



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ८, अंक ३४(२)]

गुरूवार, ऑगस्ट २५, २०२२/भाद्रपद ३, शके १९४४

[पृष्ठे १०, किंमत : रुपये २७.००

असाधारण क्रमांक ७२

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Creation of Supernumerary Posts and Appointment of Selected Candidates Bill, 2022. (L. A. Bill No. XXVII of 2022), introduced in the Maharashtra Legislative Assembly on the 25th August 2022, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

SATISH WAGHOLE,

I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XXVII OF 2022.

A BILL

to provide for creation of supernumerary posts in the cadre of civil services and posts of the Government, Government Departments and offices or authorities subordinate thereto and to appoint candidates selected and recommended by selection authorities thereon.

WHEREAS, it is expedient to provide for creation of supernumerary posts in the cadre of civil services and posts of the Government, Government Departments and offices or authorities subordinate thereto and to appoint candidates selected and recommended by selection authorities thereon and for matters connected therewith or incidental thereto; it is hereby enacted in the Seventy-third Year of the Republic of India as follows :—

1. This Act may be called the Maharashtra Creation of Supernumerary Posts and Appointment of Selected Candidates Act, 2022. Short title.

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

(a) “Competent Authority” means the authority competent to select or appoint the candidates on the posts in the cadres specified in the Schedule ;

(b) "Government" means the Government of Maharashtra;

(c) "Schedule" means the Schedule appended to this Act;

(d) "Selection Authority" means the Maharashtra Public Service Commission, District Selection Committees and other Selection Authorities competent to select the candidates for the services and posts of the Government, Government Departments and offices or authorities subordinate thereto;

(e) "candidates" means the candidates selected and recommended by the concerned Selection Authority for the appointments in the cadre of civil services and posts mentioned in the Schedule.

Creation of
supernume-
rary posts. **3.** Notwithstanding anything contained in any judgment, decree or order of any court or in the recruitment rules or orders issued by the Government, Government Departments and offices or authorities subordinate thereto, the supernumerary posts shall be created in the cadres of civil services and posts mentioned in the Schedule.

Validation of
selection of
candidates in
civil services
and posts; and
their
appointments. **4. (1)** Notwithstanding anything contained in any judgment, decree or order of any court or in the recruitment rules or orders issued by the Government, the candidates who are selected by the Selection Authority for appointments to the civil services and posts of the Government, Government Departments and offices or authorities subordinate thereto, and whose names are recommended for such appointments to the Government or Government Departments and offices or authorities subordinate thereto or to the Competent Authorities, on or before the 9th September 2020, in the cadre of civil services and posts mentioned in the Schedule, shall be deemed to have been validly selected and such candidates shall be appointed on the supernumerary posts created under section 3 in the respective cadres of the Government, Government Departments and offices or authorities subordinate thereto, in accordance with the procedure of the relevant rules applicable to the said cadres and posts.

(2) The concerned Government Departments and offices or authorities subordinate thereto shall give appointment to the said candidates by following procedure therefor.

(3) The option shall be given to such candidates to join the service. The candidates shall join the service within the period specified therein. After expiry of the said period, no candidate shall be allowed to join the service.

(4) The Government may issue necessary instructions or orders for compliance of the Act.

Power to
remove
difficulty. **5. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, 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 such order 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 made, before each House of the State Legislature.

SCHEDULE

(See sections 3 and 4)

Sr.No. (1)	Name of the Department (2)	Cadre (3)	Group (4)	Number of Posts (5)
1	General Administration Department.	(i) Desk Officer	B	1
		(ii) Clerk-cum-Typist	C	12
2	Revenue and Forests Department.	(i) Deputy Collector	A	3
		(ii) Tahasildar	A	10
		(iii) Deputy Superintendent	B	1
		(iv) Naib Tahasildar	B	13
		(v) Forest Guard	C	10
		(vi) Clerk	C	4
		(vii) Talathi	C	10
		(viii) Peon	D	2
3	Agriculture, Animal Husbandry, Dairy Development and Fisheries Department.	(i) Agriculture Assistant	C	13
		(ii) Livestock Supervisor	C	1
4	Finance Department.	(i) Assistant Commissioner of State Taxes	A	3
		(ii) State Tax Inspector	B	13
		(iii) Senior Assistant (Accounts)	B	1
		(iv) Tax Assistant	C	12
5	Rural Development Department.	(i) HealthWorker (Male)	C	4
		(ii) Gram Sevak	C	1
		(iii) Health Worker (Female)	C	4
		(iv) Junior Engineer Micro Irrigation	C	1
		(v) Assistant Civil Engineer	C	3
		(vi) Junior Engineer (Rural Water Supply)	C	1
		(vii) Livestock Supervisor.	C	1
		(viii) Peon	D	2

SCHEDULE—Contd.

(1)	(2)	(3)	(4)	(5)
6	Urban Development Department.	(i) Veterinary Officer	A	2
		(ii) Junior Engineer (Civil)	B	2
		(iii) Sub Engineer (Civil)	B	2
		(iv) Sub Engineer (Mechanic and Electric)	B	1
		(v) Birth Registration Clerk/Death Registration Clerk/Notice Clerk	C	9
		(vi) Section Engineer	B	1
		(vii) Junior Engineer	C	1
		(viii) Junior Engineer (Signaling and Telecommunication)	C	1
		(ix) Junior Engineer Store	C	1
		(x) Station Controller	C	3
		(xi) Safety Supervisor-II	C	1
		(xii) Technician Civil-II	C	1
		(xiii) Technician (Emergency Maintenance)	C	1
		(xiv) Technician (Emergency Maintenance-II)	C	2
		(xv) Technician-I	C	1
		(xvi) Technician (Signaling and Telecommunication) II	C	9
		(xvii) Technician -II	C	16
		(xviii) Helper	D	2

SCHEDULE—Contd.

(1)	(2)	(3)	(4)	(5)
7	Industries, Energy and Labour Department. (Directorate of Industries)	(i) Industries Deputy Director (Technical)	A	2
		(ii) Industries Officer	B	12
	MIDC	(i) Executive Engineer (Civil)	B	1
		(ii) Deputy Engineer (Mechanic and Electric)	B	1
	MAHAGENCO	Technical-III	C	85
	MAHADISCOM	(i) Additional Executive Engineer (Civil)	Pay Group 1	1
		(ii) Additional Executive Engineer (Distribution)	Pay Group 1	4
		(iii) Deputy Executive Engineer (Distribution)	Pay Group 2	7
		(iv) Deputy Executive Engineer (Civil)	Pay Group 2	1
		(v) Executive Engineer (Civil)	Pay Group 2	4
		(vi) Junior Engineer (Civil)	Pay Group 3	2
		(vii) Assistant (Electric)	Pay Group 4	391
		(viii) Graduate Engineer Trainee (Civil)	B	4
		(ix) Diploma Engineer Trainee (Distribution)	C	43
		(x) Diploma Engineer Trainee (Civil)	C	2
		(xi) Diploma Engineer Trainee (Distribution) (Internal Notification)	C	5
		(xii) Upkendra Sahayyak	C	279

SCHEDULE—Contd.

(1)	(2)	(3)	(4)	(5)
8	Tribal Development Department.	Superintendent (Female)	C	1
9	Public Works Department.	(i) Civil Engineering Assistant	B	3
		(ii) Junior Clerk	C	3
		(iii) Junior Clerk-Typist	C	3
		(iv) Khansama	D	2
		(v) Mileman	D	6
		(vi) Watchman	D	2
		(vii) Peon	D	3
10	Home Department.	Deputy Superintendent of Police/ Assistant Commissioner of Police	A	1
	State Excise	(i) Assistant Commissioner	B	1
		(ii) Deputy Superintendent	B	5
		(iii) Sub Inspector	C	3
11	School Education Department.	Deputy Education Officer	A	4
12	Medical Education and Drugs Department/ Zilla Parishad.	Pharmacist	B	1
			Total	1064

STATEMENT OF OBJECTS AND REASONS.

The reservation of seats for appointment in public services and posts under the State was given to the Socially and Educationally Backward Classes of Citizens including Maratha community by the Maharashtra State Reservation (of seats for admission in educational institutions in the State and for appointments in the public services and posts under the State) for Socially and Educationally Backward Classes (SEBC) Act, 2018 (Mah. LXII of 2018). The reservation was also given to Economically Weaker Section (EWS) as per the provisions of article 16(6) of the Constitution as amended by the Constitution (One Hundred and Third Amendment) Act, 2019.

2. The said Maharashtra Act of LXII of 2018 was challenged before the Bombay High Court. The High Court upheld the provisions of the said Act; however, it was challenged in appeal before the Supreme Court. The Supreme Court by its order dated the 5th May 2021 in Dr. Jaishri Laxmanrao Patil *v/s* Chief Minister and Ors. (Civil Appeal No. 3123 of 2020) and connected appeals and writ petitions, has struck down the said Act. The Hon'ble Supreme Court has held that, "all the appointments made to the members of the Maratha community in public services after the judgment of the High Court dated 27-06-2019 till order passed by this Court on 09-09-2020 are saved. However, no further benefit can be claimed by such Maratha students admitted in the different courses or Maratha students who were appointed in public services in the State under Act, 2018."

3. The direct recruitment in public services and posts was made for all categories of candidates including Socially and Educationally Backward Classes candidates by the Maharashtra Public Service Commission, District Selection Committees and other Selection Authorities, competent to select the candidates for the Government, Government Departments and offices or authorities subordinate thereto, through competitive selection process. The appointments have been given to many candidates of the said categories as per their merit of the competitive examinations. The appointments given to the Socially and Educationally Backward Classes candidates in public services after the judgment of the High Court dated 27th June 2019 till order passed by the Supreme Court on 9th September 2020, have been saved by the Supreme Court order. However, some candidates of the said category who were selected before 9th September 2020 by the respective selection authorities by following due procedure, but due to Covid- 19 pandemic and lock down in the State, it could not be possible to issue the appointment letters to the said selected candidates, therefore they are deprived of such appointments.

4. After Hon'ble Supreme Court's judgment, the original selection lists were revised by the respective selection authorities. On account of revision of original selection lists, many candidates including candidates from all reserved categories who were at the bottom of the original selection lists, could not make it to the revised select lists and thus are deprived of appointments in civil services. The Government is of the view that the appointments are denied to the said candidates without their fault.

5. The candidates who were selected before 9th September 2020 but could not be offered appointments in Civil services before 9th September 2020 are identically placed, to the candidates who are offered appointments before that date and are the victims of circumstances. Therefore, the Government considers it expedient to create supernumerary posts in the cadres specified in the Schedule, for such candidates whose selection process had been concluded before 9th September 2020 and they are recommended for appointments in Civil services after completing due process of selection by the Maharashtra Public Service Commission, District Selection Committees and other Selection Authorities, but whose appointment letters could not be issued before that date, due to Covid-19 pandemic and lock down in the State, and to give them appointments on the said posts, by enacting a law.

6. The Bill is intended to achieve the above objectives.

Mumbai,

Dated the 24th August, 2022.

EKNATH SAMBHAJI SHINDE,

Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 4(4).— Under this clause, power is taken to the State Government to issue necessary instructions or orders for compliance of the Act.

Clause 5.— Under this clause, power is taken to the State Government, to issue an order published in the *Official Gazette*, for removing any difficulty which may arise in giving effect to the provisions of this Act.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for validation of selection of candidates in Civil Services and posts ; and their appointments. Sub-clause (1) of clause 4 provides for appointment on the supernumerary posts created under clause 3, mentioned in the Schedule. This would require recurring expenditure of rupees 7.40 crores every year approximately to be met out from the Consolidated Fund of the State on enactment of the Bill as an Act of the State Legislature.