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PART V

Bills introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 10th March, 2016 by Manibhai Vaghela, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 21 OF 2016

A BILL

to provide for adequate representation of Scheduled Castes and Scheduled Tribes in posts and services under the State.

It is hereby enacted in the Sixty seventh Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 2016.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the State of Gujarat.

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

2. In this Act, unless the context otherwise, requires,—

Definitions.

(a) "Prescribed" means prescribed by rules made under this Act,

(b) "recruitment year" means the financial year during which a recruitment is actually made.

(c) "reservation" means reservation of vacancies in post and services for the Scheduled Castes and Scheduled Tribes.

(d) "Scheduled Castes" shall have reference to the Scheduled Castes specified in the Constitution (Schedule Castes) Order, 1950 made under Article 341 of the Constitution of India and as amended from time to time.

(e) "Scheduled Tribes" shall have reference to the Scheduled Tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made under Article 342 of the Constitution of India and as amended from time to time.

(f) "Select list" means the list of candidates arranged in order of precedence prepared according to the rules and orders issued by the State Government in that behalf and adopted by the competent authority or making appointment in respect of initial recruitment and promotions.

(g) "State" means the Government of the State of Gujarat.

Applicability 3. This Act shall apply to,-

- (1) All appointments to the posts and services under the State except,—
- (a) those meant for conducting or guiding or directing research;
 - (b) those classified as scientific posts;
 - (c) those filled up on the basis of any contract;
 - (d) ex-cadre posts;
 - (e) those which are filled up by transfer or deputation;
 - (f) such other posts the State Government may, from time to time by order specify :

Provided that all orders made under clause (f) shall, as soon as after they are made, be laid before the State Legislature for not less than thirty days which may be comprised in one or more sessions.

- (2) all appointments to the district level posts,
- (3) all appointments in the Panchayats, Boards and Corporation constituted by the State Government.
- (4) all appointments in instructions aided by the State Government.
- (5) all other appointments, which the State Government may specify from time to time.

Reservation and the percentage thereof.

4. (1) Except as otherwise provided in the Act, this vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall not be filled up by candidates not belonging to the Scheduled Castes and Scheduled Tribes.

(2) The reservation of vacancies in posts and services shall be at such percentage of the total number of vacancies as the State Government may, from time to time by order determine;

Provided that-

(a) in the case of initial recruitment the percentage so determined shall, in no case be less than the percentage of the persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be in the total population of the State,

(b) in the case of initial recruitment the district, level posts, the percentage so determined, shall, in no case be less than the percentage of the persons belonging to the Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of that district and in no case be less than the percentage of persons belonging to the

Scheduled Castes or the Scheduled Tribes as the case may be, in the total population of the State.

(c) save as otherwise provided in this Act, in the case of appointment by way of promotions the percentage of reservation shall be such as is laid down in paragraphs (a) and (b).

Explanation.— The expression "population" means the population as ascertained at the last census for which the relevant figures have been published.

5. (1) The State Government shall prescribe model roster indicating the number of vacancies to be reserved for the Scheduled Castes and Scheduled Tribes and the number of vacancies to be left unreserved.

Model Roster.

(2) The appointing authorities shall maintain roster in the prescribed form.

(3) The roster shall be consulted for ascertaining the number of reserved vacancies only but the appointment shall be made in accordance with the order of precedence as shown in the select list.

6. If, in any recruitment year, the number of candidates other from Scheduled Castes or Scheduled Tribes is less than the number of vacancies reserved for them the remaining vacancies may be filled up by general candidates after dereserving the vacancies in the prescribed manner, but the vacancies so dereserved shall be carried forward to the subsequent three years of recruitment.

Carry forward of reservation and dereservation.

7. For initial appointments for the candidates belonging to Scheduled Castes and Scheduled Tribes.-

Relaxation and concessions

~~(7) The percentage of relaxation for application for any post shall be the same as that is~~
for others.

(c) travelling allowance to attend competitive written examination and oral interview shall be paid at such rates as may be prescribed by the State Government.

(d) percentage of passing the competitive and departmental examinations shall be relaxed by 5 percent.

8. (1) For recruitment through employment exchange the number of vacancies reserved for Scheduled Castes and Scheduled Tribes shall be specified in the requisition to be sent to the employment exchange against the total number of vacancies.

Member of initial recruitment.

(2) For recruitment to be made through the Gujarat Public Service Commission or any Selection Board on the basis of competitive examination or interview the advertisement shall specify the number of vacancies reserved for Scheduled Castes and Scheduled Tribes against the total number of vacancies.

(3) The Scheduled Castes and Scheduled Tribes candidates shall be recruited to the extent of the reserved vacancies if they possess the minimum qualifications required for the posts or services.

(4) If the required number of Scheduled Castes and Scheduled Tribes candidates are not available for filling up the reserved vacancies, a fresh recruitment shall be made only from candidates belonging to the Schedules Castes or Scheduled Tribes, as the case may be, for filling up the remaining reserved vacancies.

(5) If after making such fresh recruitment candidates belonging to the Schedule

Castes or Scheduled Tribes are still not available or if the number of such candidates is less than the number of reserved vacancies, the vacancies which remain unfilled shall be filled up by general candidates in accordance with the procedure laid down in section 6.

(6) For district level posts if the candidates belonging to Schedules Castes or Scheduled Tribes, as the case may be, are not available in the district employment exchange in sufficient number at the time of initial recruitment, the employment exchange of other district where there is large population of Schedules Castes or Scheduled Tribes, as the case may be, shall be consulted.

Promotion based on seniority cum-fitness.

9. (1) Where promotion is to be made on the basis of seniority subject to fitness, the Schedule Castes and Scheduled Tribes officers shall be promoted to the next higher post or grade against reserved vacancies provided they possess the minimum qualifications and experience required for such promotion.

(2) The number of reserved vacancies shall be determined on the basis of the reserved points shown in the roster maintained under Section 5.

Promotion based on selection.

10. Where promotion is to be made on the basis of selection and the element of direct recruitment does not exceed fifty percent the procedure for filling up of the reserved vacancies shall be such as may be prescribed and the number of reserved vacancies shall be determined on the basis of the reserved points shown in the roster maintained under Section 5.

Selection from different services.

11. Where selection is to be made from different services the recruitment or appointing authority shall select Scheduled Castes and Scheduled Tribes candidates to the extent of reserved quota, provided such candidates satisfy the minimum conditions of suitability qualification and experience laid down in respect of the post concerned.

Submission of annual report, maintenance of other records and inspection thereof.

12. (1) Every appointing authority shall furnish to the State Government annual report in the prescribed manner by the end of the month of June of the succeeding financial year and maintain such other records as may be prescribed.

(2) Any officer authorised by the State Government in that behalf may inspect any record or documents and require the appointing authority to produce the roster and other records relating to appointments made by it and which are maintained in its office.

(3) It shall be the duty of the appointing authority to produce such records and documents, furnish such information and afford all such assistance and facilities as may be necessary for the aforesaid purpose.

Nomination of Liaison officer.

13. In each department of the State Government an officer not below the rank of an Under Secretary authorised by the Secretary of the department in that behalf shall act as Liaison Officer in respect of the matter provided in this Act who shall be specially responsible for -

(a) ensuring ; -oper implementation of the provisions of this Act and the rules made thereunder,

(b) ensuring compliance by the subordinant authorities.

(c) ensuring timely submission of returns,

(d) conducting annual inspections of rosters and such other record as may be prescribed,

(e) acting as Liaison Officer between the administrative department and the Social Welfare Department,

(f) ensuring necessary assistance to the Social Welfare Department in the investigation of complaints received from individuals or organisations belonging to Scheduled Castes and Scheduled Tribes.

Constitution of standing Committee.

14. (1) There shall be a Standing Committee consisting of the following members, namely:—

(a) The Minister for Social Welfare—Chairman.

(b) Three members of the Gujarat Legislative Assembly to be elected in such manner as may be determined by the Speaker of the Gujarat Legislative Assembly—Member.

(c) The Chief Secretary to Government—Member.

(d) The Secretary to Government, Home Department—Member.

(e) The Chief Secretary to Government, Social Welfare Department
Member Secretary :

Provided that on issue of a proclamation under Article 356 of the Constitution of India the composition of the committee may be altered by the State Government to such extent as it may deem fit.

15. (1) The Committee shall meet at least thrice a year and the period the standing between any two meetings shall not be more than six months.

Function of
the standing
Committee

(2) The Committee shall perform the following functions, namely :—

(i) review of the implementation of the provisions of this Act and rules made thereunder,

(ii) suggest measures for the removal of difficulties in such implementation or for the improvement thereof and

(iii) such other functions as the State Government may from time to time assign to the Committee.

16. The State Government shall prepare an annual report on the working of the Act and lay the same before the State Legislature for a period of not less than fifteen days in

Annual
Report

grievances.

18. (1) The State Government may, by notification in the *Official Gazette* (after previous publication), make rules to carry out all or any of the purposes of this Act.

Rule
making
power.

(2) In particulars and without prejudice to the generality of the foregoing powers, the State Government may make rules in respect of all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this Act, shall as soon as may be after they are made, be laid before the State Legislature for not less than thirty days which may be comprised in one or more sessions and if during the said period, the State Legislature makes any modifications therein, the rules shall thereafter have effect only in such modified form so however that such modifications shall be without prejudice to the validity of any thing previously done under the rules.

19. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law or in any rule, order or resolution made by the State Government.

Overriding
effect of the
Act.

STATEMENT OF OBJECTS AND REASONS.

According to Constitutional provisions, the State Government have made several administrative orders for implementation of policy of reservation for Scheduled Castes and Scheduled Tribes. But due to lack of effective control the provisions of such administrative order could not be strictly implemented and the employees belonging to Scheduled Castes and Scheduled Tribes have to face injustice many a time. This Bill, therefore, provides for the effective implementation of the policy.

Gandhinagar
Dated the 9th February 2016.

MANIBHAI VAGHELA,
M.L.A.

FINANCIAL MEMORANDUM

Clause 14 of the Bill requires the State Government to constitute standing committee and Clause 15 requires atleast three meeting to be held in a year, clause 17 requires the State Government to make available legal aids to employees belonging to Scheduled Castes and Scheduled Tribes at the prescribed rates. It is estimated that the expenditure to be involved from the Consolidated Fund of the State in regard to above provisions would be about rupees two lakhs per annum.

Gandhinagar
Dated the 9th February 2016.

MANIBHAI VAGHELA,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of Clause 1, empowers the State Government to appoint by notification in the Official Gazette the date on which the Act shall come into force.

Paragraph (f) of sub-clause (1) of clause 3 empowers the State Government to specify by order posts other than those specified in the sub-clause,

Sub-clause (3) of clause 3 empowers the State Government to specify from time to time appointments other than those specified in the preceding sub-clauses.

Sub-clause (2) of clause 4 empowers the State Government to determine the percentage of reservation of vacancies in posts and services.

Sub-clause (1) of clause 5 empowers the State Government to prescribe model roster.

Sub-clause (2) of clause 5 empowers the State Government to prescribe form for maintaining roster.

Clause 6 empowers the State Government to prescribe manner for filling up reserved vacancies by general candidates in case the number of candidates from Scheduled Castes and Scheduled Tribes is less than the number of vacancies reserved for them.

Paragraph (c) of clause 7 empowers the State Government to prescribe rates of travelling allowance to be paid to the candidates belonging to the Scheduled Castes and Scheduled Tribes for attending competitive examination or oral interviews.

Clause 10 of the Bill empowers the State Government to prescribe procedure for filling up the reserved vacancies where promotion is to be made on the basis of selection and the element of direct recruitment does not exceed fifty percent.

Sub-clause (1) of clause 12 empowers the State Government to prescribe a manner for furnishing annual report to the State Government and to maintain other

Paragraph (b) of clause 14 empowers the Speaker of the Gujarat Legislative Assembly to determine manner for electing members of the Assembly on the Standing Committee.

The proviso to clause 14 empowers the State Government to alter the composition of the Standing Committee on issue of proclamation under Article 356 of the Constitution to such extent as it may deem fit.

Paragraph (iii) of sub-clause (2) of clause 15 empowers the State Government to assign to the Standing Committee other functions from time to time.

Clause 17 of the Bill empowers the State Government to prescribe rates for making available legal aid to the employees belonging to the Scheduled Castes and Scheduled Tribes.

Sub-clause (1) of clause 18 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is essential and of normal character.

Gandhinagar
Dated the 9th February 2016.

MANIBHAI VAGHELA,
M.L.A.

Gandhinagar,
Dated the 10th March, 2016.

D.M. PATEL,
Secretary,
Gujarat Legislative Assembly.