

Rajasthan Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2008

RAJASTHAN

India

Rajasthan Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2008

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Rajasthan Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2008(Rajasthan Act No. 12 of 2009)Last Updated 27th May, 2019Statement of Objects and Reasons. - The policy of reservation for the social, economic and educational advancement of the people belonging to 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 Rajasthan for a long time;A large percentage of population of Rajasthan 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;As far back as in 1981 the State Government had looking to the extreme backwardness of Banjaras and Gadia Lohars, recommended to the Central Government to include them in the list of Scheduled Tribes. Similarly, a High Powered Committee has recommended special dispensation to Gujars looking to their extreme social and educational backwardness. The Raikas (Rabari/Devasis), due to their nomadic life style, are also extremely

backward both from social and educational point of view. All these compelling facts make it necessary that these four castes should be given special treatment by classifying them in a separate category the Special Backward Class. There was a long standing demand from the poorest classes of the unreserved categories that due to their economic weaknesses they are unable to compete with the other affluent classes as a result of which they are gradually becoming socially and educationally backward. In view of their demand, a Commission was appointed to identify and examine the requirements of the economically backward classes of people of general categories not covered by the existing reservation available to the Scheduled Castes, Scheduled Tribes and Backward Classes. The Commission has recommended extension of the benefits of reservation to these classes of persons. Clause (1) of Article 38 of the Constitution provides 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 : Clause (2) of Article 38 of the Constitution further provides that the State shall, in particular, strive to minimize the inequalities in income and endeavour 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; Article 46 of the Constitution also provides that the State shall promote, with special care, the educational and economic interest of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitations: The State Government is of the opinion that the Scheduled Castes, the Scheduled Tribes, the Backward Classes, the Special Backward Classes and the Economically Backward Classes, who constitute the majority of the total population of the State are not adequately represented in the services under the State in proportion to their population in the State of Rajasthan: In view of the above, the State Government is of the considered opinion that for the social, educational and economic advancement of the majority of the people of the State and to ensure the justice and quality as enshrined in our Constitution it is necessary to continue the existing policy of reserve on and to provide special treatment to the extremely backward classes and to extend the benefit of reservation to Economically Backward Classes. The opportunity is also being availed to give statutory recognition and protection to the reservation provided to Scheduled Castes, Scheduled Tribes and Backward Classes. Accordingly it is proposed to provide for the reservation of seats in educational institutions in the State and of appointments and posts in the services under the State in favour of the Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes to the extent of 16%, 12%, 21%, 5% and 14% respectively. The Bill seeks to achieve the aforesaid objectives.][Received the Assent of the Governor on the 30th Day of July, 2009]An Act to Provide for the Reservation of Seats In Educational Institutions In The State and of Appointments and Posts In The Services Under The State In Favour of The Scheduled Castes, Scheduled Trikes, Backward Classes, Special Backward Classes and Economically Backward Classes and for matters connected therewith or incidental thereto. Whereas, the policy of reservation for the social, economic and educational advancement of die people belonging to Backward Classes of citizens in admissions to educational institutions in the State and in appointments in the services under the State has been under implementation in the State of Rajasthan for a long time; And Whereas, a large percentage of the population of Rajasthan 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, in the opinion of the State Government, certain backward classes viz. the Banjaras, Gadia

Lohars, Gujars and Raikas(Rebari/Devasi) need special treatment in view of their being extremely backward-educationally and socially;And Whereas, the Commission constituted by the State Government to identify and examine the requirements of economically backward classes of people of general categories not covered by the existing reservation available to the Scheduled Castes, Scheduled Tribes and Backward Classes has recommended extension of the benefit of reservation to the economically weaker classes;And Whereas, under clause (1) of Article 38 of the Constitution, 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 endeavour 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 Article 46 of the Constitution, the State shall promote, with special care, the educational and economic interest of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitations;And Whereas, in the opinion of the State Government, the Scheduled Castes, the Scheduled Tribes, the Backward Classes, the Special Backward Classes and the Economically Backward Classes, who constitute the majority of the total population of theState are not adequately represented in the services under the State in proportion to their population in the State of Rajasthan;And Whereas, the State Government have, after careful consideration and looking to the extraordinary situation in the State, decided that the existing reservation in admissions to educational institutions in the State and in appointments in the services under the State, for persons belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes should be continued with the modification that the extremely backward classes like the Banjaras, Gadia Lohars, Gujars and Raikas (Rebari/Devasi) should be provided reservation as a separate Special Backward Class and the benefit of reservation should also be extended to the economically weaker sections of persons of the hitherto unreserved categories as a category to be called the Economically Backward for ensuring the advancement of the majority of the people of the State of Rajasthan.Now, Therefore, be it enacted by the Rajasthan State Legislature in the Fifty-ninth Year of the Republic of India, as follows : -

1. Short title, extent and commencement.

- This Act may be called the Rajasthan Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2008.(2)It shall extend to the whole of the State of Rajasthan.(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)"Backward Classes" means the classes, declared as such by the State Government, by notification in the Official Gazette, for the purposes of this Act;(b)"creamy layer" means such class of persons within the Backward Classes, Special Backward Classes and Economically Backward Classes, as the State Government may notify, in the

Official Gazette for the purposes of this Act;(c)"Economically Backward Classes" means the classes consisting of persons not included in any other category of reservation, declared as such by the State Government, by notification in the Official Gazette, for the purposes of this Act;(d)"prescribed" means prescribed by rules made under this Act;(e)"Scheduled Castes" means the Scheduled Castes as defined in clause (24) of Article 366 of the Constitution of India;(f)"Scheduled Tribes" means the Scheduled Tribes as defined in clause (25) of Article 366 of the Constitution of India;(g)"Services under the State" means the public services and posts in connection with the affairs of the State and includes the services and posts in -(i)any local authority;(ii)any corporation or company owned or controlled, wholly or substantially, by the State Government;(iii)any other authority or body constituted by or under an Act of the State Legislature and funded, wholly or substantially, by the State; and(iv)respect of which reservation was applicable by Government orders on the date of commencement of this Act and which are not covered under sub-clauses (i) to (iii);(h)"Special Backward Classes" means- die classes declared as such by the State Government, by notification in the Official Gazette.

3. Reservation of seats in educational institutions in the State.

(1)The reservation in respect of the annual permitted strength for admission into such educational institutions and courses in the State, as may be prescribed, for the Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes, shall be sixty-eight per cent(2)The reservation referred to in sub-section (1) shall, in respect of the persons belonging to the Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes, be as follows: -(i)Scheduled Castes.....sixteen per cent;(ii)Scheduled TribesTwelve Per cent;(iii)Backward Classes,.....twenty-one per cent;(iv)Special Backward Classesfive per cent;(v)Economically Backward Classesfourteen per cent.Explanation. - The above classification shall be mutually exclusive.(3)Notwithstanding anything contained in sub-section (1) and sub-section (2), persons belonging to creamy layer shall not be eligible for consideration against the reserved quota of seats in any educational institution in the State. However, for the removal of doubts, it is clarified that the provision of creamy layer shall not apply to the reservation for the Scheduled Castes and Scheduled Tribes.

4. Reservation of appointments and posts in the services under the State.

- (1) The reservation of appointments and posts in the services under the State for the Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes, be as follows : -(2)The reservation referred to in sub-section (1) shall, in respect of the persons belonging to the Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes, be as follows:-(i)Scheduled Castes sixteen per cent;(ii)Scheduled Tribes twelve per cent;(iii)Backward classes twenty one per cent;(v)Economically Backward Classes fourteen per cent;Explanation. - The above classification shall be mutually exclusive.(3)Notwithstanding anything contained in sub-section (1) and sub-section (2), reservation in matters of promotion shall be only for the Scheduled Castes and Scheduled Tribes to the extent specified in Clauses (i) and (ii), respectively, of sub-section

(2).(4)Notwithstanding anything contained in sub-section (1) and sub-section (2), persons belonging to creamy layer shall not be eligible for consideration against the reserved quota in the appointments and posts under the State. However, for the removal of doubts, it is clarified that the provision of creamy layer shall not apply to the reservation for the Scheduled Castes and Scheduled Tribes.

5. No reservation in certain cases.

- Notwithstanding anything contained in section 4, there shall be no reservation in respect of the following posts: -(a)the posts to be filled by transfer or deputation; and(b)the post which is single (isolated) in any cadre or grade

6. Power to make rules.

(1)The State Government may make rules for carrying out the purposes of this Act.(2)All rules made under this section shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days, which may be comprised in one session or in two successive sessions and, if before the expiry of the sessions in which they are so laid or of the sessions immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

7. Removal of difficulties.

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for removing the difficulty:Provided that no order under this section shall be made after the expiry of a period of two years from the commencement of this Act.(2)Every order made under this section shall be laid, as soon as may be, after it is so made, before the House of the State Legislature.

8. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against any authority or person for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or the rules made thereunder.

9. Provisions of this Act to be in addition to any other Act for the time being in force.

- The provisions of this Act shall be in addition to and not in derogation of the provisions contained in any other Act, for the time being in force.

10. Savings.

- (1) Without prejudice to the provisions of the Rajasthan General Clauses Act, 1955 (Act No. 8 of 1955), all rules, orders, circulars etc. made or, as the case may be, issued before the commencement of this Act by the State Government in relation to reservation of seats in educational institutions and of appointments and posts in the services under the State for the Scheduled Castes Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes shall, in so far they relate to matters for which provision is made in this Act and are not inconsistent therewith, be deemed to have been made or, as the case may be, issued under this Act as if this Act had been in force on the date on which such rules, orders, circulars etc. were made or, as the case may be, issued and shall continue in force unless and until they are superseded by any rule made under this Act.(2)The provisions of this Act shall not apply to the cases in which admission or selection process has already been initiated before the commencement of this Act, and such cases shall be dealt with in accordance with the provisions of law and the Government orders as they stood before such commencement.Explanation. - For the purposes of this Act,-(i)the admission process in the case of educational institutions or courses shall be deemed to have been initiated, where the last date for submitting admission form has expired;(ii)the selection process in the case of appointments in services under the State shall be deemed to have been initiated where, under the relevant rules,-(a)recruitment is to be made on the basis of written test or interview only, and such written test or interview, as the case may be, has started, or(b)recruitment is to be made on basis of both, the written test and interview, and such written test has started.(3)Nothing in this Act shall be deemed to have affected any orders made by the Governor in exercise of his powers under the Fifth Schedule of the Constitution of India in respect of the Scheduled Areas.