

Bill No. XXVIII of 2019

THE JAMMU AND KASHMIR RESERVATION (SECOND
AMENDMENT) BILL, 2019

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BILL

further to amend the Jammu and Kashmir Reservation Act, 2004.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. This Act may be called the Jammu and Kashmir Reservation (Second Amendment) Act, 2019. Short title.

XIV of 2004. **2.** In section 2 of the Jammu and Kashmir Reservation Act, 2004 (hereinafter referred to as the principal Act), after clause (g), the following clause shall be inserted, namely:— Amendment of section 2.

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‘(ga) “economically weaker sections” means such categories as may be notified by the Government from time to time, on the basis of family income and other indicators of economic disadvantage, other than the classes or categories defined in clauses (m), (n) and (o);’.

Amendment
of section 3.

3. In section 3 of the principal Act, in sub-section (I),—

(i) in clause (a), the word “and” occurring at the end shall be omitted;

(ii) in clause (b), for the words “backward classes:”, the words “backward classes; and” shall be substituted;

(iii) after clause (b), the following clause shall be inserted, namely:— 5

“(c) economically weaker sections:”;

(iv) in the first proviso, for the words “the total percentage of reservation”, the words, brackets and letters “the total percentage of reservation provided in clauses (a) and (b)” shall be substituted;

(v) after the first proviso, the following proviso shall be inserted, namely:— 10

“Provided further that the reservation in appointments in favour of the persons belonging to economically weaker sections shall be in addition to the existing reservation as provided in this sub-section and shall be subject to a maximum of ten per cent. of the posts in each category:”;

(vi) in the second proviso, for the words “Provided further that”, the words 15
“Provided also that” shall be substituted.

Amendment
of section 9.

4. In section 9 of the principal Act, in sub-section (I),—

(i) for the portion beginning with the words “shall reserve” and ending with the words “from time to time:”, the following shall be substituted, namely:—

“shall reserve seats in the Professional Institutions for candidates 20
belonging to,—

(a) reserved categories and such other classes or categories as may
be notified from time to time; and

(b) economically weaker sections:”;

(ii) in the proviso, for the words “the total percentage of reservation”, the 25
words, brackets and letter “the total percentage of reservation provided in clause (a)”
shall be substituted;

(iii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the reservation in the Professional Institutions in favour 30
of the persons belonging to economically weaker sections shall be in addition to the
existing reservation as provided in this sub-section and shall be subject to a maximum
of ten per cent. of the seats in each category.”.

STATEMENT OF OBJECTS AND REASONS

The Jammu and Kashmir Reservation Act, 2004 (the Act) was enacted with a view to provide for reservation in appointment and admission in Professional Institutions, for the members of the Scheduled Castes, the Scheduled Tribes and other socially and educationally backward classes.

2. The Jammu and Kashmir Reservation Rules, 2005 made under the Act provide for the manner of reservation to the Scheduled Castes, the Scheduled Tribes and socially and educationally backward classes. The expression "socially and educationally backward classes" includes the residents of backward areas, Actual Line of Control, International Border and social castes.

3. Vide the Constitution (One Hundred and Third Amendment) Act, 2019 (the Constitution Act, 2019) the Government of India has extended ten per cent. reservation to the persons belonging to economically weaker sections in matters of admission to educational institutions and public employment. Subsequently to extend the provisions of the Constitution Act, 2019 to the State of Jammu and Kashmir, the President issued the Constitution (Application to Jammu and Kashmir) Amendment Order, 2019 on the 1st day of March, 2019.

4. In order to implement the provisions of the Constitution Act, 2019 in the State of Jammu and Kashmir, it has become necessary to amend certain provisions of the Jammu and Kashmir Reservation Act, 2004. Accordingly, the Jammu and Kashmir Reservation (Second Amendment) Bill, 2019, *inter alia*, provides for the following, namely:—

(i) to amend section 2 of the Act, so as to define the "economically weaker sections" to mean such categories as may be notified by the Government from time to time, on the basis of family income and other indicators of economic disadvantage, other than the classes or categories defined in clauses (m), (n) and (o) of the said section;

(ii) to amend sub-section (1) of section 3 of the Act so as to insert the clause relating to economically weaker sections and to provide that the reservation to economically weaker sections shall be subject to a maximum of ten per cent. of the posts in each category; and

(iii) to amend sub-section (1) of section 9 of the Act so as to insert the clause relating to economically weaker sections and to provide that the reservation to economically weaker sections shall be subject to a maximum of ten per cent. of the seats in each category.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 2nd August, 2019.

AMIT SHAH.

ANNEXURE

EXTRACTS FROM THE JAMMU AND KASHMIR RESERVATION ACT, 2004

(XIV OF 2004)

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Reservation in
appointment.

3. (1) Except as otherwise provided hereinafter, available vacancies to the extent as may be notified by the Government from time to time shall be reserved for appointment by direct recruitment from amongst the persons belonging to:—

(a) Scheduled Castes and the Scheduled Tribes which shall not exceed the ratio and proportion as the population of each such category bears to the total population of the State as per the latest available census; and

(b) socially and educationally backward classes:

Provided that the total percentage of reservation shall in no case exceed 50%:

Provided further that the Government shall exclude the services and posts, which, on account of their nature and duties are such as call for highest level of intelligence, skill and excellence, from operation of the Act.

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Reservation in
professional
institutions.

9. (1) The Government shall reserve seats in the Professional Institutions for candidates belonging to reserved categories and such other classes and categories as may be notified from time to time:

Provided that the total percentage of reservation shall in no case exceed 50%.

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RAJYA SABHA

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further to amend the Jammu and Kashmir Reservation Act, 2004.

(Shri Amit Shah, Minister of Home Affairs)