, remove the difficulty: Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.