

(Authorised English Translation)

**Bill No. 5 of 2017**

**THE RAJASTHAN STATE COMMISSION FOR BACKWARD  
CLASSES BILL, 2017**

(To be Introduced in the Rajasthan Legislative Assembly)

A

*Bill*

*to constitute the Rajasthan State Commission for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters connected therewith or incidental thereto.*

Be it enacted by the Rajasthan State Legislature in the Sixty-eighth Year of the Republic of India, as follows:-

**CHAPTER I**

*Preliminary*

**1. Short title, extent and commencement.-** (1) This Act may be called the Rajasthan State Commission for Backward Classes Act, 2017.

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

(3) It shall come into force at once.

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

- (a) “backward classes” means all categories of backward classes of citizens, other than the Scheduled Castes and Scheduled Tribes, as may be declared by or under respective law for the time being in force making provision for the reservation of appointments or posts in services under the State and of seats in educational institutions in the State in favour of the respective category of backward classes of citizens in the State;
- (b) “Commission” means the Rajasthan State Commission for Backward Classes constituted under section 3;

- (c) “Member” means a Member of the Commission and includes the Chairperson;
- (d) “prescribed” means prescribed by rules made under this Act;
- (e) “Scheduled Castes” means any of the castes specified in the Constitution (Scheduled Castes) Order, 1950 as amended from time to time;
- (f) “Scheduled Tribes” means any of the tribes specified in the Constitution (Scheduled Tribes) Order, 1950 as amended from time to time;
- (g) “services under the State” shall have the same meaning as assigned to it in clause (g) of section 2 of the Rajasthan Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes and Economically Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services under the State) Act, 2008 (Act No. 12 of 2009).

## CHAPTER II

### *The Rajasthan State Commission for Backward Classes*

**3. Constitution of the Rajasthan State Commission for Backward Classes.-** (1) The State Government shall constitute a body to be known as the Rajasthan State Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of the following Members to be nominated by the State Government, namely:-

- (a) a Chairperson, who is or has been a Judge of a High Court;
- (b) a social scientist;
- (c) two persons, who have special knowledge in matters relating to backward classes; and
- (d) a Member-Secretary, who is or has been an officer of the State Government not below the rank of Joint Secretary to the Government of Rajasthan or is or has been a District Judge:

Provided that the Chairperson, Member-Secretary and Members of the Rajasthan State Commission for Backward Classes constituted by the Rajasthan Government order number F. 11(150)R&P/RRBC/2007/39035 Jaipur, dated 16<sup>th</sup> July, 2007, who were working immediately before the commencement of this Act shall be deemed to have been nominated as the Chairperson, Member-Secretary and Members, as the case may be, of the Commission constituted under this Act with effect from the date of constitution of the Commission under this Act.

**4. Term of office and conditions of service of the Chairperson and Members.-** (1) *A Member shall hold office for a period of three years or until the pleasure of the State Government, whichever is earlier.*

(2) *A Member may, by writing under his hand addressed to the State Government, resign from the office of Chairperson or, as the case may be, of Member at any time.*

(3) *The State Government shall remove a person from the office of Member if that person-*

- (a) *becomes an undischarged insolvent;*
- (b) *is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;*
- (c) *becomes of unsound mind and stands so declared by a competent court;*
- (d) *refuses to act or becomes incapable of acting;*
- (e) *is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or*
- (f) *has, in the opinion of the State Government, so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the interests of backward classes or the public interest:*

*Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.*

*(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.*

*(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.*

**5. Officers and other employees of the Commission.-** (1) *The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission.*

*(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.*

**6. Salaries and allowances to be paid out of grants.-** The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 12.

**7. Vacancies, etc., not to invalidate proceedings of the Commission.-** No act or proceedings of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

**8. Procedure to be regulated by the Commission.-** (1) The Commission shall meet as and when necessary at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorized by the Member-Secretary in this behalf.

### **CHAPTER III**

#### *Functions and powers of the Commission*

**9. Functions of the Commission.-** (1) The Commission shall examine requests for inclusion of any class of citizens in the category of respective backward class as per terms of reference

specified by the State Government and hear complaints of over-inclusion or under-inclusion in any category of backward class and make recommendations thereon to the State Government.

(2) The recommendations of the Commission under sub-section (1) shall ordinarily be binding but the State Government may, for the reasons to be recorded in writing, reject the recommendations or refer them back to the Commission to carry out further study to support its recommendations.

**10. Powers of the Commission.-** The Commission shall, while performing its functions under sub-section (1) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person from any part of the State and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

**11. Periodic revision by the State Government.-** (1) The State Government may undertake a periodic revision of the categories of backward classes with a view to excluding therefrom those classes who have ceased to be backward classes or for including therein new backward classes.

(2) The State Government shall, while undertaking any revision referred to in sub-section (1), consult the Commission.

## **CHAPTER IV**

### *Finance, Accounts and Audit*

**12. Grants by the State Government.-** (1) *The State Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way*

*of grants such sums of money as the State Government may think fit for being utilized for the purposes of this Act.*

*(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section(1).*

**13. Accounts and audit.-** (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Accountant General, Rajasthan.

(2) The accounts of the Commission shall be audited by such authority or body as may be prescribed by the State Government and the expenditure incurred in connection with such audit shall be payable out of the grant provided to the Commission.

(3) The Authority or body prescribed under sub-section (2) shall have the same rights and privileges and the authority in connection with such audit as the Accountant General, Rajasthan has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

**14. Annual report.-** The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report giving a full account of its activities during the previous financial year and forward a copy thereof to the State Government.

**15. Annual report and audit report to be laid before the State Legislature.-** The State Government shall cause the annual report, together with a memorandum of action taken on the recommendations of the Commission under section 9 and the reasons for the non-acceptance, if any, of any such recommendation, and the audit report to be laid as soon as may be after they are received before the House of the State Legislature.

## CHAPTER V

### *Miscellaneous*

**16. Chairperson, Members and employees of the Commission to be Public servants.**- The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

**17. Power to make rules.**- (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

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

- (a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and the officers and other employees under sub-section (2) of section 5;
- (b) the form in which the annual statement of accounts shall be prepared, and the authority or body which shall audit the accounts, under section 13;
- (c) the form in, and the time at, which the annual report shall be prepared under section 14;
- (d) any other matter which is required to be, or may be, prescribed.

(3) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days, which may comprise in one session or in two successive sessions and if before the expiry of the session in which they are so laid, or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

**18. Power to remove difficulties.-** (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, 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 order under this section shall be made after the expiry of two years from the date of the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is so made, before the House of the State Legislature.

**19. Repeal and savings.-** (1) The Rajasthan State Commission for Backward Classes Ordinance, 2016 (Ordinance No. 3 of 2016) is hereby repealed.

(2) Notwithstanding such repeal, all things done, actions taken or orders made under the said Ordinance shall be deemed to have been done, taken or made under this Act.

---



### STATEMENT OF OBJECTS AND REASONS

In pursuance of the directions of the Hon'ble the Supreme Court of India in Indra Sawhney & Others V/S Union of India & Others (1992, Suppl. (3) SCC217) the Rajasthan State Commission for Backward Classes was constituted by the Rajasthan Government order number F.11(150)R&P/RRBC/2007/39035 Jaipur, dated 16<sup>th</sup> July, 2007.

In D.B.Civil Writ Petition No. 6046/1999, Ratan Lal Bagri & Others V/S State of Rajasthan & Others, Hon'ble the Rajasthan High Court has directed the State Government to appoint a permanent Commission for Backward Classes by enacting a suitable legislation.

In order to implement the above direction of the Hon'ble the Rajasthan High Court and to provide statutory status to the Rajasthan State Commission for Backward Classes, the State Government has decided to bring a legislation for constitution of State Commission for Backward Classes which will work as a permanent mechanism to advise the State Government for inclusion and complaints of over-inclusion or under- inclusion of any category of Backward Classes.

Since the Rajasthan Legislative Assembly was not in session and circumstances existed which rendered it necessary for the Governor of Rajasthan to take immediate action, he, therefore, promulgated the Rajasthan State Commission for Backward Classes Ordinance, 2016 (Ordinance No. 3 of 2016) on 21<sup>st</sup> October, 2016, which was published in Rajasthan Gazette, Part IV(B), Extraordinary, dated 21<sup>st</sup> October, 2016.

The Bill seeks to replace the aforesaid Ordinance.  
Hence the Bill.

अरुण चतुर्वेदी,  
**Minister Incharge.**

संविधान के अनुच्छेद 207 के खण्ड (3) के अधीन महामहिम राज्यपाल  
महोदय की सिफारिश ।

(प्रतिलिपि : संख्या प. 2(1) विधि/2/2017 जयपुर, दिनांक 15 फरवरी, 2017  
प्रेषक : अरुण चतुर्वेदी, प्रभारी मंत्री, प्रेषिति : सचिव, राजस्थान विधान  
सभा, जयपुर)

भारत के संविधान के अनुच्छेद 207 के खण्ड (3) के प्रसंग में, मैं, राजस्थान राज्य पिछड़ा वर्ग आयोग विधेयक, 2017 को राजस्थान विधान सभा में विचारार्थ लिये जाने की सिफारिश करता हूँ ।

**FINANCIAL MEMORANDUM**

Clauses 4, 5 and 12 of the Bill, if enacted, shall involve expenditure from the consolidated fund of the State which is estimated to be Rupees 00.00 lacs (Rupees zero lacs) for non-recurring and Rupees 133.00 lacs (Rupees One Hundred Thirty Three lacs) for recurring as per Budget Provision for Financial Year 2016-17.

अरुण चतुर्वेदी,  
**Minister Incharge.**

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The following clauses of the Bill, if enacted, shall empower the State Government to make rules with respect to the matter enumerated against each of such clauses:-

<b>Clauses</b>	<b>With respect to</b>
4(5)	prescribing the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members;
5(2)	prescribing the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission;
10(f)	prescribing any other matter in which the Commission shall have the powers of a civil court;
13 (1)	prescribing the form in which the Commission shall maintain proper accounts, other relevant records and prepare an annual statement of accounts;
13 (2)	prescribing the authority or body by which the accounts of the Commission shall be audited;
14	prescribing the form in which and the time at which the Commission shall prepare, its annual report; and
17	generally for carrying out the provisions of this Act.

The proposed delegation is of normal character and generally relates to the matters of detail.

अरुण चतुर्वेदी,  
**Minister Incharge.**