

**Andhra Pradesh Regulation Of Reservations For
Appointments To Public Services Act, 1997**

24 of 1997

[21 August 1997]

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An Act to regulate the Implementation of the Rule of Reservation in all the appointments made in offices and Establishments under the Control of the State Government, Local Authorities, Corporations owned and controlled by the State Government and other bodies established under a law made by the Legislature of the State and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-eighth Year of the Republic of India as follows:-

* Received the assent of the Governor on 19th August, 1997, For

Statement of the Objects and Reasons. Please see the A.P. Gazette Part IV-A Extraordinary dated 19th March, 1997 at P-II.

1. Short title and commencement :-

(1) This Act may be called the Andhra Pradesh Regulation of Reservations for Appointments to Public Services Act, 1997.

(2) 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" means any socially and educationally backward classes of citizens recognised by the Government for purposes of clause (4) of article 15 and clause (4) of article 16 of the Constitution of India;

(b) "Government" means the State Government of Andhra Pradesh;

(c) "Notification" means a notification published in the Andhra Pradesh Gazette and the term notified shall be construed accordingly;

(d) "Public Services" means, services in any office or establishment of,

(i) the Government;

(ii) a local authority i.e.,

(a) a Gram Panchayat;

(b) a Mandal Parishad or a Zilla Parishad established under the Andhra Pradesh Panchayath Raj Act, 1994,

(c) a Municipality constituted under the Andhra Pradesh Municipalities Act, 1965. and

(d) Municipal Corporation established under the relevant law, for the time being in force, relating to Municipal Corporations.

(iii) a Corporation or undertaking, wholly owned or controlled by the Government;

(iv) a body established under any law made by the Legislature of the State whether incorporated or not including a University; and

(v) any other body established by the State Government or by a society registered under any law relating to the registration of societies for the time being in force and receiving funds from the State Government either fully or partly, for its maintenance or any educational institution, whether registered or not, but receiving aid from the Government;

(e) "Rule of Reservation" means any rule or provision for the

reservation of appointments or posts in favour of the Scheduled Castes or the Scheduled Tribes or the Backward Classes or Women in the Special Rules applicable to any particular service or the General Rule 22 of the Andhra Pradesh State and Subordinate Service Rules, as the case may be.

(f) "Scheduled Castes and Scheduled Tribes" shall have the meaning respectively assigned to them in clause (24) and clause (25) of article 366 of the Constitution of India;

(g) "Appointing Authority" in relation to the services or posts in any establishment or office as defined in section 2(d) (i to v) means, the authority empowered to make appointment to such services or posts.

3. Regulation of recruitment :-

All appointments in public service to any post in any class, category or grade shall be made in accordance with and following the rule of reservation.

4. Salary bills not to be passed :-

Where an appointment is not in accordance with section 3, the drawing authority shall not sign the salary bill of the appointee concerned and the Pay and Accounts Officer, Sub-Treasury Officer or any other officer who is charged with the responsibility of passing the salary bill shall not pass such bill unless a certificate issued by the appointing authority to the effect that the appointment has been made in accordance with section 3, is attached to the first salary bill of the appointee concerned.

5. Penalties :-

(1) Where any holder of an elective office or any officer or authority makes any appointment in contravention of the provisions of this Act,

(a) it shall be deemed in the case of the holder of an elective office that he has abused his position or power and accordingly the competent authority shall initiate proceedings for his removal; and

(b) in the case of an officer or authority it shall be deemed that he is guilty of misconduct and competent authority shall initiate action under the relevant disciplinary rules.

(2) In addition to taking action under sub-section (1), the pay and allowances paid to the person whose appointment is in

contravention of the provisions of this Act shall be deemed to be an illegal payment and a loss to the Government or, as the case may be, to the concerned institution and the same shall be recoverable by surcharging the same under the Andhra Pradesh State Audit Act (Act 9 of 1989) 1989 against the person, officer or authority who makes such appointments in contravention of the provisions of this Act or where such surcharge is not possible under the said Act, it shall be recoverable in accordance with such manner as may be prescribed including as arrears of the land revenue.

6. Bar for regularisation of services :-

No person who is appointed in violation of the rule of reservation and is continuing as such at the commencement of this Act shall have or shall be deemed ever to have a right to claim for regularisation of services on any ground whatsoever and the services of such person shall be liable to be terminated at any time without any notice and with-out assigning any reasons.

Explanation:- For the removal of doubts it is hereby declared that the termination of services under this section shall not be deemed to be dismissal or removal from service within the meaning of article 311 of the Constitution and as of any other relevant law providing for the dismissal or removal of employees but shall only be deemed to be termination simplicitor, not amounting to any punishment.

7. Power to give directions :-

For the purpose of enforcing the provisions of this Act, it shall be competent for the Government, or any Head of the Department of the Government to issue such directions as they may deem fit to their subordinates and where any subordinate officer is guilty of non-compliance with such directions, it shall be deemed that he is guilty of misconduct for proceeding under the relevant disciplinary rules.

8. Abatement of claims :-

Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority the claims for regular appointment of all such irregular appointments in violation of rule of reservation shall stand abated accordingly,

(a) no suit or other proceeding shall be instituted, maintained or

continued in any court, tribunal or other authority, against the Government or any person or authority whatsoever for regularisation of such services;

(b) no court shall enforce any decree or order, directing the regularisation of the service of such persons; and

(c) all proceedings pending in any court or tribunal claiming the regularisation of such services shall abate.

9. Prohibition of appointment of others :-

(1) No post in public service reserved for Scheduled Castes or Scheduled Tribes or Backward Classes or Women shall be filled in violation of the rule of reservation;

Provided that where no qualified and eligible person is available from among the Schedule Castes or Scheduled Tribes or Backward Classes or Women as the case may be, for recruitment to a reserved post, such posts shall be kept vacant and the vacancy shall be re-notified for recruitment till a qualified and eligible person is available:

Provided further that if no qualified and eligible person is available from among the Scheduled Caste or Scheduled Tribe or Backward Class or Women, as the case may be, for recruitment to a reserved post the Government is competent to exempt any post from the operation of rule of reservation and to appoint any other person in such a manner as may be prescribed.

10. Offences and punishments :-

(1) Any person or authority who contravenes the provisions of this Act, shall, apart from the penalties otherwise provided for, be punishable with imprisonment for a term which shall not be less than six months and which may extend upto two years and also with fine which shall not be less than five thousand rupees but which may extend upto ten thousand rupees.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government.

11. Penalty for abettors :-

Whoever abets any offence punishable under this Act shall be punished with the punishment provided for in this Act for such offence.

12. Offences by Companies :-

(1) Where an offence against any of the provisions of this act or any rule made thereunder has been committed by a company, every person, who at the time when the offence was committed, was in charge of, and was responsible to the company for the conduct, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything in sub-section (1) where any such offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of; or is attributed to any neglect on the part of, any Director, Manager, Secretary or other officers of the company, they shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this section,

(a) "Company", means a company as defined in the Companies Act (Central Act I of 1956) 1956 and includes a University, a firm, a society or other association of individuals; and

(b) "Director" in relation to,

(i) a firm means a partner in the firm;

(ii) a university, a society or other association of individuals means the person who is entrusted with the power to make appointments in the case of a university under the concerned law under which the university is established and in other cases under the rules of the society or other association, as the case may be.

13. Protection for the bonafide Acts :-

Provided that nothing contained in this Act shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence in making appointments under section 2(e) to any post in any class, category, or grade, of the services as defined in section 2(d) (i to v).

14. Bar of jurisdiction of Civil Courts :-

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

15. Act to override other laws :-

The provisions of this Act shall have effect, notwithstanding

anything contained in any other law for the time being in force or any judgement, decree or order of any court, tribunal or other authority.

16. Power to make rules :-

(1) The Government may by notification, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall, immediately after it is made, be laid before the Legislative Assembly of the State, if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session, immediately following the Legislative, Assembly agrees in making any modification; in the rule or in the annulment of the rule, the rule shall from the date on which the modifications or annulment is notified have effect only in such modified form or shall stand annulled 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.