

Assam Backward Classes Commission Act, 1993

17 of 1993

[04 November 1993]

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PREAMBLE

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ACT

Whereas it is expedient to provide for the constitution of a Commission for Backward Classes other than the Scheduled Castes and Scheduled Tribes to streamline and rationalise the procedure for inclusion or over inclusion of any class or classes of citizens in the list of Backward Classes including More Other Backward Classes to provide reservation of vacancies in services and posts for the members of socially and economically backward sections of the society and for matters connected therewith or incidental thereto. It is hereby enacted in the Forty-fourth Year of the Republic of India as follows :

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

- (1) This Act may be called the Assam Backward Classes Commission Act, 1993.
- (2) It shall be deemed to have come into force on the 8th day of June, 1993.
- (3) It extends to the whole of the State of Assam.

2. Definitions :-

In this Act unless the context otherwise requires :--

- (a) Backward Classes means such backward classes of citizens other than the Scheduled Castes and the Scheduled Tribes as may be specified by the State Government in the lists;
- (b) Commission means the Assam Backward Classes Commission constituted under section 3;
- (c) Government means, the Government of Assam;
- (d) lists means lists prepared by the Government from time to time for the purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which in the opinion of the Government are not adequately represented in the services under the Government and any local or other Authority under the contract of the Government;
- (e) member means a member of the Commission and included the Chairperson;

- (f) prescribed means prescribed by the rules made under this Act;
- (g) notification means notification published in the Official Gazette.

CHAPTER 2 THE ASSAM BACKWARD CLASSES COMMISSION

3. Constitution of the Commission :-

- (1) The Government shall, by notification, constitute a body to be known as the Assam Backward Classes Commission to exercise the powers conferred on, and to perform the functions assigned to it under this Act.
- (2) The Commission shall consist of the following members nominated by the Government :-
 - (a) a Chairperson, who: is or has been a Judge of the Supreme Court or a High Court;
 - (b) a Social Scientist;
 - (c) two persons, who have special knowledge in matters relating to backward classes; and
 - (d) a Member-Secretary, who is or has been an officer of the Government in the rank of a Secretary to the Government of Assam.

4. Term of office and conditions of service of Chairperson and members :-

- (1) Every member shall hold office for a term of three years from the date he assumes office.
- (2) A member may, by writing under his hand addressed to the Government, resign from the office of the Chairperson or as the case may be, of member at any time.
- (3) The Government shall remove a person from the office of the member if that person,--
 - (a) becomes an undischarged insolvent; or
 - (b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Government involves moral turpitude; or
 - (c) becomes of unsound mind and stands so declared by a Competent Court; or
 - (d) refuses to act or becomes, incapable of acting; or
 - (e) is, without obtaining leave of absence from the Commission absents for three consecutive meetings of the Commission; or
 - (f) has, in the opinion of the Government, so abused the position of Chairperson or member as to render that persons continuance in

office detrimental to the interests of backward classes or the public interests:

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(4) A vacancy, caused under sub-section (2), or, otherwise shall be filled by fresh nomination.

(5) The salaries and allowances payable to and other terms and conditions of service of the Chairperson and members shall be such as may be prescribed.

5. Officers and other employed of the Commission :-

(1) The Government shall provide the Commission with such Officers and employees as may be necessary for the efficient performance of the functions of the Commission.

(2) The salaries and allowances payable to and the other terms and conditions of service of the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. Salaries & Allowances to be paid out of grants :-

The salaries and allowances payable to the Chairperson and members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in Section 5, shall be paid out of the grants referred to in sub-section (1) of Section 12.

7. Vacancies etc. not to invalidate proceeding of the Commission :-

No Act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

8. Procedure to be regulated by the Commission :-

(1) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this

behalf.

CHAPTER 3 FUNCTIONS AND POWERS OF THE COMMISSION

9. Functions of the Commission :-

(1) The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Government as it deems appropriate-

(2) The advice of the Commission shall ordinarily be binding upon the Government.

10. Powers of the Commission :-

The Commission shall, while performing its functions under sub-section (1) of Section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of any person from any part of Assam and examining him or oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing Commissions for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

11. Periodic revision of lists by the Government :-

(1) The Government may, at any time and shall, at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.

(2) The Government shall, while undertaking any revision referred to in sub-section (1) consult the Commission.

CHAPTER 4 FINANCE, ACCOUNTS AND AUDIT

12. Grants by the Government :-

(1) The Government shall, after due appropriation made by

Legislative Assembly by law in this behalf pay to the Commission by way of grants such sums of money as the Government may think fit for being utilised for the purpose of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

13. Accounts and Audit :-

(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Government in consultation with the Accountant General of Assam.

(2) The Accounts of the Commission shall be audited by the Accountant General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Accountant General.

(3) The Accountant General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Accountant General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

14. Annual report :-

The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its, activities during the previous financial year and forward a copy thereof to the Government.

15. Annual report and audit report to be laid before the Assam Assembly :-

The Government shall cause the annual report together with a memorandum of action taken on the advice tendered by the Commission under section 9 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before Assam Legislative Assembly.

CHAPTER 5 MISCELLANEOUS

16. Chairperson and members and employees of the Commission to be public servant :-

The Chairperson, member and employees of the Commission shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

17. Power to make rules :-

(1) The Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :--

(a) salaries, and allowances payable to and the other terms and conditions of service of the Chairperson and members under sub-section (5) of the Section 4 and of officers and other employees under sub-section (2) of Section 5;

(b) the form in which the annual statement of accounts shall be maintained under sub-section (1) of Section 13;

(c) the form in and the time at which the annual report shall be prepared under section 14;

(d) any other matter which is required to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive session aforesaid, the assembly agree in making any modification in the rule or the Assembly agrees that the rule should not be made, the rule 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.

18. Powers to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient, for removing

the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made be laid before the Assam Legislative Assembly.

19. Repeal and saving :-

(1) The Assam Backward Classes Commission Ordinance, 1993 Assam Ordinance No 1 of 1993 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.