



The Rajasthan Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2017

Act 38 of 2017

Keyword(s):

Backward Classe, Creamy Layer, Reservation, Services under the State

Amendment appended: 2 of 2019

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LAW (LEGISLATIVE DRAFTING)DEPARTMENT
(GROUP-II)

No. F.(48)Vidhi/2/2017.-In pursuance of Clause(3)of Article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Rajasthan Gazette of the following translation in the English language of Rajasthan Pichhada Varg(Rajya Ki Shaikshik Sansthaon Mein Seeton Aur Rajua Ke Adheen Sevaon Mein Niyuktiyon Aur Padon ka Aarakshan) Adhiniyam, 2017 (2017 ka Adhiniyam Shankhyank 38):-

(Authorised English Translation)

**THE RAJASTHAN BACKWARD CLASSES
(RESERVATION OF SEATS IN EDUCATIONAL
INSTITUTIONS IN THE STATE AND OF APPOINTMENTS
AND POSTS IN SERVICES UNDER THE STATE), Act, 2017
(Act No. 38 of 2017)**

[Reseived the assent of the Governor on the 8th day of November, 2017]

An

Act

to provide for the reservation of seats in educational institutions in the State and of appointments and posts in the services under the State for the category of more backward classes within the backward classes and for matters connected therewith or incidental thereto.

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 and for reservation of appointments and posts in the services under the State has been under implementation in the State of Rajasthan for a long time;

AND WHEREAS, a large percentage of the population of Rajasthan 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 Rajasthan State Commission for Backward Classes has time and again recommended to the State Government that certain backward classes like Banjara/Baldiya/Labana, Gadiya Lohar/Gadoliya, Gujar/Gurjar, Raika/Rebari/Debasi, Gadariya/ Gadri/Gayari are extremely backward and need special care and protection for their rapid educational and social advancement;

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 institution of the national life;

AND WHEREAS, under clause (2) of Article 38 of the Constitution, the State shall, in particular, strive to minimize 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 interests of the weaker sections of the people;

AND WHEREAS, looking to the recommendations made by the Rajasthan State Commission for Backward classes, from time to time, it is expedient that the extremely backward classes within the backward classes like the Banjara/Baldiya/Labana, Gadiya Lohar/Gadoliya, Gujar/Gurjar, Raika/ Rebari/Debasi, Gadariya/ Gadri/Gayari should be classified within backward classes as a separate category as more backward classes and they should be given special care and protection for their rapid educational and social advancement.

NOW, therefore, be it enacted by the Rajasthan State Legislature in the Sixty-eighth Year of the Republic of India, as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Rajasthan Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2017.

(2) It shall extend to the whole of the State of Rajasthan.

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

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

- (a) "backward classes" means the backward classes as defined in the Rajasthan Scheduled Castes, Scheduled Tribes and Backward Classes, Special Backward Classes and Economically Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2008 (Act No. 12 of 2009);
- (b) "Commission" means the Rajasthan State Commission for Backward Classes constituted under section 3 of the Rajasthan State Commission for Backward Classes Act, 2017 (Act No. 4 of 2017);
- (c) "creamy layer" means such class of persons within the more backward classes, as the State Government may notify, in the Official Gazette for the purposes of this Act;
- (d) "more backward classes" means the backward classes specified in the Schedule;

- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "Schedule" means the Schedule to this Act;
- (g) "services under the State" means the public services and posts in connection with the affairs of the State and includes the services and posts in-
 - (i) any local authority;
 - (ii) any corporation or company owned or controlled, wholly or substantially, by the State Government;
 - (iii) any other authority or body constituted by or under an Act of the State Legislature and funded, wholly or substantially, by the State; and
 - (iv) respect of which reservation was applicable by Government orders on the date of commencement of this Act and which are not covered under sub-clauses (i) to (iii).

3. Reservation of seats in educational institutions in the State.- (1) The reservation in respect of the annual permitted strength for admission into such educational institutions and courses in the State, as may be prescribed, for the more backward classes shall be such percent of the annual permitted strength as may be notified by the State Government from time to time:

Provided that every notification issued under this subsection shall be laid, as soon as may be, after it is so issued, before the House of the State Legislature and the provisions of subsection (2) of section 6 shall mutatis mutandis apply to such notification.

(2) Notwithstanding anything contained in sub-section (1), persons belonging to creamy layer shall not be eligible for consideration against the reserved quota of seats in any educational institution in the State.

4. Reservation of appointments and posts in the services under the State.- (1) The reservation of appointments and posts in the services under the State for the more backward classes shall be such percent of the appointments and posts in services under the State as may be notified by the State Government from time to time:

Provided that every notification issued under this subsection shall be laid, as soon as may be, after it is so issued, before the House of the State Legislature and the provisions of subsection (2) of section 6 shall mutatis mutandis apply to such notification.

(2) Notwithstanding anything contained in sub-section (1), persons belonging to creamy layer shall not be eligible for consideration against the reserved quota in the appointments and posts under the State.

5. No reservation in certain cases.- Notwithstanding anything contained in section 4, there shall be no reservation in respect of the following posts, namely :-

- (a) the posts to be filled by transfer, promotion or deputation; and
- (b) the post which is single (isolated) in any cadre or grade.

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

(2) All rules made under this section shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than

fourteen days, which may comprise in one session or in two successive sessions and, if before the expiry of the sessions in which they are so laid or of the sessions immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

7. Power to amend the Schedule.- (1) The State Government may, in consultation with the Commission, add, amend or delete any entry of the Schedule by notification published in the Official Gazette and on and from the date of such publication, the Schedule shall stand amended accordingly.

(2) Every notification issued under sub-section (1) shall be laid, as soon as may be, after it is so issued, before the House of the State Legislature and the provisions of sub-section (2) of section 6 shall mutatis mutandis apply to such notification.

8. Removal of difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order, published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for removing the difficulty:

Provided that no order under this section shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is so made, before the House of the State Legislature.

9. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against any

authority or person for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or the rules made thereunder.

10. Act not to derogate from other laws.- Nothing contained in this Act shall derogate from any other law for the time being in force. However a more backward class receiving the benefit of reservation under this Act shall not be entitled to receive the benefit of reservation as backward class.

11. Repeal and saving.- (1) The Rajasthan Special Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2015 (Act No. 32 of 2015) is hereby repealed and the provisions of the Rajasthan General Clauses Act, 1955 (Act No. 8 of 1955) shall apply to such repeal.

(2) Nothing in this Act shall be deemed to have affected any orders made by the Governor in exercise of his powers under the Fifth Schedule of the Constitution of India in respect of the Scheduled Areas.

SCHEDULE

(See sec.2(f))

S.N. Classes

1. Banjara, Baldia, Labana.
2. Gadiya Lohar, Gadoliya.
3. Gujar, Gurjar.
4. Raika, Rebari, Debasi.
5. Gadariya, Gadri, Gayari.

sd

Principal secretary to the Government

भाग 4 (क)
राजस्थान विधान मंडल के अधिनियम।

विधि (विधायी प्रारूपण) विभाग

(ग्रुप-2)

अधिसूचना

जयपुर, फरवरी 13, 2019

संख्या प.2(12)विधि/2/2019 राजस्थान राज्य विधानमंडल का निम्नांकित अधिनियम, जिसे राज्यपाल महोदय की अनुमति दिनांक 13 फरवरी, 2019 को प्राप्त हुई, एतद्वारा सर्वसाधारण की सूचनार्थ प्रकाशित किया जाता है:-

राजस्थान पिछड़ा वर्ग (राज्य की शैक्षिक संस्थाओं में सीटों और राज्य के अधीन सेवाओं में नियुक्तियों और पदों का आरक्षण)

(संशोधन) अधिनियम, 2019

(2019 का अधिनियम संख्यांक 2

[राज्यपाल महोदय की अनुमति दिनांक 13 फरवरी, 2019 को प्राप्त हुई]

राजस्थान पिछड़ा वर्ग (राज्य की शैक्षिक संस्थाओं में सीटों और राज्य के अधीन सेवाओं में नियुक्तियों और पदों का आरक्षण) अधिनियम, 2017 को और संशोधित करने के लिए अधिनियम।

भारत गणराज्य के सत्तरवें वर्ष में राजस्थान राज्य विधानमंडल निम्न लिखित अधिनियम बनाता है:-

1. संक्षिप्त नाम और प्रारम्भ.- (1) इस अधिनियम का नाम राजस्थान पिछड़ा वर्ग (राज्य की शैक्षिक संस्थाओं में सीटों और राज्य के अधीन सेवाओं में नियुक्तियों और पदों का आरक्षण) (संशोधन) अधिनियम, 2019 है।

(2) यह तुरन्त प्रवृत्त होगा।

2. 2017 के राजस्थान अधिनियम सं. 38 की धारा 3 का संशोधन.- राजस्थान पिछड़ा वर्ग (राज्य की शैक्षिक संस्थाओं में सीटों और राज्य के अधीन सेवाओं में नियुक्तियों और पदों का आरक्षण) अधिनियम, 2017 (2017 का अधिनियम सं. 38), जिसे इस अधिनियम में इसके पश्चात् मूल अधिनियम कहा गया है, की धारा 3 की विद्यमान उप-धारा (1) के स्थान पर निम्नलिखित प्रतिस्थापित किया जायेगा, अर्थात्:-

"(1) अति पिछड़े वर्गों के लिए राज्या की ऐसी शैक्षिक संस्थाओं और पाठ्यक्रमों में, जो विहित किये जायें, प्रवेश के लिए वार्षिक अनुज्ञात संख्या के संबंध में आरक्षण पांच प्रतिशत होगा।"

3. 2017 के राजस्था न अधिनियम सं. 38 की धारा 4 का संशोधन.- मूल अधिनियम की धारा 4 की विद्यमान उप-धारा (1) के स्थाधन पर निम्नमलिखित प्रतिस्थापित किया जायेगा, अर्थात्:-

"(1) अति पिछड़े वर्गों के लिए राज्य के अधीन सेवाओं में नियुक्तियों और पदों का आरक्षण पांच प्रतिशत होगा।"

महावीर प्रसाद शर्मा,
प्रमुख शासन सचिव।

**LAW (LEGISLATIVE DRAFTING) DEPARTMENT
(GROUP-II)**

NOTIFICATION

Jaipur, February 13, 2019

No. F. 2(12)Vidhi/2/2019.- In pursuance of clause (3) of article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Rajasthan Gazette of the following translation in the English Language of Rajasthan Pichhada Varg (Rajya Ki Shaikshik Sansthaon Mein Seeton Aur Rajya Ke Adheen Sevaon Mein Niyuktiyon Aur Padon Ka Aarakshan) (Sanshodhan) Adhinyam, 2019 (2019 Ka Adhinyam Sankhyank 2):-

(Authorised English Translation)

**THE RAJASTHAN BACKWARD CLASSES
(RESERVATION OF SEATS IN EDUCATIONAL
INSTITUTIONS IN THE STATE AND OF APPOINTMENTS
AND POSTS IN SERVICES UNDER THE STATE)
(AMENDMENT) ACT, 2019
(Act No. 2 of 2019)**

[Received the assent of the Governor on the 13th day of February, 2019]

An

Act

further to amend the Rajasthan Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2017.

Be it enacted by the Rajasthan State Legislature in the Seventieth Year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Rajasthan Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) (Amendment) Act, 2019.

(2) It shall come into force at once.

2. Amendment of section 3, Rajasthan Act No. 38 of 2017.- For the existing sub-section (1) of section 3 of the Rajasthan Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2017 (Act No. 38 of 2017), hereinafter in this Act referred to as the principal Act, the following shall be substituted, namely:-

“(1) The reservation in respect of the annual permitted strength for admission into such educational institutions and courses in the State, as may be prescribed, for the More Backward Classes shall be five percent.”.

3. Amendment of section 4, Rajasthan Act No. 38 of 2017.- For the existing sub-section (1) of section 4 of the principal Act, the following shall be substituted, namely :-

“(1) The reservation of appointments and posts in the services under the State for the More Backward Classes shall be five percent.”.

महावीर प्रसाद शर्मा,

Principal Secretary to the Government.