



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ५, अंक २३(२)]

सोमवार, जुलै १, २०१९/आषाढ १०, शके १९४१

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असाधारण क्रमांक ५३

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments in the public services and posts under the State) for Socially and Educationally Backward Classes (SEBC) (Amendment) Bill, 2019. (L. A. Bill No. XL of 2019), introduced in the Maharashtra Legislative Assembly on the 1st July 2019, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,

Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. Bill No. XL OF 2019.

A BILL

further to amend the Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments in the public services and posts under the State) for Socially and Educationally Backward Classes (SEBC) Act, 2018.

Mah. LXII of 2018. WHEREAS it is expedient further to amend the Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments in the public services and posts under the State) for Socially and Educationally Backward Classes (SEBC) Act, 2018, for the purposes hereinafter appearing ; it is hereby enacted in the Seventieth Year of the Republic of India as follows :—

1. This Act may be called the Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments in the public services and posts under the State) for Socially and Educationally Backward Classes (SEBC) (Amendment) Act, 2019. Short title.

(१)

भाग आठ—५३-१

महाराष्ट्र शासन राजपत्र असाधारण, भाग आठ, जुलै १, २०१९/आषाढ १०, शके १९४१

Amendment of
section 4 of
Mah. LXII of
2018.

2. In section 4 of the Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments in the public services and posts under the State) for Socially and Educationally Backward Classes (SEBC) Act, 2018, in sub-section (1),—

Mah.
LXII of
2018.

(a) in clause (a), for the words "sixteen per cent." the words "twelve per cent." shall be substituted ;

(b) in clause (b), for the words "sixteen per cent." the words "thirteen per cent." shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments in the public services and posts under the State) for Socially and Educationally Backward Classes (SEBC) Act, 2018 (Mah. LXII of 2018) provides for reservation of seats for admission in educational institutions in the State and for reservation of posts for appointments in public services and posts under the State, to the Socially and Educationally Backward Classes of Citizens (SEBC) in the State of Maharashtra for their advancement and for matters connected therewith or incidental thereto.

2. In terms of clause (a) of sub-section (1) of section 4 of the said Act, notwithstanding anything contained in any judgment, decree or order of any Court or other authority, and subject to the other provisions of the said Act, 16% (sixteen per cent.) of the total seats in educational institutions including private educational institutions, whether aided or un-aided by the State, other than minority educational institutions referred to in clause (1) of article 30 of the Constitution of India shall be separately reserved for the Socially and Educationally Backward Classes (SEBC) including the Maratha community.

3. In terms of clause (b) of sub-section (1) of section 4 of the said Act, notwithstanding anything contained in any judgment, decree or order of any Court or other authority, and subject to the other provisions of the said Act, 16% (sixteen per cent.) of the total appointments in direct recruitment in public services and posts under the State shall be separately reserved for the Socially and Educationally Backward Classes (SEBC) including the Maratha community.

4. In PIL No. 175 of 2018 and other connected matters, the validity of the said Act was challenged in the Hon'ble Bombay High Court. The Bombay High Court has delivered a Judgment in the said group of matters on 27th June, 2019, whereby the validity of the said Act has been upheld, except to the extent of quantum of reservation prescribed by the said provisions of the said Act. The said Judgment which considers the aspect of quantum of aforesaid reservation prescribed by the said provisions of the said Act, holds that the State Government is not justified in exercise of its enabling power, in fixing a limit of 16% (sixteen per cent.) both under Article 15(4), Article 15(5) and Article 16(4) of the Constitution of India. It is expressed therein that the quantum/limit fixed by the Maharashtra State Backward Class Commission is based on quantifiable data. The Commission has fixed the said quantum/limit as 12% (twelve per cent.) and 13% (thirteen per cent) respectively. By the said Judgment, it is concluded that the quantum of reservation of 16% (sixteen per cent.) so provided by the said provisions is not justifiable. Resultantly, the Hon'ble High Court has quashed and set-aside the 16% (sixteen per cent) of reservation so provided, over and above 12% (twelve per cent) under Article 15(4), Article 15(5) of the Constitution of India, as also over and above 13% (thirteen per cent) under Article 16(4) of the Constitution of India.

5. After considering all the aforesaid aspects, it is considered expedient to amend the existing said clauses (a) and (b) of sub-section (1) of section 4 of the said Act, by making explicit provision therein to the extent of quantum of reservation of 12% (twelve per cent.) and 13% (thirteen per cent.), respectively, instead of 16% (sixteen per cent.), as provided initially. Accordingly, it is considered expedient to amend the said Act, suitably.

6. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 1st July 2019.

DEVENDRA FADNAVIS,
Chief Minister.