

Tamil Nadu Backward Class Christians And Backward Class Muslims (Reservation Of Seats In Educational Institutions Including Private Educational Institutions And Of Appointments Or Posts In The Services Under The State) Act, 2007

33 of 2007

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Tamil Nadu Backward Class Christians And Backward Class Muslims (Reservation Of Seats In Educational Institutions Including Private Educational Institutions And Of Appointments Or Posts In The Services Under The State) Act, 2007

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PREAMBLE

An Act to provide for reservation of seats in educational institutions including private educational institutions in the State and of appointments or posts in the services under the State to Backward Class Christians and Backward Class Muslims in the State of Tamil Nadu within the thirty per cent reservation for Backward Classes. Whereas, the policy of reservation for the social and educational advancement of the people belonging to the Backward Classes of

citizens in admissions to educational institutions in the State and for appointments in the services under 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, the Tamil Nadu Legislature passed the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994);

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 the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994) enacted by the Tamil Nadu Legislature, to the IX Schedule, so as to give protection to the State Act, under Article 31-B of the Constitution;

And Whereas, the Constitution (Ninety-third Amendment) Act, 2005 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, by virtue of clause (5) of Article 15 of the Constitution and also after taking a policy decision that the existing level of sixty-nine per cent reservation, in admission to educational Institutions other than 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, the Tamil Nadu Legislature passed the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Private Educational Institutions) Act, 2006 (Tamil Nadu Act 12 of 2006);

And Whereas, the Backward Class Christians and Backward Class Muslims in this State requested for a separate reservation for them as they could not compete with other communities in the list of Backward Classes published by the Government so as to get their legitimate share in admissions to educational institutions and of appointments or posts in the services under the State;

And Whereas, the issue of providing reservation for Christians and Muslims based on their social and educational backwardness was considered by the Tamil Nadu Backward Classes Commission;

And Whereas, the said Commission, having considered the issue elaborately, forwarded the recommendations to the Government in which the Commission has recommended the need for reservation to the Backward Class Christians and Backward Class Muslims in the State on the basis of their population within the reservation now available for Backward Classes;

And Whereas, it has become imperative to provide for Backward Class Christians and Backward Class Muslims their due and legitimate share of percentage of reservation from the existing level of reservation of thirty per cent intended for Backward Classes, in admission to educational institutions including private educational institutions and of appointments or posts in the services under the State;

And Whereas, the State Government have, after careful consideration, taken a policy decision that in the existing level of thirty per cent reservation to Backward Classes, in admission to educational institutions including private educational institutions in the State and of appointments or posts in the services under the State, three and one-half per cent for Backward Class Christians and three and one-half per cent for Backward Class Muslims shall be reserved for ensuring the advancement of the Backward Class Christians and Backward Class Muslims in the State of Tamil Nadu;

Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-eighth Year of the Republic of India as follows --

1. Received the Assent of the Governor of Tamil Nadu on the November 4, 2007 -- Published in Tamil Nadu Government Gazette, Extraordinary, Part IV, Section 2, Iss. No.304, pages 151-154, dated November 5, 2007. Explanatory Statement -- Refer 2007 (2) CTAR page No. 1.87

1. Short title, extent and commencement :-

(1) This Act may be called the Tamil Nadu Backward Class Christians and Backward Class Muslims (Reservation of Seats in Educational Institutions including Private Educational Institutions and of Appointments or Posts in the Services under the State) Act, 2007.

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

(3) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires,--

(a) "Backward Class Christians" means class or classes of citizens belonging to Christian religion who are socially and educationally backward and notified by the Government, under clause (a) of Section 3 of the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994) (hereinafter referred to as the 1994 Act), in the Tamil Nadu Government Gazette as Backward Class;

(b) "Backward Class Muslims" means class or classes of citizens belonging to Muslim religion who are socially and educationally backward and notified by the Government under clause (a) of Section 3 of the 1994 Act in the Tamil Nadu Government Gazette as Backward Class;

(c) "competent authority" means the competent authority appointed under Section 6;

(d) "educational institution " shall have the same meaning as defined in the 1994 Act;

(e) "Government" means the State Government;

(f) "prescribed" means prescribed by the Rules made under this Act;

(g) "private educational institution" shall have the same meaning as defined in the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Private Educational Institutions) Act, 2006 (Tamil Nadu Act 12 of 2006) (hereinafter referred to as the 2006 Act);

3. Reservation of Seats in Educational Institutions including Private Educational Institutions for the Backward Class Christians and Backward Class Muslims :-

Notwithstanding anything contained in the 1994 Act or the 2006 Act and 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 Class Christians and Backward Class Muslims, the reservation, in respect of annual permitted strength in each branch or faculty for admission into educational institutions in the State including private educational institutions, for the Backward Class Christians and Backward Class Muslims shall be three and one-half per cent and three and one-half per cent, respectively, within the thirty per cent reservation for Backward Classes as provided in the 1994 Act and in the 2006 Act.

4. Reservation in the appointments or posts in the services under the State :-

Notwithstanding anything contained in the 1994 Act and notwithstanding anything contained in any judgment, decree or order of any Court or other authority, having regard to the inadequate representation in the services under the State, of the Backward Class Christians and Backward Class Muslims, the reservation for appointments or posts in the services under the State for the Backward Class Christians and Backward Class Muslims shall be three and one-half per cent and three and one-half per cent, respectively, within the thirty per cent reservation for Backward Classes as provided in the 1994 Act.

Explanation.-- For the purpose of this Act, the services under the State includes the services under--

- (i) the Government;
- (ii) the Legislature of the State;
- (iii) any local authority;
- (iv) any Corporation or Company owned or controlled by the Government; or
- (v) any other authority in respect of which the State Legislature has power to make laws.

5. Reservation not to be affected :-

Notwithstanding anything contained in Sections 3 and 4, the claims of the students or members belonging to the Backward Class Christians and Backward Class Muslims shall also be considered for the unreserved seats, appointments or posts which shall be filled on

the basis of merits and where a student or member belonging to the Backward Class Christians or Backward Class Muslims is selected on the basis of merit, the number of seats, appointments or posts reserved for Backward Class Christians or Backward Class Muslims, as the case may be, shall not in any way be affected.

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 in respect of private educational institutions.

(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 subsection (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 :-

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 (XLV of 1860).

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

12. Repeal and saving :-

(1) The Tamil Nadu Backward Class Christians and Backward Class Muslims (Reservation of Seats in Educational Institutions including Private Educational Institutions and of Appointments or Posts in the Services under the State) Ordinance, 2007 (Tamil Nadu Ordinance 4 of 2007) 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 this Act.