

**GOVERNMENT OF WEST BENGAL
LEGISLATIVE DEPARTMENT**

West Bengal Act XXVII of 1976

**THE WEST BENGAL SCHEDULED CASTES AND
SCHEDULED TRIBES (RESERVATION OF
VACANCIES IN SERVICES AND POSTS)
ACT, 1976.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta
Gazette, Extraordinary*, of the 5th May, 1976.]

[5th May, 1976.]

An Act to provide for the reservation of vacancies in services and posts for the members of the Scheduled Castes and Scheduled Tribes.

WHEREAS the members of the Scheduled Castes and Scheduled Tribes who are backward classes of citizens are not adequately represented in the services and posts within the State;

AND WHEREAS it is expedient to provide for the reservation of vacancies in services and posts for them;

It is hereby enacted in the Twenty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1976. Short title,
extent and
commence-
ment.

(2) It extends to the whole of West Bengal.

(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) "appointing authority", in relation to a service or post in an establishment, means the authority empowered to make appointment to such service or post;
- (b) "establishment" means any office of the State Government, a local or statutory authority constituted under any State Act for the time being in force, or a corporation in which not less than fifty-one *per cent.* of the paid up share capital is held by the State Government, and includes universities and colleges affiliated to the universities, primary and secondary schools and

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also other educational institutions which are owned or aided by the State Government and also includes an establishment in public sector;

- (c) "establishment in public sector" means any industry, trade, business or occupation owned, controlled or managed by—
 - (i) the State Government or any department of the State Government,
 - (ii) a Government company as defined in section 617 of the Companies Act, 1956 or a corporation established by or under a Central or State Act, in which not less than fifty-one *per cent.* of the paid up share capital is held by the State Government,
 - (iii) a local or statutory authority, constituted under any State Act for the time being in force;
- (d) "establishment in private sector" means any industry, trade, business or occupation which is not an establishment in public sector;
- (e) "Schedule" means the Schedule appended to this Act.

Act not to apply in relation to certain employments.

- 3. This Act shall not apply in relation to,—
 - (a) any employment under the Central Government;
 - (b) any employment in the West Bengal Higher Judicial Service;
 - (c) any employment which in the opinion of the State Government is of a scientific or technical nature;
 - (d) any employment in private sector;
 - (e) any employment in domestic service.

Reservation for Scheduled Castes and Scheduled Tribes in vacancies to be filled up by direct recruitment.

4. After the commencement of this Act all appointments to services and posts in an establishment which are to be filled up by direct recruitment shall be regulated in the following manner, namely:—

- (a) subject to the other provisions of this Act fifteen *per cent.* of the vacancies shall be reserved for candidates belonging to Scheduled Castes and five *per cent.* for candidates belonging to Scheduled Tribes, in the manner set out in the Schedule:

Provided that the State Government may, from time to time, by notification in the *Official Gazette*, increase the percentage so, however, that the reservation shall not exceed twenty-five *per cent.* in the case of Scheduled Castes and ten *per cent.* in the case of Scheduled Tribes:

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Provided further that different percentages may be fixed by the State Government for different districts in accordance with the percentages of population of Scheduled Castes and Scheduled Tribes in such districts:

Provided also that in respect of the West Bengal Civil Service (Judicial), the percentage shall be ten for Scheduled Castes and five for Scheduled Tribes;

- (b) fees, if any, prescribed for any examination for selection to any service or post shall be reduced to one-fourth in the case of candidates belonging to the Scheduled Castes or the Scheduled Tribes;
- (c) the members of the Scheduled Castes and the Scheduled Tribes shall be entitled to a concession of five years over the prescribed maximum age limit for appointment to any service or post.

5. Reservation for members of the Scheduled Castes and the Scheduled Tribes in vacancies to be filled up by promotion in any establishment shall be regulated in the following manner, namely:—

Reservation for Scheduled Castes and Scheduled Tribes in vacancies to be filled up by promotion.

- (a) there shall be reservation at fifteen *per cent.* for members of the Scheduled Castes and five *per cent.* for members of the Scheduled Tribes;

Provided that the State Government may, from time to time, by notification in the *Official Gazette*, increase the percentage so, however, that the reservation shall not exceed twenty-five *per cent.* in the case of Scheduled Castes and ten *per cent.* in the case of Scheduled Tribes;

- (b) there shall be no reservation to any post of which the pay is in a scale the maximum of which is Rs. 2,000 or more;
- (c) a separate twenty-point roster in the form given in the Schedule shall be maintained by every establishment.

6. If the State Government is of opinion that the reservation for members of the Scheduled Castes or Scheduled Tribes shall not be applied to any particular service or post in view of the specialised qualification or experience necessary, the State Government may, by notification in the *Official Gazette*, exempt such service or post from the provisions of this Act.

Power to exempt.

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(Sections 7-12.)

- Penalty. 7. If an appointing authority makes an appointment in contravention of the provisions of section 4 or section 5, he shall be punishable with fine which may extend to two hundred and fifty rupees:
- Provided that nothing contained in this section shall apply in relation to an appointment to any service or post of which the appointing authority is the Governor.
- Cognizance of offences. 8. No prosecution for an offence under this Act shall be instituted except by, or with the sanction of, the State Government.
- Protection of action taken in good faith. 9. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.
- Removal of difficulties. 10. If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders not inconsistent with the provisions of this Act, as the State Government may consider necessary for removing the difficulty.
- Power to amend the Schedule. 11. The State Government may, by order published in the *Official Gazette*, add to, amend or alter the Schedule.
- Submission of annual report, maintenance of other records and inspection thereon. 12. (1) Every appointing authority shall maintain such records as may be prescribed by rules made in this behalf and shall furnish to the State Government in the prescribed manner an annual report on the appointments made by it, during the previous financial year.
- (2) Any officer authorised by the State Government in that behalf may inspect any records or documents which are maintained in relation to appointments made by such appointing authority.
- (3) It shall be the duty of the appointing authority to produce such records or documents for inspection by the officer authorised under sub-section (2), and furnish such information or afford such assistance as may be necessary for him to carry out his functions under this Act.
- (4) Notwithstanding anything contained in the West Bengal Government Servants' Conduct Rules, 1959, any member of any Scheduled Castes or any Scheduled Tribes who is adversely affected on account of the non-compliance with the provisions of this Act or the rules made thereunder by any appointing authority, may bring the fact to the notice of the State Government and upon application made by him the State Government may call for such records or take such action thereon as it may think fit.

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(Section 13.)

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

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

- (a) form in which every establishment shall submit annual report to the State Government regarding the number of persons recruited in such establishment;
- (b) any other matter which has to be or may be prescribed by rules made in this behalf.

THE SCHEDULE

(See section 4.)

The reservation for the members of the Scheduled Castes and the Scheduled Tribes in services or posts in an establishment shall be given effect to in the following manner, namely:—

- (i) A roster of twenty vacancies will be necessary to give effect to the reservation of vacancies for the Scheduled Castes and the Scheduled Tribes. The roster given below shall be adopted for the purpose by each establishment.

1st vacancy	..	Unreserved
2nd vacancy	..	Ditto
3rd vacancy	..	Scheduled Caste
4th vacancy	..	Unreserved
5th vacancy	..	Ditto
6th vacancy	..	Ditto
7th vacancy	..	Ditto
8th vacancy	..	Scheduled Tribe
9th vacancy	..	Unreserved
10th vacancy	..	Ditto
11th vacancy	..	Ditto
12th vacancy	..	Ditto
13th vacancy	..	Scheduled Caste
14th vacancy	..	Unreserved
15th vacancy	..	Ditto
16th vacancy	..	Ditto
17th vacancy	..	Ditto
18th vacancy	..	Scheduled Caste
19th vacancy	..	Unreserved
20th vacancy	..	Ditto

(The Schedule.)

- (ii) A register shall be maintained for giving effect to the instructions contained in paragraph (i).
- (iii) Before making an appointment by direct recruitment, the appointing authority shall ascertain by consulting the register whether the vacancy is reserved or unreserved and if it is reserved, for whom it is so reserved. Immediately after an appointment is made the particulars thereof shall be entered in the register and signed by the appointing authority.
- (iv) The roster is a running account from year to year and shall be maintained accordingly. If recruitment in a particular year stops at a particular point of the cycle, say at the 5th point, recruitment in the subsequent year shall begin at the next point, i.e., at the 6th point.
- (v) No gap shall be left in the roster in filling vacancies and if a reserved vacancy, say at the 6th point of the cycle, has, for want of a qualified Scheduled Tribe candidate, to be treated as unreserved, the candidate appointed shall be shown against the point. An attempt shall be made at the time of filling each successive unreserved vacancy to recruit a Scheduled Tribe candidate but if a Scheduled Tribe candidate cannot still be found in the year in which the vacancy is filled, the reservation shall be carried forward to the following year. The first unreserved vacancy in that year shall be reserved for Scheduled Tribes in addition to any other vacancy available to them according to the cycle.
- (vi) In the absence of a qualified Scheduled Caste/Scheduled Tribe candidate in a particular year, the vacancy shall be carried forward for the next two years and need not be carried beyond that period.
- (vii) The roster shall be maintained separately for permanent and temporary vacancies.
- (viii) A vacancy due to whatever cause, except termination of service during probation, shall be treated as a fresh vacancy.
- (ix) A candidate who claims to be a member of the Scheduled Castes or the Scheduled Tribes shall support his candidature by a certificate from a Gazetted Officer or from such other authority as may be prescribed by rules made under this Act.