

**Bill No. 10 of 2019**

(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) BILL, 2019**

**(To be Introduced in the Rajasthan Legislative Assembly)**

*A*

*Bill*

*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.”.

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## STATEMENT OF OBJECTS AND REASONS

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 provides for reservation of seats in educational institutions and in appointments and posts under the State for the more backward classes of the State. The power to prescribe percentage of the reservation has been delegated to the Government vide sections 3 and 4 of the said Act.

Article 38 of the Constitution enjoins upon the State that it 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 institutions of the national life. It further mandates that 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. Article 46 of the Constitution also mandates that the State shall promote, with special care, the educational and economic interests of the weaker sections of the people.

Though the principle of proportionality is not applicable to the reservation under Article 16 as it is applicable under Articles 330 and 332, however, the proportion of the backward classes to the total population of the State is a relevant factor while determining the extent of reservation. And in fact, this principle has been followed by Central Government while granting reservation to Scheduled Castes and Scheduled Tribes. When the Central Government provided reservation to backward classes in the Year of 1993, the proportion of the population of backward classes at national level was about 52% and the reservation was provided 27%. Since the population of backward classes in the State of Rajasthan is estimated by the State Backward Classes Commission to be about 52%, therefore looking to the volume of population, the percentage of reservation for backward classes need to be increased.

Since all the castes included in the list of Backward Classes are at different stages of social and educational development and therefore the objectives of the directive principles of State policy

mandated in the above referred Articles of the Constitution cannot be fully achieved unless these classes are sub-divided in backward and more backward classes according to the level of their social and educational development. In order to ensure class equality, the matter was referred to the then State Backward Classes Commission, headed by Hon'ble Justice (Retd.) Indersen Ishrani. The Commission in its report submitted in the Year 2012 recommended that certain castes namely 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 social and educational advancement.

The High Power Committee, headed by Hon'ble Justice (Retd.) Sunil Kumar Garg, appointed by the State Government as well as the State Backward Classes Commission has unequivocally concluded in their reports, which is based on extensive studies conducted by them, that special circumstances envisaged in the Indra Sawhny's case do exist in the State and there are reasonable grounds to exceed the limit of 50% laid down in that case to ensure adequate representation of Backward Classes in admissions and appointments.

The High Power Committee, after carrying out extensive study including field study of various sections of the society submitted its report on 10th July, 2017 which comprises in three Volumes. This report was referred to the State Backward Classes Commission for examination and its recommendation. The State Backward Classes Commission submitted its report on 16th July, 2017. Both the State Backward Classes Commission and the High Power Committee have unequivocally recommended that special circumstances as contemplated in the Indra Sawhny's case do exist and certain castes like Banjara/Baldiya/Labana, Gadiya Lohar/Gadoliya, Gujar/Gurjar, Raika/ Rebari/Debasi, Gadariya/ Gadri/Gayari are extremely backward classes and need separate reservation. They have also recommended that these castes should be categorized as a separate class as More Backward Classes and they should be provided 1% reservation from within the limit of 50% laid down in the Indra Sawhny's case and 4% from beyond that limit for which compelling circumstances do exist. Thus the

total reservation of these castes should be 5% and total reservation of backward classes as a whole should be 26%.

Despite the clear stipulation in the Statement of Objects and Reasons of the aforesaid Act that these classes would be provided 5% reservation, they had been provided only 1% reservation.

Recently, the Parliament has amended the Constitution to exceed the limit of 50% laid down by the Indra Sawhny's case having regard to the compelling circumstances in which Economically Weaker Sections of the society are languishing. The more backward classes identified in the aforesaid Act are extremely backward classes and the State Government is satisfied that there exist more compelling circumstances which warrant urgent upliftment of these classes by providing 5% reservation both in educational institutions and in appointment and post under the State.

In view of the above, it is proposed that instead of delegating power to the State Government for prescribing percentage of reservation, the provision of the percentage of reservation for more backward classes should be made in the Act itself by amending sections 3 and 4 of the said Act suitably.

The Bill seeks to achieve the aforesaid objects.  
Hence the Bill.

बुलाकी दास कल्ला,  
**Minister Incharge.**

**EXTRACTS TAKEN FROM 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)**

XX      XX      XX      XX      XX      XX      XX

**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)    XX      XX      XX      XX      XX      XX      XX

**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)    XX      XX      XX      XX      XX      XX      XX

XX      XX      XX      XX      XX      XX      XX

**2019 का विधेयक सं.10**

राजस्थान पिछड़ा वर्ग (राज्य की शैक्षिक संस्थाओं में सीटों और  
राज्य के अधीन सेवाओं में नियुक्तियों और पदों का आरक्षण)  
(संशोधन) विधेयक, 2019

(जैसाकि राजस्थान विधान सभा में पुरःस्थापित किया जायेगा)

राजस्थान विधान सभा

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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 विधेयक।

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(जैसाकि राजस्थान विधान सभा में पुरःस्थापित किया जायेगा)

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दिनेश कुमार जैन,  
सचिव।

(cgykdh nkl dYyk, प्रभारी मंत्री)

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**(To be introduced in the Rajasthan Legislative Assembly)**

**RAJASTHAN LEGISLATIVE ASSEMBLY**

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**(To be introduced in the Rajasthan Legislative Assembly)**

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**Dinesh Kumar Jain,  
Secretary.**

(Bulaki Das Kalla, **Minister-Incharge**)