

The West Bengal Scheduled Castes And Scheduled Tribes (Identification) Act, 1994

WEST BENGAL

India

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Act 38 of 1994

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The West Bengal Scheduled Castes And Scheduled Tribes (Identification) Act, 1994 West Bengal Act 38 of 1994 [3rd August, 1994.] Assent of the Governor was first published in the Calcutta Gazette, Extraordinary, dated the 3rd August, 1994. An Act to provide for the identification of the Scheduled Castes and the Scheduled Tribes in West Bengal and for matters connected therewith or incidental thereto; Whereas it is expedient to provide for the identification of the Scheduled Castes and the Scheduled Tribes in West Bengal and for matters connected therewith or incidental thereto; It is hereby enacted as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994. (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, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) ["Committee" means the State Scrutiny Committee constituted under section 8A for verification of social status of a person in whose favour a certificate is issued under section 5;] [Original clause (a) renumbered as clause (aa) and new clause (a) inserted by W.B. Act 4 of 2007.](aa) ["Constitution" mean the constitution of India.] [Original clause (a) renumbered as clause (aa) and new clause (a) inserted by W.B. Act 4 of 2007.](b) "notification" means a notification published in the Official Gazette; (c) "prescribed" means prescribed by rules made under this Act; (d) "Scheduled Castes" shall have the same meaning as in clause (24) of Article 366 of the Constitution; (e) "Scheduled Tribes" shall have the same meaning as in clause (25) of Article 366 of the Constitution; (f) "the Constitution (Scheduled Castes) Order"

means the Constitution (Scheduled Castes) Order, 1950, made by the President in exercise of the powers conferred by clause (1) of Article 341 of the Constitution;(g)"the Constitution (Scheduled Tribes) Order" means the Constitution (Scheduled Tribes) Order, 1950," made by the President in exercise of the powers conferred by clause (1) of Article 342 of the Constitution.

3. Identification of members of Scheduled Castes.

- Any person belonging to any of the castes, races or tribes or parts of or groups within castes, races or tribes, specified in Part XIII of the Schedule to the Constitution (Scheduled Castes) Order, and resident in the locality specified in relation to him in that Part of such Schedule, may be identified, by a certificate, to be a member of the Scheduled Castes.

4. Identification of members of Scheduled Tribes.

- Any person belonging to any of the tribes or tribal communities or parts of or groups within tribes or tribal communities, specified in Part XII of the Schedule to the Constitution (Scheduled Tribes) Order, and resident in the locality specified in relation to him in that Part of such Schedule, may be identified, by a certificate, to be a member of the Scheduled Tribes.

5. Issue of certificate of identification.

- A certificate under section 3 or section 4 may be issued, -(a)in the district, by the Sub-Divisional Officer of the sub-division concerned, and(b)[in Kolkata by such officer as the State Government may, by notification, authorise. [[Clause (b) with Explanation I and Explanation II substituted by W.B. Act 35 of 2012, which were earlier as under: '(b) in Calcutta, by the District Magistrate, South 24-Parganas, or by such Additional District Magistrate, South 24-Parganas, as may be authorised by the District Magistrate, South 24-Parganas, in this behalf. Explanation I. - 'Calcutta' shall mean the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866. Explanation II. - For the removal of doubt, it is hereby declared that for the purposes of this Act, the District Magistrate, South 24-Parganas, or the Additional District Magistrate, South 24-Parganas, authorised by the District Magistrate, South 24-Parganas, under clause (b) of this section, shall have jurisdiction over Calcutta.']](c)[in Bidhannagar Municipal Corporation area not included in clause (a), by the Sub-divisional Officer of the Bidhannagar sub-division.] Explanation I. - "Kolkata" means kolkata as defined in clause (9) of section 2 of the Kolkata Municipal Corporation Act, 1980. Explanation II. - For the removal of doubt, it is hereby declared that for the purpose of this Act, an officer authorised under clause (b) of this section, shall have jurisdiction over Kolkata.]

6. Procedure of issue of certificate.

- A certificate under this Act may be issued on application by the person requiring the certificate under this Act in such form and manner, and, upon production of such evidence, as may be prescribed.

7. Power to refuse to issue certificate.

- If the Sub-Divisional Officer [an officer authorised] [Words Substituted for the words 'the District Magistrate, South 24-Parganas, or the Additional District magistrate, South 24-Parganas, authorised by the District Magistrate, South 24-Parganas,' by W.B. Act 35 of 2012.] authorised by the District Magistrate, South 24-Parganas, under clause (b) of section 5, as the case may be (hereinafter referred to as the certificate issuing authority), is not satisfied with the evidence produced by any person under section 6 and the rules made thereunder for the issue of a certificate under section 5, he may refuse, in writing, to issue such certificate after giving such person a reasonable opportunity of being heard.

7A. [Issue of duplicate or fresh certificate. - (1) In the event of loss or damage of the certificate issued under this Act, the holder of the certificate may, upon an application made in such manner as may be prescribed, be granted -

(a)a duplicate certificate in lieu of lost certificate, or(b)a fresh certificate in lieu of damaged certificate.(2)On receipt of the application under sub-section (1), the certificate issuing authority, shall verify whether or not the record of the certificate, which has been lost or damaged, is available with it and, -(a)if such record is available with the authority, it shall verify the application with such record, and if the statements relating to the certificate made in the application are true and correct, or(b)if such record is not available with the authority, it shall cause a fresh inquiry to be conducted in the same manner as may be prescribed for issuance of a certificate under section 5, and if findings of the inquiry are satisfactory,it shall issue a duplicate certificate in lieu of lost certificate or a fresh certificate in lieu of damaged certificate, as the case may be, in such form as may be prescribed :Provided that the certificate issuing authority may, for the purpose of issuing the certificate under this section, give a personal hearing to the person requiring such certificate.(3)If, during the course of verification of the application with the record under sub-section (2), it appears to the certificate issuing authority that the certificate, which has been lost or damaged was issued by mistake, or by any misrepresentation of facts, or on the basis of an incomplete evidence, it may cause a fresh inquiry and ask the person requiring the certificate under this section to produce such evidence, as it may considers necessary, to determine his eligibility.(4)If the certificate issuing authority is not satisfied with the evidence produced by the person requiring the certificate under this section, he may refuse, in writing, to issue such certificate after giving such person a reasonable opportunity of being heard.] [Section 7A inserted by W.B. Act 24 of 2008.]

8. Appeal against refusal to issue certificate.

(1)An appeal against any refusal under section 7 [or sub-section (4) of section 7A] [Words, figures and brackets inserted by W.B. Act 24 of 2008.] to issue any certificate shall lie -(a)to the District Magistrate, or the Additional District Magistrate authorised by the District Magistrate in this behalf, where the certificate is refused by the Sub-Divisional Officer, and(b)to the Commissioner, Presidency Division, where the certificate is refused by [an officer authorised] [Words substituted

for the word 'the District Magistrate, South 24-Parganas, or the Additional District magistrate, South 24-Parganas, authorised by the District Magistrate, South 24-Parganas,' by W.B. Act 35 of 2012.] under clause (b) of section 5, as the case may be: Provided that every such appeal shall be made in such manner and within such time as may be prescribed : Provided further that every such appeal shall be disposed of within three months from the date on which the appeal is made. Provided also that no such appeal shall be disposed of without giving the appellant a reasonable opportunity of being heard. (2) The decision of the District Magistrate or the Additional District Magistrate or the Commissioner, Presidency Division, as the case may be on any appeal under sub-section (1) shall be final.

8A. [Constitution of State Scrutiny Committee and its powers. [Sections 8A and 8B inserted by W.B. Act 4 of 2007.]

(1) The State Government may, by order, constitute a Committee to be called the State Scrutiny Committee for verification of social status of a person [in whose favour a certificate is issued under section 5 including a case where a caste certificate has been cancelled, impounded or revoked by the issuing authority under section 9]. (2) The Committee shall consist of the following Members : (a) the Secretary, Backward Classes Welfare Chairperson; Department, Government of West Bengal. Explanation. - Secretary shall include a Special Secretary. (b) the Commissioner, Directorate of Backward, Convenor : Classes Welfare, West Bengal or any officer not below the rank of Deputy Director, duly authorised by him. (c) the Director, Cultural Research Institute, Expert Member, Backward Classes Welfare Department or any officer not below the rank of Deputy Director, duly authorised by him. (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 the social status of a person in whose favour [a certificate is issued under section 5 including a case where a caste certificate has been cancelled, impounded or revoked by the issuing authority under section 9] [Substituted 'in whose favour a certificate is issued under section 5' by West Bengal Act No. 35 of 2017, dated 15.9.2017.]; (b) to issue directions to the Vigilance Cell constituted under section 8B; (c) [on its own or on receipt of information, to make an inquiry in connection with the contravention of any provision of this Act including any act of contravention by the issuing authority in respect of issuing, rejecting or cancelling caste certificate;] [Substituted 'in whose favour a certificate is issued under section 5' by West Bengal Act No. 35 of 2017, dated 15.9.2017.]; (d) to issue notice to any person or authority in such manner as may be prescribed; (e) 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; (f) to require any person or authority to produce or deliver any document or thing useful or relevant to the inquiry; (g) to examine any person acquainted with the facts and circumstances of the case; (h) to issue direction under sub-section (2) of section 9 to the certificate issuing authority; (i) to do such other things and perform such other acts not inconsistent with the provisions of this Act as may appear to be necessary or expedient for the proper conduct of its function, or which may be prescribed. (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 orders or directions of the Committee shall be authenticated by the Chairperson or by such officer of the Committee as may be authorised by the Chairperson on this behalf.]

8B. [Constitution of Vigilance Cell and its powers. [Sections 8A and 8B inserted by W.B. Act 4 of 2007.]

(1)The State Government may, by order, constitute a Vigilance Cell for each district of the West Bengal.(2)[The Vigilance Cell shall consist of the following Members :(a)the Additional District Magistrate in charge Chairperson;of the affairs of the Backward Classes Welfare Department in the district,(b)Officer-in-charge not below the rank of Convenor;Deputy Superintendent of Police,(c)Investigating officers not exceeding three from Members;amongst the police officers in the rank of Inspector,](3)Subject to any general or special order of the State Government or the provisions of this Act and rules made thereunder, the Vigilance Cell shall have powers -(a)to inquire the cases relating to social status claims of a person in whose favour a certificate is issued under section 5;(b)to make an inquiry in connection with the contravention of any provision 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 himself whether there has been any contravention of any provisions 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 enquiry;(f)to examine any person or authority acquainted with the facts and circumstances of the case;(g)to do such other things and perform such other acts not inconsistent with the provisions of this Act as may appear to be necessary or expedient for the proper conduct of its function, or which may be prescribed.]

9. Power to cancel, impound or revoke certificate.

- [(1) If the certificate issuing authority is satisfied; that a certificate under this Act has been obtained by any person by furnishing any false information or by misrepresenting any material information or by producing any document which is an act of forgery, it may cancel, impound or revoke such certificate in such manner as may be prescribed.(2)Notwithstanding anything contained in sub-section (1), if the Committee is satisfied that a certificate under this Act has been obtained by any person by furnishing any false information or by misrepresenting any fact or by suppressing any material information or by producing any document which is an act of forgery, it may issue a direction to the certificate issuing authority, in such manner as may be prescribed, to cancel, impound or revoke such certificate and, on receipt of such direction, the certificate issuing authority shall, by order in writing, cancel, impound or revoke such certificate.] [Section 9 renumbered as sub-Section (1) and sub-Section (2) inserted by W.B. Act 4 of 2007.]

10. Offences and penalties.

- Whoever -(a)knowingly furnishes any false information, or(b)knowingly misrepresents any fact or(c)knowingly suppresses any material information, or(d)knowingly produces any document which is an act of forgery, with a view to obtaining a certificate under this Act [shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees] [Words Substituted for the words 'shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees' by

W.B. Act 4 of 2007.] or with both.

11. Validation of certificate.

- Notwithstanding anything contained in this Act, any certificate identifying any person to be a member of the Scheduled Castes or the Scheduled Tribes, issued by any authority, competent under any law for the time being in force to issue such certificate, prior to the commencement of this Act, shall be valid and shall be deemed to have been issued under this Act unless such certificate is proved to have been obtained by furnishing any false information or by misrepresenting any fact or by suppressing any material information or by producing any document which is an act of forgery, and in every such case the certificate issuing authority shall have the power to cancel, impound or revoke such certificate in accordance with the provisions of this Act and the rules made thereunder.

11A. [Verification of certificate. - (1) If the appointing authority or the head of an establishment, from which a person in whose favour a certificate is issued under section 5 is going to derive benefit as a holder of the certificate, has any doubt that such certificate has been obtained by furnishing false information or by misrepresenting any fact or by suppressing any material information or by producing any document which is an act of forgery, it shall send an application alongwith the certificate to the Committee for verification.

Explanation. - The expressions "appointing authority" and "establishment" shall have the meaning respectively as assigned to them in clauses (a) and (b) of section 2 of the West Bengal Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1976.(2)The Committee shall dispose of the application referred to in sub-section (1) in such manner as may be prescribed.] [Section 11A inserted by W.B. Act 4 of 2007]

12. Power to make rules.

(1)The State Government may, by notification, 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 matters which under any provision of this Act, are required to be prescribed or to be provided for by rules.