

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 6th June 2006 and is hereby published for general information :—

ACT No. 12 OF 2006

An Act to provide for reservation of seats in private educational institutions in the State for the Backward Classes of citizens and for persons belonging to the Scheduled Castes and the Scheduled Tribes in the State of Tamil Nadu.

WHEREAS, 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 has been under implementation in the State of Tamil Nadu for a long time;

AND WHEREAS, the State of Tamil Nadu is a pioneer State in providing reservation for the underprivileged and the first communal Government Order was passed in the year 1921 and the proportional representation for communities was made in the year 1927 in the State of Tamil Nadu;

AND WHEREAS, a large percentage of population of Tamil Nadu 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, Tamil Nadu Legislature passed Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in Services under the State) Act, 1993;

AND WHEREAS, the Constitution (Seventy-Sixth Amendment) Act, 1994, added the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in Services under the State) Act, 1993 enacted by the Tamil Nadu Legislature, to the IX Schedule, so as to give protection to the State Act under Article 31B of the Constitution superseding the decision of the Supreme Court fixing a ceiling of 50% under Article 16 (4) on the State forwarding the aforesaid Act to the Centre under Article 31C of the Constitution;

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 minimise 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, the 93rd Constitution Amendment incorporating clause (5) of Article 15 of the Constitution enables the making of any special provisions, by law, for the advancement of any socially and educationally Backward Classes of citizens or for the Scheduled Castes or Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions, including private educational institutions whether, aided or unaided by the State other than minority educational institutions referred to in clause (1) of Article 30 of the Constitution;

AND WHEREAS, it has been decided to require reservations to be applied for aided, unaided and deemed Universities;

AND WHEREAS, the State Government have, after careful consideration of the population in the respective categories, the present stage of their advancement in education, taken a policy decision that the existing level of sixty-nine per cent reservation in admission to educational institutions other than the minority educational institutions referred to in clause (1) of Article 30 of the Constitution in the State for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and Scheduled Tribes, should be continued for ensuring the advancement of the majority of the people of the State of Tamil Nadu;

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-Seventh Year of the Republic of India as follows:—

1. Short title extant and commencement. (1) This Act may be called the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Private Educational Institutions) Acts, 2006.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions. In this Act, unless the context otherwise requires,—

(a) “Backward Classes of citizens” means the class or classes of citizens who are socially and educationally backward notified by the Government in the Tamil Nadu Government Gazette and includes the Most Backward Classes and the Denotified Communities;

(b) “Competent Authority” means the competent authority appointed by the Government under section 6;

(c) “Government” means the State Government;

(d) “Private educational institution” means any deemed university or any private college or other private educational institution, including any institute or training centre recognised or approved, whether aided or unaided by the State, other than the minority educational institution referred to in clause (1) of Article 30 of the Constitution established with the object of preparing, training or guiding its students for any certificate, degree or diploma or other academic distinctions granted or conferred by any university or authority established or approved in this behalf;

(e) “Prescribed” means prescribed by the rules made under this Act;

(f) “Scheduled Castes” shall have the same meaning as in the Constitution;

(g) “Scheduled Tribes” shall have the same meaning as in the Constitution.

3. Reservation of seats private educational institutions. (1) Notwithstanding anything contained in any judgment, decree or order of any court or other authority, having regard to the social and educational backwardness of the Backward Classes of citizens and the persons belonging to the Scheduled Castes and the Scheduled Tribes who constitute the majority of the total population of the State of Tamil Nadu, the reservation in respect of the annual permitted strength in each branch or faculty for admission into private educational institutions in the State, for the Backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, shall be sixty-nine per cent.

(2) The reservation referred to in sub-section (1) shall, in respect of the persons belonging to the Backward Classes, the Most. Backward Classes and Denotified Communities, the Scheduled Castes and the Scheduled Tribes, be as hereunder:

(a) Backward Classes.	Thirty per cent.
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(b) Most Backward Classes	Twenty per cent and Denotified Communities
(c) Scheduled Castes.	Eighteen per cent
(d) Scheduled Tribes	One per cent.

4. Reservation not to be affected. Notwithstanding anything contained in section 3, the claims of the students belonging to the Backward Classes of citizens or the Scheduled Castes or the Scheduled Tribes, shall also be considered for the unreserved seats, and where a student belonging to the Backward Classes of citizens or the Scheduled Castes or the Scheduled Tribes, is selected on the basis of merit, the number of seats reserved for the Backward Classes of citizens or for the persons belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, shall not in any way be affected.

5. Classification of Backward classes of citizens. The Government may, from time to time, based on the reports presented at the appropriate periods to the Government by the Tamil Nadu Backward Classes Commission constituted in G.O.Ms. No. 9, Backward Classes and Most Backward Classes Welfare Department, dated the 15th day of March 1993, by notification, classify or sub-classify the Backward Classes of citizens for the purposes of this Act.

6. Competent authority. (1) The Government may, by notification, appoint any officer not below the rank of District Backward Classes and Minorities Welfare Officer to be the competent authority for the purposes of carrying out the provisions of this Act and the rules made thereunder and different competent authorities may be appointed for different areas.

(2) The competent authority shall exercise such powers and perform such functions as may be prescribed.

7. Power of Government to give direction. (1) The Government may, in the public interest, by order, direct the competent authority to make an enquiry or to take appropriate proceedings under this Act in any case specified in the order, and the competent authority shall report to the Government the result of the enquiry made or the proceedings taken by him within such period as may be prescribed.

(2) On receipt of the report from the competent authority under sub-section (1), the Government shall give such direction as they deem fit and such direction shall be final and binding.

8. Competent authority to be public servant. Central Act XLV of 1860
competent authority to be public servant. The competent authority appointed

under section 6 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

9. Protection of action taken in good faith . No suit, prosecution or other legal proceedings shall lie against the competent authority, Government or its Officers for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

10. Power to make rules. (1) The Government may make rules for carrying out the purposes of this Act.

(2) (a) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the Table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter 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 under that rule or notification or order.

11. Power to remove difficulties. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

(By order of the Governor.)

S. DHEENADHAYALAN,
Secretary to Government-in-charge,
Law Department.

