

# **The M.P. Lok Seva (Anusuchit Jatiyon, Anusuchit Jan Jatiyon Aur Anya Pichhade Vargon Ke Liye Arakshan) Adhiniyam, 1994**

MADHYA PRADESH

India

## **The M.P. Lok Seva (Anusuchit Jatiyon, Anusuchit Jan Jatiyon Aur Anya Pichhade Vargon Ke Liye Arakshan) Adhiniyam, 1994**

### **Act 21 of 1994**

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The M.P. Lok Seva (Anusuchit Jatiyon, Anusuchit Jan Jatiyon Aur Anya Pichhade Vargon Ke Liye Arakshan) Adhiniyam, 1994 M.P. Act No. 21 of 1994 Received the assent of the Governor on 3-6-1994; assent first published in the Madhya Pradesh Gazette (Extraordinary), dated 8-6-1994. An Act to provide for the reservation of vacancies in public services and posts in favour of the persons belonging to the Scheduled Castes, Scheduled Tribes and other Backward Classes of citizens and for matters connected therewith or incidental thereto. Be it enacted by the Madhya Pradesh Legislature in the Forty-fifth Year of the Republic of India as follows :-

### **1. Short title, extent and commencement.**

(1) This Act may be called the Madhya Pradesh Lok Seva (Anusuchit Jatiyon, Anusuchit Jan Jatiyon Aur Anya Pichhade Vargon ke Liye Arakshan) Adhiniyam, 1994. (2) It extends to the whole of Madhya Pradesh. (3) It shall come into force on such [date] [Enforced on 1st July, 1994 vide Notification No. 6-25-1994-1-RC, dated 29-6-1994, published in the M.P. Rajpatra (Extraordinary), dated 29-6-1994 at p. 641.] as the State Government may, by notification, appoint.

### **2. Definitions.**

- In this Act, unless the context otherwise, requires, -(a) "Appointing Authority" in relation to a service or post in an establishment means the authority empowered to make appointment to such service or post; (b) [ "Establishment" means any office of the State Government or of a local authority or statutory authority constituted under any Act of the State for the time being in force, or a University or a company, corporation or a co-operative society in which not less than fifty-one

percent of the paid up share capital is held by the State Government or the institutions receiving grant-in-aid or any cash grant from the State Government and includes a work charge or contingency paid establishments and such establishments in which casual appointments are made but does not include the establishments covered under Article 30 of the Constitution;] [[Substituted by M.P. Act No. 10 of 2002 (w.e.f. 13-5-2002). Prior to substitution it read as under;'(b) 'Establishment' means any office of State Government or of a local authority or statutory authority constituted under any Act of the State for the time being in force, or a University or a Company, Corporation or a Co-operative Society in which not less than fifty one percent of the paid up share capital is held by the State Government, and includes a work charge or contingency paid establishment.'](c)"Reservation" means reservation of posts in the services for the members of Scheduled Castes, the Scheduled Tribes and other Backward Classes;(d)"Scheduled Castes" means any caste, race or tribe or part of, or group within caste, race or tribe specified as Scheduled Castes with respect to the State of Madhya Pradesh under Article 341 of the Constitution;(e)"Scheduled Tribes" means any tribe or tribal community or part of, or group within such tribe or tribal community specified as Scheduled Tribes with respect to the State of Madhya Pradesh under Article 342 of the Constitution;(f)"Public Services and Posts" means the services and posts in any office of the establishment;(g)"Other Backward Classes" means the other Backward Classes of citizens as specified by the State Government vide Notification No. F. 85-XXV-4-84, dated the 26th December, 1984 as amended from time to time;(h)"Recruitment Year" in relation to a vacancy means a period of twelve months commencing on the first of January of a year within which the process of direct recruitment against such vacancy is initiated.

### **3. Application of the Act.**

- This Act shall apply to the establishment as defined in this Act but shall not apply to the following employments :-(1)any employments under the Government of India;(2)[x x x] [[Items (2) and (4), Omitted by M.P. Act No. 10 of 2002 (w.e.f. 13-5-2002). Prior to amendment they were as under: '(2) Compassionate appointment made on account of the death of Government servants or otherwise in accordance with general orders of the Government.(4)Casual appointment.'](3)Posts to be filled by transfer or by deputation;(4)[x x x] [[Items (2) and (4), Omitted by M.P. Act No. 10 of 2002 (w.e.f. 13-5-2002). Prior to amendment they were as under: '(2) Compassionate appointment made on account of the death of Government servants or otherwise in accordance with general orders of the Government.(4)Casual appointment.'](5)Appointments made to the Madhya Pradesh High Judicial Service.

### **4. [Fixation of percentage for reservation of posts and standard of evaluation] [Substituted for 'Fixation of percentage for reservation of posts', by M.P. Act No. 10 of 2002 (w.e.f. 13-5-2002).].**

(1)Unless otherwise provided by or under this Act, the posts reserved for the members of Scheduled Castes or Scheduled Tribes or other Backward Classes shall not be filled by the members who do not belong to such castes or tribes or classes, as the case may be.(2)Subject to other provisions of this Act there shall be reserved for the persons belonging to the Scheduled Castes, Scheduled Tribes and

other Backward Classes, at the stage of direct recruitment in public services and posts.(i)[ at the State level, the following percentage of vacancies arising in a recruitment year, in Classes I, II, III and IV posts- [[Substituted by M.P. Act No, 10 of 2002 (w.e.f. 13-5-2002). Prior to substitution it read as under:'(i) at the State level the following percentage of vacancies arising in a recruitment year:(a)in Class I and Class II posts-

## **d Castes - 15 per cent**

## **Scheduled Tribes - 18 per cent**

Other Backward Classes - 14 per cent(b)in Class III and Class IV posts-

## **d Castes - 16 per cent**

## **Scheduled Tribes - 20 per cent**

Other Backward Classes - 14 per cent']]

(a) In Class I and Class II posts-

Scheduled Castes	16 percent
Scheduled Tribes	20 percent
Other Backward Classes	14 percent

(b) Class III and Class IV posts-

Scheduled Castes	16 percent
Scheduled Tribes	20 percent
Other Backward Classes	14 percent]

(ii)in an establishment at the Divisional or District level the percentage of vacancies arising in a Recruitment Year in such categories of Class III and Class IV posts, as may be notified by the State Government in this behalf.(iii)the appointments to vacancies as aforesaid in (i) and (ii), shall be made in accordance with a roster as may be prescribed :Provided that the aforesaid reservation shall not apply to such categories of persons belonging to the other Backward Classes as are notified by the State Government as belonging to the creamy layer from time to time.(3)(a)If in respect of any recruitment year any vacancy reserved for any category of persons under sub-section (2) remains unfilled, such vacancy shall be carried forward to be filled up in the next or a subsequent recruitment year.(b)When a vacancy is carried forward in the manner aforesaid it shall not be counted against the quota of the vacancies reserved for the concerned category of persons for the recruitment year to which it is carried forward :Provided that the appointing authority may at any time undertake a special recruitment to fill up such unfilled vacancy and if such vacancy remains unfilled even after such special recruitment it shall be filled up in the manner as the State Government may prescribe.(c)[ Wherever the reserved vacancies for Scheduled Castes and Scheduled Tribes in all cases of direct recruitment or promotion have remained unfilled in the earlier year or years, the backlog and/or carried forward vacancies would be treated as a separate

and distinct group and will not be considered together with the reserved vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year. In other words, the ceiling of fifty percent on filling up of reserved vacancies would apply only on the reserved vacancies which arise in the current year and the backlog/carried forward reserved vacancies for Scheduled Castes or Scheduled Tribes of earlier year or years would be treated as a separate and distinct group and would not be subject to ceiling of fifty percent: [Inserted by M.P. Act No. 10 of 2002 (w.e.f. 13-5-2002).] Provided that the appointing authority may at any time undertake a special recruitment to fill up such unfilled vacancies and if such vacancies remain unfilled, it shall not be de-reserved in any manner for filling up by the persons not belonging to the category for whom the post or posts are reserved.](4)It a person belonging to any of the categories mentioned in sub-section (2) gets selected on the basis of merit in an open competition with general candidates, he shall not be adjusted against the vacancies reserved for such category under sub-section (2).[(4-A) The State Government may by general or special order make any provisions in favour of the members of the Scheduled Castes and the Scheduled Tribes, for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of recruitment and promotion to any class or classes of services or posts in connection with the affairs of the State.] [Inserted by M.P. Act No. 10 of 2002 (w.e.f. 13-5-2002).](5)If, on the date of commencement of this Act, reservation was in force under Government orders for appointment to post to be filled by promotion, such Government orders shall continue to be applicable till they are modified or revoked.[(5-A) The State Government may make rules or issue any instructions in the matters of promotion with consequential seniority to any class or classes of posts in the Civil Services of the State in favour of the Scheduled Castes and the Scheduled Tribes.] [Inserted by M.P. Act No. 10 of 2002 (w.e.f. 13-5-2002).]

## **5. Responsibility and powers for compliance of the Act.**

(1)The State Government may, by order, entrust the appointing authority or any officer or employee with the responsibility of ensuring the compliance of the provisions of this Act.(2)The State Government may, in the like manner, invest the appointing authority or officer or employee referred to in sub-section (1) with such powers or authority as may be necessary for effectively discharging the responsibility entrusted to him under sub-section (1).

## **6. Penalty.**

- [(1) Any appointing authority entrusted with the responsibility under sub-section (1) of Section 5, who wilfully acts in a manner intended to contravene or defeat the purposes of this Act, or endorses a false certificate in terms of Section 14-A, such act of the appointing authority shall be deemed to be misconduct under the conduct or service rules applicable to him and for such misconduct be liable for disciplinary proceedings under the said rules as well as for prosecution by a Court of competent jurisdiction and shall on conviction be punishable with imprisonment which may extend to one year or with fine which may extend to two thousand rupees or with both.] [[Substituted by M.P. Act No. 10 of 2002 (w.e.f. 13-5-2002). Prior to substitution it read as under:]'6. Penalty.- (1) Any appointing authority or officer or employee interested with the responsibility under sub-section (1) of Section 5 who wilfully acts in a manner intended to contravene or defeat the purpose of this Act shall on

conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.'](2)No Court shall take cognizance of an offence under this section except with the previous sanction of the State Government.

## **7. Power of call for record.**

- If it comes to the notice of the State Government that any person belonging to any of the categories mentioned in sub-section (2) of Section 4 has been adversely affected on account of non-compliance of the provisions of this Act or the rules made thereunder or the Government orders in this behalf by the appointing authority, it may call for records of the appointing authority and take such action as it may consider necessary.

## **8. [ Representation in Selection Committee. [[Substituted by M.P. Act No. 10 of 2002 (w.e.f. 13-5-2002). Prior to substitution it read as under;**

'8. Representation in Selection Committee.- The State Government may, by order, provide for nomination of officers belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes in the Selection/Screening or Promotion Committee by whatever name may called, to such extent and in such manner as it may consider necessary where such committee is constituted either under the service rules or otherwise for the purpose of selecting persons for appointment or promotion to public service or post.']]- The State Government may, by order, provide for nomination of officers belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes in the selection/screening or promotion committee by whatever name called, to such extent and in such manner as it may consider necessary where such committee is constituted either under the service rules or otherwise for the purpose of selecting persons for appointment or promotion to any public service or post.]

## **9. Concession and relaxation.**

(1)The State Government may, by order, grant such concessions in respect of fees for any competitive examination or interview and relaxation in upper age limit, as it may consider necessary in favour of the categories of persons mentioned in sub-section (2) of Section 4.(2)The Government orders in force on the date of the commencement of this Act, in respect of concessions and relaxations, including concession in fees for any competitive examination or interview and relaxation in upper age limit and those relating to reservation in direct recruitment and promotion, in favour of categories of persons referred to in sub-section (1), which are not inconsistent with the provisions of this Act shall continue to be applicable till they are modified or revoked, as the case may be.

## **10. Caste certificate.**

- For the purposes of reservation provided under this Act, the caste certificate shall be issued by such authority or officer and in such manner and form as the State Government may, by order

provide and till such provision is made, the orders in force on the date of commencement of this Act shall continue to be applicable.

## **11. Removal of difficulties.**

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make such provision not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for removing the difficulty.

## **12. Protection of action taken in good faith.**

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

## **13. Power to make rules.**

- The State Government may, make rules for carrying out the purposes of this Act.

## **14. Irregular appointments voidable.**

- All appointments made, in contravention of the provisions of the Act after the commencement of this Act shall be voidable.

## **14A. [ Certification by the Appointing Authority. [Inserted by M.P. Act No. 10 of 2002 (w.e.f. 13-5-2002).]**

- Every appointing authority shall endorse on the appointment order to be issued by him, a certificate to the effect that he has complied with the provisions of the Madhya Pradesh Lok Seva (Anusuchit Jatiyon, Anusuchit Jan Jatiyon Aur Anya Pichhade Vargon Ke Liye Arakshan) Adhiniyam, 1994 (No. 21 of 1994) and the instructions issued in the light of the provisions of the Act by the State Government and that he has full cognizance of the provisions of sub-section (1) of Section 6 of the said Act.]

## **15. Half yearly report of appointments.**

- A half yearly report of the appointments made by every department of the State Government and by every appointing authority or establishment subordinate to it shall be submitted to the State Government in the General Administration Department in such form and in such manner as may be prescribed for the period from January to June in the month of August and from July to December in the month of February every year and the relevant records connected therewith shall be maintained in such manner as may be prescribed.(2)Any officer authorised by the State Government in this behalf may examine such records or may call for the records and rosters pertaining to the

appointments from the appointing authority.(3)It shall be duty of the appointing authority to make available such records or documents, information, assistance and services as may be required for the above purposes, whenever demand is made for the same.

## **16. Liaison Officer.**

- All departments of the State Government shall nominate an officer not below the rank of Class I Officer to work as Liaison Officer in connection with the implementation of the provisions of this Act in every establishment and the Liaison Officer so appointed shall exercise such powers and perform such duties as the State Government may, by order, specify.

## **17. Constitution of Standing Committee.**

(1)There shall be constituted a Standing Committee consisting of the following members, namely:-

- |     |  |                   |
|-----|--|-------------------|
| (1) | Minister, Scheduled Caste and Scheduled Tribe Welfare or Minister, Backward Class Welfare, Madhya Pradesh.                       | Chairman          |
|     | Five members of the Madhya Pradesh Legislative Assembly to be nominated  |                   |
| (2) | by the Speaker out of which one each shall be from member belonging to Scheduled Castes, Scheduled Tribes and Backward Classes.  | Member            |
| (3) | Secretary incharge of the General Administration Department, Madhya Pradesh Government.  | Member            |
| (4) | Secretary incharge of the Scheduled Castes, Scheduled Tribes and Backward Classes Welfare Department, Madhya Pradesh Government. | Member-Secretary. |

(2)The Standing Committee shall be constituted by the State Government for such period as may be prescribed.

## **18. Functions of the Standing Committee.**

- The Standing Committee shall perform the following functions, namely :-(a)review the implementation of the provisions of this Act and the rules made thereunder;(b)suggest measures for the removal of difficulties in implementing the provisions of this Act and the rules made thereunder;(c)such other functions as the State Government may, from time to time, assign to the Committee.

## **19. Annual report.**

- The State Government shall prepare an annual report on the working of this Act and lay the same before the Legislative Assembly.

## 20. Laying of order etc.

- All rules, notifications and orders made under the provisions of this Act, shall be laid down as soon as may be, before the Legislative Assembly.

## 21. Saving.

- The provisions of this Act shall be in addition to and not, save as expressly provided in this Act, in derogation of the provisions contained in any other Act for the time being in force. Notifications [Notification No. F. 1-3-93-I.R.C., dated 5-8-1995.] [Published in M.P. Rajpatra (Asadharan), dated 5-8-1995.] - In exercise of the powers conferred by sub-section (1) of Section 5 of the Madhya Pradesh Lok Seva (Anusuchit Jatiyon, Anusuchit Jan Jatiyon Aur Anya Pichhade Vargon Ke Liye Arakshan) Adhiniyam, 1994 (No. 21 of 1994), the State Government hereby entrust the authorities specified in column (4) of the Table below with the responsibilities of ensuring due compliance of the provisions of sections of the said Act as specified in column (2) of the Table for the responsibilities specified in column (3) of the said Table, namely :-Table

No.	Section of the Act	Brief description of the responsibility entrusted	Authority responsible for ensuring the compliance
(1)	(2)	(3)	(4)
1.	Section 4(1)	Recruitment to vacant posts	<p>1. In the cases wherein orders are to be issued on the basis of the select list of Public Service Commission or by way of special appointment- Secretary of the concerned Department.</p> <p>2. Where appointing authority is Head of the Department-Head of the Department.</p> <p>3. In the case wherein powers of Head of the Department have been delegated, such authority in which powers have been vested.</p>
2.	Section 4(2)	Maintenance of roster of appointment/ promotion	
3.	Section 15(1)	Half-yearly report regarding appointments	Every appointing authority and Secretary of the Administration Department.