

THE UTTAR PRADESH PUBLIC SERVICES (RESERVATION FOR ECONOMICALLY WEAKER SECTIONS) ACT, 2020

UTTAR PRADESH

India

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Act 10 of 2020

- Published in Uttar Pradesh Legislature No. 1577(2)/LXXIX-V-1-20-1(ka)-4-20 on 31 August 2020
- Commenced on 31 August 2020
- [This is the version of this document from 31 August 2020.]

STATEMENT OF OBJECTS AND REASONS In accordance with the provisions of the Constitution (One Hundred and Third Amendment) Act, 2019 and with reference of Govt. of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training vide O.M. No. 36039/1/2019-Estt.(Res.) dated 19th January, 2019, provision of 10 percent reservation to Economically Weaker Sections(EWSs) in civil posts and services in the Government of India has been made. It has therefore been decided to make a law to provide 10 percent reservation in Public Services and Posts in favour of persons belonging to the Economically Weaker Sections(EWSs) of citizens in addition to the existing scheme of reservations for the Scheduled Castes, the Schedule Tribes and the Socially and Educationally Backward Classes in the State and for matters connected therewith or incidental thereto. AN ACT to provide for the reservation in public services and posts in favour of the persons belonging to the Economically Weaker Sections of citizens in addition to the existing reservation applicable in the State and for matters connected therewith or incidental thereto. IT IS HEREBY enacted in the Seventy-First Year of the Republic of India as follows :-

1. Short title and commencement

(1) This Act may be called the Uttar Pradesh Public Service, (Reservation For Economically Weaker Section) Act, 2020. (2) It shall be deemed to have come into force on February 01, 2019.

2. Definitions

In this Act unless the context otherwise requires, -(a) "appointing authority" in relation to public services and posts means the authority empowered to make appointment to such services or posts ;(b) "Economically Weaker Sections of citizens" means the persons belonging to Economically

Weaker Sections 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 Grievance and Pension Government of India for the time being in force.(c)"public services and posts" means the services and posts in connection with the affairs of the State and includes services and posts-(i)a local authority ;(ii)a co-operative society as defined in clause (f) of section 2 of the Uttar Pradesh Co-operative Societies Act, 1965 in which not less than fifty-one percent of the share capital of the society is held by the State Government ;(iii)a Board or a corporation or a statutory body established by or under a Central or Uttar Pradesh Act which is owned and controlled by the State Government, or a Government company as defined in section 617 of the Companies Act, 1956 in which not less than fifty-one percent of the paid up share capital is held by the State Government ;(iv)an educational institution owned and controlled by the State Government or which receives grants in aid from the State Government, including a university established by or under a Uttar Pradesh Act, except an institution established and administered by minorities referred to in clause (1) of Article 30 of the Constitution;(v)in respect of which reservation was applicable by the Government orders on the date of commencement of this Act and are not covered under sub-clauses (i) to (iv);(d)"Reservation" means reservation for economically Weaker Sections in vacancies of posts and services in the State of Uttar Pradesh.(e)"year of recruitment" in relation to a vacancy means a period of twelve months commencing on the first of July of a calendar year within which the process of direct recruitment against such vacancy is initiated.

3. Reservation in favour of Economically Weaker Section

(1)In public services and posts, at the stage of direct recruitment, ten percent of vacancies to which recruitment are to be made, they shall be reserved in favour of the persons belonging to Economically Weaker Sections of citizens:Provided that the reservation shall not apply to the category of Economically Weaker Sections of citizens specified in the Schedule to this Act:Provided further that the candidates from out of the State of Uttar Pradesh shall not be eligible for benefits of reservation under this Act.(2)The reservation under this section shall be in addition to the reservation provided under the Uttar Pradesh Public Services (Reservation for Schedule Castes, Scheduled Tribes and Other Backward Classes) Act, 1994.(3)The office memorandum issued by Karmik Anubhag-2 wide no.1/2019/4/1/2002/ka-2/19T.C.II, dated 18.02.2019 shall be deemed to have been issued under this section.(4)For applying the reservation under sub-section (1), roster has been issued by notification O.M. No.5/2019/4/1/2002/ka-2/2019T.C.-I, dated 13th August, 2019 by the State Government which shall be continuously applied till it is exhausted.(5)If a person belonging to Economically Weaker Sections of citizens gets selected on the basis of merit in an open competition with unreserved candidates, he shall not be adjusted against the vacancies reserved for such category under sub-section (1).(6)"Where in any particular recruitment year any vacancy earmarked under sub-section (1) for Economically Weaker Sections cannot be filled up due to non availability of a suitable candidate belonging to Economically Weaker Sections such vacancies shall not be carried forward to the next recruitment year as backlog and the said vacancy shall be filled by the eligible candidates of unreserved category. "

4. Responsibility and powers for compliance of the Act

(1)The State Government may, by notified order, entrust the appointing authority or any officer or employee with the responsibility of ensuring the compliance of the provision 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).

5. Penalty

(1)Any appointing authority or officer or employee entrusted with the responsibility under sub-section (1) of section 4 who willfully 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 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 or an officer authorized in this behalf by the State Government by an order.(3)An offence punishable under sub-section (1) shall be tried summarily by a Metropolitan Magistrate or a Judicial Magistrate of the first class and the provision of sub-section (1) of section 262, section 263, section 264 and section 265 of the Code of Criminal Procedure, 1973 shall mutatis mutandis apply.

6. Power to call for record

If it comes to the notice of the State Government, that any person belonging to Economically Weaker Sections mentioned in sub-section (1) of section 3 has been adversely affected on account of non compliance of the provisions of this Act or the rules made thereunder or the Government orders issued in this behalf by the appointing authority, it may call for such records and take such action as it may consider necessary.

7. Income and Assets certificate

For the purpose of reservation provided under this Act, income and assets certificate shall be issued by such authority or officer no below the rank of Tehsildar in the State and in such manner and in such form as the State Government may, by order, provide.The office memorandum no.1/2019/4/1/2002/ka-2/ 19T.C.II, dated 18 February 2019 shall be deemed to have been issued under this section.

8. Removal of difficulties

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

9. 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 done or intended to be done in good faith in pursuance of this Act or the rules made thereunder.

10. Power to make rules

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

11. Power to amend the Schedule

The State Government may, by notification amend the Schedule and upon the publication of such notification in Gazette, the Schedule shall stand amended accordingly.

12. Laying of Order etc.

Every order made under sub-sections (4) of section 3 and section 4 and 8 shall be laid as soon as may be, before each House of the State Legislature and the provisions of sub-section (1) of section 23-A of the Uttar Pradesh General Clauses Act, 1904 shall apply as they apply in respect of rules made by the State Government under any Uttar Pradesh Act.

13. Savings

The provisions of this Act shall not apply to cases in which selection process has been initiated before commencement of this Act and such cases shall be dealt with in accordance with the provisions of law and Government order as they stood before the commencement. Explanation: For the purposes of this section the selection process shall be deemed to have been initiated where, under the relevant service rules, recruitment is to be made on the basis of -(i) written test or interview only, the written test or the interview, as the case may be, has started, or (ii) both written test and interview, the written test has started. (2) The provisions of this Act shall not apply to appointment, to be made under the Uttar Pradesh Recruitment of Dependent of Government Servant Dying in Harness Rules, 1974.-----

Schedule

[See SECTION 3(I)] Persons whose family owns or possesses any of the following assets shall be excluded from being identified as EWS (Economically Weaker Section), irrespective of the family income: i 5 acres of Agricultural Land and above; ii. Residential flat of 1000 sq. ft. and above; iii. Residential plot of 100 sq. yards and above in notified municipalities; iv. Residential plot of 200 sq. yards and above in areas other than the notified municipalities. The income and assets of the families as mentioned above would be required to be certified by an officer not below the rank of Tehsildar in State. The officer who issues the certificate would do the same after carefully verifying

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all relevant documents.-----