

Bihar Reservation in Vacancies of Posts and Services and in Admissions in the Educational Institutions (for Economically Weaker Sections) Act, 2019

BIHAR

India

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Rule

BIHAR-RESERVATION-IN-VACANCIES-OF-POSTS-AND-SERVICES-AN of 2019

- Published on 19 January 2019
- Commenced on 19 January 2019
- [This is the version of this document from 19 January 2019.]
- [Note: The original publication document is not available and this content could not be verified.]

Bihar Reservation in Vacancies of Posts and Services and in Admissions in the Educational Institutions (for Economically Weaker Sections) Act, 2019(Bihar Act 2, 2019)An Act the Bihar Reservation in vacancies in posts and in services and in Admissions in the Educational Institutions (For Economically Weaker Sections) Act, 2019.Preamble. - Whereas in-pursuance of insertion of Clause (6) and (6) in article 15 and 16 respectively of the Constitution of India vide the Constitution (One Hundred & Third Amendment) Act 2019, it has to be provided reservation on preferential basis to the Economically Weaker Sections (EWSs) of the State, who are not covered under the existing scheme of reservation for the Scheduled Castes, the Scheduled Tribes and the socially and educationally backward classes to receive the benefit of reservation on a preferential basis in the posts and services in the Government of Bihar and admission in Educational Institutions;And whereas it has been decided by the Government of Bihar to provide 10% reservation to EWSs in posts and services in the Government of Bihar and in admissions in the Educational Institution; andWhereas it is necessary and expedient to provide an Act for adequate representation of Economically Weaker Sections in posts, services under the State and in admissions in Educational Institutions;Now, therefore, Be it enacted by the legislature of the State of Bihar in the 70th year of republic of India are follows : -

1. Short title, extent and commencement.

(1)The Bihar Reservation in Vacancies of Posts and Services and in Admissions in the Educational Institutions (for Economically Weaker Sections) Act, 2019.(2)It shall extend to whole of the State of Bihar.(3)It shall come into force with immediate effect.

2. Definitions.

- In this Act, unless the context otherwise requires -(a)"Appointing authority/competent authority" means in relation to services or posts in an establishment, an authority empowered to make appointment/a person who is responsible for admission in the case of educational institutions.(b)"Prescribed" means prescribed by rules made under this Act and published in the Official Gazette ;(c)"Establishment" means any office or departments of the state concerned with the appointment to the public service and post in connection with the affairs of the state and includes -(1)A local or statutory authorities constituted under any state Act for the time being enforce, or(2)a cooperative institution registered under the Bihar Co-operative society Act, 1935 (Act 6,1935) in which share is held by the State Government or which receives aid from the State Government in terms of loan, grant, subsidy etc. and(3)Universities and colleges affiliated to the universities primary, secondary and High Schools and also other educational institutions which are owned or aided by the State Government, and(4)an establishment in public sector.(d)"Establishment in public sector" means any industry, trade, business or occupations owned, controlled or managed by -(1)The State Government or any department of the State Government.(2)A Government Company as defined in section 617 of the Company Act 1956 (Act, 1 of the 1956) or a corporation established by or under a Central or State Act, in which not less than 51% of the paid-up share capital is held by the State Government.(e)"Economically Weaker Sections" means a person belonging to Economically Weaker Section as defined in the office Memorandum F. No. 36039/1/2019-Estt. (Res.) dated 19.01.2019 of D.O.P.T., Ministry of Personnel and Public Grievances and Pension, Government of India and as may be amended in future from time to time accordingly.(f)"Recruitment year" means the calendar year during which a recruitment/admission is actually to be made.(g)"Reservation" means reservation for Economically Weaker Sections in vacancies of posts and services in the State of Bihar and in the admissions in educational institutions.(h)"Merit list" means the list of candidates arranged in order of merit prepared according to the provisions of this Act and orders as may be applicable for making appointments or for admission in educational institutions.(i)"State" includes the Government, the Legislature and Judiciary of the State of Bihar and all local or other authorities and all type of Educational Institutions within the State or under the control of the State Government.

3. Applicability for making recruitments.

(1)This act shall not apply in a relation to -(a)Any employment under the Central Government.(b)Any employment in Private Sector.(c)Any employment in domestic services(d)Those which are filled up by transfer or deputation.(e)Those which fall vacant when a person goes on deputation.(f)Temporary appointments of less than 45 days duration.(g)Appointments made on compassionate ground on the death of a government servant

while in service.(h)Such other posts as the State Government may, from time to time, by order of specify.

4. Reservation for direct recruitment.

(1)Ten percent of vacancies will be reserved for Economically Weaker Sections in all appointments to Services and Posts in an establishment which are to be filled up by direct recruitment.The aforesaid reservation will be in addition to the provisions of reservation for other categories as have been provided for in other prevailing Acts in the State of Bihar.Provided the candidates out of the State of Bihar shall not claim for benefits of reservation under this Act.(2)A reserved category candidate who is selected on the basis of his merit shall be counted against the open merit category.

5. Reservation for Admission in the Educational Institutions.

(1)Ten percent of seats will be reserved for Economically Weaker Sections for admission in any educational institution fully or partially aided by the state government.The aforesaid reservation will be in addition to the provisions of reservation for other categories as have been provided for in other prevailing Acts in the State of Bihar.Provided the candidates out of the State of Bihar shall not claim for benefits of reservation under this Act.(2)A reserved category candidate who is selected on the basis of his merit shall be counted in open merit category.(3)No other reservation shall be made except reservation percentage granted by the concerned educational institute and amended reservation percentage granted by them from time to time for the candidates from outside the state of Bihar.

6. Power of State Government to call for records.

- Any member of the Economically Weaker Sections who is adversely affected by any act of an authority in-charge of admission on account of non-compliance of the provisions of this Act or the Rules made there under, may bring the fact to the notice of the State Government and upon application made by him, the State Government may call for such records or take such action thereon as it may deem fit.

7. Bar to any proceeding for action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against any person for any thing which is done or intended to be done in good faith under this Act.

8. Penalty.

- If any appointing authority or in charge of admission makes an appointment or admission in contravention of any of the provision of this Act, he shall be punishable with such fine which may extend to one thousand rupees or such imprisonment for three months or both.

9. Removal of difficulties.

- If any difficulty arises in given effect to the provisions of this Act, the State Government may take such steps or issue such orders not inconsistent with the provisions of this Act and as it may consider necessary for removing the difficulty.

10. Power to make Rules.

- The State Government may make rules for carrying out purposes of this Act: Provided that every rule made by the State Government 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 fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in the rule or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

11. Exchange.

- If in any recruitment year or admission for a session candidates from Economically Weaker Sections are not available to the extent of the reservation percentage prescribed under this Act to be filled up by the reserved category, rest of the vacancies/seats shall be filled up by the candidates of open merit category in the same transaction or recruitment year.

12. Overriding effect of the Act.

- Notwithstanding any thing contrary in any other law and Rules for the time being in force any judgment or decree of a court, any order notification, circular, scheme, rule or resolution made or issued, the provision of this Act shall prevail. Provided that any other law or rule for the time being in force, any order notification, circular, scheme resolution made, issued or passed prior to this Act, so far as it is not inconsistent with this Act, shall continue to be enforce and shall be deemed to have been made issued or passed under this Act.