

**NATIONAL COMMISSION FOR BACKWARD CLASSES ACT,
1993**

27 of 1993

[2nd April, 1993]

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STATEMENT OF OBJECTS AND REASONS In its judgment dated 16th November, 1992 on matters arising out of Government's orders on reservation of appointments or posts under the Government of India in favour of backward classes of citizens under Article 6(4) of the Constitution, the Supreme Court, inter alia, directed the Government of India to constitute a permanent body within four months from the date of judgment i.e. by 15th March, 1993, for entertaining and examining and for recommending upon requests made to it for, inclusion and complaints of over-inclusion and under-inclusion in the lists of backward classes of citizens. The Supreme Court observed that the body so created can also be consulted by the Government in the matter of periodic revision of lists of backward classes. The Supreme Court had also observed that the permanent body must be empowered to examine complaints relating to such matters and pass appropriate orders. Its advice/opinion should ordinarily be binding upon the Government.

2. As Parliament was not in session, and as the Government was required to comply with the direction of the Supreme Court within the time-frame stipulated in the judgment, the President promulgated the National Commission for Backward Classes Ordinance, 1993 on the 1st of February, 1993. 3. The Bill seeks to replace the said Ordinance. -Gaz. of India., 1-3-1993, Pt. II-S. 2, Ext" P. 7 (No. 7).

CHAPTER 1

PRELIMINARY

1. Short title extent and commencement :-

- (1) This Act may be called the National Commission for Backward Classes Act, 1993.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall be deemed to have come into force on the 1st day of February, 1993.

2. Definitions :-

In this Act, unless the context otherwise requires.-

(a) "backward classes" means such backward classes of citizens other than the Scheduled Castes and Scheduled Tribes as may be specified by the Central Government in the lists;

(b) "Commission" means the National Commission for Backward Classes constituted under section 3 ;

(c) "lists" means lists prepared by the Government of India from time to time for purposes of making provision for the reservation of appointments posts in favour of backward classes of citizens which, in the opinion of that Government, are not adequately represented in the services under the Government of India and any local or other authority within the territory of India or under the control of the Government of India:

(d) "Member" means a Member of the Commission and includes the Chairperson

.

(e) "prescribed" means prescribed by rules made under this Act.

CHAPTER 2

THE NATIONAL COMMISSION FOR BACKWARD CLASSES

3. Constitution of National Commission for Backward Classes :-

(1) The Central Government shall constitute a body to be known as the National 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 nominated by the Central Government:-

(a) a Chairperson, who is or has been a Judge of the Supreme Court or 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 Central Government in the rank of a Secretary to the Government of India.

4. Term of office and conditions of service of Chairperson

and Members :-

(1) Every Member shall hold office for a term of three years from the date he assumes office.

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

(3) The Central 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 Central 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 Central 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 :

(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 Central 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 and pensions 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 proceeding 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 authorised by the Member-Secretary in this behalf.

CHAPTER 3

FUNCTIONS AND POWERS OF THE COMMISSION

9. Functions of the Commission :-

(1) The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central overnment as it deems appropriate.

(2) The advise of the Commission shall ordinarily be binding upon the Central Government.

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 India 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 of lists by the Central Government :-

(1) The Central Government may at any time, and shall, at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.

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

CHAPTER 4

FINANCE, ACCOUNTS AND AUDIT

12. Grants by the Central Government :-

(1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised 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 Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with

such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally 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 Central Government.

15. Annual report and audit report to be laid before Parliament :-

The Central Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under section 9 and the reasons for the non-acceptance, if any, such advice, and the audit report to be laid as soon as may be after they are received before each House of Parliament.

CHAPTER 5

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 .

17. Power to make rules :-

(1) The Central 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 under sub-section (1) of 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) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modifications in the rule or both Houses agree that the rule should not be made, the 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 alidity of anything previously done under that rule.

18. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make provisions, not inconsistent with the provisions of this Act as appear 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, as soon as may be after it is made, be laid before each House of Parliament.

19. Repeal and saving :-

(1) The National Commission for Backward Classes Ordinance, 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or

taken under the corresponding provisions of this Act.