

The Maharashtra State Commission for Backward Classes Act, 2005

MAHARASHTRA

India

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Act 34 of 2006

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The Maharashtra State Commission for Backward Classes Act, 2005 Maharashtra Act No. 34 of 2006 (First published after having received the assent of the President in the "Maharashtra Government Gazette", on the 14th August, 2006). An Act to provide for constitution of a State level Commission for Backward Classes other than the Scheduled Castes and Scheduled Tribes and to provide for matters connected therewith or incidental thereto. Whereas the Supreme Court in the Mandal Commission case relating to reservation of civil posts and services in favour of socially and educationally backward classes other than the Scheduled Castes and Scheduled Tribes, had given directions, inter-alia, to all the State Governments to constitute a permanent body for entertaining, examining and recommending upon requests for inclusion; and hearing complaints of over-inclusion or under-inclusion in the Lists of other backward classes of citizens; And Whereas in compliance of the aforesaid directions of the Supreme Court, the Government of Maharashtra has constituted a Committee known as the Maharashtra Other Backward Classes Committee by Government Resolution dated the 15th March, 1993, which has subsequently been named as "the State Commission for Backward Classes" to perform the aforesaid functions; And Whereas the Government considers it expedient to enact a comprehensive law to provide for the constitution of a Commission for ensuring reservation of appointments or posts in favour of the socially and educationally Backward Classes other than the Scheduled Castes and Scheduled Tribes, in the services under the Government of Maharashtra and other local or other authorities within the State, and to provide for matters connected therewith or incidental thereto it is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

Chapter I

Preliminary

1. Short title, extent and commencement.

(1) This Act be called the Maharashtra State Commission for Backward Classes Act, 2005. (2) It extends to the whole of the State of Maharashtra. (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) "appointed day" means the date on which this Act comes into force, under sub-section (3) of section 1; (b) "Accountant General" means the Accountant General of Maharashtra State; (c) "backward classes" means such backward classes of citizens other than the Scheduled Castes and the Scheduled Tribes, as specified by the State Government in the Lists; (d) "Commission" means the Maharashtra State Commission for Backward Classes constituted under section 3; (e) "Lists" means the Lists prepared by the State Government, from time to time, for the purposes of making provision for the reservation of appointments or posts, in favour of the backward classes of citizens who, in the opinion of the State Government, are not adequately represented in the services under the State Government and any local or other authority within the State or under the control of the State Government; (f) "member" means a member of the Commission and includes the Chairperson and Member-Secretary; (g) "prescribed" means prescribed by rules made under this Act; (h) "State Government" means the Government of Maharashtra; (i) "State" means the State of Maharashtra.

Chapter II

The Maharashtra State Commission for Backward Classes

3. Constitution of State Commission for Backward Classes.

(1) The State Government shall, by notification in the Official Gazette, constitute a body to be known as the Maharashtra State Commission for Backward Classes for the purposes of this Act, which will exercise the powers conferred on and perform the function assigned to it, under this Act. (2) The Commission shall consist of the following members nominated by the State Government, namely :- (a) a Chairperson, who is or has been, a judge of the Supreme Court or of a High Court; (b) a social scientist, with experience of empirical research; (c) six members, one member each from the six revenue divisions of the State, who have special knowledge in the matters relating to other backward classes; Provided that, from amongst the members there shall be not less than one female member and one member each, belonging to the other backward class, Vimukta Jatis and Nomadic Tribes; (d) a Member-Secretary, who is or has been an officer of the State Government not below the rank of the Joint Director in the Social Justice Department; Provided that, before nominating the Member-Secretary, the State Government shall consult the Commission.

4. Terms of office and conditions of service of Chairperson and members.

(1) Every member shall hold the office for a term of three years from the date he assumes the office. (2) A member may, by writing under his or her hand addressed to the State Government, resign from the office of the Chairperson or, as the case may be, of the member; at any time. (3) The State Government shall remove a person from the office of the member if that person, - (a) becomes an undischarged insolvent; (b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; (c) becomes of unsound mind and stands so declared by the competent Court; (d) refuses to act or becomes incapable of acting; (e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or (f) has, in the opinion of the State Government, so abused the position of the Chairperson or member as to render that person's continuance in the office detrimental to the interests of the backward classes or the public interest, or is otherwise in the opinion of the State Government, unfit or unsuitable to continue as such Chairperson or member. Provided that, no office-bearer shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter. (4) A vacancy caused under sub-section (2) or (3) or otherwise, shall be filled in, as soon as may be, by a fresh nomination by the State Government; and the person so nominated shall hold office for the remainder of the term of office of the person in whose vacancy such person has been nominated, would have held the office, if the vacancy had not occurred: Provided that, if the vacancy of a member other than that of the Chairperson, occurs within six months preceding the date on which the term of office of the member expires, the vacancy shall not be filled in. (5) The honorarium, if any, and allowances payable to, and the other terms and conditions of holding of the office of, the Chairperson and the members shall be such as may be prescribed.

5. Officers and other employees of Commission.

(1) The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act. (2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as the State Government may, from time to time, determine.

6. Honorarium, salaries and allowances to be paid out of grants.

- The honorarium and allowances payable to the Chairman and members, and the administrative expenses, including salaries and allowances and other terminal benefits payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 12.

7. Vacancies, etc., not to invalidate proceedings of Commission.

- No act or proceeding of the Commission shall be invalid merely on the ground of existence of any

vacancy or defect in the constitution of the Commission or any defect in the nomination of a person acting as the Chairperson or as a member, or any irregularity in the procedure of the Commission, not affecting the merits or the case.

8. Procedure to be regulated by Commission.

(1)The Commission shall meet as and when necessary, at such time and place as the chairperson decides.(2)The Commission shall regulate its own procedure, and may, for this purpose, frame regulation consistent with the provisions of this Act and rules made thereunder.(3)All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

9. Functions of Commission.

(1)It shall be the function of the Commission,-(a)to entertain and examine requests for inclusion or any class of citizens as a backward class in the Lists;(b)to entertain, hear, enquire and examine complaints of over-inclusion or under-inclusion of any backward class in such Lists and tender such advice to the State Government as it deems appropriate;(c)to take periodical review and make recommendations to the State Government regarding the criterias and methodology of determining the backward class of citizens;(d)to cause studies to be conducted on a regular basis through and in collaboration with reputed academic and research bodies for building of data about the changing socio-economic status of various classes of citizens;(e)to regularly review the socio-economic progress of the backward class of citizens; and(f)to perform such other functions as may be prescribed.(2)The advice given or recommendations made by the Commission under this section shall ordinarily be binding on the State Government and the State Government shall record reasons in writing, if, it totally or partially rejects the advice or recommendations or modifies it.

10. Powers of Commission.

- The Commission shall, while performing its functions under sub-section (1) of section 9, have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:-(a)summoning and enforcing the attendance of any person from any part of the State 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;(e)issuing commissions for the examination of witnesses and documents; and(f)any other matter which may be prescribed.

11. Periodic revision Lists by State Government.

(1)The State Government may, at any time, and shall, at the expiration of ten years from the appointed day and every succeeding period of ten years thereafter; undertake revision of the Lists with a view to excluding from such Lists those classes which have ceased to be backward classes or for including in such Lists new backward classes.(2)The State Government shall, while undertaking

any revision referred to in sub-section (1), consult the Commission.

12. Grants by State Government.

(1)The State Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grants from the Consolidated Fund of the State, such sums of money as the State Government may think fit for being utilised for the purposes of this Act.(2)The Commission may spend such sums as deemed necessary for performing the functions under this Act, and such shall be treated as expenditure payable out of the grants referred to in sub-section (1).

13. Accounts and audit.

(1)The Commission shall maintain proper accounts and other relevant records and prepare an annual Statement of Accounts in such form as may be prescribed by the State Government in consultation with the Accountant General.(2)The accounts of the Commission shall be audited by the Accountant General at such intervals as may be specified by him, and any expenditure incurred in connection with such audit shall be payable by the Commission to the Accountant General.(3)The Accountant General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges, and authority in connection with such audit as the Accountant General generally has in connection with the audit of Government accounts and, in particular; shall have the right to demand the production of books. Accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

14. Annual report.

(1)The Commission shall prepare in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the State Government.(2)Without prejudice to the provision of sub-section (1), the Commission may forward such additional reports, in particular; about its recommendations regarding the Lists, as and when deemed expedient.

15. Annual report and Audit report to be laid before State Legislature.

- The State Government shall cause the annual report, together with a memorandum of action taken on the advice or recommendations tendered by the Commission under sections 9 and 11 and the reasons for the non-acceptance, if any, of any such advice or recommendations, and the audit report, to be laid, as soon as may be, after they are received, before each House of the State Legislature.

Chapter III

Miscellaneous

16. Chairperson, members, officers and employees of Commission to be public servants.

- The Chairperson, members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

17. Power to make rules.

(1)The State Government may, in consultation with the Commission, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-(a)criteria and methodology for inclusion or exclusion of castes in or from the Lists of backward classes;(b)methodology and criteria for proposing revision of Lists of backward class of citizens;(c)honorarium and allowances payable to and the other terms and conditions of service of, the Chairperson and members under sub-section (5) of section 4 and the salaries and allowances payable to and the other terms and conditions of service of, the officers and other employees under sub-section (2) of section 5;(d)the form in which the Annual Statement of Accounts shall be prepared under sub-section (1) of section 13;(e)the form in which and the time at which the Annual Report shall be prepared under section 14;(f)any other matter which is required to be, or may be prescribed.(3)Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, and notify their decision to that effect in the Official Gazette, the rule shall, from the date of publication of such decision in the Official Gazette, 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 or omitted to be done under that rule.

18. Power to remove difficulties.

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette make provision or give such direction, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.(2)Every order made under sub-section (1) shall, as soon as may be, after it is made, be laid before each House of the State Legislature.