

# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 28th December, 2016/Pausha 17, 1938 (Saka)*

The following Act of Parliament received the assent of the President on the 27th December, 2016, and is hereby published for general information:—

### THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016

(No. 49 OF 2016)

[27th December, 2016]

An Act to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto.

WHEREAS the United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on the 13th day of December, 2006;

AND WHEREAS the aforesaid Convention lays down the following principles for empowerment of persons with disabilities,—

- (a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) non-discrimination;
- (c) full and effective participation and inclusion in society;
- (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

(e) equality of opportunity;

(f) accessibility;

(g) equality between men and women;

(h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities;

AND WHEREAS India is a signatory to the said Convention;

AND WHEREAS India ratified the said Convention on the 1st day of October, 2007;

AND WHEREAS it is considered necessary to implement the Convention aforesaid.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Rights of Persons with Disabilities Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) “appellate authority” means an authority notified under sub-section (3) of section 14 or sub-section (1) of section 53 or designated under sub-section (1) of section 59, as the case may be;

(b) “appropriate Government” means,—

(i) in relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government;

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government.

(c) “barrier” means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society;

(d) “care-giver” means any person including parents and other family Members who with or without payment provides care, support or assistance to a person with disability;

(e) “certifying authority” means an authority designated under sub-section (1) of section 57;

(f) “communication” includes means and formats of communication, languages, display of text, Braille, tactile communication, signs, large print, accessible multimedia, written, audio, video, visual displays, sign language, plain-language, human-reader, augmentative and alternative modes and accessible information and communication technology;

(g) “competent authority” means an authority appointed under section 49;

(h) “discrimination” in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;

(i) “establishment” includes a Government establishment and private establishment;

(j) “Fund” means the National Fund constituted under section 86;

(k) “Government establishment” means a corporation established by or under a Central Act or State Act or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013 and includes a Department of the Government;

18 of 2013.

(l) “high support” means an intensive support, physical, psychological and otherwise, which may be required by a person with benchmark disability for daily activities, to take independent and informed decision to access facilities and participating in all areas of life including education, employment, family and community life and treatment and therapy;

(m) “inclusive education” means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities;

(n) “information and communication technology” includes all services and innovations relating to information and communication, including telecom services, web based services, electronic and print services, digital and virtual services;

(o) “institution” means an institution for the reception, care, protection, education, training, rehabilitation and any other activities for persons with disabilities;

(p) “local authority” means a Municipality or a Panchayat, as defined in clause (e) and clause (f) of article 243P of the Constitution; a Cantonment Board constituted under the Cantonments Act, 2006; and any other authority established under an Act of Parliament or a State Legislature to administer the civic affairs;

41 of 2006.

(q) “notification” means a notification published in the Official Gazette and the expression “notify” or “notified” shall be construed accordingly;

(r) “person with benchmark disability” means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;

(s) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others;

(t) “person with disability having high support needs” means a person with benchmark disability certified under clause (a) of sub-section (2) of section 58 who needs high support;

(u) “prescribed” means prescribed by rules made under this Act;

(v) “private establishment” means a company, firm, cooperative or other society, associations, trust, agency, institution, organisation, union, factory or such other establishment as the appropriate Government may, by notification, specify;

(w) “public building” means a Government or private building, used or accessed by the public at large, including a building used for educational or vocational purposes, workplace, commercial activities, public utilities, religious, cultural, leisure or recreational activities, medical or health services, law enforcement agencies, reformatories or judicial foras, railway stations or platforms, roadways bus stands or terminus, airports or waterways;

(x) “public facilities and services” includes all forms of delivery of services to the public at large, including housing, educational and vocational trainings, employment

and career advancement, shopping or marketing, religious, cultural, leisure or recreational, medical, health and rehabilitation, banking, finance and insurance, communication, postal and information, access to justice, public utilities, transportation;

(y) “reasonable accommodation” means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others;

(z) “registered organisation” means an association of persons with disabilities or a disabled person organisation, association of parents of persons with disabilities, association of persons with disabilities and family members, or a voluntary or non-governmental or charitable organisation or trust, society, or non-profit company working for the welfare of the persons with disabilities, duly registered under an Act of Parliament or a State Legislature;

(za) “rehabilitation” refers to a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, psychological environmental or social function levels;

(zb) “Special Employment Exchange” means any office or place established and maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, regarding—

(i) persons who seek to engage employees from amongst the persons with disabilities;

(ii) persons with benchmark disability who seek employment;

(iii) vacancies to which persons with benchmark disabilities seeking employment may be appointed;

(zc) “specified disability” means the disabilities as specified in the Schedule;

(zd) “transportation systems” includes road transport, rail transport, air transport, water transport, para transit systems for the last mile connectivity, road and street infrastructure, etc.;

(ze) “universal design” means the design of products, environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialised design and shall apply to assistive devices including advanced technologies for particular group of persons with disabilities.

## CHAPTER II

### RIGHTS AND ENTITLEMENTS

Equality and  
non-  
discrimination.

3. (1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

(2) The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.

(3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.

(4) No person shall be deprived of his or her personal liberty only on the ground of disability.

(5) The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.

4. (1) The appropriate Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others.

Women and children with disabilities.

(2) The appropriate Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability.”.

5. (1) The persons with disabilities shall have the right to live in the community.

Community life.

(2) The appropriate Government shall endeavour that the persons with disabilities are,—

(a) not obliged to live in any particular living arrangement; and

(b) given access to a range of in-house, residential and other community support services, including personal assistance necessary to support living with due regard to age and gender.

6. (1) The appropriate Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment.

Protection from cruelty and inhuman treatment.

(2) No person with disability shall be a subject of any research without,—

(i) his or her free and informed consent obtained through accessible modes, means and formats of communication; and

(ii) prior permission of a Committee for Research on Disability constituted in the prescribed manner for the purpose by the appropriate Government in which not less than half of the Members shall themselves be either persons with disabilities or Members of the registered organisation as defined under clause (z) of section 2.

7. (1) The appropriate Government shall take measures to protect persons with disabilities from all forms of abuse, violence and exploitation and to prevent the same, shall—

Protection from abuse, violence and exploitation.

(a) take cognizance of incidents of abuse, violence and exploitation and provide legal remedies available against such incidents;

(b) take steps for avoiding such incidents and prescribe the procedure for its reporting;

(c) take steps to rescue, protect and rehabilitate victims of such incidents; and

(d) create awareness and make available information among the public.

(2) Any person or registered organisation who or which has reason to believe that an act of abuse, violence or exploitation has been, or is being, or is likely to be committed against any person with disability, may give information about it to the Executive Magistrate within the local limits of whose jurisdiction such incidents occur.

(3) The Executive Magistrate on receipt of such information, shall take immediate steps to stop or prevent its occurrence, as the case may be, or pass such order as he deems fit for the protection of such person with disability including an order—

(a) to rescue the victim of such act, authorising the police or any organisation working for persons with disabilities to provide for the safe custody or rehabilitation of such person, or both, as the case may be;

(b) for providing protective custody to the person with disability, if such person so desires;

(c) to provide maintenance to such person with disability.

(4) Any police officer who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards any person with disability shall inform the aggrieved person of—

(a) his or her right to apply for protection under sub-section (2) and the particulars of the Executive Magistrate having jurisdiction to provide assistance;

(b) the particulars of the nearest organisation or institution working for the rehabilitation of persons with disabilities;

(c) the right to free legal aid; and

(d) the right to file a complaint under the provisions of this Act or any other law dealing with such offence:

Provided that nothing in this section shall be construed in any manner as to relieve the police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

(5) If the Executive Magistrate finds that the alleged act or behaviour constitutes an offence under the Indian Penal Code, or under any other law for the time being in force, he may forward the complaint to that effect to the Judicial or Metropolitan Magistrate, as the case may be, having jurisdiction in the matter. 45 of 1860.

Protection and safety.

**8.** (1) The persons with disabilities shall have equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters.

(2) The National Disaster Management Authority and the State Disaster Management Authority shall take appropriate measures to ensure inclusion of persons with disabilities in its disaster management activities as defined under clause (e) of section 2 of the Disaster Management Act, 2005 for the safety and protection of persons with disabilities. 53 of 2005.

(3) The District Disaster Management Authority constituted under section 25 of the Disaster Management Act, 2005 shall maintain record of details of persons with disabilities in the district and take suitable measures to inform such persons of any situations of risk so as to enhance disaster preparedness. 53 of 2005.

(4) The authorities engaged in reconstruction activities subsequent to any situation of risk, armed conflict or natural disasters shall undertake such activities, in consultation with the concerned State Commissioner, in accordance with the accessibility requirements of persons with disabilities.

Home and family.

**9.** (1) No child with disability shall be separated from his or her parents on the ground of disability except on an order of competent court, if required, in the best interest of the child.

(2) Where the parents are unable to take care of a child with disability, the competent court shall place such child with his or her near relations, and failing that within the community in a family setting or in exceptional cases in shelter home run by the appropriate Government or non-governmental organisation, as may be required.

Reproductive rights.

**10.** (1) The appropriate Government shall ensure that persons with disabilities have access to appropriate information regarding reproductive and family planning.

(2) No person with disability shall be subject to any medical procedure which leads to infertility without his or her free and informed consent.

Accessibility in voting.

**11.** The Election Commission of India and the State Election Commissions shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by and accessible to them.

Access to justice.

**12.** (1) The appropriate Government shall ensure that persons with disabilities are able to exercise the right to access any court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of disability.

(2) The appropriate Government shall take steps to put in place suitable support measures for persons with disabilities specially those living outside family and those disabled requiring high support for exercising legal rights.



39 of 1987.

(3) The National Legal Services Authority and the State Legal Services Authorities constituted under the Legal Services Authorities Act, 1987 shall make provisions including reasonable accommodation to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them equally with others.

(4) The appropriate Government shall take steps to—

(a) ensure that all their public documents are in accessible formats;

(b) ensure that the filing departments, registry or any other office of records are supplied with necessary equipment to enable filing, storing and referring to the documents and evidence in accessible formats; and

(c) make available all necessary facilities and equipment to facilitate recording of testimonies, arguments or opinion given by persons with disabilities in their preferred language and means of communication.

**13.** (1) The appropriate Government shall ensure that the persons with disabilities have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit.

Legal capacity.

(2) The appropriate Government shall ensure that the persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life and have the right to equal recognition everywhere as any other person before the law.

(3) When a conflict of interest arises between a person providing support and a person with disability in a particular financial, property or other economic transaction, then such supporting person shall abstain from providing support to the person with disability in that transaction:

Provided that there shall not be a presumption of conflict of interest just on the basis that the supporting person is related to the person with disability by blood, affinity or adoption.

(4) A person with disability may alter, modify or dismantle any support arrangement and seek the support of another:

Provided that such alteration, modification or dismantling shall be prospective in nature and shall not nullify any third party transaction entered into by the person with disability with the aforesaid support arrangement.

(5) Any person providing support to the person with disability shall not exercise undue influence and shall respect his or her autonomy, dignity and privacy.

**14.** (1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, where a district court or any designated authority, as notified by the State Government, finds that a person with disability, who had been provided adequate and appropriate support but is unable to take legally binding decisions, may be provided further support of a limited guardian to take legally binding decisions on his behalf in consultation with such person, in such manner, as may be prescribed by the State Government:

Provision for guardianship.

Provided that the District Court or the designated authority, as the case may be, may grant total support to the person with disability requiring such support or where the limited guardianship is to be granted repeatedly, in which case, the decision regarding the support to be provided shall be reviewed by the Court or the designated authority, as the case may be, to determine the nature and manner of support to be provided.

*Explanation.*—For the purposes of this sub-section, “limited guardianship” means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability, which shall be limited to a specific period and for specific decision and situation and shall operate in accordance to the will of the person with disability.

(2) On and from the date of commencement of this Act, every guardian appointed under any provision of any other law for the time being in force, for a person with disability shall be deemed to function as a limited guardian.

(3) Any person with disability aggrieved by the decision of the designated authority appointing a legal guardian may prefer an appeal to such appellate authority, as may be notified by the State Government for the purpose.

Designation of authorities to support.

**15.** (1) The appropriate Government shall designate one or more authorities to mobilise the community and create social awareness to support persons with disabilities in exercise of their legal capacity.

(2) The authority designated under sub-section (1) shall take measures for setting up suitable support arrangements to exercise legal capacity by persons with disabilities living in institutions and those with high support needs and any other measures as may be required.

### CHAPTER III

#### EDUCATION

Duty of educational institutions.

**16.** The appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to the children with disabilities and towards that end shall—

(i) admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;

(ii) make building, campus and various facilities accessible;

(iii) provide reasonable accommodation according to the individual's requirements;

(iv) provide necessary support individualised or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion;

(v) ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;

(vi) detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;

(vii) monitor participation, progress in terms of attainment levels and completion of education in respect of every student with disability;

(viii) provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs.

Specific measures to promote and facilitate inclusive education.

**17.** The appropriate Government and the local authorities shall take the following measures for the purpose of section 16, namely:—

(a) to conduct survey of school going children in every five years for identifying children with disabilities, ascertaining their special needs and the extent to which these are being met:

Provided that the first survey shall be conducted within a period of two years from the date of commencement of this Act;

(b) to establish adequate number of teacher training institutions;

(c) to train and employ teachers, including teachers with disability who are qualified in sign language and Braille and also teachers who are trained in teaching children with intellectual disability;

(d) to train professionals and staff to support inclusive education at all levels of school education;



(e) to establish adequate number of resource centres to support educational institutions at all levels of school education;

(f) to promote the use of appropriate augmentative and alternative modes including means and formats of communication, Braille and sign language to supplement the use of one's own speech to fulfill the daily communication needs of persons with speech, communication or language disabilities and enables them to participate and contribute to their community and society;

(g) to provide books, other learning materials and appropriate assistive devices to students with benchmark disabilities free of cost up to the age of eighteen years;

(h) to provide scholarships in appropriate cases to students with benchmark disability;

(i) to make suitable modifications in the curriculum and examination system to meet the needs of students with disabilities such as extra time for completion of examination paper, facility of scribe or amanuensis, exemption from second and third language courses;

(j) to promote research to improve learning; and

(k) any other measures, as may be required.

**18.** The appropriate Government and the local authorities shall take measures to promote, protect and ensure participation of persons with disabilities in adult education and continuing education programmes equally with others.

Adult education.

#### CHAPTER IV

##### SKILL DEVELOPMENT AND EMPLOYMENT

**19.** (1) The appropriate Government shall formulate schemes and programmes including provision of loans at concessional rates to facilitate and support employment of persons with disabilities especially for their vocational training and self-employment.

Vocational training and self-employment.

(2) The schemes and programmes referred to in sub-section (1) shall provide for—

(a) inclusion of person with disability in all mainstream formal and non-formal vocational and skill training schemes and programmes;

(b) to ensure that a person with disability has adequate support and facilities to avail specific training;

(c) exclusive skill training programmes for persons with disabilities with active links with the market, for those with developmental, intellectual, multiple disabilities and autism;

(d) loans at concessional rates including that of microcredit;

(e) marketing the products made by persons with disabilities; and

(f) maintenance of disaggregated data on the progress made in the skill training and self-employment, including persons with disabilities.

**20.** (1) No Government establishment shall discriminate against any person with disability in any matter relating to employment:

Non-discrimination in employment.

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.

Equal  
opportunity  
policy.

**21.** (1) Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government.

(2) Every establishment shall register a copy of the said policy with the Chief Commissioner or the State Commissioner, as the case may be.

Maintenance  
of records.

**22.** (1) Every establishment shall maintain records of the persons with disabilities in relation to the matter of employment, facilities provided and other necessary information in compliance with the provisions of this Chapter in such form and manner as may be prescribed by the Central Government.

(2) Every employment exchange shall maintain records of persons with disabilities seeking employment.

(3) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorised in their behalf by the appropriate Government.

Appointment  
of Grievance  
Redressal  
Officer.

**23.** (1) Every Government establishment shall appoint a Grievance Redressal Officer for the purpose of section 19 and shall inform the Chief Commissioner or the State Commissioner, as the case may be, about the appointment of such officer.

(2) Any person aggrieved with the non-compliance of the provisions of section 20, may file a complaint with the Grievance Redressal Officer, who shall investigate it and shall take up the matter with the establishment for corrective action.

(3) The Grievance Redressal Officer shall maintain a register of complaints in the manner as may be prescribed by the Central Government, and every complaint shall be inquired within two weeks of its registration.

(4) If the aggrieved person is not satisfied with the action taken on his or her complaint, he or she may approach the District-Level Committee on disability.

## CHAPTER V

### SOCIAL SECURITY, HEALTH, REHABILITATION AND RECREATION

Social security.

**24.** (1) The appropriate Government shall within the limit of its economic capacity and development formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living to enable them to live independently or in the community:

Provided that the quantum of assistance to the persons with disabilities under such schemes and programmes shall be at least twenty-five per cent. higher than the similar schemes applicable to others.

(2) The appropriate Government while devising these schemes and programmes shall give due consideration to the diversity of disability, gender, age, and socio-economic status.

(3) The schemes under sub-section (1) shall provide for,—

(a) community centres with good living conditions in terms of safety, sanitation, health care and counselling;

(b) facilities for persons including children with disabilities who have no family or have been abandoned, or are without shelter or livelihood;

(c) support during natural or man-made disasters and in areas of conflict;

(d) support to women with disability for livelihood and for upbringing of their children;

(e) access to safe drinking water and appropriate and accessible sanitation facilities especially in urban slums and rural areas;

(f) provisions of aids and appliances, medicine and diagnostic services and corrective surgery free of cost to persons with disabilities with such income ceiling as may be notified;

(g) disability pension to persons with disabilities subject to such income ceiling as may be notified;

(h) unemployment allowance to persons with disabilities registered with Special Employment Exchange for more than two years and who could not be placed in any gainful occupation;

(i) care-giver allowance to persons with disabilities with high support needs;

(j) comprehensive insurance scheme for persons with disability, not covered under the Employees State Insurance Schemes, or any other statutory or Government-sponsored insurance schemes;

(k) any other matter which the appropriate Government may think fit.

**25.** (1) The appropriate Government and the local authorities shall take necessary measures for the persons with disabilities to provide,— Healthcare.

(a) free healthcare in the vicinity specially in rural area subject to such family income as may be notified;

(b) barrier-free access in all parts of Government and private hospitals and other healthcare institutions and centres;

(c) priority in attendance and treatment.

(2) The appropriate Government and the local authorities shall take measures and make schemes or programmes to promote healthcare and prevent the occurrence of disabilities and for the said purpose shall—

(a) undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;

(b) promote various methods for preventing disabilities;

(c) screen all the children at least once in a year for the purpose of identifying “at-risk” cases;

(d) provide facilities for training to the staff at the primary health centres;

(e) sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene, health and sanitation;

(f) take measures for pre-natal, perinatal and post-natal care of mother and child;

(g) educate the public through the pre-schools, schools, primary health centres, village level workers and *anganwadi* workers;

(h) create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted;

(i) healthcare during the time of natural disasters and other situations of risk;

(j) essential medical facilities for life saving emergency treatment and procedures; and

(k) sexual and reproductive healthcare especially for women with disability.

**26.** The appropriate Government shall, by notification, make insurance schemes for their employees with disabilities. Insurance schemes.

**27.** (1) The appropriate Government and the local authorities shall within their economic capacity and development, undertake or cause to be undertaken services and programmes of Rehabilitation.

rehabilitation, particularly in the areas of health, education and employment for all persons with disabilities.

(2) For the purposes of sub-section (1), the appropriate Government and the local authorities may grant financial assistance to non-Governmental Organisations.

(3) The appropriate Government and the local authorities, while formulating rehabilitation policies shall consult the non-Governmental Organisations working for the cause of persons with disabilities.

Research and development.

**28.** The appropriate Government shall initiate or cause to be initiated research and development through individuals and institutions on issues which shall enhance habilitation and rehabilitation and on such other issues which are necessary for the empowerment of persons with disabilities.

Culture and recreation.

**29.** The appropriate Government and the local authorities shall take measures to promote and protect the rights of all persons with disabilities to have a cultural life and to participate in recreational activities equally with others which include,—

(a) facilities, support and sponsorships to artists and writers with disability to pursue their interests and talents;

(b) establishment of a disability history museum which chronicles and interprets the historical experiences of persons with disabilities;

(c) making art accessible to persons with disabilities;

(d) promoting recreation centres, and other associational activities;

(e) facilitating participation in scouting, dancing, art classes, outdoor camps and adventure activities;

(f) redesigning courses in cultural and arts subjects to enable participation and access for persons with disabilities;

(g) developing technology, assistive devices and equipments to facilitate access and inclusion for persons with disabilities in recreational activities; and

(h) ensuring that persons with hearing impairment can have access to television programmes with sign language interpretation or sub-titles.

Sporting activities.

**30. (1)** The appropriate Government shall take measures to ensure effective participation in sporting activities of the persons with disabilities.

(2) The sports authorities shall accord due recognition to the right of persons with disabilities to participate in sports and shall make due provisions for the inclusion of persons with disabilities in their schemes and programmes for the promotion and development of sporting talents.

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the appropriate Government and the sports authorities shall take measures to,—

(a) restructure courses and programmes to ensure access, inclusion and participation of persons with disabilities in all sporting activities;

(b) redesign and support infrastructure facilities of all sporting activities for persons with disabilities;

(c) develop technology to enhance potential, talent, capacity and ability in sporting activities of all persons with disabilities;

(d) provide multi-sensory essentials and features in all sporting activities to ensure effective participation of all persons with disabilities;

(e) allocate funds for development of state of art sport facilities for training of persons with disabilities;

(f) promote and organise disability specific sporting events for persons with disabilities and also facilitate awards to the winners and other participants of such sporting events.

## CHAPTER VI

## SPECIAL PROVISIONS FOR PERSONS WITH BENCHMARK DISABILITIES

35 of 2009.

**31.** (1) Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009, every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, of his choice.

Free education for children with benchmark disabilities.

(2) The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years.

**32.** (1) All Government institutions of higher education and other higher education institutions receiving aid from the Government shall reserve not less than five per cent. seats for persons with benchmark disabilities.

Reservation in higher educational institutions.

(2) The persons with benchmark disabilities shall be given an upper age relaxation of five years for admission in institutions of higher education.

**33.** The appropriate Government shall—

Identification of posts for reservation.

(i) identify posts in the establishments which can be held by respective category of persons with benchmark disabilities in respect of the vacancies reserved in accordance with the provisions of section 34;

(ii) constitute an expert committee with representation of persons with benchmark disabilities for identification of such posts; and

(iii) undertake periodic review of the identified posts at an interval not exceeding three years.

**34.** (1) Every appropriate Government shall appoint in every Government establishment, not less than four per cent. of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent. each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent. for persons with benchmark disabilities under clauses (d) and (e), namely:—

Reservation.

(a) blindness and low vision;

(b) deaf and hard of hearing;

(c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;

(d) autism, intellectual disability, specific learning disability and mental illness;

(e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:

Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time:

Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section.

(2) Where in any recruitment year any vacancy cannot be filled up due to non-availability of a suitable person with benchmark disability or for any other sufficient reasons, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with benchmark disability is not available, it may first be filled by interchange among the five categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the appropriate Government.

(3) The appropriate Government may, by notification, provide for such relaxation of upper age limit for employment of persons with benchmark disability, as it thinks fit.

Incentives to employers in private sector.

**35.** The appropriate Government and the local authorities shall, within the limit of their economic capacity and development, provide incentives to employer in private sector to ensure that at least five per cent. of their work force is composed of persons with benchmark disability.

Special employment exchange.

**36.** The appropriate Government may, by notification, require that from such date, the employer in every establishment shall furnish such information or return as may be prescribed by the Central Government in relation to vacancies appointed for persons with benchmark disability that have occurred or are about to occur in that establishment to such special employment exchange as may be notified by the Central Government and the establishment shall thereupon comply with such requisition.

Special schemes and development programmes.

**37.** The appropriate Government and the local authorities shall, by notification, make schemes in favour of persons with benchmark disabilities, to provide,—

(a) five per cent. reservation in allotment of agricultural land and housing in all relevant schemes and development programmes, with appropriate priority to women with benchmark disabilities;

(b) five per cent. reservation in all poverty alleviation and various developmental schemes with priority to women with benchmark disabilities;

(c) five per cent. reservation in allotment of land on concessional rate, where such land is to be used for the purpose of promoting housing, shelter, setting up of occupation, business, enterprise, recreation centres and production centres.

## CHAPTER VII

### SPECIAL PROVISIONS FOR PERSONS WITH DISABILITIES WITH HIGH SUPPORT NEEDS

Special provisions for persons with disabilities with high support.

**38. (1)** Any person with benchmark disability, who considers himself to be in need of high support, or any person or organisation on his or her behalf, may apply to an authority, to be notified by the appropriate Government, requesting to provide high support.

(2) On receipt of an application under sub-section (1), the authority shall refer it to an Assessment Board consisting of such Members as may be prescribed by the Central Government.

(3) The Assessment Board shall assess the case referred to it under sub-section (1) in such manner as may be prescribed by the Central Government, and shall send a report to the authority certifying the need of high support and its nature.

(4) On receipt of a report under sub-section (3), the authority shall take steps to provide support in accordance with the report and subject to relevant schemes and orders of the appropriate Government in this behalf.

## CHAPTER VIII

### DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVERNMENTS

Awareness campaigns.

**39. (1)** The appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, shall conduct, encourage, support or promote awareness campaigns and sensitisation programmes to ensure that the rights of the persons with disabilities provided under this Act are protected.

(2) The programmes and campaigns specified under sub-section (1) shall also,—

(a) promote values of inclusion, tolerance, empathy and respect for diversity;

(b) advance recognition of the skills, merits and abilities of persons with disabilities and of their contributions to the workforce, labour market and professional fee;



(c) foster respect for the decisions made by persons with disabilities on all matters related to family life, relationships, bearing and raising children;

(d) provide orientation and sensitisation at the school, college, University and professional training level on the human condition of disability and the rights of persons with disabilities;

(e) provide orientation and sensitisation on disabling conditions and rights of persons with disabilities to employers, administrators and co-workers;

(f) ensure that the rights of persons with disabilities are included in the curriculum in Universities, colleges and schools.

**40.** The Central Government shall, in consultation with the Chief Commissioner, formulate rules for persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.

Accessibility.

**41.** (1) The appropriate Government shall take suitable measures to provide,—

Access to transport.

(a) facilities for persons with disabilities at bus stops, railway stations and airports conforming to the accessibility standards relating to parking spaces, toilets, ticketing counters and ticketing machines;

(b) access to all modes of transport that conform the design standards, including retrofitting old modes of transport, wherever technically feasible and safe for persons with disabilities, economically viable and without entailing major structural changes in design;

(c) accessible roads to address mobility necessary for persons with disabilities.

(2) The appropriate Government shall develop schemes programmes to promote the personal mobility of persons with disabilities at affordable cost to provide for,—

(a) incentives and concessions;

(b) retrofitting of vehicles; and

(c) personal mobility assistance.

**42.** The appropriate Government shall take measures to ensure that,—

(i) all contents available in audio, print and electronic media are in accessible format;

(ii) persons with disabilities have access to electronic media by providing audio description, sign language interpretation and close captioning;

(iii) electronic goods and equipment which are meant for every day use are available in universal design.

Access to information and communication technology.

**43.** The appropriate Government shall take measures to promote development, production and distribution of universally designed consumer products and accessories for general use for persons with disabilities.

Consumer goods.

**44.** (1) No establishment shall be granted permission to build any structure if the building plan does not adhere to the rules formulated by the Central Government under section 40.

(2) No establishment shall be issued a certificate of completion or allowed to take occupation of a building unless it has adhered to the rules formulated by the Central Government.

Mandatory observance of accessibility norms.

**45.** (1) All existing public buildings shall be made accessible in accordance with the rules formulated by the Central Government within a period not exceeding five years from the date of notification of such rules:

Provided that the Central Government may grant extension of time to the States on a case to case basis for adherence to this provision depending on their state of preparedness and other related parameters.

Time limit for making existing infrastructure and premises accessible and action for that purpose.

(2) The appropriate Government and the local authorities shall formulate and publish an action plan based on prioritisation, for providing accessibility in all their buildings and spaces providing essential services such as all primary health centres, civil hospitals, schools, railway stations and bus stops.

Time limit for accessibility by service providers.

**46.** The service providers whether Government or private shall provide services in accordance with the rules on accessibility formulated by the Central Government under section 40 within a period of two years from the date of notification of such rules:

Provided that the Central Government in consultation with the Chief Commissioner may grant extension of time for providing certain category of services in accordance with the said rules.

Human resource development.

**47. (1)** Without prejudice to any function and power of Rehabilitation Council of India constituted under the Rehabilitation Council of India Act, 1992, the appropriate Government shall endeavour to develop human resource for the purposes of this Act and to that end shall,—

34 of 1992.

(a) mandate training on disability rights in all courses for the training of Panchayati Raj Members, legislators, administrators, police officials, judges and lawyers;

(b) induct disability as a component for all education courses for schools, colleges and University teachers, doctors, nurses, para-medical personnel, social welfare officers, rural development officers, asha workers, *anganwadi* workers, engineers, architects, other professionals and community workers;

(c) initiate capacity building programmes including training in independent living and community relationships for families, members of community and other stakeholders and care providers on care giving and support;

(d) ensure independence training for persons with disabilities to build community relationships on mutual contribution and respect;

(e) conduct training programmes for sports teachers with focus on sports, games, adventure activities;

(f) any other capacity development measures as may be required.

(2) All Universities shall promote teaching and research in disability studies including establishment of study centres for such studies.

(3) In order to fulfil the obligation stated in sub-section (1), the appropriate Government shall in every five years undertake a need based analysis and formulate plans for the recruitment, induction, sensitisation, orientation and training of suitable personnel to undertake the various responsibilities under this Act.

Social audit.

**48.** The appropriate Government shall undertake social audit of all general schemes and programmes involving the persons with disabilities to ensure that the scheme and programmes do not have an adverse impact upon the persons with disabilities and need the requirements and concerns of persons with disabilities.

## CHAPTER IX

### REGISTRATION OF INSTITUTIONS FOR PERSONS WITH DISABILITIES AND GRANTS TO SUCH INSTITUTIONS

Competent authority.

**49.** The State Government shall appoint an authority as it deems fit to be a competent authority for the purposes of this Chapter.

Registration.

**50.** Save as otherwise provided under this Act, no person shall establish or maintain any institution for persons with disabilities except in accordance with a certificate of registration issued in this behalf by the competent authority:

Provided that an institution for care of mentally ill persons, which holds a valid licence under section 8 of the Mental Health Act, 1987 or any other Act for the time being in force, shall not be required to be registered under this Act.

14 of 1987.

**51.** (1) Every application for a certificate of registration shall be made to the competent authority in such form and in such manner as may be prescribed by the State Government.

Application and grant of certificate of registration.

(2) On receipt of an application under sub-section (1), the competent authority shall make such enquiries as it may deem fit and on being satisfied that the applicant has complied with the requirements of this Act and the rules made thereunder, it shall grant a certificate of registration to the applicant within a period of ninety days of receipt of application and if not satisfied, the competent authority shall, by order, refuse to grant the certificate applied for:

Provided that before making any order refusing to grant a certificate, the competent authority shall give the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in writing.

(3) No certificate of registration shall be granted under sub-section (2) unless the institution with respect to which an application has been made is in a position to provide such facilities and meet such standards as may be prescribed by the State Government.

(4) The certificate of registration granted under sub-section (2) ,—

(a) shall, unless revoked under section 52 remain in force for such period as may be prescribed by the State Government;

(b) may be renewed from time to time for a like period; and

(c) shall be in such form and shall be subject to such conditions as may be prescribed by the State Government.

(5) An application for renewal of a certificate of registration shall be made not less than sixty days before the expiry of the period of validity.

(6) A copy of the certificate of registration shall be displayed by the institution in a conspicuous place.

(7) Every application made under sub-section (1) or sub-section (5) shall be disposed of by the competent authority within such period as may be prescribed by the State Government.

**52.** (1) The competent authority may, if it has reason to believe that the holder of a certificate of registration granted under sub-section (2) of section 51 has,—

Revocation of registration.

(a) made a statement in relation to any application for the issue or renewal of the certificate which is incorrect or false in material particulars; or

(b) committed or has caused to be committed any breach of rules or any conditions subject to which the certificate was granted,

it may, after making such inquiry, as it deems fit, by order, revoke the certificate:

Provided that no such order shall be made until an opportunity is given to the holder of the certificate to show cause as to why the certificate of registration shall not be revoked.

(2) Where a certificate of registration in respect of an institution has been revoked under sub-section (1), such institution shall cease to function from the date of such revocation:

Provided that where an appeal lies under section 53 against the order of revocation, such institution shall cease to function,—

(a) where no appeal has been preferred immediately on the expiry of the period prescribed for the filing of such appeal; or

(b) where such appeal has been preferred, but the order of revocation has been upheld, from the date of the order of appeal.

(3) On the revocation of a certificate of registration in respect of an institution, the competent authority may direct that any person with disability who is an inmate of such institution on the date of such revocation, shall be—

(a) restored to the custody of his or her parent, spouse or lawful guardian, as the case may be; or

(b) transferred to any other institution specified by the competent authority.

(4) Every institution which holds a certificate of registration which is revoked under this section shall, immediately after such revocation, surrender such certificate to the competent authority.

Appeal.

**53.** (1) Any person aggrieved by the order of the competent authority refusing to grant a certificate of registration or revoking a certificate of registration may, within such period as may be prescribed by the State Government, prefer an appeal to such appellate authority, as may be notified by the State Government against such refusal or revocation.

(2) The order of the appellate authority on such appeal shall be final.

Act not to apply to institutions established or maintained by Central or State Government.

**54.** Nothing contained in this Chapter shall apply to an institution for persons with disabilities established or maintained by the Central Government or a State Government.

Assistance to registered institutions.

**55.** The appropriate Government may within the limits of their economic capacity and development, grant financial assistance to registered institutions to provide services and to implement the schemes and programmes in pursuance of the provisions of this Act.

## CHAPTER X

### CERTIFICATION OF SPECIFIED DISABILITIES

Guidelines for assessment of specified disabilities.

**56.** The Central Government shall notify guidelines for the purpose of assessing the extent of specified disability in a person.

Designation of certifying authorities.

**57.** (1) The appropriate Government shall designate persons, having requisite qualifications and experience, as certifying authorities, who shall be competent to issue the certificate of disability.

(2) The appropriate Government shall also notify the jurisdiction within which and the terms and conditions subject to which, the certifying authority shall perform its certification functions.

Procedure for certification.

**58.** (1) Any person with specified disability, may apply, in such manner as may be prescribed by the Central Government, to a certifying authority having jurisdiction, for issuing of a certificate of disability.

(2) On receipt of an application under sub-section (1), the certifying authority shall assess the disability of the concerned person in accordance with relevant guidelines notified under section 56, and shall, after such assessment, as the case may be,—

(a) issue a certificate of disability to such person, in such form as may be prescribed by the Central Government;

(b) inform him in writing that he has no specified disability.

(3) The certificate of disability issued under this section shall be valid across the country.

Appeal against a decision of certifying authority.

**59.** (1) Any person aggrieved with decision of the certifying authority, may appeal against such decision, within such time and in such manner as may be prescribed by the State Government, to such appellate authority as the State Government may designate for the purpose.

(2) On receipt of an appeal, the appellate authority shall decide the appeal in such manner as may be prescribed by the State Government.

## CHAPTER XI

## CENTRAL AND STATE ADVISORY BOARDS ON DISABILITY AND DISTRICT LEVEL COMMITTEE

60. (1) The Central Government shall, by notification, constitute a body to be known as the Central Advisory Board on Disability to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

Constitution of Central Advisory Board on Disability.

(2) The Central Advisory Board shall consist of,—

(a) the Minister in charge of Department of Disability Affairs in the Central Government, Chairperson, *ex officio*;

(b) the Minister of State in charge dealing with Department of Disability Affairs in the Ministry in the Central Government, Vice Chairperson, *ex officio*;

(c) three Members of Parliament, of whom two shall be elected by Lok Sabha and one by the Rajya Sabha, Members, *ex officio*;

(d) the Ministers in charge of Disability Affairs of all States and Administrators or Lieutenant Governors of the Union territories, Members, *ex officio*;

(e) Secretaries to the Government of India in charge of the Ministries or Departments of Disability Affairs, Social Justice and Empowerment, School Education and Literacy, and Higher Education, Women and Child Development, Expenditure, Personnel and Training, Administrative Reforms and Public Grievances, Health and Family Welfare, Rural Development, Panchayati Raj, Industrial Policy and Promotion, Urban Development, Housing and Urban Poverty Alleviation, Science and Technology, Communications and Information Technology, Legal Affairs, Public Enterprises, Youth Affairs and Sports, Road Transport and Highways and Civil Aviation, Members, *ex officio*;

(f) Secretary, National Institute of Transforming India (NITI) Aayog, Member, *ex officio*;

(g) Chairperson, Rehabilitation Council of India, Member, *ex officio*;

(h) Chairperson, National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities, Member, *ex officio*;

(i) Chairman-cum-Managing Director, National Handicapped Finance Development Corporation, Member, *ex officio*;

(j) Chairman-cum-Managing Director, Artificial Limbs Manufacturing Corporation, Member, *ex officio*;

(k) Chairman, Railway Board, Member, *ex officio*;

(l) Director-General, Employment and Training, Ministry of Labour and Employment, Member, *ex officio*;

(m) Director, National Council for Educational Research and Training, Member, *ex officio*;

(n) Chairperson, National Council of Teacher Education, Member, *ex officio*;

(o) Chairperson, University Grants Commission, Member, *ex officio*;

(p) Chairperson, Medical Council of India, Member, *ex officio*;

(q) Directors of the following Institutes:—

(i) National Institute for the Visually Handicapped, Dehradun;

(ii) National Institute for the Mentally Handicapped, Secundrabad;

(iii) Pandit Deen Dayal Upadhyay Institute for the Physically Handicapped, New Delhi;

(iv) Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai;

- (v) National Institute for the Orthopaedically Handicapped, Kolkata;
- (vi) National Institute of Rehabilitation Training and Research, Cuttack;
- (vii) National Institute for Empowerment of Persons with Multiple Disabilities, Chennai;
- (viii) National Institute for Mental Health and Sciences, Bangalore;
- (ix) Indian Sign Language Research and Training Centre, New Delhi, Members, *ex officio*;

(r) Members to be nominated by the Central Government,—

- (i) five Members who are experts in the field of disability and rehabilitation;
- (ii) ten Members, as far as practicable, being persons with disabilities, to represent non-Governmental Organisations concerned with disabilities or disabled persons organisations:

Provided that out of the ten Members nominated, at least, five Members shall be women and at least one person each shall be from the Scheduled Castes and the Scheduled Tribes;

- (iii) up to three representatives of national level chambers of commerce and industry;

(s) Joint Secretary to the Government of India dealing with the subject of disability policy, Member-Secretary, *ex officio*.

Terms and conditions of Service of members.

**61.** (1) Save as otherwise provided under this Act, a Member of the Central Advisory Board nominated under clause (r) of sub-section (2) of section 60 shall hold office for a term of three years from the date of his nomination:

Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) The Central Government may, if it thinks fit, remove any Member nominated under clause (r) of sub-section (2) of section 60, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.

(3) A Member nominated under clause (r) of sub-section (2) of section 60 may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon become vacant.

(4) A casual vacancy in the Central Advisory Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.

(5) A Member nominated under sub-clause (i) or sub-clause (iii) of clause (r) of sub-section (2) of section 60 shall be eligible for renomination.

(6) The Members nominated under sub-clause (i) and sub-clause (ii) of clause (r) of sub-section (2) of section 60 shall receive such allowances as may be prescribed by the Central Government.

Disqualifications.

**62.** (1) No person shall be a Member of the Central Advisory Board, who —

(a) is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or

(b) is of unsound mind and stands so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or

(d) is, or at any time has been, convicted of an offence under this Act, or

(e) has so abused his position in the opinion of the Central Government as a Member so as to render his continuance in the office is prejudicial interests of the general public.

(2) No order of removal shall be made by the Central Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.



(3) Notwithstanding anything contained in sub-section (1) or sub-section (5) of section 61, a Member who has been removed under this section shall not be eligible for renomination as a Member.

**63.** If a Member of the Central Advisory Board becomes subject to any of the disqualifications specified in section 62, his seat shall become vacant.

**64.** The Central Advisory Board shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

**65.** (1) Subject to the provisions of this Act, the Central Advisory Board on disability shall be the national-level consultative and advisory body on disability matters, and shall facilitate the continuous evolution of a comprehensive policy for the empowerment of persons with disabilities and the full enjoyment of rights.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Central Advisory Board on disability shall perform the following functions, namely:—

(a) advise the Central Government and the State Governments on policies, programmes, legislation and projects with respect to disability;

(b) develop a national policy to address issues concerning persons with disabilities;

(c) review and coordinate the activities of all Departments of the Government and other Governmental and non-Governmental Organisations which are dealing with matters relating to persons with disabilities;

(d) take up the cause of persons with disabilities with the concerned authorities and the international organisations with a view to provide for schemes and projects for the persons with disabilities in the national plans;

(e) recommend steps to ensure accessibility, reasonable accommodation, non-discrimination for persons with disabilities *vis-à-vis* information, services and the built environment and their participation in social life;

(f) monitor and evaluate the impact of laws, policies and programmes to achieve full participation of persons with disabilities; and

(g) such other functions as may be assigned from time to time by the Central Government.

**66.** (1) Every State Government shall, by notification, constitute a body to be known as the State Advisory Board on disability to exercise the powers conferred on, and to perform the function assigned to it, under this Act.

(2) The State Advisory Board shall consist of—

(a) the Minister in charge of the Department in the State Government dealing with disability matters, Chairperson, *ex officio*;

(b) the Minister of State or the Deputy Minister in charge of the Department in the State Government dealing with disability matters, if any, Vice-Chairperson, *ex officio*;

(c) secretaries to the State Government in charge of the Departments of Disability Affairs, School Education, Literacy and Higher Education, Women and Child Development, Finance, Personnel and Training, Health and Family Welfare, Rural Development, Panchayati Raj, Industrial Policy and Promotion, Labour and Employment, Urban Development, Housing and Urban Poverty Alleviation, Science and Technology, Information Technology, Public Enterprises, Youth Affairs and Sports, Road Transport and any other Department, which the State Government considers necessary, Members, *ex officio*;

(d) three Members of the State Legislature of whom two shall be elected by the Legislative Assembly and one by the Legislative Council, if any, and where there is no Legislative Council, three Members shall be elected by the Legislative Assembly, Members, *ex officio*;

Vacation of seats by Members.

Meetings of the Central Advisory Board on disability.

Functions of Central Advisory Board on disability.

State Advisory Board on disability.

(e) Members to be nominated by the State Government:—

(i) five Members who are experts in the field of disability and rehabilitation;

(ii) five Members to be nominated by the State Government by rotation to represent the districts in such manner as may be prescribed:

Provided that no nomination under this sub-clause shall be made except on the recommendation of the district administration concerned;

(iii) ten persons as far as practicable, being persons with disabilities, to represent non-Governmental Organisations or associations which are concerned with disabilities:

Provided that out of the ten persons nominated under this clause, at least, five shall be women and at least one person each shall be from the Scheduled Castes and the Scheduled Tribes;

(iv) not more than three representatives of the State Chamber of Commerce and Industry;

(f) officer not below the rank of Joint Secretary in the Department dealing with disability matters in the State Government, Member-Secretary, *ex officio*.

Terms and conditions of service of Members.

**67.** (1) Save as otherwise provided under this Act, a Member of the State Advisory Board nominated under clause (e) of sub-section (2) of section 66, shall hold office for a term of three years from the date of his nomination:

Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) The State Government may, if it thinks fit, remove any Member nominated under clause (e) of sub-section (2) of section 66, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.

(3) A Member nominated under clause (e) of sub-section (2) of section 66 may at any time resign his office by writing under his hand addressed to the State Government and the seat of the said Member shall thereupon become vacant.

(4) A casual vacancy in the State Advisory Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.

(5) A Member nominated under sub-clause (i) or sub-clause (iii) of clause (e) of sub-section (2) of section 66 shall be eligible for renomination.

(6) the Members nominated under sub-clause (i) and sub-clause (ii) of clause (e) of sub-section (2) of section 66 shall receive such allowances as may be prescribed by the State Government.

Disqualification.

**68.** (1) No person shall be a Member of the State Advisory Board, who—

(a) is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or

(b) is of unsound mind and stands so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or

(d) is, or at any time has been, convicted of an offence under this Act, or

(e) has so abused in the opinion of the State Government his position as a Member as to render his continuance in the State Advisory Board detrimental to the interests of the general public.

(2) No order of removal shall be made by the State Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (5) of section 67, a Member who has been removed under this section shall not be eligible for renomination as a Member.

**69.** If a Member of the State Advisory Board becomes subject to any of the disqualifications specified in section 68 his seat shall become vacant.

Vacation of seats.

**70.** The State Advisory Board shall meet at least once in every six months and shall observe such rules or procedure in regard to the transaction of business at its meetings as may be prescribed by the State Government.

Meetings of State Advisory Board on disability.

**71.** (1) Subject to the provisions of this Act, the State Advisory Board shall be the State-level consultative and advisory body on disability matters, and shall facilitate the continuous evolution of a comprehensive policy for the empowerment of persons with disabilities and the full enjoyment of rights.

Functions of State Advisory Board on disability.

(2) In particular and without prejudice to the generality of the foregoing provisions, the State Advisory Board on disability shall perform the following functions, namely:—

(a) advise the State Government on policies, programmes, legislation and projects with respect to disability;

(b) develop a State policy to address issues concerning persons with disabilities;

(c) review and coordinate the activities of all Departments of the State Government and other Governmental and non-Governmental Organisations in the State which are dealing with matters relating to persons with disabilities;

(d) take up the cause of persons with disabilities with the concerned authorities and the international organisations with a view to provide for schemes and projects for the persons with disabilities in the State plans;

(e) recommend steps to ensure accessibility, reasonable accommodation, non-discrimination for persons with disabilities, services and the built environment and their participation in social life on an equal basis with others;

(f) monitor and evaluate the impact of laws, policies and programmes designed to achieve full participation of persons with disabilities; and

(g) such other functions as may be assigned from time to time by the State Government.

**72.** The State Government shall constitute District-level Committee on disability to perform such functions as may be prescribed by it.

District-level Committee on disability.

**73.** No act or proceeding of the Central Advisory Board on disability, a State Advisory Board on disability, or a District-level Committee on disability shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of such Board or Committee, as the case may be.

Vacancies not to invalidate proceedings.

## CHAPTER XII

### CHIEF COMMISSIONER AND STATE COMMISSIONER FOR PERSONS WITH DISABILITIES

**74.** (1) The Central Government may, by notification, appoint a Chief Commissioner for Persons with Disabilities (hereinafter referred to as the "Chief Commissioner") for the purposes of this Act.

Appointment of Chief Commissioner and Commissioners.

(2) The Central Government may, by notification appoint two Commissioners to assist the Chief Commissioner, of which one Commissioner shall be a persons with disability.

(3) A person shall not be qualified for appointment as the Chief Commissioner or Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.

(4) The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Chief Commissioner and Commissioners shall be such as may be prescribed by the Central Government.

(5) The Central Government shall determine the nature and categories of officers and other employees required to assist the Chief Commissioner in the discharge of his functions and provide the Chief Commissioner with such officers and other employees as it thinks fit.

(6) The officers and employees provided to the Chief Commissioner shall discharge their functions under the general superintendence and control of the Chief Commissioner.

(7) The salaries and allowances and other conditions of service of officers and employees shall be such as may be prescribed by the Central Government.

(8) The Chief Commissioner shall be assisted by an advisory committee comprising of not more than eleven members drawn from the experts from different disabilities in such manner as may be prescribed by the Central Government.

Functions of  
Chief  
Commissioner.

**75.** (1) The Chief Commissioner shall—

(a) identify, *suo motu* or otherwise, the provisions of any law or policy, programme and procedures, which are inconsistent with this Act and recommend necessary corrective steps;

(b) inquire, *suo motu* or otherwise, deprivation of rights of persons with disabilities and safeguards available to them in respect of matters for which the Central Government is the appropriate Government and take up the matter with appropriate authorities for corrective action;

(c) review the safeguards provided by or under this Act or any other law for the time being in force for the protection of rights of persons with disabilities and recommend measures for their effective implementation;

(d) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial measures;

(e) study treaties and other international instruments on the rights of persons with disabilities and make recommendations for their effective implementation;

(f) undertake and promote research in the field of the rights of persons with disabilities;

(g) promote awareness of the rights of persons with disabilities and the safeguards available for their protection;

(h) monitor implementation of the provisions of this Act and schemes, programmes meant for persons with disabilities;

(i) monitor utilisation of funds disbursed by the Central Government for the benefit of persons with disabilities; and

(j) perform such other functions as the Central Government may assign.

(2) The Chief Commissioner shall consult the Commissioners on any matter while discharging its functions under this Act.

Action of  
appropriate  
authorities on  
recommendation  
of Chief  
Commissioner.

**76.** Whenever the Chief Commissioner makes a recommendation to an authority in pursuance of clause (b) of section 75, that authority shall take necessary action on it, and inform the Chief Commissioner of the action taken within three months from the date of receipt of the recommendation:

Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the Chief Commissioner within a period of three months, and shall also inform the aggrieved person.

- 5 of 1908. **77. (1)** The Chief Commissioner shall, for the purpose of discharging his functions under this Act, have the same powers of a civil court as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—
- Powers of Chief Commissioner.
- (a) summoning and enforcing the attendance of witnesses;
  - (b) requiring the discovery and production of any documents;
  - (c) requisitioning any public record or copy thereof from any court or office;
  - (d) receiving evidence on affidavits; and
  - (e) issuing commissions for the examination of witnesses or documents.
- 45 of 1860. **(2)** Every proceeding before the Chief Commissioner shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Chief Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
- 2 of 1974. **78. (1)** The Chief Commissioner shall submit an annual report to the Central Government and may at any time submit special reports on any matter, which, in his opinion, is of such urgency or importance that it shall not be deferred till submission of the annual report.
- Annual and special reports by Chief Commissioner.
- (2)** The Central Government shall cause the annual and the special reports of the Chief Commissioner to be laid before each House of Parliament, along with a memorandum of action taken or proposed to be taken on his recommendations and the reasons for non-acceptance the recommendations, if any.
- (3)** The annual and special reports shall be prepared in such form, manner and contain such details as may be prescribed by the Central Government.
- 79. (1)** The State Government may, by notification, appoint a State Commissioner for Persons with Disabilities (hereinafter referred to as the "State Commissioner") for the purposes of this Act.
- Appointment of State Commissioner in States.
- (2)** A person shall not be qualified for appointment as the State Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.
- (3)** The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the State Commissioner shall be such as may be prescribed by the State Government.
- (4)** The State Government shall determine the nature and categories of officers and other employees required to assist the State Commissioner in the discharge of his functions and provide the State Commissioner with such officers and other employees as it thinks fit.
- (5)** The officers and employees provided to the State Commissioner shall discharge his functions under the general superintendence and control of the State Commissioner.
- (6)** The salaries and allowances and other conditions of service of officers and employees shall be such as may be prescribed by the State Government.
- (7)** The State Commissioner shall be assisted by an advisory committee comprising of not more than five members drawn from the experts in the disability sector in such manner as may be prescribed by the State Government.
- 80.** The State Commissioner shall—
- Functions of State Commissioner.
- (a) identify, *suo motu* or otherwise, provision of any law or policy, programme and procedures, which are in consistent with this Act, and recommend necessary corrective steps;
  - (b) inquire, *suo motu* or otherwise deprivation of rights of persons with disabilities and safeguards available to them in respect of matters for which the State Government is the appropriate Government and take up the matter with appropriate authorities for corrective action;

(c) review the safeguards provided by or under this Act or any other law for the time being in force for the protection of rights of persons with disabilities and recommend measures for their effective implementation;

(d) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial measures;

(e) undertake and promote research in the field of the rights of persons with disabilities;

(f) promote awareness of the rights of persons with disabilities and the safeguards available for their protection;

(g) monitor implementation of the provisions of this Act and schemes, programmes meant for persons with disabilities;

(h) monitor utilisation of funds disbursed by the State Government for the benefits of persons with disabilities; and

(i) perform such other functions as the State Government may assign.

Action by appropriate authorities on recommendation of State Commissioner.

**81.** Whenever the State Commissioner makes a recommendation to an authority in pursuance of clause (b) of section 80, that authority shall take necessary action on it, and inform the State Commissioner of the action taken within three months from the date of receipt of the recommendation:

Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the State Commissioner for Persons with Disabilities within the period of three months, and shall also inform the aggrieved person.

Powers of State Commissioner.

**82.** (1) The State Commissioner shall, for the purpose of discharging their functions under this Act, have the same powers of a civil court as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any documents;

(c) requisitioning any public record or copy thereof from any court or office;

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents.

(2) Every proceeding before the State Commissioner shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the State Commissioners shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

Annual and special reports by State Commissioner.

**83.** (1) The State Commissioner shall submit an annual report to the State Government and may at any time submit special reports on any matter, which, in its opinion, is of such urgency or importance that it shall not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and the special reports of the State Commissioner for persons with disabilities to be laid before each House of State Legislature where it consists of two Houses or where such Legislature consist of one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendation of the State Commissioner and the reasons for non-acceptance the recommendations, if any.

(3) The annual and special reports shall be prepared in such form, manner and contain such details as may be prescribed by the State Government.



## CHAPTER XIII

## SPECIAL COURT

**84.** For the purpose of providing speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district, a Court of Session to be a Special Court to try the offences under this Act.

Special Court.

**85. (1)** For every Special Court, the State Government may, by notification, specify a Public Prosecutor or appoint an advocate, who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

Special Public Prosecutor.

(2) The Special Public Prosecutor appointed under sub-section (1) shall be entitled to receive such fees or remuneration as may be prescribed by the State Government.

## CHAPTER XIV

## NATIONAL FUND FOR PERSONS WITH DISABILITIES

**86. (1)** There shall be constituted a Fund to be called the National Fund for persons with disabilities and there shall be credited thereto—

National Fund for persons with disabilities.

(a) all sums available under the Fund for people with disabilities, constituted *vide* notification No. S.O. 573 (E), dated the 11th August, 1983 and the Trust Fund for Empowerment of Persons with Disabilities, constituted *vide* notification No. 30-03/2004-DDII, dated the 21st November, 2006, under the Charitable Endowment Act, 1890.

(b) all sums payable by banks, corporations, financial institutions in pursuance of judgment dated the 16th April, 2004 of the Hon'ble Supreme Court in Civil Appeal Nos. 4655 and 5218 of 2000;

(c) all sums received by way of grant, gifts, donations, benefactions, bequests or transfers;

(d) all sums received from the Central Government including grants-in-aid;

(e) all sums from such other sources as may be decided by the Central Government.

(2) The Fund for persons with disabilities shall be utilised and managed in such manner as may be prescribed.

**87. (1)** The Central Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts of the Fund including the income and expenditure accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

Accounts and audit.

(2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred by him in connection with such audit shall be payable from the Fund to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Fund shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of the Government accounts, and in particular, shall have the right to demand production of books of account, connected vouchers and other documents and papers and to inspect any of the offices of the Fund.

(4) The accounts of the Fund as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be laid before each House of Parliament by the Central Government.

## CHAPTER XV

## STATE FUND FOR PERSONS WITH DISABILITIES

State Fund for persons with disabilities.

**88.** (1) There shall be constituted a Fund to be called the State Fund for persons with disabilities by a State Government in such manner as may be prescribed by the State Government.

(2) The State Fund for persons with disabilities shall be utilised and managed in such manner as may be prescribed by the State Government.

(3) Every State Government shall maintain proper accounts and other relevant records of the State Fund for persons with disabilities including the income and expenditure accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(4) The accounts of the State Fund for persons with disabilities shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred by him in connection with such audit shall be payable from the State Fund to the Comptroller and Auditor-General of India.

(5) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the State Fund for persons with disabilities shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of the Government accounts, and in particular, shall have right to demand production of books of accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Fund.

(6) The accounts of the State Fund for persons with disabilities as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each House of the State Legislature where it consists of two Houses or where such Legislature consists of one House before that House.

## CHAPTER XVI

## OFFENCES AND PENALTIES

Punishment for contravention of provisions of Act or rules or regulations made thereunder.

**89.** Any person who contravenes any of the provisions of this Act, or of any rule made thereunder shall for first contravention be punishable with fine which may extend to ten thousand rupees and for any subsequent contravention with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

Offences by companies.

**90.** (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

**91.** Whoever, fraudulently avails or attempts to avail any benefit meant for persons with benchmark disabilities, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both.

Punishment for fraudulently availing any benefit meant for persons with benchmark disabilities.

**92.** Whoever,—

(a) intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view;

(b) assaults or uses force to any person with disability with intent to dishonour him or outrage the modesty of a woman with disability;

(c) having the actual charge or control over a person with disability voluntarily or knowingly denies food or fluids to him or her;

(d) being in a position to dominate the will of a child or woman with disability and uses that position to exploit her sexually;

(e) voluntarily injures, damages or interferes with the use of any limb or sense or any supporting device of a person with disability;

(f) performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability,

Punishment for offences of atrocities.

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

**93.** Whoever, fails to produce any book, account or other documents or to furnish any statement, information or particulars which, under this Act or any order, or direction made or given thereunder, is duty bound to produce or furnish or to answer any question put in pursuance of the provisions of this Act or of any order, or direction made or given thereunder, shall be punishable with fine which may extend to twenty-five thousand rupees in respect of each offence, and in case of continued failure or refusal, with further fine which may extend to one thousand rupees for each day, of continued failure or refusal after the date of original order imposing punishment of fine.

Punishment for failure to furnish information.

**94.** No Court shall take cognizance of an offence alleged to have been committed by an employee of the appropriate Government under this Chapter, except with the previous sanction of the appropriate Government or a complaint is filed by an officer authorised by it in this behalf.

Previous sanction of appropriate Government.

**95.** Where an act or omission constitutes an offence punishable under this Act and also under any other Central or State Act, then, notwithstanding anything contained in any other law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under such Act as provides for punishment which is greater in degree.

Alternative punishments.

## CHAPTER XVII

## MISCELLANEOUS

Application of other laws not barred.

**96.** The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Protection of action taken in good faith.

**97.** No suit, prosecution or other legal proceeding shall lie against the appropriate Government or any officer of the appropriate Government or any officer or employee of the Chief Commissioner or the State Commissioner for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Power to remove difficulties.

**98.** (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 such provisions or give such directions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of the 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 Parliament.

Power to amend Schedule.

**99.** (1) On the recommendations made by the appropriate Government or otherwise, if the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the Schedule and any such notification being issued, the Schedule shall be deemed to have been amended accordingly.

(2) Every such notification shall, as soon as possible after it is issued, shall be laid before each House of Parliament.

Power of Central Government to make rules.

**100.** (1) The Central Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act.

(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) the manner of constituting the Committee for Research on Disability under sub-section (2) of section 6;

(b) the manner of notifying the equal opportunity policy under sub-section (1) of section 21;

(c) the form and manner of maintaining records by every establishment under sub-section (1) of section 22;

(d) the manner of maintenance of register of complaints by grievance redressal officer under sub-section (3) of section 23;

(e) the manner of furnishing information and return by establishment to the Special Employment Exchange under section 36;

(f) the composition of the Assessment Board under sub-section (2) and manner of assessment to be made by the Assessment Board under sub-section (3) of section 38;

(g) rules for person with disabilities laying down the standards of accessibility under section 40;

(h) the manner of application for issuance of certificate of disability under sub-section (1) and form of certificate of disability under sub-section (2) of section 58;

(i) the allowances to be paid to nominated Members of the Central Advisory Board under sub-section (6) of section 61;

(j) the rules of procedure for transaction of business in the meetings of the Central Advisory Board under section 64;

(k) the salaries and allowances and other conditions of services of Chief Commissioner and Commissioners under sub-section (4) of section 74;

(l) the salaries and allowances and conditions of services of officers and staff of the Chief Commissioner under sub-section (7) of section 74;

(m) the composition and manner of appointment of experts in the advisory committee under sub-section (8) of section 74;

(n) the form, manner and content of annual report to be prepared and submitted by the Chief Commissioner under sub-section (3) of section 78;

(o) the procedure, manner of utilisation and management of the Fund under sub-section (2) of section 86; and

(p) the form for preparation of accounts of Fund under sub-section (1) of section 87.

(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 modification 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 validity of anything previously done under that rule.

**101.** (1) The State Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act, not later than six months from the date of commencement of this Act.

Power of State Government to make rules.

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

(a) the manner of constituting the Committee for Research on Disability under sub-section (2) of section 5;

(b) the manner of providing support of a limited guardian under sub-section (1) of section 14;

(c) the form and manner of making an application for certificate of registration under sub-section (1) of section 51;

(d) the facilities to be provided and standards to be met by institutions for grant of certificate of registration under sub-section (3) of section 51;

(e) the validity of certificate of registration, the form of, and conditions attached to, certificate of registration under sub-section (4) of section 51;

(f) the period of disposal of application for certificate of registration under sub-section (7) of section 51;

(g) the period within which an appeal to be made under sub-section (1) of section 53;

(h) the time and manner of appealing against the order of certifying authority under sub-section (1) and manner of disposal of such appeal under sub-section (2) of section 59;

(i) the allowances to be paid to nominated Members of the State Advisory Board under sub-section (6) of section 67;

(j) the rules of procedure for transaction of business in the meetings of the State Advisory Board under section 70;

(k) the composition and functions of District Level Committee under section 72;

(l) salaries, allowances and other conditions of services of the State Commissioner under sub-section (3) of section 79;

(m) the salaries, allowances and conditions of services of officers and staff of the State Commissioner under sub-section (3) of section 79;

(n) the composition and manner of appointment of experts in the advisory committee under sub-section (7) of section 79;

(o) the form, manner and content of annual and special reports to be prepared and submitted by the State Commissioner under sub-section (3) of section 83;

(p) the fee or remuneration to be paid to the Special Public Prosecutor under sub-section (2) of section 85;

(q) the manner of constitution of State Fund for persons with disabilities under sub-section (1), and the manner of utilisation and management of State Fund under sub-section (2) of section 88;

(r) the form for preparation of accounts of the State Fund for persons with disabilities under sub-section (3) of section 88.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.

Repeal and savings.

**102.** (1) The Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995 is hereby repealed. 1 of 1996.

(2) Notwithstanding the repeal of the said Act, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.



## THE SCHEDULE

[See clause (zc) of section 2]

## SPECIFIED DISABILITY

## 1. Physical disability.—

A. Locomotor disability (a person's inability to execute distinctive activities associated with movement of self and objects resulting from affliction of musculoskeletal or nervous system or both), including—

(a) "leprosy cured person" means a person who has been cured of leprosy but is suffering from—

(i) loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity;

(ii) manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;

(iii) extreme physical deformity as well as advanced age which prevents him/her from undertaking any gainful occupation, and the expression "leprosy cured" shall construed accordingly;

(b) "cerebral palsy" means a Group of non-progressive neurological condition affecting body movements and muscle coordination, caused by damage to one or more specific areas of the brain, usually occurring before, during or shortly after birth;

(c) "dwarfism" means a medical or genetic condition resulting in an adult height of 4 feet 10 inches (147 centimeters) or less;

(d) "muscular dystrophy" means a group of hereditary genetic muscle disease that weakens the muscles that move the human body and persons with multiple dystrophy have incorrect and missing information in their genes, which prevents them from making the proteins they need for healthy muscles. It is characterised by progressive skeletal muscle weakness, defects in muscle proteins, and the death of muscle cells and tissue;

(e) "acid attack victims" means a person disfigured due to violent assaults by throwing of acid or similar corrosive substance.

## B. Visual impairment—

(a) "blindness" means a condition where a person has any of the following conditions, after best correction—

(i) total absence of sight; or

(ii) visual acuity less than 3/60 or less than 10/200 (Snellen) in the better eye with best possible correction; or

(iii) limitation of the field of vision subtending an angle of less than 10 degree.

(b) "low-vision" means a condition where a person has any of the following conditons, namely:—

(i) visual acuity not exceeding 6/18 or less than 20/60 upto 3/60 or upto 10/200 (Snellen) in the better eye with best possible corrections; or

(ii) limitation of the field of vision subtending an angle of less than 40 degree up to 10 degree.

C. Hearing impairment—

(a) "deaf" means persons having 70 DB hearing loss in speech frequencies in both ears;

(b) "hard of hearing" means person having 60 DB to 70 DB hearing loss in speech frequencies in both ears;

D. "speech and language disability" means a permanent disability arising out of conditions such as laryngectomy or aphasia affecting one or more components of speech and language due to organic or neurological causes.

2. Intellectual disability, a condition characterised by significant limitation both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behaviour which covers a range of every day, social and practical skills, including—

(a) "specific learning disabilities" means a heterogeneous group of conditions wherein there is a deficit in processing language, spoken or written, that may manifest itself as a difficulty to comprehend, speak, read, write, spell, or to do mathematical calculations and includes such conditions as perceptual disabilities, dyslexia, dysgraphia, dyscalculia, dyspraxia and developmental aphasia;

(b) "autism spectrum disorder" means a neuro-developmental condition typically appearing in the first three years of life that significantly affects a person's ability to communicate, understand relationships and relate to others, and is frequently associated with unusual or stereotypical rituals or behaviours.

3. Mental behaviour,—

"mental illness" means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, but does not include retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence.

4. Disability caused due to—

(a) chronic neurological conditions, such as—

(i) "multiple sclerosis" means an inflammatory, nervous system disease in which the myelin sheaths around the axons of nerve cells of the brain and spinal cord are damaged, leading to demyelination and affecting the ability of nerve cells in the brain and spinal cord to communicate with each other;

(ii) "parkinson's disease" means a progressive disease of the nervous system marked by tremor, muscular rigidity, and slow, imprecise movement, chiefly affecting middle-aged and elderly people associated with degeneration of the basal ganglia of the brain and a deficiency of the neurotransmitter dopamine.

(b) Blood disorder—

(i) "haemophilia" means an inheritable disease, usually affecting only male but transmitted by women to their male children, characterised by loss or impairment of the normal clotting ability of blood so that a minor wound may result in fatal bleeding;

(ii) "thalassemia" means a group of inherited disorders characterised by reduced or absent amounts of haemoglobin.

(iii) "sickle cell disease" means a hemolytic disorder characterised by chronic anemia, painful events, and various complications due to associated

tissue and organ damage; "hemolytic" refers to the destruction of the cell membrane of red blood cells resulting in the release of hemoglobin.

5. Multiple Disabilities (more than one of the above specified disabilities) including deaf blindness which means a condition in which a person may have combination of hearing and visual impairments causing severe communication, developmental, and educational problems.

6. Any other category as may be notified by the Central Government.

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DR. G NARAYANARAJU,  
*Secretary to the Govt. of India.*



DPE-GM-15/0001/2016-GM-FTS-5921  
Government of India  
Ministry of Heavy Industries & Public Enterprises  
Department of Public Enterprises

Public Enterprises Bhavan,  
Block No. 14, CGO Complex,  
Lodhi Road, New Delhi-110003.  
Dated: 17<sup>th</sup> October, 2016

To,

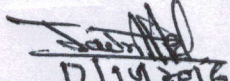
The Liaison Officer of CPSEs.  
(as per list)

**Subject: Brochure on Reservation for SCs/STs and OBCs-reg.**

Sir/Madam,

Enclosed please find herewith a copy of Brochure on Reservation for SCs/STs and OBCs for reference and record please. This Brochure has two parts i.e. Part-A and Part-B. The Part-A contain write-up on Reservation Policy and Part-B contains only OMs/Guidelines.

Yours sincerely,

  
17/10/2016  
(J. N. Prasad)  
Director



## CHAPTER – 1

### INTRODUCTION

#### Constitutional and Legal Provisions

1.1 Objective of providing reservations to the Scheduled Castes(SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs) in services is not only to give jobs to some persons belonging to these communities. It basically aims at empowering them and ensuring their participation in the decision making process of the State. Justice B.P. Jeevan Reddy, while delivering the majority judgement in the matter of Indra Sawhney & Ors Vs. UOI & Ors, observed that public employment gives a certain status and power, besides the means of livelihood. The Constitution has, therefore, taken special care to declare equality of opportunity in the matter of public employment. Keeping the broader concept of equality in view, Clauses (4) and (4A) of Article 16 of the Constitution declare that nothing in the said Article shall prevent the State from making any provision for reservation of appointments or posts in favour of backward class of citizens which in the opinion of the State is not adequately represented in the services under the State. Article 16 of the Constitution and also Article 335 which have direct bearing on reservation in services are reproduced below:

16 (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens which in the opinion of the State, is not adequately represented in the services under the state.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favor of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

335. The claims of the member of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently, with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

Provided that nothing in this article shall prevent in making of any provision in favor of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.



1.2 Besides, Article 46 provides that the State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

1.3 Articles 341 and 342 of the Constitution which define as to who would be Scheduled Castes and Scheduled Tribes with respect to any State or Union Territory are quoted below:

341. (1) The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

342(1) The President may with respect to any State or Union Territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purpose of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

1.4 The Constitution does not define Other Backward Classes. However, in pursuance of the judgment of Supreme Court in Indira Sawhney's case, the Government enacted the National

Commission for Backward Classes (NCBC) Act in April, 1993. As per Section 2 of the NCBC Act, “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. For the above purpose, Section 2 also defines “lists” as lists prepared by the Central Government for providing reservation in appointments to backward classes of citizens, which, in its opinion are not adequately represented in services, under the Government of India and any local or other authority. The Ministry of Social Justice and Empowerment has notified the lists of Castes / Communities which are treated as Other Backward Classes.

1.5 It may be noted that the Constitution imposes inter-state area restrictions so that the people belonging to the specific community residing in a specific area, which has been assessed to qualify for the Scheduled Castes or Scheduled Tribes status, only benefit from the facilities provided for them. Similar restrictions are applicable to the OBCs also. Since the people belonging to the same caste but living in different States / Union Territories may not necessarily suffer from the same disabilities, it is possible that two persons belonging to the same caste but residing in different States/ U.Ts may not both be treated to belong to SC/ST/OBC. Thus the residence of a person in a particular locality assumes a special significance. This residence has not to be understood in the literal or ordinary sense of the word. On the other hand it connotes the permanent residence of a person on the date of the notification of the Presidential Order scheduling his caste/tribe in relation to that locality.

1.6 [The Constitution \(Scheduled Castes\) Order, 1950](#) (as amended from time to time) states that no person professing a religion different from Hindu or Sikh or Buddhist religion can be deemed to be a member of a Scheduled Caste. There is, however, no religious bar for being treated as Scheduled Tribe or Other Backward Class.

### **Evolution of the Scheme of Reservation**

1.7 On attainment of Independence, instructions were issued on 21-9-47 providing for reservation of 12 ½ per cent of vacancies for SCs in respect of recruitment made by open competition. In case of recruitment otherwise than by open competition this percentage was fixed at 16 <sup>2/3</sup> per cent. Difference between recruitment by open competition and otherwise then by open competition has been explained in Chapter-II. After the Constitution was promulgated, MUA, in its

Resolution of 13-9-50, provided 5 per cent reservation for *STs* apart from the percentage fixed for *SCs* already in force. The 1951 Census showed that the percentage of *SCs* in the total population was 15.05 per cent and that of *ST* 6.31 per cent. The percentages were not revised at the time as a comprehensive bill revising the lists of *SCs* and *STs* was under consideration. The other reason for not revising the percentage was that reservation had already been provided for *SCs* in posts filled otherwise than by open competition to the extent of 16.66 per cent and instructions had also been issued for following a regional and local percentage for Class III and Class IV posts attracting candidates from a locality or a region. The 1961 Census revealed that the *SC* and *ST* population in proportion to the Indian population stood at 14.64 per cent and 6.80 per cent respectively. Accordingly, the percentage of reservation for *SCs* and *STs* was increased from 12 ½ and 5 per cent to 15 per cent and 7 ½ per cent respectively on 25-3-70. The 1971 Census did not warrant any such review. The actual impact of 1981 Census figures on all India percentages could not be known because the Census of 1981 could not be carried out in the State of Assam. The Government in 1993 introduced reservation for Other Backward Classes in direct recruitment broadly at the rate of 27%. After introduction of reservation for *OBCs*, total reservation for *SCs*, *STs* and *OBCs* comes to 49.5% in case of direct recruitment on all India basis by open competition and 50% in case of otherwise than by open competition. As per various judgments of the Supreme Court, total reservation for these communities cannot exceed the limit of 50%.

1.8 Reservation has been extended to different modes of promotion in stages. In 1957, reservation was provided for *SC* & *ST* in departmental competitive examinations. Reservation in promotion by selection in Group C and Group D was provided in 1963 and in the same year reservation in departmental competitive examination was limited to Class III and Class IV only. The position was slightly changed in 1968 when reservation in limited departmental examination to Class II, III and IV and promotion by selection 'to Class III and IV was subjected to a condition that element of direct recruitment should not exceed 50 per cent. Reservation in promotion by 'seniority subject to fitness', came in force in 1972 subject to the condition that the element of direct recruitment does not exceed 50 per cent. In 1974, reservation in promotion by selection from Group C to Group B, within Group B and from Group B to the lowest rung of Group A was introduced subject to the condition that the element of direct recruitment, if any, does not exceed 50 per cent. The limitation of the direct recruitment not exceeding 50 per cent was raised to 66 <sup>2/3</sup>% per cent in 1976 and to 75% in 1989.

1.9 Reservation till 1.7.1997 was computed on the basis of number of vacancies filled. The Supreme Court in the case of R.K. Sabharwal Vs. State of Punjab held that the reservation should be determined on the basis of number of posts in the cadre and not on the basis of vacancies. Accordingly post based reservation was introduced w.e.f. 2.7.1997. The basic principle of post based reservation is that the number of posts filled by reservation by any category in a cadre should be equal to the quota prescribed for that category. Prior to introduction of post based reservation, there was a provision of exchange of reservation between SCs and STs. After implementation of the post based reservation such exchange is no more permissible.

1.10 Prior to 1975, scientific' and technical posts required for conducting research or for organizing, guiding and directing research were exempted from the purview of orders relating to reservation for Scheduled Castes and Scheduled Tribes. In 1975 however, the above orders were modified and it was decided that the scheme of reservations for Scheduled Castes and Scheduled Tribes should also cover appointments made to scientific and technical posts up to and including the lowest grade of Class I in the respective services wherever they were exempt from the purview of the scheme of reservations. The amended orders were however not made applicable to Department of Space, Department of Electronics, and in regard to recruitment of trainees to the training school of the Department of Atomic Energy. In the case of these latter departments, the orders in force prior to 1975 continue to apply.

1.11 Various relaxations and concessions are given to SC/ST candidates like relaxation in upper age limit, exemption from payment of examination/application fees, relaxation in qualification of experience at the discretion of the UPSC/competent authority, relaxations in standard of suitability etc. Some relaxations like in upper age limit are also available to OBCs.

### **Institutional Safeguards**

1.12 Each Ministry / Department is required to nominate officers of the rank of Deputy Secretary or above to work as Liaison Officer who take care of implementation of instructions relating to special representation of SCs/STs/OBCs in their respective Ministries and attached and subordinate offices. The system of nominating Liaison Officers has also been extended to the offices under the Heads of Departments. Ministries/Departments have been asked in 1969 to set up a small Cell

within each Ministry/Department under the direct control of Liaison Officer to assist him to discharge his duties effectively.

1.13 The Constitution provides for the **National Commission for Scheduled Castes and the National Commission for Scheduled Tribes** which have wide ranging powers and functions in regard to matters pertaining to Scheduled Castes and Scheduled Tribes respectively. The Government has also set up the **National Commission for Other Backward Classes**. Besides, there is a Committee of Parliament on the Welfare of Scheduled Castes/Scheduled Tribes. The Committee *inter-alia* examines the position regarding representation of Scheduled Castes/Scheduled Tribes in the services under the various Ministries and other Government organizations and makes suitable recommendations for bringing about improvement therein or removing bottlenecks detected by it during the course of a study.

### **Impact of Reservation**

1.14 Representation of SCs/ STs has increased in all the Groups viz. A, B, C and D during last six decades. At the dawn of independence representation of SCs/STs in services was very little. As per available information, representation of SCs in Groups A, B, C and D as on 1.1.1965 was 1.64%, 2.82%, 8.88% and 17.75% respectively which has increased to 12.5%, 14.9%, 15.7% and 19.6% respectively as on 1.1.2008. Likewise while representation of STs as on 1.1.1965 in Group A, B, C and D was 0.27%, 0.34%, 1.14% & 3.39% respectively, it has increased to 4.9%, 5.7%, 7.0% and 6.9% respectively as on 1.1.2008. Total representation of SCs and STs as on 1.1.1965 was 13.17% and 2.25% respectively, which has increased to 17.51% and 6.82% respectively on 1.1.2008. Group-wise and total representation (in percentage) of SCs/STs in different years is given in the following table:

<b>As on 1<sup>st</sup> of January</b>	<b>Group A</b>		<b>Group B</b>		<b>Group C</b>		<b>Group D</b>		<b>Total</b>	
	<b>SCs</b>	<b>STs</b>	<b>SCs</b>	<b>STs</b>	<b>SCs</b>	<b>STs</b>	<b>SCs</b>	<b>STs</b>	<b>SCs</b>	<b>STs</b>
1965	1.64	0.27	2.82	0.34	8.88	1.14	17.75	3.39	13.17	2.25
1970	2.36	0.4	3.84	0.37	9.27	1.47	18.09	3.59	13.09	2.4

1975	3.43	0.62	4.98	0.59	10.71	2.27	18.64	3.99	13.84	2.94
1980	4.95	1.06	8.54	1.29	13.44	3.16	19.46	5.38	15.67	3.99
1985	7.3	1.73	10.03	1.57	14.87	4.2	20.8	5.70	16.83	4.66
1990	8.64	2.58	11.29	2.39	15.19	4.83	21.48	6.73	16.97	5.33
1995	10.15	2.89	12.67	2.68	16.15	5.69	21.26	6.48	17.43	5.78
2001	11.42	3.58	12.82	3.7	16.25	6.46	17.89	6.81	16.41	6.36
2002	11.09	3.97	14.08	4.18	16.12	5.93	20.07	7.13	16.98	6.11
2003	11.93	4.18	14.32	4.32	16.29	6.54	17.98	6.96	16.52	6.46
2004	12.2	4.1	14.5	4.6	16.9	6.7	18.4	6.7	17.05	6.54
2005	11.8	4.3	13.7	4.5	16.4	6.5	18.3	6.9	16.62	6.42
2006	12.9	3.9	15.0	5.7	16.4	6.9	18.6	7.1	16.75	6.75
2008	12.5	4.9	14.9	5.7	15.7	7.0	19.6	6.9	17.51	6.82



## CHAPTER -2

### SCOPE OF RESERVATION

#### Quantum of Reservation in Direct Recruitment

2.1 There shall be a reservation of 15 per cent for the members of the Scheduled Castes, 7.5 per cent for the members of the Scheduled Tribes and 27 per cent for the members of the Other Backward Classes in the matter of appointment by direct recruitment to civil posts and civil services on all India basis by open competition. [[36011/33/1981-Estt.\(SCT\) 5/10/1981](#)]

2.2 There shall be a reservation of 16.66 per cent for the members of the Scheduled Castes, 7.5 per cent for the members of the Scheduled Tribes and 25.84 per cent for the members of the Other Backward Classes in the matter of appointment by direct recruitment to civil posts and civil services on all India basis otherwise than by open competition.

2.3 Except in Delhi, reservation for the Scheduled Castes and Scheduled Tribes in case of direct recruitment to Group C and Group D posts normally attracting candidates from a locality or a region is generally fixed on the basis of proportion of their population in the respective States/UTs. Reservation for Other Backward Classes in such cases is fixed keeping in view the proportion of their population in the respective States/UTs subject to a limit of 27% and total reservation for SCs, STs and OBCs should not exceed 50%. Quantum of reservation fixed for SCs, STs and OBCs in such cases is indicated below [[36017/2/2004-Estt.\(Res\) dated 5/7/2005](#)]:

Sl.No.	Name of the State/UT	Percentage of Reservation		
		Scheduled Castes	Scheduled Tribes	Other Backward Classes
(1)	(2)	(3)	(4)	(5)
01	Andhra Pradesh	16	7	27
02	Arunachal Pradesh	1	45	0
03	Assam	7	12	27
04	Bihar	16	1	27
05	Chhattisgarh	12	32	6
06	Goa	2	12	18
07	Gujarat	7	15	27
08	Haryana	19	0	27

09	Himachal Pradesh	25	4	20
10	Jammu & Kashmir	8	11	27
11	Jharkhand	12	26	12
12	Karnataka	16	7	27
13	Kerala	10	1	27
14	Madhya Pradesh	15	20	15
15	Maharashtra	10	9	27
16	Manipur	3	34	13
17	Meghalaya	1	44	5
18	Mizoram	0	45	5
19	Nagaland	0	45	0
20	Orissa	16	22	12
21	Punjab	29	0	21
22	Rajasthan	17	13	20
23	Sikkim	5	21	24
24	Tamil Nadu	19	1	27
25	Tripura	17	31	2
26	Uttaranchal	18	3	13
27	Uttar Pradesh	21	1	27
28	West Bengal	23	5	22
29	Andaman & Nicobar Islands	0	8	27
30	Chandigarh	18	0	27
31	Dadra & Nagar Haveli	2	43	5
32	Daman & Diu	3	9	27
33	Delhi	15	7.5	27
34	Lakshadweep	0	45	0
35	Pondicherry	16	0	27

2.4 Where recruitment is made for zones or circles or regions consisting of more than one State, the percentages of reservation for SCs and STs is generally fixed on the basis of the proportion of SCs and STs in the respective zones/circles/regions and reservation for OBCs is fixed keeping in view their proportion in the population of the respective zones/circles/regions subject to a limit of 27% and total reservation for SCs, STs and OBCs should not exceed 50%.

**Illustration:** Suppose direct recruitment to a Group C post in an organization is made on the regional basis for the region consisting of the 8 States of the North East namely, Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim. Total population of these States and population of the Scheduled

Castes and Scheduled Tribes in these States as per Census 2001 is 38,857,269; 2,486,474, and 10,465,898 respectively. Thus, the proportion of Scheduled Castes and Scheduled Tribes in the region is 6.39% and 26.93%. Estimated population of Other Backward Classes in the region is more than 27% of the total population of the region. Keeping all aspects in view, percentage of reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes for the region may be fixed as 6%, 27% and 17% respectively.

**Note 1:** The expression 'by open competition' means all recruitments by Union Public Service Commission (UPSC) whether through written examination or by interview or by both; and recruitments made by other authorities including Staff Selection Commission or any other appointing authority through written competitive examination or tests (but not by interview alone). Any recruitment not made by the UPSC or not made through written competitive test held by any other authority would mean direct recruitment otherwise than by open competition.

**Note 2:** In case of recruitment on local/regional/zonal/circle basis, SC/ST/OBC candidates not belonging to the concerned locality/region/ State/ zone/ circle shall also be eligible to get the benefit of reservation.

2.5 The members of the Other Backward Classes who fall in creamy layer shall not get the benefit of reservation. Criterion for determining creamy layer status amongst Other Backward Classes is given in the Annexure to this Chapter.

### **Quantum of Reservation in Promotion**

2.6 Reservation to the members of the Scheduled Castes and the Scheduled Tribes shall be provided in the matter of promotion when promotion is made:

- (a) through Limited Departmental Competitive Examination in Group B, Group C and Group D posts;
- (b) by selection from Group B post to a Group A post or in Group B, Group C and Group D posts; and
- (c) by non-selection in Group A, Group B, Group C and Group D posts.

2.7 Reservation in all the above cases shall be given at the rate of 15 per cent for the Scheduled Castes and 7.5 per cent for the Scheduled Tribes. However, reservation in promotion is not given in the grades in which the element of direct recruitment, if any, exceeds 75 per cent [[36012/17/88-Estt.\(SCT\) dated 25/4/1989](#)].

### **Reservation in Scientific and Technical Posts**

2.8 Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes apply to appointments made to "scientific and technical" posts up to and including the lowest grade of Group A in the respective services.

2.9 Such 'scientific and technical' posts which satisfy all the following conditions can be exempted from the purview of the reservation orders by the Ministries/Departments:

- (i) The posts should be in grades above the lowest grade in Group A of the service concerned.
- (ii) They should be classified as 'scientific or technical' in terms of Cabinet Secretariat (Department of Cabinet Affairs) [[O.M. No. 85/11/CF-61\(1\) dated 28-12-1961](#)] according to which scientific and technical posts for which qualification in the natural sciences or exact sciences or applied sciences or in technology are prescribed and the incumbents of which have to use that knowledge in the discharge of their duties.
- (iii) The posts should be 'for conducting research' or 'for organizing, guiding and directing research'.

2.10 Orders of the Minister concerned should be obtained before exempting any posts satisfying the above conditions from the purview of the scheme of reservation.

2.11 In the case of scientific and technical posts required for research up to and inclusive of lowest grade of Group A of a service which are not exempt from the purview of reservation orders, reservation should be provided for Scheduled Castes, Scheduled Tribes and Other Backward Classes as per the scheme of reservations, except that:

- (i) reserved vacancies in such posts need be advertised only once and not twice;
- (ii) In the event of non-availability of candidates belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes, vacancies in such posts may be de-reserved by the administrative Ministry/Department concerned. However, the National Commission for Scheduled Castes or the National Commission for Scheduled Tribes or the National Commission for Backward Classes, as the case may be, and the Department of Personnel and Training should be informed about the de-reservation together with the details and reasons necessitating de-reservation.

[\[O.M.No.9/2/73-Estt\(SCT\) dated 23/06/75 and O.M.No.36012/27/1994-Estt\(SCT\) dated 13/5/1994\]](#)

### **Reservation in Posts of Industrial Workers**

2.12 The industrial establishments of the Government of India and the posts and grades in such establishments, whether these have been classified as group A, B, C and D or not, are covered by the scheme of reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes.

[\[O.M.No.8/7/1974-Estt.\(SCT\) dated 22/08/1975\]](#)

### **Reservation in Work-Charged Posts**

2.13 The principle of reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes should generally be suitably applied to the extent possible, to work-charged posts also except those required for emergencies like flood relief work, accident restoration and relief etc. The percentages of reservation in such appointments may correspond to what is applicable to Group C and Group D posts. [\[O.M.No.36021/9/1976-Estt.\(SCT\) dated 10/02/1977\]](#)

### **Reservation in Appointments of Daily Rated Staff**

2.14 While it may not be practical to apply the reservation orders in toto in respect of daily rated staff, it should be ensured that persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes are recruited in such manner as their overall representation does not go below the prescribed percentage of reservation for the Scheduled Castes, Scheduled Tribes and Other Backward Classes respectively. [\[O.M.No.36011/18/81-Estt.\(SCT\) dated 16/07/1981\]](#)

### **Reservation in Appointments of Casual Workers to Regular Posts**

2.15 Appointment of casual workers against regular posts will be a case of direct recruitment. Hence all statutory requirements relating to filling up of posts by direct recruitment should be followed while regularizing the services of casual workers. General orders relating to reservation for persons belonging to SCs, STs and OBCs will be applicable in cases relating to regularization of casual workers. Vacancies meant for these categories of persons should be filled up by casual workers of respective reserved categories and the balance, if any, may be filled up by outsiders belonging to these categories, who are not casual workers. Casual workers, who do not belong to the

reserved categories, can be appointed against unreserved vacancies only. **O.M.No.49014/12/1988-Estt( C ) dated 22/08/1988]**

### **Reservation in Ad-hoc Promotions**

2.16 As a matter of basic approach, ad-hoc promotions should be avoided.. However, if ad-hoc promotions are to be made in exceptional circumstances, such as during pendency of court cases, protracted seniority disputes, non-framing of recruitment rules, unforeseen delay in direct recruitment or convening of DPCs for reasons beyond the control of the appointing authority etc., following guidelines may be followed on every occasion when ad-hoc promotions are resorted to so as to ensure that the claims of eligible officers belonging to Scheduled Castes and Scheduled Tribes are also duly considered:

- (i) In cases where reservation orders for SCs and STs are applicable, the number of vacancies falling to the share of SCs and STs would be the same if the vacancies were to be filled on regular basis.
- (ii) Since ad-hoc promotions are made on the basis of non-selection, all the Scheduled Caste/Scheduled Tribe candidates covered in the relevant seniority list within the total number of such vacancies against which ad-hoc promotions are to be made, should be considered in the order of their general seniority as per the gradation list, on the principle of seniority-cum-fitness and if they are not adjudged unfit, they should all be promoted on ad-hoc basis.
- (iii) If the number of SC/ST candidates found fit within the range of actual vacancies is less than the number of vacancies identified as falling to their share if the vacancies were filled on a regular basis, additional SC/ST candidates to the extent required should be located by going down the seniority list, provided they are eligible and found fit for such ad-hoc appointment.
- (iv) All ad-hoc appointees have to be replaced by regular incumbents at the earliest opportunity. When regular promotions are made subsequently, reversion of the ad-hoc appointees should take place strictly in the reverse order of seniority, the junior-most candidate being reverted first. No special concessions are to be given to SC/ST candidates at the time of such reversion.



- (v) There is no need for maintaining any separate formal register or roster register for ad-hoc promotions. The concept of de-reservation, carrying forward of reservation etc. will also not be applicable in the case of ad-hoc appointments. However, a simple register called Ad-hoc Promotions Register may be maintained for different categories of posts for which ad-hoc appointments are made to facilitate a record being kept of the ad-hoc appointments and for ensuring reversion in the proper order on regular promotions being made to the posts in question.

[\[No. 36011/14/83-Estt.\(SCT\) dated 30-4-1983 and O.M. No.36011/13/83-Estt.\(SCT\) dated 30/09/1983\]](#)

### **Reservation in case of a Single Vacancy**

2.17 In cases where only one vacancy occurs in the initial recruitment year and it, according to the scheme of reservation, is reserved for Scheduled Castes or Scheduled Tribes or OBCs, it should be treated as unreserved and filled accordingly and the reservation should be carried forward to subsequent recruitment year. In the subsequent recruitment year, even if there is only one vacancy, it should be treated as “reserved” against the carried forward reservation from the initial recruitment year, and a Scheduled Caste/ Scheduled Tribe/OBC candidate, if available, should be appointed in that vacancy, although it may happen to be the only vacancy in that recruitment year. This provision applies to direct recruitment as well as promotion. When the vacancy is treated as reserved, it shall be filled up as per the procedure prescribed for filling up of reserved vacancies.[ [36011/39/81-Estt.\(SCT\) dated 30/11/1981\]](#)

### **Reservation in PSUs, Autonomous Bodies etc**

2.18 Instructions contained in this Compendium relate to reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes in posts/services under the Government of India. The Public Sector Undertakings, Statutory and Semi-Government Bodies, Autonomous Bodies/Institutions including Municipal Corporations, Cooperative Institutions, Universities etc. under the control of the Government, may make reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes in their services on the lines of the reservations in services under Government. The Department of Public Enterprises, Ministry of Heavy Industries and Public Enterprises may arrange for issue of suitable directives to the various public sector undertakings,

through the administrative Ministries concerned for making reservations for Scheduled Castes, Scheduled Tribes and Other Backward Classes in their services. The Ministries/Departments should take suitable action to provide for reservations for Scheduled Castes, Scheduled Tribes and Other Backward Classes in the services of the autonomous bodies/institutions which are receiving grants-in-aid from the Government of India by making suitable provision in the relevant statutes or in the Articles of Association of the respective bodies. [[O.M.No.39/40/74\(SCT\)\(I\) dated 30/09/1974](#) ]

### **Reservation in Voluntary Agencies**

2.19 The Ministries/Departments should insist as a pre-condition to the sanction of grants-in-aid from Central Government to a non-Government organizations/ voluntary agency etc. that it shall provide reservation to the extent of 15% to SCs, 7.5% to STs and 27% to OBCs in case of direct recruitment on all India basis and as shown in the table under Para 2.1 (c) in case of direct recruitment to posts normally attracting candidates from a locality or region where:

- (a) The recipient body employs more than 20 persons on a regular basis and at least 50 percent of its recurring expenditure is met from grants-in-aid from the Central Government; and
- (b) The body is a registered society or a cooperative institution and is in receipt of a general purpose annual grants-in-aid of Rs.2lakh and above from the Consolidated Fund of India.

2.20 A clause providing for reservations in the services under the voluntary agencies should be included in the terms and conditions under which such voluntary agencies /organizations etc. are given grants-in-aid by Government, somewhat on the following lines:

“.....(Name of Organization/ Agency etc.) agrees to make reservations for Scheduled Castes, Scheduled Tribes and Other Backward Classes in the posts/services under its control on the lines indicated by the Government of India.”

2.21 While sanctioning grants-in-aid to various voluntary agencies the progress made by such agencies in employing Scheduled Caste, Scheduled Tribe and Other Backward Class candidates in their services should be kept in view by the administrative Ministries/Departments. The voluntary

agencies etc. should be informed that the progress in respect to the employment by them of Scheduled Castes, Scheduled Tribes and OBCs in the services under them would be taken into account by Government while sanctioning future grants-in-aid to them. [[O.M.No.27/12/73-Estt.SCT\) dated 7/10/1974](#)]

### **Non-Applicability of Reservation**

2.22 Reservations do not apply to:

- (i) Temporary appointments of less than 45 days duration; [[O.M.No.27/4/67\(II\)-Estt.\(SCT\) dated 24/09/1968](#)]
- (ii) Work-charged posts which are required for emergencies like flood relief work, accident restoration and relief etc. [[36021/9/76-Estt.\(SCT\) 10/2/1977](#)]
- (iii) Promotions by selection method from a Group 'A' post to another Group 'A' post. [[36028/21/7/2003-Estt.\(SCT\) dated 29/01/2004](#)]
- (iv) Appointments to Scientific and Technical posts which are above the lowest rung of Group 'A'. [[O.M.No.36012/27/1994-Estt\(SCT\) dated 13/05/1994](#)]
- (v) Deputation/Absorption. [[O.M.No.36012/7/77-Estt\(SCT\) dated 21/01/1978](#)]
- (vi) Single post cadres

### **Relevant Office Memoranda etc.**

1.	<a href="#">MHA O.M. No.42/21/49-NGS</a>	28.1.1952
2.	<a href="#">MHA O.M. No.16/2/54-(SCT)</a>	23.11.1954
3.	<a href="#">MHA O.M. No.5/1/63-SCT(I)</a>	4.3.1964
4.	<a href="#">MHA O.M. No.16/2/67 -Est.(C)</a>	27.9.1967
5.	<a href="#">MHA O.Ms. No. 1/12/67-Est.(C)</a>	11.7.1968
6.	<a href="#">No.17/4/69-Estt.(SCT)</a>	3.2.1970
7.	<a href="#">MHA OM No.27/25/68-Est.(SCT)</a>	25.3.1970
8.	<a href="#">DP&amp;AR O.M. No.27/2/71-Est. (SCT)</a>	27.11.1972
9.	<a href="#">DP&amp;AR O.M. No.10/41/73-Est.(SCT)</a>	20.7.1974
10.	<a href="#">MHA O.M. No.39/40/74-SCT(I)</a>	30.9.1974
11.	<a href="#">DP&amp;AR O.M. No.27/12/73-Estt.(SCT)</a>	7.10.1974
12.	<a href="#">DP&amp;AR O.M. No.9/2/73-Est. (SCT)</a>	23.6.1975
13.	<a href="#">DP&amp;AR O.M. No.8/7/74-Est.(SCT)</a>	22.8.1975
14.	<a href="#">DP&amp;AR O.M. No.36021/9/76-Estt.(SCT)</a>	10.2.1977
15.	<a href="#">DP&amp;AR O.M. No.36012/7/77-Est.(SCT)</a>	21.1.1978

16.	<a href="#">DP&amp;AR O.M. No.36011/18/81-Est.(SCT)</a>	16.7.1981
17.	<a href="#">DP&amp;AR OM No.36011/39/81-Estt.(SCT)</a>	30.11.1981
18.	<a href="#">DP&amp;AR OM No.36011/14/83-Estt.(SCT)</a>	30.4.1983
19.	<a href="#">Dep. Per &amp;AR O.M. No.36011/13/83-Est.(SCT)</a>	30.9.1983
20.	<a href="#">Dep. Per &amp;AR O.M. No.36011/14/83-Est.(SCT)</a>	30.4.1983
21.	<a href="#">Dep. Per &amp; Trg OM No. 36011/13/88-Estt(SCT)</a>	22.8.1988
22.	O.M.No.49014/12/1988-Estt( C )	22/08/1988
23.	<a href="#">DOP&amp;T O.M. No.36022/4/93-Estt.(SCT)</a>	1.6.1993
24.	<a href="#">DOP&amp;T O.M. No.41015/9/93-Estt.(SCT)</a>	7.6.1993
25.	<a href="#">DOPT OM No. 36012/22/93-Estt(Res)</a>	8.9.1993
26.	<a href="#">DOPT OM No.36012/22/93-Estt(Res)</a>	15.11.1993
27.	<a href="#">DOPT OM No. 36012/27/94-Estt(SCT)</a>	13.5.1994
28.	<a href="#">DOPT OM No. 36012/18/95-Estt(Res) Pt.II</a>	13.8.1997
29.	<a href="#">DOPT OM NO. 36012/27/2000-Estt(Res)</a>	15.3.2002
30.	<a href="#">DOPT OM NO. 36033/3/2004-Estt(Res)</a>	14.10.2008

**CRITERION FOR DETERMINING CREAMY LAYER****[O.M.No.36012/22/93-Estt(SCT) dated 08/09/1993]**

Category	Description of Category	Who will fall in Creamy Layer
1.	2	3
I.	CONSTITUTIONAL POSTS	<p>Son(s) and daughter(s) of</p> <ul style="list-style-type: none"> <li>(a) President of India;</li> <li>(b) Vice President of India;</li> <li>(c) Judges of the Supreme Court and of the High Courts;</li> <li>(d) Chairman &amp; Members of UPSC and of the State Public Service Commission; Chief Election Commissioner; Comptroller &amp; Auditor General of India;</li> <li>(e) Persons holding Constitutional positions of like nature.</li> </ul>
II.	<p>SERVICE CATEGORY</p> <p>A. Group A / Class I officers of the All India Central and State Services (Direct Recruits)</p>	<p>Sons(s) and daughter(s) of</p> <ul style="list-style-type: none"> <li>(a) parents, both of whom are Class I officers;</li> <li>(b) parents, either of whom is a Class I officer;</li> <li>(c) parents, both of whom are Class I officers, but one of them dies or suffers permanent incapacitation.</li> <li>(d) Parents, either of whom is a Class I officers and such parent dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years.</li> <li>(e) Parents, both of whom are Class I officers die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years.</li> </ul> <p>Provided that the rule of exclusion shall not apply in the following cases:</p> <ul style="list-style-type: none"> <li>(a) Sons and daughters of parents either of</li> </ul>

		<p>whom or both of whom are Class I officers and such parent(s) dies / die or suffer permanent incapacitation.</p> <p>(b) A lady belonging to OBC category has got married to a Class I officer, and may herself like to apply for a job.</p>
	<p>B. Group B/Class II officers of the Central &amp; State Services (Direct Recruitment)</p>	<p>Son(s) and daughter(s) of</p> <p>(a) Parents both of whom are Class II officers.</p> <p>(b) parents of whom only the husband is a Class II officers and he gets into Class I at the age of 40 or earlier.</p> <p>(c) Parents, both of whom are Class II officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before such death or permanent incapacitation;</p> <p>(d) Parents of whom the husband is a Class I officer (direct recruit or pre-forty promoted) and the wife is a Class II officers and the wife dies; or suffers permanent incapacitation; and</p> <p>(e) Parents, of whom the wife is a Class I officer ( Direct Recruit or pre-forty promoted) and the husband is a Class II officer and the husband dies or suffers permanent incapacitation</p> <p>Provided that the rule of exclusion shall not apply in the following cases:</p> <p>Sons and daughters of</p> <p>(a) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation.</p> <p>(b) Parents, both of whom are Class II officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation.</p>
	<p>C. Employees in Public Sector Undertakings etc.</p>	<p>The criteria enumerated in A&amp;B above in this Category will apply mutatis mutandis to officers holding equivalent or comparable posts in PSUs, Banks, Insurance Organisations, Universities, etc. and also to equivalent or comparable posts and positions under private employment, pending the evaluation of the posts on equivalent or comparable basis in these institutions, the criteria specified in Category VI</p>

		below will apply to the officers in these Institutions.
III.	ARMED FORCES INCLUDING PARAMILITARY FORCES  (Persons holding civil posts are not included)	Son(s) and daughter(s) of parents either or both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and the Air Force and the Para Military Forces;  Provided that :-  (i) If the wife of an Armed Forces Officers is herself in the Armed Forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel;  (ii) The service ranks below Colonel of husband and wife shall not be clubbed together;  (iii) If the wife of an officer in the Armed Forces is in civil employment, this will not be taken into account for applying the rule of exclusion unless she falls in the service category under item No.II in which case the criteria and conditions enumerated therein will apply to her independently.
IV	PROFESSIONAL CLASS AND THOSE ENGAGED IN TRADE AND INDUSTRY  (I) Persons, engaged in profession as a 'doctor, lawyer, chartered accountant, Income Tax consultant, financial or management consultant, dental surgeon, engineer, architect, computer specialist, film artists and other film professional, author, playwright, sports person, sports professional, media professional or any other vocations of like status.  (II) Persons engaged in trade, business and industry.	Criteria specified against Category VI will apply:-  Criteria specified against Category VI will apply: Explanation:  (i) Where the husband is in some profession and the wife is in Class II or lower grade employment, the income / wealth test will apply only on the basis of the husband's income.  (ii) If the wife is in any profession and the husband is in employment in a Class II or lower rank post, then the income / wealth criterion will apply only on the basis of the wife's income and the husband's income will not be clubbed with it.
V.	PROPERTY OWNERS  A. Agricultural holdings	Son(s) and daughter(s) of persons belonging to a



		<p>family (father, mother and minor children) which owns</p> <p>(a) Only irrigated land which is equal to or more than 85% of the statutory area, or</p> <p>(b) Both irrigated and unirrigated land, as follows:-</p> <p>(i) The rule of exclusion will apply where the pre-condition exists that the irrigated area (having been brought to a single type under a common denominator) 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the unirrigated portion). If this pre condition of not less than 40% exists, then only the area of unirrigated land will be taken into account. This will be done by converting the unirrigated land on the basis of the conversion formula existing, into the irrigated type. The irrigated area so computed from unirrigated land shall be added to the actual area of irrigated land and if after such clubbing together the total area in terms of irrigated land is 80% or more of the statutory ceiling limit for irrigated land, then the rule of exclusion will apply and disentitlement will occur.</p> <p>(iii) The rule of exclusion will not apply if the land holding of a family is exclusively unirrigated.</p>
	<p><b>B. Plantations</b></p> <p>(i) Coffee, tea, rubber, etc.</p> <p>(ii) Mango, citrus, apply plantations etc.</p>	<p>Criteria of income / wealth specified in Category VI below will apply.</p> <p>Deemed as agricultural holding and hence criteria at A above under this Category will apply.</p>
	<p><b>C. Vacant land and / or buildings in urban areas or urban agglomerations</b></p>	<p>Criteria specified in Category VI below will apply.</p> <p>Explanation: Building may be used for residential, industrial or commercial purpose and the like two or more such purposes.</p>
VI.	<p><b>INCOME / WEALTH TEST</b></p>	<p>Son(s) and daughter(s) of</p> <p>(a) Persons having gross annual income of Rs.6 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years</p> <p>(b) Persons in Categories I, II, III and V A who are not disentitled to the benefit of reservation but have income from other sources of wealth which will bring them within the income / wealth criteria mentioned in (a) above.</p>

		<p>Explanation:</p> <p>(i) Income from salaries or agricultural land shall not be clubbed;</p> <p>(ii) The income criteria in terms of rupee will be modified taking into account the change in its value every three years. If the situation, however, so demands, the interregnum may be less.</p>
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**Explanation:** Wherever the expression “permanent incapacitation” occurs in this statement, it shall mean incapacitation which results in putting an officer out of service.

**Note 1:** Sons and daughters of:

- (a) parents either of whom or both of whom are directly recruited Class I/Group A officers and such parent(s) dies/die or suffers/suffer permanent incapacitation while in service;
- (b) parents both of whom are directly recruited Class II/Group B officers and one of them dies or suffers permanent incapacitation while in service; and
- (c) parents both of whom are directly recruited Class II/Group B officers and both of them die or suffer permanent incapacitation while in service, even though either of them has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation

shall not be treated to be falling in creamy layer. But if the parent(s) dies/die or suffers/suffer permanent incapacitation in such cases after retirement from service, his/their sons and daughters would be treated to be falling in creamy layer and would not get the benefit of reservation.

**Note 2:** Sons and daughters of parents who are included in the creamy layer on the basis of service status of their parents shall continue to be treated in creamy layer even if their parents have retired or have died after retirement.

**Note 3:** Sons and daughters of parents of whom only the husband is a directly recruited Class II/Group B officer who gets into Class I/Group A at the age of 40 or earlier are treated to be in creamy layer. If the father is directly recruited Class III/Group C or Class IV/Group D employee and he gets into Class I/Group A at the age of 40 or earlier, his sons and daughters shall not be treated to be falling in creamy layer.

**Note 4:** The creamy layer status of a candidate is determined on the basis of the status of his parents and not on the basis of his own status or income or on the basis of status or income of his/her spouse. Therefore, while determining the creamy layer status of a person the status or the income of the candidate himself or of his/her spouse shall not be taken into account.

**Note 5:** The creamy layer status of sons and daughters of persons employed in organizations where equivalence or comparability of posts vis-à-vis posts in Government has not been evaluated is determined as follows:

“Income of the parents from the salaries and from the other sources [other than salaries and agricultural land] is determined separately. If either the income of the parents from the salaries or the income of the parents from other sources

[other than salaries and agricultural land] exceeds the limit of Rs.6 lakh per annum for a period of three consecutive years, the sons and daughters of such persons shall be treated to fall in creamy layer. But the sons and daughters of parents whose income from salaries is less than Rs. 6 lakh per annum and income from other sources is also less than Rs.6 lakh per annum will not be treated as falling in creamy layer even if the sum of the income from salaries and the income from the other sources is more than Rs.6 lakh per annum for a period of three consecutive years. It may be noted that income from agricultural land is not taken into account while applying the Test.”

**Note 6:** While applying the Income/Wealth Test to determine creamy layer status of any candidate as given in Category-VI, income from the salaries and income from the agricultural land shall not be taken into account. It means that if income from salaries of the parents of any candidate is more than Rs. 6 lakh per annum, income from agricultural land is more than Rs.6 lakh per annum, but income from sources other than salaries and agriculture is less than Rs. 6 lakh per annum, the candidate shall not be treated to be falling in creamy layer on the basis of Income/Wealth Test provided his parent(s) do not possess wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.

**[O.M.No.36012/22/1993-Estt(SCT) dated 8/9/1993, No.36033/5/2004-Estt(SCT) dated 14/10/2004 and 36033/1/2013-Estt(Res) dated 27/5/2013]**

## CHAPTER- 3

### RELAXATIONS AND CONCESSIONS

#### Concession in Promotions within Group A

3.1 There is no reservation in case of promotion by 'selection' from a Group A post to another Group A post. But when promotion by 'selection' is made from a Group A post to a Group A post carrying Grade pay of Rs.8700/- or less, the Scheduled Caste and Scheduled Tribe Officers, who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be drawn up, would be included in that list provided they are not considered unfit for promotion. Their position in the select list would, however, be same as assigned to them by the Departmental Promotion Committee on the basis of their record of service.[**O.M No. 36028/8/2009-Estt(Res) dt.7.6.2013**]

**Note:** Fitness of the SC/ST officers in such cases would be assessed keeping in view the duties and responsibilities attached to the post and not on the basis of benchmark, if any, prescribed for promotion to the post.

#### Consideration for Appointment by Deputation and Absorption

3.2 Reservations do not apply to posts filled by deputation or absorption, but whenever a Ministry/Department/Attached Office/Subordinate Office etc. propose to depute, in public interest, officers serving under them to a post in or under another Ministry/Department etc., the Scheduled Caste/Scheduled Tribe employees serving under them, who are eligible to be sent on deputation should also be considered along with other eligible employees for such deputation. The Ministries/Departments under whose control the posts to be filled by deputation or absorption arise, should also, while selecting persons for such post(s), duly consider the cases of eligible Scheduled Caste and Scheduled Tribe employees whose names have been forwarded, for appointment on deputation or absorption to those posts. Where the number of posts to be filled on deputation or absorption by any employing Ministry or Office is fairly substantial, the employing Ministry/Head of Office concerned should endeavor to see that a fair proportion of such posts is filled by employees belonging to Scheduled Castes/Scheduled Tribes, subject of course, to availability from

the feeder categories of qualified persons belonging to these communities. [[DP&AR OM No. 36021/6/75-Estt\(SCT\), dt. 9.10.1975](#) and [DP&AR O.M No36012/7/77-Estt \(SCT\) dt. 21.1.1978](#)].

### **Age Relaxation in Direct Recruitment**

3.3 The maximum age-limit prescribed for direct recruitment to a service or post shall be increased by 5 years in the case of candidates belonging to Scheduled Castes and Scheduled Tribes and by 3 years in the case of candidates belonging to OBCs. [[MHA No.15/1/55-SCT dt.30.4.1955, OM No. 43013/2/95-Estt\(SCT\), dt. 25.1.1995](#)]

### **Age Relaxation in Promotion**

3.4 Where an upper age-limit not exceeding 50 years is prescribed for promotion to a service/post, it shall be relaxed by 5 years in the case of candidates belonging to Scheduled Castes and Scheduled Tribes. This, however, would not apply to posts which have arduous field duties or are meant for operational safety and to posts in para-Military Organizations. [[O.M No. 21/9/70-Estt\(SCT\), dt.8.12.1971](#)]

### **Concession in Fee**

3.5 The candidates belonging to Scheduled Castes and Scheduled Tribes will not be required to pay any fees for admission to any recruitment examination/selection. [[O.M No. 36011/3/84-Estt\(SCT\) dt. 1.7.1985](#)]

### **Relaxation of Experience Qualification for SCs and STs in Direct Recruitment**

3.6 Where some period of experience is prescribed as an essential qualification for direct recruitment to a post, and where, in the opinion of the Ministry/Department concerned, the relaxation of the experience qualification will not be inconsistent with efficiency, a provision should be inserted under the 'Essential Qualification' in the relevant Recruitment Rules as at (a) or (b) below to enable the Union Public Service Commission/competent authority to relax the 'experience'

qualification in the case of Scheduled Caste/Scheduled Tribe candidates in the circumstances mentioned in the provisions:-

- (a) Where the post is filled by direct recruitment through the Union Public Service Commission, the provision to be inserted will be:

“The qualification regarding experience is relaxable at the discretion of the Union Public Service Commission in the case of candidates belonging to the Scheduled Castes or Scheduled Tribes, if at any stage of selection, the Union Public Service Commission is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them. The appointing authority shall record the reasons for relaxing the qualifications regarding experience in writing while doing so.”

- (b) Where the post is filled by direct recruitment otherwise than through the Union Public Service Commission, the provision to be inserted will be:

“The qualification regarding experience is relaxable at the discretion of the competent authority in the case of candidates belonging to the Scheduled Castes or Scheduled Tribes, if at any stage of selection the competent authority is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them. The appointing authority shall record the reasons for relaxing the qualifications regarding experience in writing while doing so.”

3.7 When any vacancies reserved for Scheduled Castes and Scheduled Tribes are advertised or intimated to the Employment Exchange, it should be specifically mentioned in the advertisement/requisition that the period of experience prescribed is relaxable, at the discretion of the Union Public Service Commission or the competent authority, as the case may be, in the case of Scheduled Caste/Scheduled Tribe candidates as provided in the Recruitment Rules. This is intended to ensure that the aspirants who may fall slightly short of the requisite experience may know about the possibility of relaxation in this regard. [\[DP&AR O.M No.27/10/71-Estt \(SCT\) dt. 5.9.1975\]](#)

### **Relaxation of Standard of Suitability in Direct Recruitment**

3.8 In direct recruitment whether by examination or otherwise, if sufficient number of Scheduled Caste/Scheduled Tribe/Other Backward Class candidates are not available on the basis of the general standard to fill all the vacancies reserved for them, candidates belonging to these communities should be selected to fill up the remaining vacancies reserved for them provided they are not found unfit for such post or posts. Thus, to the extent the number of vacancies reserved for Scheduled Castes, Scheduled Tribes and Other Backward Classes cannot be filled on the basis of general standard, candidates belonging to these communities will be taken by relaxed standard to make up the deficiency in the reserved quota, subject to the fitness of these candidates for appointment to the post/posts in question. [[MHA O.M No. 1/1/70-Estt \(SCT\), 25.7.1970](#)]

3.9 In addition to the concession referred to above, in cases where the requisite number of Scheduled Caste/Scheduled Tribe/Other Backward Class candidates fulfilling even the relaxed standards admissible in their cases are not available to fill the vacancies reserved for them in non-technical and quasi-technical Group C and D services/posts required to be filled by direct recruitment otherwise than by written examination, the selecting authorities should, to the extent of the vacancies reserved for Scheduled Castes/Scheduled Tribe/Other Backward Class, select for appointment the best among the Scheduled Caste/Scheduled Tribe/Other Backward Class candidates who fulfill the minimum educational qualifications laid down in the notice for recruitment of advertisement. In order to bring such candidates to the minimum standard necessary for the posts and for the maintenance of efficiency of administration, they should be given in-service training. The in-service training will be provided by the appointing authorities within their own offices. Such candidates will, on their appointment, be placed on probation and the rules/orders regarding probation will apply to them.

3.10 Ministries /Departments should instruct all authorities under them to prepare a list of non-technical and quasi-technical posts in Group C and D to which the provisions given above apply. While notifying vacancies in such posts or advertising them, it should be indicated that the posts are non-technical in Group C and D. ([O.M.No 24/7/67\(I\)-Estt.\(SCT\) dated 24/9/1968](#))



### **No Relaxation in Educational Qualification**

3.11 Where an educational qualification has been prescribed in the recruitment rules, all candidates including the SC, ST and OBC candidates shall satisfy the said qualification. Sometimes, a minimum number of marks or a minimum grade is prescribed as part of the educational qualification in the recruitment rules. In such cases, the minimum marks/grade so prescribed shall uniformly apply to all candidates including SC, ST and OBC candidates. [[OM No. 36011/8/84-Estt\(SCT\) dt. 29.5.1985](#)]

### **Relaxation of Standards in Departmental Competitive / Qualifying Examinations**

3.12 If in case of promotions made through departmental competitive examinations, sufficient number of Schedule Caste / Scheduled Tribe candidates are not available on the basis of general standard to fill all the vacancies reserved for them, Scheduled Caste/Scheduled Tribe candidates who have not acquired the general qualifying standard can also be considered for promotion to fill up the remaining vacancies reserved for them provided they are not found unfit for such promotions. In other words, the qualifying standard in such examinations can be relaxed in favour of Scheduled Caste and Scheduled Tribe candidates if sufficient number of Scheduled Caste/Scheduled Tribe candidates is not available on the basis of general standard to fill all the vacancies reserved for them.

3.13 In promotions made on the basis of seniority subject to fitness in which there is reservation for Scheduled Castes and Scheduled Tribes and where a qualifying examination is held to determine the fitness of candidates for such promotion, suitable relaxation in the qualifying standard in such examination should be made in the case of Scheduled Caste/Scheduled Tribe candidates. Similar relaxation of standard should be made in favor of Scheduled Caste/Scheduled Tribe candidates in such departmental qualifying examinations for promotions also, where promotion is made by selection and merit is determined by qualifying examination out of the qualified candidates. The extent of relaxation in above cases should be decided on each occasion whenever such an examination is held taking into account all relevant factors including (i) the number of vacancies reserved, (ii) the performance of Scheduled Caste/Scheduled Tribe candidates as well as general candidates in that examination, (iii) the minimum standard of fitness for appointment to the post, and also (iv) the overall strength of the cadre and that of the Scheduled Castes and Scheduled Tribes in that cadre. [[DP&AR O.M No. 36021/10/76-Estt\(SCT\), 21.1.1977](#)]

**Relevant Office Memoranda etc.**

1	<a href="#">MHA No.15/1/55-SCT</a>	30.4.1955
2	<a href="#">MHA OM No. 1/9/69-Estt(SCT)</a>	26.3.1970
3	<a href="#">DP &amp; AR OM No. 1/10/74-Estt(SCT)</a>	23.12.1974
4	<a href="#">DP &amp; AR OM No. 27/10/71-Estt(SCT)</a>	5.9.1975
5	<a href="#">DOPT OM No. 36021/6/1975-Estt(SCT)</a>	9.10.1975
6	<a href="#">DOP&amp;T O.M. No.15012/2/81-Est.(D)</a>	8.4.1981
7	<a href="#">DP &amp; AR OM No.D-1458/81-Estt(SCT)</a>	21.5.1981
8	<a href="#">DOPT OM No. 36011/8/84-Estt(SCT)</a>	29.5.1985
9	<a href="#">DOPT O.M. No. 36013/3/84-Estt. (SCT)</a>	1.7.1985
10	<a href="#">DOPT OM No. 36012/23/96-Estt(Res) Vol.II</a>	3.10.2000

## CHAPTER -4

### DETERMINATION OF RESERVATION QUOTA

#### Determination of Number of Reserved Posts

4.1 Number of posts reserved for Scheduled Castes, Scheduled Tribes and Other Backward Classes in a cadre having more than 13 posts shall be determined by multiplying the cadre strength by the percentage of reservation prescribed for respective categories. While doing so, fractions, if any, shall be ignored.

**Illustration** : Suppose a grade in a service where reservation in promotion is available, has a total of 600 sanctioned posts, 50% of which are filled by direct recruitment on all India basis by open competition and 50% are filled by promotion by non-selection. Number of posts reserved for Scheduled Castes in case of direct recruitment would be equal to  $300 \times 15/100$  which comes to 45. Number of posts reserved for scheduled Tribes would be equal to  $300 \times 7.5/100$ , which after ignoring the fraction comes to 22 and number of posts reserved for Other Backward Classes would be equal to  $300 \times 27/100$  i.e. 81. Similarly, the number of posts reserved for Scheduled Castes and Scheduled Tribes in case of promotion would be 45 and 22 respectively. It may be noted that the number of reserved posts for Scheduled Tribes comes to 22.5 in case of direct recruitment as well as promotion. Exact number of reserved posts is arrived at by ignoring the fraction.

4.2 If the number of posts in a cadre is 2 or more than 2 but less than 14, reservation is provided as per L-shaped rosters prescribed vide Department of Personnel & Training OM No. 36012/2/96-Estt(Res) dated 02.07.1997. These L-shaped rosters are nothing but 14- Point rosters given below. Thus in cadres with 2 posts but less than 14 posts, reservation shall be provided by rotation on the basis of following 14-point rosters:

<b>ROSTER POINTS</b>	<b>DIRECT RECRUITMENT</b>	<b>PROMOTION</b>
(i)	(ii)	(iii)
1.	UR	UR
2.	UR	UR
3.	UR	UR
4.	OBC	UR

5.	UR	UR
6.	UR	UR
7.	SC	SC
8.	OBC	UR
9.	UR	UR
10.	UR	UR
11.	UR	UR
12.	OBC	UR
13.	UR	UR
14.	ST	ST

**Note 1:** The term ‘cadre strength’ used in relation to calculation of reservation/maintenance of reservation registers /rosters means number of posts required to be filled by a particular mode of recruitment in terms of the applicable recruitment rules. In a grade comprising 200 posts, where the recruitment rules prescribe a ratio of 40:40:20 for direct recruitment, promotion and deputation/absorption respectively, the cadre strength for direct recruitment shall be 80 and cadre strength for promotion shall be 80. Since there is no reservation in case of deputation/absorption, 40 posts will not be subject to reservation.

**Note 2:** Where the recruitment is made vacancy based, it is possible that at any given point of time share of direct recruitment may increase and share of promotion may correspondingly decrease or vice-versa. In such cases cadre strength for direct recruitment and cadre strength for promotion may change from year to year. Consequently, number of reserved posts in direct recruitment quota and number of reserved posts in promotion quota would change from year to year. Likewise, if there is any increase or decrease in the cadre strength for any other reason, the number of reserved posts shall increase or decrease accordingly.

**Note 3:** Excess or shortfall of reservation, which may arise due to change in cadre strength, shall be adjusted/made up in subsequent recruitments.

### **Determination of Reserved Vacancies**

4.3 While filling up of vacancies in a year, efforts shall be made to make up the shortfall of reservation for all the three categories, namely, SCs, STs and OBCs subject, however, to the condition that total number of vacancies reserved for SCs, STs and OBCs is not more than 50% of the vacancies of the year.

4.4 The ceiling of 50% reservation on filling of reserved vacancies would apply only to the vacancies which arise in the current year and the backlog reserved vacancies of SCs, STs and OBCs in case of direct recruitment and backlog reserved vacancies of SCs and STs in case of promotion of earlier years, would be treated as a separate and distinct group, and would not be considered together with the reserved vacancies of the year in which they are filled for determining the ceiling of 50% reservation on total number of vacancies of that year.

**Note 1: Shortfall of reservation** of a particular reserved category in a cadre means the difference between the 'total number of reserved posts for that category in the cadre' and 'the number of persons of that category appointed by reservation and holding the posts in the cadre'.

**Note 2 : Backlog reserved vacancies** of a category are those vacancies which were earmarked reserved for that category in an earlier recruitment year but remained unfilled in the previous recruitment attempt on account of non availability of suitable candidates belonging to that category and are still lying unfilled.

4.5 Given below is an illustration which would clarify the method of earmarking reservation for SCs, STs, and OBCs.

- (i) There is a cadre having a total number of 1000 posts which are filled by direct recruitment on all India basis by open competition. The number of SC, ST and OBC employees appointed by reservation in the cadre should ideally be 150, 75 and 270 respectively when all the posts are filled.
- (ii) Suppose all the 1000 posts stood filled in the year 2006 but the number of SC, ST and OBC employees appointed by reservation was 130, 75 and 100 respectively. There was, thus, a shortfall of 20 SCs and 170 OBCs in the cadre in that year, though all the posts were filled.
- (iii)
  - (a) Suppose 200 vacancies occurred in the cadre in the recruitment year 2007, of which 20 were vacated by SCs, 10 by STs and rest by unreserved category candidates. After vacation of these posts, shortfall of SCs, STs and OBCs in the cadre became 40, 10 and 170 respectively. Though there was a big shortfall of SCs, STs and OBCs in the cadre, only 100 of these vacancies could be earmarked reserved because all the 200 vacancies were current vacancies and limit of 50% on reservation in a year would apply on these vacancies.
  - (b) Shortfall of SCs and OBCs was more than 15% and 27% respectively of the current vacancies. Therefore, 15% of the current vacancies were straightway earmarked reserved for SCs and 27% for OBCs i.e. 30 vacancies were earmarked reserved for SCs and 54 for the OBCs. Shortfall of STs was 10 which is less than 7.5% of total vacancies. Therefore, only 10 vacancies were earmarked reserved for STs. Applying the above principle, 94 vacancies were earmarked

reserved. This left room for 6 {100-(30+54+10)} more vacancies to be earmarked reserved to make up the shortfall. These 6 vacancies were apportioned between SCs and OBCs in the ratio of percentage of reservation prescribed for these categories viz. 15: 27, i.e. 2 for SCs and 4 for OBCs (fractions rounded off to the nearest whole number). However, while making such distribution, it has to be kept in view that the number of vacancies earmarked reserved for any category is not more than the shortfall of that category. Thus, final earmarking of reservation in respect of the vacancies for the year 2007 was 32 for SCs, 10 for STs and 58 for OBCs.

(c) Suppose only 20 SC candidates, 5 ST candidates and 50 OBC candidates could be appointed in the recruitment year 2007 against the vacancies reserved for them. Thus, 12 vacancies of SCs, 5 vacancies of STs and 8 vacancies of OBCs which were earmarked reserved could not be filled and remained vacant. These 12 vacancies of SCs, 5 vacancies of STs and 8 vacancies of OBCs which were earmarked reserved but remained vacant in the recruitment attempt will be treated as backlog reserved vacancies for the subsequent recruitment year. After the recruitment process for the year 2007 was over, total number of posts filled was 975, of which 130, 70 and 150 were held respectively by SCs, STs and OBCs. It may be noted that shortfall of reservation of SCs, STs and OBCs at this stage was 20, 5 and 120 respectively. However, number of backlog reserved vacancies of SCs, STs and OBCs was 12, 5 and 8 respectively.

- (iv) Suppose 200 vacancies occurred in the recruitment year 2008 of which 20 were vacated by SCs, 10 by STs and 20 by OBCs. At this stage shortfall of SCs, STs and OBCs was 40, 15 and 140 respectively. Total vacancies in the year were  $200+12+5+8=225$ , of which 200 were current vacancies and 25 backlog vacancies. While earmarking reservation, 25 backlog reserved vacancies of SCs, STs and OBCs will be treated as a separate and distinct group and will be kept reserved-12 for SCs, 5 for STs and 8 for OBCs. Of the 200 current vacancies, not more than 100 can be earmarked reserved. By applying the same principles as in the year 2007, out of 200 current vacancies, 28 were earmarked reserved for SCs, 10 for STs and 62 for OBCs. Thus the number of vacancies reserved for SCs, STs and OBCs in the recruitment year 2008, including the backlog reserved vacancies, were 40, 15 and 70 respectively. If only 35 SCs, 12 STs and 50 OBCs become available to fill up the reserved vacancies, 5 vacancies of SCs, 3 vacancies of STs and 20 vacancies of OBCs will be kept vacant and will be treated as backlog reserved vacancies for the subsequent recruitment year.

**(O.M.No.36033/1/2008-Estt.(Res.)15/07/2008)**

4.6 In case of cadres where reservation is given by rotation, number of reserved vacancies will be determined as per roster points. It would have to be kept in view that not more than 50 per cent of current vacancies of a year are reserved and total reservation in the cadre does not exceed the limit of 50%. If at any stage, filling up of a vacancy results into more than 50% reservation in the cadre, reservation shall be skipped.

**Relevant Office Memoranda etc.**

1	<a href="#">DOPT OM NO. 36012/2/1996-Estt(Res)</a>	2.7.1997
2	<a href="#">DOPT OM No 36033/1/2008-Estt(Res)</a>	15.7.2008



**CHAPTER - 5****RESERVATION REGISTERS AND ROSTER REGISTERS**

5.1 In case of cadres having more than 13 posts, all appointing authorities should maintain reservation registers in the format given in **Annexure-I**.

5.2 Reservation roster registers will be maintained in format given in the **Annexure-II** for cadres having less than 14 posts.

5.3 Following principles shall be followed for preparation and maintenance of reservation registers and reservation roster registers:

- (a) Separate registers/ roster registers shall be maintained for appointments made by direct recruitment and promotion. In case of promotion, separate registers / roster registers shall be maintained for each mode of promotion viz. limited competitive examination, selection, non-selection, etc.
- (b) A common register / roster register shall be maintained for permanent appointments and temporary appointments likely to become permanent or to continue indefinitely.
- (c) A separate register / roster register shall be maintained for purely temporary appointments of 45 days or more but which have no chance whatever of becoming permanent or continuing indefinitely.
- (d) Immediately after an appointment is made, the particulars of the person appointed shall be entered in the register / roster register in the appropriate columns and the entry signed by the appointing authority or by an officer authorized to do so.
- (e) No gap shall be left in completing the register / roster register.
- (f) The register / roster register shall be maintained in the form of a running account year after year. For example if recruitment in a year stops at point 6, recruitment in the following year shall begin from point 7.
- (g) If reservation register becomes unwieldy or difficult to manage, a fresh register may be started by applying the method of initial preparation of registers.
- (h) In case of cadres where reservation is given by rotation, fresh cycle of roster shall be started after completion of all the points in the roster.

- (i) Since reservation does not apply to deputation/absorption, where the recruitment rules prescribe a percentage of posts to be filled by these methods, such posts shall be excluded for determining reservations.
- (j) After every recruitment year, an account shall be noted in the reservation register indicating representation of Scheduled Castes/Scheduled Tribes/Other Backward Classes and details of backlog reserved vacancies etc.

**Note:** Reservation registers / roster registers are only an aid to ensure that Scheduled Castes, Scheduled Tribes and Other Backward Classes get quota reserved for them. These registers/roster registers do not determine seniority.

### **Grouping of Posts**

5.4 In the case of posts filled by direct recruitment, small cadres may be grouped with posts in the same group for the purpose of reservation orders taking into account the status, salary and qualifications prescribed for the posts in question.

5.5 The posts of Sweepers should not be grouped for the purpose of reservation, with other categories of Group D posts, even though the number of posts of Sweepers may not be large in an office /establishment.

5.6 Proposals for grouping of posts should be referred to the Department of Personnel & Training for prior approval together with full particulars of the posts proposed to be grouped together in the following respect:

- (i) Designation and number of each post.
- (ii) Group to which the posts belong i.e. Group A, Group B, Group C or Group D.
- (iii) Scale of pay of each post.
- (iii) Method of recruitment for each post as provided in the recruitment rules.
- (iv) Minimum qualifications prescribed for direct recruitment to each post.

5.7 While reservations would be made according to the groups as provided above, the total reservation in any of the posts/services so grouped should not exceed 50 per cent of the vacancies to be filled in it i.e. in the particular post/service, in a recruitment year. The total reservation for SCs, STs and OBCs in any post or service should also not exceed 50 percent of the total number of posts in the particular post/service.

### **Initial Preparation of Reservation Register / Roster**

5.8 In order to prepare the reservation register initially, names of all the candidates holding the post as on the date of starting the reservation register may be entered in the register starting with the earliest appointee who was in the cadre as on the date of start of register. If an appointee in the cadre is a Scheduled Caste candidate, SC may be entered in column 4 of the register against his name. If that candidate was appointed by reservation, SC may be written in column 5 also but if he was appointed on his own merit, UR will be written in column 5. If the next appointee is a general category candidate, general shall be written in column 4 against his name and UR in column 5, and so on till all the appointments are adjusted. After making entries as indicated above, details about the number of SC, ST and OBC candidates appointed by reservation, backlog reserved vacancies, if any, may be indicated in 'Remarks' column.

5.9 After initial preparation of the register, the names of persons appointed thereafter may be added by filling up the columns as stated above.

5.10 Roster registers shall be maintained for cadres with 2 to 13 posts. For preparing roster, names of all the incumbents in the cadre as on 2.7.1997 may be entered in the register starting from the earliest appointee. If an appointee in the cadre is a Scheduled Caste candidate, SC may be entered in column 5 of the register against his name. If that candidate was appointed by reservation, SC may be written in column 6 also but if he was appointed on his own merit, UR will be written in column 6. If the next appointee is a general category candidate, general shall be written in column 5 against his name and UR in column 6, and so on till all appointments are adjusted. In doing so, a general category candidate may appear on a reserved point and an SC/ST/OBC candidate may appear against an unreserved point. If name of an SC/ST/OBC candidate appointed by reservation is entered against a general point, entries may be made in remarks column against that point and also against nearest point reserved for SCs/STs/OBCs, as the case may be, to the effect that such a candidate is to be treated to have been adjusted against the relevant reserved point. Likewise, entries will be made in remarks column for candidates who are appointed as general category

candidates but whose names appear against reserved points. Similar adjustments will be made in respect of SC candidates appearing against a point reserved for STs or OBCs and so on. After all the 14 points are consumed, fresh cycle of the roster may be started. As many roster points may be treated to have been consumed on the date of start of the roster register as many employees occupy the roster points as on the date of start of the register. From that point onward, vacancies may be filled as per roster points subject to adjustment of reserved category candidates appointed by reservation and general category candidates as explained above.

### **SC/ST/OBC Candidates Appointed on Merit**

5.11 SC, ST and OBC candidates in case of direct recruitment and SC and ST candidates in case of promotion, appointed on their own merit and not owing to reservation should not be shown against reserved quota. They will be adjusted against unreserved quota.

5.12 If an unreserved vacancy arises in a cadre and there is any SC/ST candidate within the normal zone of consideration in the feeder grade, such SC/ST candidate cannot be denied promotion on the plea that the post is not reserved. Such a candidate will be considered for promotion along with other candidates treating him as if he belongs to general category. In case he is selected, he will be appointed to the post and will be adjusted against the unreserved point.

5.13 Only such SC/ST/OBC candidates who are selected on the same standard as applied to general candidates shall be treated as own merit candidates. If any SC/ST/OBC candidate is selected by getting any relaxation in experience qualification, number of permitted chances in written examination, zone of consideration etc., he/she shall be counted against reserved vacancies. Such a candidate cannot be considered for appointment against an unreserved vacancy.

5.14 SC/ST candidates appointed on their own merit (by direct recruitment or promotion) and adjusted against unreserved points will retain their status of SC/ST and will be eligible to get benefit of reservation in future/further promotions, if any.

5.15 50% limit on reservation will be computed by excluding such reserved category candidates who are appointed/ promoted on their own merit.

[OMs No.[36028/17/2001-Estt\(Res\) dated 11/07/2002](#), [36028/17/2001-Estt\(Res\) dated 31/01/2005](#) and [36012/45/2005-Estt.\(Res.\) 10/08/2010](#)]

### **Adjustment of Compassionate Appointees**

5.16 A person selected for appointment on compassionate grounds should be adjusted in the reservation register/ reservation roster register against the appropriate category viz. SC/ST/OBC/UR category depending upon the category to which he belongs. For example, if he belongs to SC, he shall be adjusted against a vacancy reserved for SCs. Similarly if he is an ST or OBC candidate, he shall be adjusted against vacancy reserved for STs or OBCs, as the case may be. An unreserved category candidate shall be adjusted against an unreserved vacancy. ([O.M.No.14014/6/1995-Estt\(D\) dated 26.09.1995](#))

### **Relevant Office Memoranda etc.**

1	<a href="#">MHA OM NO. 7/2/55-Estt(SCT)</a>	14.10.1955
2	<a href="#">MHA OM No. 31/10/63-SCT(1)</a>	27.3.1963 and 2.5.1963
3	<a href="#">MHA OM NO. 1/11/69-Estt(SCT)</a>	22.4.1970
4	<a href="#">DOP&amp;T O.M. No. 1/4/70-Estt. (SCT)</a>	11.11.1971
5	<a href="#">DPA R OM NO. 10/52/72-Estt(SCT)</a>	24.5.1974
6	<a href="#">DOP&amp;T O.M. No.8/1/74 -Estt.(SCT)</a>	12.12.1974
7	<a href="#">DPA R OM NO. 36011/1/76-Estt(SCT)</a>	6.3.1976
8	<a href="#">DOP&amp;AR OM NO. 36011/33/81-Estt(SCT)</a>	5.10.1981
9	<a href="#">DPA R OM No. 36011/46/81-Estt(SCT)</a>	4.2.1982
10	<a href="#">DOP&amp;AR OM No. 36012/3/1978-Estt(SCT)</a>	9.2.1982
11	<a href="#">DPA R OM NO. 36011/12/82-Estt(SCT)</a>	26.6.1982
12	<a href="#">DPA R OM No. 36011/28/83-Estt(SCT)</a>	12.3.1984
13	<a href="#">DOPT's O.M.No.14014/6/1995-Estt(D)</a>	26.09.1995
14	<a href="#">DOPT's OM No. 36011/1/98-Estt(Res)</a>	1.7.1998
15	<a href="#">DOPT's OM NO. 36028/17/2001-Estt(Res)</a>	11.7.2002
16	<a href="#">DOP&amp;T O.M No.36017/1/2004-Estt.(Res)</a>	5.7.2005
17	<a href="#">DOPT OM No.36017/1/2007-Estt.(Res)</a>	4.7.2007
18	<a href="#">DOPT OM No. 36012/45/2005-Estt(Res)</a>	10.8.2010

**Annexure-I to Chapter- 5****RESERVATION REGISTER**

1. Name of the post:
2. Method of Recruitment: DR/Promotion by selection/Promotion by non-selection  
/Promotion by Limited Departmental Examination.
3. Number of posts in the cadre (cadre strength):
4. Percentage of Reservation prescribed : SCs\_\_\_\_, STs\_\_\_\_, OBCs \_\_\_\_\_

Sl. No.	Name	Date of appointment	Whether belongs to SC/ST/OBC/General	Filled as UR or as reserved for SC/ST OBC	Signature of appointing authority or other authorised officer	Remarks
1	2	3	4	5	6	7



## **CHAPTER-6**

### **FILLING UP OF RESERVED VACANCIES**

#### **Direct Recruitment**

6.1 When direct recruitment is to be made for reserved as well as unreserved vacancies on any one occasion, a single advertisement should be issued specifying clearly therein the vacancies reserved for Scheduled Castes, Scheduled Tribes and OBCs. ( [O.M.No.36012/6/88-Estt.\(SCT\), SRD dated 6.9.1999](#))

6.2 While notifying the vacancies to the local or the regional employment exchange, a single requisition should be sent to the Employment Exchange for such reserved and unreserved vacancies. The number of vacancies reserved for Scheduled Castes, Scheduled Tribes and OBCs out of the total vacancies notified should be clearly indicated in the requisition to the employment Exchange. The following certificate should also, be given in the requisition:

“Certified that the number of vacancies reserved for Scheduled Castes/Scheduled Tribes/OBCs/ex-servicemen/ Persons with Disabilities is in accordance with the reservation quota fixed by Government for these categories.”

6.3 If sufficient number of Scheduled Caste/Scheduled Tribe candidates are not available or are not sponsored by the Employment Exchange for the reserved vacancies, the appointing authority should also intimate the reserved vacancies to the Director of Scheduled Castes/Scheduled Tribes Welfare in the State/Union Territory concerned.

6.4 The vacancies should also be brought to the notice of the Scheduled Caste/Scheduled Tribe Organizations recognized by this Department for the purpose of notifying to them the vacancies. It may, however, be made clear to such organizations that their function is limited to advising the Scheduled Caste/Scheduled Tribe candidates about the recruitment proposed and that it will not be for them to recommend or press the names of any individuals. The candidates should apply to the appointing authority either direct or through the Employment Exchange, as the case may be.



6.5 Where sufficient number of candidates belonging to SC/ST/OBC are not available to fill up the vacancies reserved for them in direct recruitment, the vacancies should not be filled by candidates not belonging to these communities. In other words, there is a ban on de-reservation of vacancies reserved for SCs, STs and OBCs in direct recruitment.

6.6 If sufficient number of suitable SC/ST/OBC candidates are not available to fill up vacancies reserved for them in the first attempt of recruitment, a second attempt should be made for recruiting suitable candidates belonging to the concerned category in the same recruitment year or as early as possible before the next recruitment year to fill up these vacancies. If the required number of SC/ST/OBC candidates are not even then available, the vacancies which could not be filled up shall remain unfilled until the next recruitment year. These vacancies will be treated as “backlog vacancies.”

6.7 In the subsequent recruitment year when recruitment is made for the vacancies of that year (called the current vacancies), the backlog vacancies of SCs, STs and OBCs will also be announced for recruitment. While doing so, it may be kept in view that the vacancies of the particular recruitment year i.e. the current vacancies will be treated as one group and backlog vacancies of SCs, STs and OBCs as a separate and distinct group. Of the vacancies in the first group, not more than 50% of the vacancies shall be reserved. Vacancies in the second group i.e. all the backlog vacancies reserved for SCs, STs and OBCs will be filled up by the candidates belonging to category concerned without any restriction whatsoever as they belong to distinct group of backlog vacancies of SCs, STs and OBCs.

6.8 Vacancies reserved for SCs/STs/OBCs which could not be filled up and are carried forward as backlog vacancies and remain unfilled in the following recruitment year also, will be carried forward as backlog vacancies for subsequent recruitment year(s) as long as these are not filled by candidates of the category for which these are reserved.

6.9 In posts filled otherwise than through examination, normally six to seven candidates belonging to the community for which the post is reserved may be called for interview for each reserved vacancy, subject to availability of such candidates fulfilling the qualifications prescribed for the post. Where the response from the Scheduled Caste/Scheduled Tribe/Other Backward Class

candidates is exceptionally good, the recruiting authority may, having regard to the merits of each case, call as many as 10 to 12 candidates of the respective category for each reserved vacancy for the purpose of interview/selection.

6.10 In direct recruitment made otherwise than through examination and in direct recruitment made through examination followed by an interview, the interview of Scheduled Caste/Scheduled Tribe candidates should be held on a day or sitting of the Selection Committee other than the day or sitting on which general candidates are to be interviewed so that the Scheduled Caste and Scheduled Tribe candidates are not judged in comparison with general candidates and the interviewing authority/Board is/are prominently aware of the need for judging the Scheduled Caste /Scheduled Tribe candidates by relaxed standards.[\(O.M No.27/14/71-Estt.\(SCT\) dated 30/01/1973\)](#)

### **Promotion by Selection**

6.11 In case of promotion by selection, selection against vacancies reserved for Scheduled Castes and Scheduled Tribes should be made only from among those Scheduled Caste /Scheduled Tribe officers who are within the normal zone of consideration. Where adequate number of SC/ST candidates are not available within the normal field of choice, it may be extended to 5 times the number of vacancies and the SC/ST candidates (and not any other candidates) coming within the extended field of choice should also be considered against the vacancies reserved for them. The following instructions will apply to the filling of vacancies reserved for Scheduled Castes and Scheduled Tribes in such promotions:

- (i) Scheduled Caste and Scheduled Tribe officers who are within the normal zone of consideration shall be considered for promotion alongwith others and adjudged on the same basis as others and those Scheduled Caste and Scheduled Tribe officers amongst them who are selected on that basis may be included in the general select list. If some of the SC/ST candidates so selected have been selected on their own merit in all respect and are so placed in the select list that their names fall within the number of unreserved vacancies, such candidates shall be adjusted against unreserved vacancies.
- (ii) If number of candidates from Scheduled Castes and Scheduled Tribes other than the candidates selected on their own merit who are adjusted against unreserved vacancies

is less than the number of vacancies reserved for them, the difference should be made up by selecting candidates of these communities who are in the zone of consideration irrespective of merit but who are considered fit for promotion.

- (iii) If the number of SC/ST candidates found fit for promotion against reserved vacancies is still less than the number of vacancies reserved for them, the difference should be made up by selecting candidates of these communities who are in the extended zone of consideration irrespective of merit but who are considered fit for promotion.
- (iv) A select list should then be prepared in which the names of all the selected officers, general as well as those belonging to Scheduled Castes and Scheduled Tribes, are arranged in the order of merit and seniority according to the general principles for promotion to selection posts. However, such of the SC/ST candidates who are in the extended field and get selected should en block be placed in the end by maintaining their inter se position in accordance with their gradation by the DPC. This select list should, thereafter, be followed for making promotions in vacancies as and when they arise during the year.

### **Promotion by Non-Selection**

6.12 In case of promotion by non-selection, all Scheduled Caste and Scheduled Tribe candidates covered in the relevant seniority list within the total number of such vacancies against which the promotions are to be made, shall be considered in the order of their general seniority, and if they are not judged unfit, they shall be promoted. If the number of Scheduled Caste / Scheduled Tribe candidates found fit within the range of actual vacancies is less than the number of vacancies reserved for them, additional Scheduled Caste / Scheduled Tribe candidates to the extent required shall be located by going down the seniority list, provided they are eligible and found fit for appointment.

**Note 1:** In order to ensure proper implementation of reservation of vacancies for Scheduled Castes and Scheduled Tribes in promotion, number of vacancies should be assessed as accurately as possible. Purely short term vacancies should not be taken into account for this purpose; nor should any addition be made to cover unforeseen vacancies. At the same time, it is necessary to ensure that the number of vacancies is not reduced. All clear vacancies arising due to death, retirement, resignation and long term promotion of incumbents from one post/grade to a higher post/ grade

should be taken into account while fixing the number of vacancies and the number of reserved vacancies for Scheduled Castes and Scheduled Tribes.

**Note 2:** Since appointment to Selection Grade also constitutes promotion, the appropriate orders relating to reservation/concessions for Scheduled Castes and Scheduled Tribes in promotions, would apply to the appointment to the Selection Grade also.

**Note 3:** While constituting the Departmental Promotion Committee, instructions regarding nomination of SC/ST officers on the DPC, as issued from time to time, should be followed.

### **Steps To Be Taken in Case of Non-Availability of SC/ST Candidates for Promotion**

6.13 If sufficient number of SC/ST candidates fit for promotion against reserved vacancies is not available, such vacancies may be de-reserved as per prescribed procedure and filled by candidates of other communities.

6.14 If sufficient number of SC/ST candidates fit for promotion against reserved vacancies is not available and such vacancies can also not be de-reserved for reasons like non-availability of candidates of other categories to fill up the posts etc., the vacancies shall not be filled and will remain unfilled and will be treated as “backlog vacancies”.

( [O.M.No.36020/2/2007-Estt.\(Res\) dated 7/12/2009](#) )

6.15 In the subsequent recruitment year when recruitment is made for the vacancies of that year (called the current vacancies), the backlog vacancies of SCs and STs will also be filled up, keeping the current vacancies and the backlog vacancies of SCs and STs as two distinct groups. Of the current vacancies, not more than 50% of the vacancies shall be reserved. However, all the backlog vacancies reserved for SCs and STs will be filled up by candidates belonging to the concerned category without any restriction whatsoever as they belong to distinct group of backlog vacancies.

### **Diversion of Reserved Vacancies from Promotion Quota to Direct Recruitment**

6.16 Where recruitment to a grade is made both by promotion and direct recruitment i.e. where separate quota for promotion and direct recruitment are prescribed in the Recruitment Rules, reserved vacancies falling in the promotion quota which cannot be filled due to non-availability of eligible persons belonging to SC/ST in the feeder cadre may be temporarily diverted to the direct

recruitment quota and filled by recruitment of candidates belonging to SC or ST, as the case may be, in accordance with the provisions relating to direct recruitment contained in the Recruitment Rules. In the subsequent year(s) when reserved vacancies in the direct recruitment quota become available they may be diverted to the promotion quota to make up for the vacancies diverted earlier and filled from SC/ST candidates in the feeder cadre who might by then become eligible for promotion. This involves relaxation of the Recruitment Rules. The Ministries/Departments may themselves exercise the power of relaxation subject to approval of UPSC, wherever necessary.

### **Safeguards against Supersession of SC/ST Candidates**

6.17 In posts filled by promotion (by selection or by non-selection) wherever the orders regarding reservation apply the following procedure should be observed by the appointing authorities, in regard to cases where eligible Scheduled Caste/Scheduled Tribe candidates, though available, are not appointed/selected for the reserved as well as unreserved vacancies:

- (a) In promotions to Group A and within Group A – Such cases should be submitted to the Minister/ Minister of State/Deputy Minister concerned, as the case may be.
- (b) In promotion to Group B and within Group B – Such cases should be reported to the Minister/Minister of State/Deputy Minister concerned, as the case may be, within a period of one month of the finalization of the select list.
- (c) In promotion to and in Group C and within Group D – Such cases should be reported to the Head of the Department, if the appointing authority is lower than the level of the Head of the Department, and where the Head of the Department is himself the appointing authority, to the Secretary of the administrative Ministry/Department.

6.18 In regard to promotions by selection from Group A post to a Group A post which carries an ultimate salary of Rs. 18,300 (pre-revised) or less, cases where the Scheduled Caste / Scheduled Tribe candidates available within the number of vacancies for which the select list is drawn are not selected, should be submitted to the Minister / Minister of State / Deputy Minister concerned, as the case may be.

### **Implementation of the Findings of DPC Kept in Sealed Cover**

6.19 According to the instruction contained in the Ministry of Home Affairs Office Memorandum No.39/3/59-Estt.(A) dated the 31<sup>st</sup> August, 1960, the findings of the Department Promotion Committee in respect of a person under suspension or against whom vigilance enquiries are pending are kept in sealed cover and a vacancy is kept reserved for him and is filled only on officiating basis till the finalization of the departmental proceedings. If the officer is completely exonerated and the charges leveled against him are proved to be wholly unjustified then he is promoted to the vacancy which had been filled on an officiating basis and which was reserved for him. In such cases, the junior most officer officiating in the grade i.e. the officer occupying the lowest position in the panel is reverted. Where such reversion becomes necessary, the reversions should be made in such a manner that the total number of SC/ST candidates in the cadre appointed by reservation is not reduced below the reservation prescribed for them.

**Relevant Office Memoranda etc.**

1	<a href="#">Para 5 (6) MHA O.M. No. 42/21/49-NGS</a>	28.1.52
2	<a href="#">MHA OM No.14/12/67-Estt.(D)</a>	10.4.68
3	<a href="#">MHA OM No. 27/2/69-Est. (SCT)</a>	5.7.69
4	<a href="#">MHA OM No. 27/2/70-Est. (SCT)</a>	5.6.70
5	<a href="#">DOP&amp;T O.M. No. 14/17/71</a>	27.11.71
6	<a href="#">DOP&amp;AR O.M. No.16/1/72-Estt.(SCT)</a>	11.08.1972
7	<a href="#">Dept. of Per &amp; AR OM No. 36012/3/75-ESst(SCT)</a>	6.10.1976
8	<a href="#">DP&amp;AR O.M. No.36014/3/77-Est.(SCT)</a>	23.4.77
9	<a href="#">Dept. of Per &amp; AR OM No. 36013/6/80-ESst(SCT)</a>	28.1.1982
10	<a href="#">DOP&amp;T O.M.No.36012/6/88-Estt(SCT), SRD</a>	6.9.1989
11	<a href="#">DOPT OM No. 36012/5/97-Estt.(Res.)</a>	20.7.2000

## **CHAPTER-7**

### **DE-RESERVATION**

7.1 A vacancy reserved for SCs or STs or OBCs cannot be filled by a candidate other than an SC or ST or OBC candidate, as the case may be. However, a reserved vacancy may be declared unreserved by following the procedure of de-reservation as given below whereafter it can be filled as an unreserved vacancy.

#### **De-reservation in case of Direct Recruitment**

7.2 There is a general ban on de-reservation of reserved vacancies in case of direct recruitment. However, in rare and exceptional cases when a vacancy in a Group 'A' service cannot be allowed to remain vacant in public interest, the administrative Ministry/Department may prepare a proposal for de-reservation of the vacancy giving following information:

- (i) Designation of the post;
- (ii) Pay scale of the post;
- (iii) Name of the service to which the post belongs;
- (iv) Duties and responsibilities attached to the post;
- (v) Educational and other qualifications prescribed for the post;
- (vi) Efforts made to fill up the post;
- (vii) Reasons why it cannot be allowed to remain vacant;
- (viii) Justification for de-reservation; and
- (ix) Any other relevant information.

7.3 The administrative Ministry shall consult the National Commission for Scheduled Castes in respect of vacancy reserved for SCs, the National Commission for Scheduled Tribes in respect of vacancy reserved for STs and the National Commission for Backward Classes in respect of vacancy reserved for OBCs. After obtaining the comments of the concerned Commission, the administrative Ministry/Department shall place the proposal alongwith the Commission's comments before a Committee comprising of the Secretaries in the Department of Personnel and Training, the Ministry of Social Justice and Empowerment, and the Ministry/Department under which the recruitment is to be made for consideration and recommendation. The recommendation of the Committee shall be



placed before the Minister in charge of the Department of Personnel and Training for taking a final decision. If de-reservation of the vacancy is approved, it can be filled as an unreserved vacancy.

#### 7.4 **De-reservation in case of Promotion**

In case of promotion, if sufficient number of SC/ST candidates fit for promotion against reserved vacancies are not available, such vacancies may be de-reserved and filled by the candidates of other communities. The power to accord approval to de-reservation of the reserved vacancies in such cases is delegated to the administrative Ministries and Departments subject to the following conditions:

- (i) no candidate belonging to the category for which the vacancy is reserved is available within the zone of consideration or extended zone of consideration or eligible for promotion in the feeder cadre(s) specified in the relevant service / recruitment rules / orders;
- (ii) the proposal for de-reservation has been seen and concurred in by the Liaison Officer of the Ministry / Department;
- (iii) the proposal for de-reservation is agreed to at a level not lower than that of Joint Secretary to the Government of India, in the administrative Ministry / Department (proper)concerned; and
- (iv) in the event of disagreement between the appointing authority and the Liaison Officer, the advice of the Department of Personnel & Training is obtained.

7.5 Before taking a decision to de-reserve a vacancy under the delegated powers, the administrative Ministry / Department shall prepare a proposal in the proforma given in the **Annexure-I** and send one copy thereof each to the Department of Personnel & Training and the National Commission for Scheduled Castes in respect of vacancies reserved for SCs and to the National Commission for Scheduled Tribes in respect of vacancies reserved for STs. After sending the proposal, the Ministry / Department shall wait for a period of atleast two weeks for the comments of the Department of Personnel & Training and the concerned National Commission. If no comments are received from the Department of Personnel & Training or the concerned Commission within two weeks, the administrative Ministry / Department may presume that the DOPT or the concerned National Commission, as the case may be, do not have any comments to offer and may take a decision regarding de-reservation of the vacancy. In case the Ministry / Department receives

comments from the DOPT or the concerned Commission within two weeks, the comments so received shall be considered while taking a decision in the matter.

7.6 While sending the copy of the proposal to the Commissions / Department of Personnel & Training, it should be ensured that the proposal / proforma duly filled in is signed by an officer of the rank of Under Secretary or above in the administrative Ministry / Department.

7.7 The Attached / Subordinate Offices etc. should not send the proposal direct to the Department of Personnel and Training or to the concerned National Commission. They should send the proposal to the administrative Ministry/ Department who will examine the proposal and send it to the Department of Personnel and Training and to the concerned National Commission.

### **Relevant Office Memoranda etc.**

1	<a href="#">MHA O.M. No.31/10/63 SCT(I)</a>	02.05.1963
2	<a href="#">MHA No.16/1 (I)/65-Estt.(C)</a>	20.07.1965
3	<a href="#">MHA No 1/6/67-Estt.(C)</a>	20.09.1967
4	<a href="#">MHA No. 27.05.1968-Estt.(C)</a>	13.03.1968
5	<a href="#">MHA No.1/8/69-Estt.(SCT)</a>	28.01.1969
6	<a href="#">DOP&amp;AR O.M. No.16/1/72-Estt.(SCT)</a>	11.08.1972
7	<a href="#">DOP&amp;AR No.16/3/74-Estt.(SCT)</a>	26.04.1974
8	<a href="#">DOP&amp;AR No.16/27/74-Estt.(SCT)</a>	12.11.1975
9	<a href="#">DOP&amp;AR O.M. No.36011/25/79-Estt.(SCT)</a>	16.11.1979
10	<a href="#">DOP&amp;AR OM No.36011/5/81-Estt.(SCT)</a>	07.04.1981
11	<a href="#">DP&amp;T O.M. No.36020/2/2007-Estt.(Res)</a>	07.12.2009

**PROPOSAL FOR DE-RESERVATION OF VACANCIES RESERVED FOR SCHEDULED CASTES  
AND SCHEDULED TRIBES IN POSTS FILLED BY PROMOTION.**

1. Name of the Office/Organisation to which the post (s) relate	
2. Particulars of the post in which vacancies are proposed to be de-reserved  (a) Name of the post (b) Group (Class) (c) Scale of Pay	
3. Information about posts in the promotion quota  (a) Mode of promotion viz by Selection or Non-Selection or by Departmental Examination etc. (b) No. of posts already filled by the given mode of promotion (c) Number of backlog reserved vacancies in respect of the given mode of promotion (d) Number of current vacancies to be filled by the given mode of promotion (e) Total number of vacancies to be filled (current vacancies + backlog vacancies) by the given mode of promotion (f) Total number of posts in the given mode of promotion (b+e)	SCs..... STs.....Total.....
4. No. of posts already held by the candidates appointed by reservation in the cadre	SCs..... STs.....

5. If cadre strength is less than 14 and reservation is given by rotation, cycle no. and point no. of the roster on which the vacancy falls	Cycle No.....Point No.....
6. Number of vacancies earmarked reserved  (a) Out of the current vacancies  (b) Backlog reserved vacancies  (c) Total reserved vacancies (a+b)	SCs..... STs.....  SCs..... STs.....  SCs..... STs.....
7. Number of vacancies proposed to be de-reserved	SCs..... STs.....

<p>8. <u>If promotion is by non-selection</u></p> <p>(a) Whether the SC/ST candidates who are eligible for promotion including those holding lower positions in the general seniority list were considered for promotion</p> <p>(b) Total number of SC/ST candidates in the feeder grade</p> <p>(c) No. of eligible SC/ST candidates in the feeder grade</p> <p>(d) Number of SC/ST candidates considered fit for promotion</p> <p>(e) Number of SC/ST candidates considered not fit for promotion</p> <p>(f) If sufficient number of SC/ST candidates are not eligible for promotion on the crucial date, the date on which the senior most SC/ST candidate in the grade will become eligible for promotion</p>	<p>SCs.....STs.....</p> <p>SCs.....STs.....</p> <p>SCs.....STs.....</p> <p>SCs.....STs.....</p> <p>SCs.....STs.....</p>
<p>9. <u>If promotion is by selection</u></p> <p>(a) Size of the normal zone of consideration</p> <p>(b) Size of the extended zone of consideration for SCs/STs (5 times the total number of vacancies)</p> <p>(c) Number of eligible SC/ST candidates in the extended zone of consideration</p> <p>(d) Number of SC/ST candidates found fit for promotion</p> <p>(e) Number of SC/ST candidates considered not fit for promotion</p> <p>(f) If sufficient number of SC/ST candidates are not eligible for promotion on the crucial date, the date on which the senior-most SC/ST candidate will become eligible for promotion and his place in the seniority list</p>	<p>SCs.....STs.....</p> <p>SCs.....STs.....</p> <p>SCs.....STs.....</p> <p>SCs.....STs.....</p>

<p>10. If promotion is through Departmental Qualifying or Departmental Competitive Examination, the number of SC/ST candidates who qualified the examination</p>	<p>SCs.....STs.....</p>
<p>11. Whether other category candidates are available in the Select List for appointment to the vacancies sought to be de-reserved</p>	
<p>12(a) Whether SC/ST candidates considered unfit had any adverse entries in their C.R.s considered by the DPC</p> <p>(b) If yes, whether such adverse entries were communicated in time to the SC/ST officer (s) concerned</p> <p>(c) Whether the cases of the eligible SC/ST candidates not found fit for promotion were submitted / reported to the Minister / Minister of State / Deputy Minister / Secretary / Head of the Department, as the case may be</p>	
<p>13. Where interviews are prescribed, whether SC/ST candidates were interviewed on a day or sitting of the Selection Committee other than the day / sitting on / in which general candidates were interviewed</p>	
<p>14(a) If ex-post-facto approval is sought to the de-reservation of vacancies, the reasons why proposal for prior de-reservation was not made, and what steps have been taken to prevent its recurrence</p>	
<p>(b) The level at which it was decided to fill the reserved vacancies by other category candidate (s) without prior de-reservation</p>	

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It is certified

- (1) that the proposal for de-reservation is agreed to at the level of Joint Secretary to the Government of India in the administrative Ministry / Department.
- (2) that the proposal has been seen and concurred in by the Liaison Officer of the Ministry / Department.
- (3) that copies of this proposal are simultaneously being sent to the National Commission for Scheduled Castes / National Commission for Scheduled Tribes and the Department of Personnel & Training.

Signature.....

Name of the Signing Officer.....

Designation.....

Tele. No.....

No. \_\_\_\_\_

Date \_\_\_\_\_

To

- (1) Department of Personnel & Training, New Delhi.
- (2) National Commission for Scheduled Castes / National Commission for Scheduled Tribes.

**CHAPTER -8**  
**VERIFICATION OF THE CLAIMS OF SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER BACKWARD CLASSES**

8.1 Any person who claims to belong to a Scheduled Caste or a Scheduled Tribe or Other Backward Class will have to produce a certificate to the Appointing Authority/Selection Committee/Board etc. in support of his claim so as to make him eligible for reservation and various relaxations and concessions.

8.2 The Caste/Tribe/Community certificate issued by the following authorities in the prescribed form for SCs/STs and for OBCs will only be accepted as proof in support of a candidate's claim as belonging to the Scheduled Caste or the Scheduled Tribe or the Other Backward Class as given in **Annexure-I** and **Annexure-II**

- (i) District Magistrate/Additional District Magistrate/Collector /Deputy Commissioner/Additional Deputy Commissioner/ Deputy Collector/ 1<sup>st</sup> Class Stipendary Magistrate/Sub Divisional Magistrate/Taluka Magistrate/Executive Magistrate/Extra Assistant Commissioner.
- (ii) Chief Presidency Magistrate/ Additional Chief Presidency Magistrate/Presidency Magistrate;
- (iii) Revenue Officer not below the rank of Tehsildar; and
- (iv) Sub-Divisional Officer of the area where the candidate and/or his family normally resides.

**(O.M.NO.36012/6/88-Estt. (SCT) dated 24.4.1990 and OM No.36012/22/93-Estt(Res) dated 15.11.1993 & OM No. 36011/3/2009-Estt(Res) dated 02.09.2009).**

8.3 The appointing authorities should verify the caste status of a Scheduled Caste/ Scheduled Tribe / Other Backward Class candidate at the time of initial appointment and of an SC/ST officer at the time of promotion against reserved vacancy also. For this purpose, the caste and the community to which an SC/ST/OBC person belongs, his place of residence and the name of the State, should be pasted on the top of his service book, personal file or any other relevant document to facilitate such verification. It may be noted that a Scheduled Caste person, whose caste has been de-scheduled after his initial appointment as a Scheduled Caste, is no longer entitled to enjoy the benefit of reservation in promotions. The verification of caste-status at every important up-turn of employee's



career is necessary so that the benefit of reservation and other scheme of concessions etc. should go only to the rightful claimants and not those who become disintitiled to them. ([OM No. 36011/3/2005-Estt.\(Res\) dated 09.09.2005](#)).

8.4 The Appointing Authorities should, in the offer of appointment to the candidates claiming to belong to Scheduled Castes/Scheduled Tribes/Other Backward Classes include a clause as follows:

“The appointment is provisional and is subject to the Caste/Tribe/Community certificate being verified through the proper channels and if the verification reveals that the claim to belong to Scheduled Caste or Scheduled Tribe or Other Backward Class, as the case may be, is false, the services will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of false certificates.” ([OM No. 36033/4/97-Estt \(Res\) dated 25.07.2003](#) and [No.36011/3/2005-Estt.\(Res.\) dated 09/09/2005](#)).

8.5 An appointing authority may, if it considers necessary for any reason, verify the claim of a candidate through the District Magistrate of the place where the candidate and/or his family ordinarily resides. If after appointment in any particular case, the verification reveals that the candidate’s claim was false his services may be terminated in accordance with the relevant rules/orders ([OM No. 36011/3/2005-Estt.\(Res\) dated 09.09.2005](#)).

8.6 As no person professing a religion different from the Hinduism or Sikhism or Budhism can be deemed to be a member of Scheduled Castes, the appointing authorities should stipulate in the letter of appointment issued to Scheduled Caste candidates that they should inform about the change, if any, of their religion to their appointing/administrative authority immediately after such a change. The serving scheduled Caste employees should be instructed to intimate change, if any, in their religion immediately to their appointing/administrative authorities ([OM No. 13/3/71-Estt.\(SCT\) dated 10.09.1971](#)).

**CHAPTER 8**

1	<a href="#">Para 5(7) of MHA O.M. No.42/21/49-NGS</a>	28.01.1952
2	<a href="#">DOPT OM No. 13/3/71-Estt.(SCT)</a>	10.09.1971
3	<a href="#">DOPT OM No. 36012/06/88</a>	24.04.1990
4	<a href="#">DOPT OM No. 36012/22/93-Estt(Res)</a>	15.11.1993
5	<a href="#">DOPT OM No.36033/4/97-Estt (Res)</a>	25.07.2003
6	<a href="#">DOP&amp;T O.M. No.36011/3/2005-Estt.(Res)</a>	09.09.2005
7	<a href="#">DOPT OM No. 36011/3/2009-Estt(Res)</a>	02.09.2009

**FORM OF SCHEDULED CASTE/TRIBE CERTIFICATE**

This is to certify that Shri/Shrimati\*/Kumari\* \_\_\_\_\_ son/daughter\* of  
 \_\_\_\_\_ village/town\* \_\_\_\_\_ in  
 District/Division\* \_\_\_\_\_ of the State/Union Territory\*  
 \_\_\_\_\_ belongs to the \_\_\_\_\_ Caste/Tribe which is recognized as  
 a Scheduled Caste/Scheduled Tribe\* under:

\*The Constitution (Scheduled Castes) Orders, 1950:

\*The Constitution (Scheduled Tribes) Order, 1950;

\*The Constitution (Scheduled Tribes) (Union Territories) Order, 1950;

\*The Constitution (Scheduled Tribes) (Union Territories) Order, 1951:

{as amended by the Scheduled Castes and Scheduled Tribes List (Modification Order, 1956, the Bombay Recognition Act, 1960, the Punjab Recognition Act, 1966, the State of Himachal Pradesh Act, 1970, the North Eastern Areas (Recognition) Act, 1971 and the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976}

\*The Constitution (Jammu and Kashmir) Scheduled Order, 1956;

\*The Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959 as amended by the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976;

\*The Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962;

\* The Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962;

\*The Constitution (Pondicherry) Scheduled Castes Order, 1964;

\* The Constitution (Scheduled Tribes) (Uttar Pradesh) Order, 1967;

\* The Constitution (Goa, Daman and Diu) Scheduled Castes Order, 1968;

\* The Constitution (Goa, Daman and Diu) Scheduled Tribes Order, 1968;

\* The Constitution (Nagaland) Scheduled Tribes Order, 1970.

\* The Constitution (Sikkim) Scheduled Tribes Order, 1978.

2. Shri/Shrimati\*/Kumari\* \_\_\_\_\_ and/or\* his/her\* family ordinarily  
 reside(s) in village/town\* \_\_\_\_\_ of  
 \_\_\_\_\_ District/Division\* of the State/Union Territory\*  
 of \_\_\_\_\_.

Signature \_\_\_\_\_

Designation \_\_\_\_\_

(with seal of office)  
 State/Union Territory

Place \_\_\_\_\_

Date \_\_\_\_\_

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\* Please delete the words which are not applicable.

**Note:** The term “Ordinarily resides” used here will have the same meaning as in Section 20 of the Representation of the Peoples Act, 1950.

**FORM OF CERTIFICATE TO BE PRODUCED BY**  
**OTHER BACKWARD CLASSES APPLYING FOR APPOINTMENT**  
**TO POSTS UNDER THE GOVERNMENT OF INDIA**

This to certify that Shri/Smt./Kumari \_\_\_\_\_ son/daughter of \_\_\_\_\_ of village/town \_\_\_\_\_ in District/Division \_\_\_\_\_ in the State/Union Territory \_\_\_\_\_ belongs to the \_\_\_\_\_ community which is recognised as a backward class under the Government of India, Ministry of Welfare Resolution No.12011/68/93-BCC(C) dated 10<sup>th</sup> September, 1993 published in the Gazette of India Extraordinary Part I Section I dated 13<sup>th</sup> September, 1993\*. Shri/Smt./Kumari \_\_\_\_\_ and/or his/her family ordinarily reside(s) in the \_\_\_\_\_ District/Division of the \_\_\_\_\_ State/Union Territory. This is also to certify that he/she does not belong to the persons/sections (Creamy Layer) mentioned in column 3 of the Schedule to the Government of India, Department of Personnel & Training OM No.36012/22/93-Estt(SCT) dated 8.9.1993\*.

District Magistrate,  
Deputy Commissioner etc.

Dated:

Seal

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\* as amended from time to time.

**NOTE:** The term “Ordinarily ” used here will have the same meaning as in Section 20 of the Representation of the Peoples Act, 1950.

## **CHAPTER -9**

### **MONITORING AND INSTITUTIONAL SAFEGUARDS**

#### **Annual Returns**

9.1 Soon after the first of January of every year, each Appointing Authority shall send to its administrative Ministry/Department:-

- (i) SC/ST/OBC Report-I in the performa given in **Annexure-I** showing the total number of Government servants and the number of SCs, STs and OBCs amongst them as on the 1<sup>st</sup> January of the year and the number of appointments made during the preceding calendar year along with the number of SCs, STs and OBCs amongst them; and
- (ii) SC/ST/OBC Report-II in the proforma given in **Annexure-II** showing the representation of SCs, STs and OBCs in various grades of organized Group 'A' services as on the 1<sup>st</sup> January of the year and the particulars of recruitment to the various grades during the preceding calendar year in the service.

9.2 On receipt of the above reports, the administrative Ministry/Department shall consolidate the information received from all Appointing Authorities under it and shall send to the Department of Personnel and Training by the 31<sup>st</sup> March of each year:

- (i) Consolidated SC/ST/OBC Report-I in respect of the Ministry/Department including information in respect of all Attached and Subordinate Offices under its control.
- (ii) SC/ST/OBC Report-II in respect of each organized Group 'A' service under its control reflecting grade-wise position of the representation of SCs/STs/OBCs in the service as on 1<sup>st</sup> January of the year and particulars of recruitment to various grades of the service during the preceding calendar year.

9.3 Information in respect of public sector undertakings, statutory, semi-Government and autonomous bodies should **not be included** in the reports sent to the Department of Personnel and Training. Statutory, semi-Government and autonomous bodies should furnish consolidated information in the prescribed proforma to the administrative Ministry/Department. The administrative Ministry/Department may maintain this information in respect of all statutory, semi-Government and autonomous bodies under its control. The Department of Public Enterprises may collect similar information in respect of all public sector undertakings and may maintain it.

9.4 While furnishing the figures of representation of SCs, STs and OBCs in Report-I, information in respect of the posts of “sweepers/safaikaramcharies” should not be included as such inclusion results in inflating the figures of representation of SCs in group D posts. In the report, information in respect of group D posts (excluding sweepers) and group D posts (sweepers) should be given separately.

9.5 The reports relate to persons and not to posts. Therefore, the posts vacant etc. should not be taken into account while furnishing the reports. A person on deputation should be included in the establishment of the borrowing Ministry/Department/Office and not in the parent office. Figures in respect of Scheduled Castes, Scheduled Tribes and Other Backward Classes should include persons appointed by reservation as well as appointed on their own merit. The persons permanent in one grade but officiating or holding temporary appointment in the higher grades should be shown in the figures relating to the class of service in which the higher grade concerned is included.

### **Incorporation of Reservation Information in Annual Reports**

9.6 Each Ministry/Department should include in its Annual Report a note about the activities of the Reservation Cell set up within the Ministry/Department under the control of the Liaison Officer and the steps taken by the Ministry/Department to implement the provisions about reservation for SCs, STs, OBCs and PWDs. The statistics relating to representation of Scheduled Castes, Scheduled Tribes, Other Backward Classes and Persons with Disabilities should also be incorporated in the Annual Report. This should include the information contained in SC/ST/OBC Report-I, SC/ST/OBC Report-II, and reports prescribed in respect of persons with disabilities which each Ministry/Department is required to furnish to the Department of Personnel and Training in a

consolidated form every year. Besides the consolidated information in respect of the Ministry/Department as a whole including all the attached and subordinate offices, it would be useful to incorporate information in respect of each organization/establishment under the Ministry/Department in the Annual Report. Similar information in respect of statutory and semi-Government bodies and in respect of public sector undertakings under the control of the Ministry/Department may also be usefully included in the Annual Report.

### **Liaison Officers**

9.7 In each Ministry/Department the Deputy Secretary in charge of administration or any other officer at least of the rank of Deputy Secretary will act as a Liaison Officer in respect of matters relating to the representation of Scheduled Castes and Scheduled Tribes in all establishments and services under the administrative control of the Ministry/Department. A separate Liaison Officer should be appointed for Other Backward Classes. The Liaison Officers will be specially responsible for:

- (i) Ensuring due compliance by the subordinate appointing authorities with the orders and instructions pertaining to the reservation of vacancies in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes and other benefits admissible to them.
- (ii) Ensuring timely submission of SC/ST/OBC Reports I and II by each appointing authority under the Ministry/Department to the Ministry/Department and ensuring scrutiny and consolidation of the above reports in respect of all establishments and services in and under the control of the Ministry/Department and sending the consolidated reports in the prescribed proformae to the Department of Personnel & Training.
- (iii) Acquainting himself( Liaison Officer for SCs and STs) well in time about the dates of various DPCs, which will be held in future. He will have with him a ready list of officers of various levels belonging to SC/ST of a few sister Departments/ Ministries so that whenever requirement arises, an SC/ST officer of appropriate level consistent with the level of the other members of the DPC and the level of appointment for which a DPC is proposed to be convened, can always be associated as a member.



Such a list may be prepared by the Liaison Officer by informally consulting the administrative wing of other Ministries/Departments.

- (iv) Ensuring that while making a reference to the Department of Personnel and Training and to the National Commission for Scheduled Castes/the National Commission for Scheduled Tribes for de-reservation of reserved vacancies, full details in support of the proposal for de-reservation are given.
- (v) Ensuring the extension of necessary assistance to the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes in the investigation of complaints received by the Commission, in regard to service matters and in the collection of information for his annual report.
- (vi) Conducting annual inspection of the reservation registers/roster registers maintained in the Ministry/Department/Offices under the control of the Ministry/Department with a view to ensuring proper implementation of the reservation orders.
- (vii) Acting as Liaison Officer between the Ministry/Department and the Department of Personnel & Training for supply of other information, answering questions and queries and clearing doubts in regard to matters covered by the reservation orders.

9.8 Each Ministry/Department should set up a Reservation Cell within the Ministry/Department under the direct control of the Liaison Officers. The functions of the Cell will mainly be to assist the Liaison Officers to discharge their duties effectively.

9.9 In offices under the control of each Head of Department also, the Liaison Officers will be nominated for work relating to representation of Scheduled Castes, Scheduled Tribes and Other Backward Classes in such offices. The duties of Liaison Officers for offices under such Heads of Departments will be similar to those mentioned above in respect of offices under their charge.

9.10 Cases of negligence or lapses in the matter of following the reservation and other orders relating to Scheduled Castes, Scheduled Tribes and Other Backward Classes coming to light through the inspections carried out by the Liaison Officers or otherwise, should be reported/submitted by him to the Secretary/Additional Secretary to the Government in the respective Ministry/Department or to the Head of the Department in respect of offices under the Head of Department, as the case may be. The concerned Secretary/Additional Secretary/Head of the Department shall pass necessary

orders on such reports to ensure strict compliance of the reservation orders by the appointing authority concerned.( [No.43011/153/2010-Estt.\(Res.\) dated 04/01/2013](#))

### **National Commissions for SCs and STs**

9.11 The National Commission for Scheduled Castes and the National Commission for Scheduled Tribes have been constituted under Article 338 and Article 338-A of the Constitution respectively to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes in the Constitution and report to the President upon the working of these safeguards.

9.12 In regard to the question whether the Commissions can call for the original records and files in specific cases where complaints have been made to them and whether Scheduled Caste and Scheduled Tribe Government servants can write to the concerned Commission direct bringing their grievances to the notice of the Commission, it is stated that:

- (a) Files relating to the appointment of candidates belonging to the Scheduled Castes and Scheduled Tribes against the reserved quota should, on demand, be made available to the National Commission for Scheduled Castes or the National Commission for Scheduled Tribes, as the case be;
- (b) In all other cases, comprehensive notes explaining the position may be furnished to the Commission;
- (c) Should the Commission have any reservations or doubts in regard to the explanations given, the matter may be referred to the Secretary(Personnel), who will go through the original records and answer the queries by the Commission, where possible he will also send the record with the reply; and
- (d) Scheduled Caste and Scheduled Tribe Government employees may write to the National Commission for Scheduled Castes or the National Commission for Scheduled Tribes, as the case may be, direct on matters relating to appointments against the reserved quota. It is not necessary for the Scheduled Caste and Scheduled Tribe Government employees to seek prior permission of the concerned administrative Ministry/Department for sending their representations to the concerned Commission.

**Note:** The expression “reserved quota” will include matters relating to confirmation, promotion, grant of other concessions allowed to Scheduled Caste and Scheduled Tribe employees by the Department of Personnel and Training from time to time.

9.13 Ministries/Departments and particularly, the Liaison Officers should ensure the extension of necessary assistance to the National Commissions for investigation of complaints received by the latter in service matters. The Communications received from the Commissions calling for facts, comments, etc. in respect of representations on service matters made by individuals should be replied to expeditiously.

9.14 Ministries/Departments should extend necessary assistance required by the Commissions for conducting special studies of the registers/ rosters maintained and of implementation of other orders regarding reservation of Scheduled Castes and Scheduled Tribes by any appointing authority under their administrative control. The follow-up action on the reports/ recommendations made by the Commission after such studies, should be completed and action taken reported to the concerned Commission’s office within six months. Where for any reasons, it is not possible for any Ministry to adhere to this time scheduled, the reasons therefore should be communicated to the Commission before the expiry of six months indicating the details of the action already taken and also the probable time that would be further needed by them to send their final replies/reports.

9.15 The Supreme Court in the matter of the All Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association and Others Vs. Union of India and Others (Civil Appeal No.13700 of 1996) has held that the National Commission for the Scheduled Castes and Scheduled Tribes has no power of granting injunction, whether temporary or permanent. The Court also held that the powers of the Commission in terms of Article 338(8) of the Constitution were all the procedural powers of a Civil Court for the purpose of investigating and inquiring into the matters and that too for that limited purpose only. In view of the judgment of the Supreme Court, the National Commission for the Scheduled Castes and the National Commission for the Scheduled Tribes have no powers to direct withholding of the operation of any orders issued by the Government. The Ministries/Departments etc. may keep in view the judgment of the Supreme Court while dealing with the directions given by the National Commission for the Scheduled Castes or the

National Commission for the Scheduled Tribes. ([O.M. No.36036/2/97-Estt.\(Res\) dated the 1<sup>st</sup> January, 1998](#))

**Relevant Office Memoranda etc.**

1	<a href="#">MHA O.M. No.16/17/67-Estt.(C)</a>	10.4.1968
2	<a href="#">No.27/22/68-Estt.(SCT)</a>	19.4.1969
3	<a href="#">DOP&amp;AT OM NO. 27/4/(1)/70-Estt(SCT)</a>	3.9.1970
4	<a href="#">Deptt. of Personnel O.M. No.8/8/71-Estt.(SCT)</a>	22.4.1971
5	<a href="#">Deptt. of Personnel O.M. No27/2/71-Estt.(SCT)</a>	24.3.1972
6	<a href="#">MHA O.Ms. No.8-2-69-SCT(I)</a>	1.10.1974
7	<a href="#">DP&amp;AR O.M. No.36022/5/76-Estt.(SCT)</a>	27.5.1976
8	<a href="#">OM No. 36022/5/(1)/76-Estt(SCT)</a>	28.5.1976
9	<a href="#">OM No. 36013/1/77/Estt(SCT)</a>	7.6.1977
10	<a href="#">DP&amp;AR O.M. No.36024/1/78-Estt.(SCT)</a>	27.6.1978
11	<a href="#">DP&amp;AR O.M. No.36024/1/78-Estt.(SCT)</a>	20.2.1979
12	<a href="#">No.46028/1/79-Estt.(SCT)</a>	11.10.1979
13	<a href="#">No. 36013/6/81-Estt.(SCT)</a>	07/12/1981
14	<a href="#">DP&amp;AR O.M.No.36034/2/83-Estt.(SCT)</a>	23.2.1983
15	<a href="#">DP&amp;AR O.M. No.36022/2/84-Estt.(SCT)</a>	18.1.1985
16	<a href="#">DOP&amp;T O.M. No.36012/25/92-Estt.(SCT)</a>	1.9.1992
17	<a href="#">DOPT OM No. 42011/18/96-Estt(Res)</a>	6.3.1997
18	<a href="#">DOP&amp;T O.M. No.36036/2/97-Estt.(Res)</a>	1.1.1998
19	<a href="#">DOP&amp;T O.M. No 36036/2/97-Estt.(Res)</a>	30.11.1998
20	<a href="#">No.43011/153/2010-Estt.(Res.)</a>	4/1/2013





**CHAPTER -10****MISCELLANEOUS****Arrangements for Training**

10.1 The following steps should be taken for training of Group A Officers belonging to Scheduled Castes and Scheduled Tribes:

- (i) More intensive training should be arranged for directly recruited Group A officers belonging to Scheduled Castes and Scheduled Tribes by the Heads of the Training Institutions, wherever necessary, along with other officers. [[DoPT's OM No.1/9/69-Estt. \(SCT\) dated 15.11.1971](#)].
- (ii) Ministries/Departments should nominate a considerably larger number of Scheduled Caste and Scheduled Tribe officers for the training programmes run by various Departments and Training Institutions. They should lay down a time limit, say 3 years, within which training of such officers in appropriate fields should be completed. A phased programme for sponsoring such officers for training to the various Institutions should be drawn up. The Ministries/Departments should identify the training needs of the Scheduled Caste and Scheduled Tribe officers and then examine to which training programmes these officers should be deputed. Special attention may also be paid to the training of such officers as are selected for promotion by relaxed standards to enable them to give a good account of themselves. The Training Division of the Department of Personnel & Training would render all assistance in suggesting or even devising suitable programmes, wherever necessary. [[OM No.36013/18/77-Estt.\(SCT\) dated 4.9.1978](#) and [DoPT's OM No.36022/4/2005-Estt.\(Res.\) dated 13.7.2005](#)].
- (iii) In drawing up such training programmes, adequate margin should be provided to take in as many Scheduled Caste and Scheduled Tribe officers as are sponsored by the Ministries. It would be useful to earmark 25 per cent of the seats for officers of Scheduled Castes and Scheduled Tribes, wherever possible. In case this becomes difficult in any particular programme, then such officers could be covered in the next

course or a special programme may be arranged for them. It would also be useful if officers of Scheduled Castes and Scheduled Tribes were included in the various training programmes abroad. It would enable them to broaden their outlook and also build up specialized knowledge. It is also likely to boost up the morale of the officers of these communities. [[DP&AR's OM No.1/1/73-Estt.\(Res.\) dated 10.12.73](#) and [DP&AR's OM No.36022/13/76-Estt.\(SCT\) dated 14.9.1976](#) and [DP&AR's OM No.36013/18/77-Estt.\(SCT\) dated 4.9.78](#)].

- (iv) Superiors of Scheduled Caste and Scheduled Tribe Officers should be asked to take special care regarding on the job training of these officers, identify areas where special training is considered necessary and take appropriate steps for such training in consultation with the Department's Training Coordinator and the Training Division of the Department of Personnel & Training. [[M/o Home Affairs OM No.27/2/70-Estt.\(SCT\) dated 21.4.70](#)].
- (v) Cases of Scheduled Caste and Scheduled Tribe Officers should be considered sympathetically and they should be given preference while nominating officers for training or deputing them for attending seminars/conferences, symposia etc. While nominating officers for training programmes run by the various Departments and Training Institution or for training programmes abroad or for training, seminars and conferences, it should be indicated as to which of the officers nominated belong to Scheduled Castes and Scheduled Tribes, so that their cases may be duly considered by the appropriate authorities at the time of selection. [[DP&AR's OM No.16/4/74-Estt.\(SCT\) dated 18.4.1974](#)].

### **Intimation about Competitive Examinations to Pre-Examination Training Centers**

10.2 Pre-examination Training Centers have been set up in various States to increase the employment potentialities of Scheduled Caste and Scheduled Tribe candidates in reserved vacancies filled through various competitive examinations. The authorities holding the various competitive examinations should inform these Pre-examination Training Centers well in advance of the actual date of the examination, the probable number of reserved vacancies and the syllabus for and the standard of the examination. This would enable the Pre-examination Training Centers to evolve the Scheme of Training which will be correlated to such examinations and which in turn would lead to



improved intake of Scheduled Caste and Scheduled Tribe candidates against reserved vacancies. [[M/o Home Affairs' letter No.21/3/70-Estt.\(B\) dated 31.3.70](#)].

### **Selection of Persons for Posting Abroad**

10.3 While it will not be possible to provide for any specific norm of relaxation in favour of Scheduled Caste and Scheduled Tribe employees in the matter of posting in foreign countries, when a Ministry/Department etc. makes selection of persons for posting in its units etc. located in a foreign country, it should see that eligible employees belonging to Scheduled Castes and Scheduled Tribes are also considered along with others for such posting. [[DP&AR's OM No.16/32/74-Estt.\(SCT\) dated 3<sup>rd</sup> April, 1976](#)].

### **Forwarding of Application for Employment**

10.4 Application for employment elsewhere of temporary or permanent Central Government servants belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes should be readily forwarded except in very rare cases where there may be compelling grounds of public interest for withholding such applications. Cases where applications of employees belonging to Scheduled Castes/Scheduled Tribes /Other Backward Classes could not be forwarded due to compelling grounds of public interest, should be reported within a month to the officer nominated as Liaison Officer in the administrative Ministry/ Department or in offices under the Head of Department. [ [M/o Home Affairs' OM No.1/6/69-SCT\(I\) dated 19.3.1964](#) and [DoPT's OM No.27/4\(iv\)/70-Estt.\(SCT\) dated 2.9.70](#)].

### **Prevention of Discrimination**

10.5 It has been pointed out on many occasions that the Scheduled Caste and Scheduled Tribe Officers, after appointment, are subjected to harassment and discrimination on grounds of their social origin. It has been pointed out that SC/ST officers are some times transferred to far-off places and also placed at insignificant positions. It has also been stated that these officers are not accepted at their places of postings by the concerned superior officers in some cases. In this connection, it is emphasized that Government servants should desist from any act of discrimination against members of SC/ST communities on grounds of their social origin. Senior officers, including the Liaison Officers of the Ministry/Department, should keep a close watch to ensure that such incidents do not occur at all. However, if any such incident comes to the notice of the authorities, action should be

taken against the erring officials promptly. [[OM No.36026/3/85-Estt.\(SCT\) dated 24<sup>th</sup> June, 1985](#)].

### **Provisions In Recruitment Rules/Regulations For Examination**

10.6 The recruitment rules in respect of all services/posts within the purview of the reservation orders should contain a separate rule on the following lines:-

“Savings: Nothing in these rules shall affect reservations, relaxation of age-limit and other concessions required to be provided for Scheduled Castes, Scheduled Tribes, Other Backward Classes, Persons with Disabilities and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.” [ [DoPT’s OM No. 8/12/71-Estt. \(SCT\) dated 21<sup>st</sup> September, 1971](#)].

10.7 The provisions in recruitment rules and regulations for examinations for relaxation in standards in favour of Scheduled Castes/Tribes may be worded as follows:

“Candidates belonging to any of the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or the Persons with Disabilities may, to the extent the number of vacancies reserved for the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes and the Persons with Disabilities cannot be filled on the basis of the general standard, be recommended by the Commission by a relaxed standard to make up the deficiency in the reserved quota, subject to the fitness of these candidates for selection to the post/service irrespective of their ranks in the order of merit at the examination.” [ [OM No.8/12/71-Estt.\(Res.\) dated 19<sup>th</sup> October, 1971](#) and [M/o Home Affairs’ OM No.1/1/70-Estt.\(SCT\) dated 25.7.1970](#)].

**Note:** If the recruitment is not made through the UPSC, the reference to the Commission in the above provision may be modified to refer to the competent authority.

### **Clarifications about SC/ST/OBC Status**

10.8 Cases in which a doubt arises whether a person belongs to a Scheduled Caste or Other Backward Class or whether a caste or community is a Scheduled Caste or included in Other Backward Classes may be referred to the Ministry of Social Justice and Empowerment, Shastri Bhavan, New Delhi. If such a doubt arises about Scheduled Tribe status of a person or community, reference may be made to the Ministry of Tribal Affairs, Shastri Bhavan, New Delhi. However, a set of points which should be taken into account by the certificate issuing authorities are given below. [\[M/o Home Affairs' Circular letter No. 35/1/72-RV\(SCTV\) dated 2.5.75\]](#)

10.9 Where a person claims to belong to a Scheduled Caste, Scheduled Tribe or a Backward community by birth, it should be verified :

- (i) That the person and his parents actually belong to the community claimed;
- (ii) That this community is included in the Presidential Orders specifying the Scheduled Castes and Scheduled Tribes or included in the list of OBCs notified by the Ministry of Social Justice and Empowerment, Government of India in relation to the concerned State;
- (iii) That the person belongs to that State and to the area within that State in respect of which the community has been scheduled/notified.
- (vi) If the person claims to be a Scheduled Caste, he should profess either the Hindu or the Sikh or the Buddhist religion.

### **Cases of Migration**

- 10.10 (i) Where a person migrates from the portion of the state in respect of which his community is scheduled/notified to another part of the same State in respect of which his community is not scheduled/notified, he will continue to be deemed to be a member of the Scheduled Caste or the Scheduled Tribe or the Other Backward Class, as the case may be in relation to that State;
- (ii) Where a person migrates from one state to another, he can claim to belong to a Scheduled Caste or Scheduled Tribe or Other Backward Class only in relation to the State to which he originally belonged and not in respect of the State in which he has migrated.

### **Claims through Marriage**

10.11 No person who was not a member of Scheduled Caste or a Scheduled Tribe or Other Backward Class by birth will be deemed to be a member of Scheduled Caste or Scheduled Tribe or Other Backward Class merely because he or she had married a person belonging to a Scheduled

Caste or Scheduled Tribe or Other Backward Class. On the other hand a person who is a member of a Scheduled Caste or a Scheduled Tribe or an OBC would continue to be a member of that Scheduled Caste, Scheduled Tribe or OBC, as the case may be, even after his or her marriage with a person who does not belong to a Scheduled Caste or a Scheduled Tribe or an Other Backward Class.

### **Cases of Conversion and Reconversion**

- 11.12 (i) Where a Scheduled Caste person gets converted to a religion other than Hinduism or Sikhism or Buddhism and then reconverts himself back to Hinduism or Sikhism or Buddhism, he will be deemed to have reverted to his original Scheduled Caste, if he is accepted by the members of that particular caste as one among them.
- (ii) In the case of a descendant of a Scheduled Caste convert, the mere fact of conversion to Hinduism or Sikhism or Buddhism will not be sufficient to entitle him to be regarded as a member of the Scheduled Caste to which his forefathers belonged. It will have to be established that such a convert has been accepted by the members of the caste claimed as one among themselves and has thus become a member of that caste.

### **Cases of Adoption**

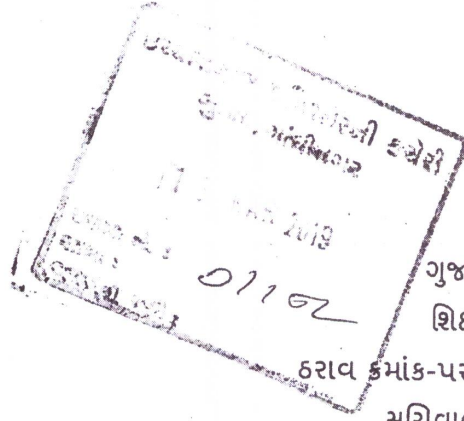
11.13 Great care has to be exercised in dealing with cases where a person claims to be a member of Scheduled Caste or Other Backward Class on the ground that he has been adopted by a Scheduled Caste/OBC person. The validity of the adoption has to be clearly established before any caste certificate can be given. It is for the party to prove his claim by cogent and reliable evidence:

- (i) The requirements of valid adoption are given in sections 6 to 11 of the Hindu Adoption Maintenance Act, 1956. The actual giving and taking of the child in adoption is a mandatory requirement and thereafter the adopted child is deemed to be the child of his or her adoptive father or mother for all purposes and the child severs all ties with the family of his or her birth. Ordinarily, no child who has attained the age of 15 years or who is married can be given in adoption unless there is a custom or usage applicable to the parties.

- (ii) In deciding whether an adoption is valid, the certificate issuing authority should satisfy himself that all the requirements of law have been complied with. He should also take into account the behaviour of the child after adoption whether he physically lives with and is supported by his adoptive parents and receives no financial help from his original parents. In case these conditions are not satisfied, the certificate should be refused.
- (iii) Where the case relates to an adoption of a married person or of a person of the age of 15 years and above, the certificate shall be required to be given by the District Magistrate who shall after making due enquiries as to the validity of the adoption as to whether such adoption is permitted by a custom or usage applicable to the parties, make an endorsement to that effect on the certificate. Such custom or usage should have been continuously and uniformly observed for a long time and obtained the force of law among the Hindus of that particular area, or that community, group of family provided that the custom or usage is certain and not unreasonable or opposed to public policy and in the case of custom or usage in respect of a particular family that the custom or usage has not been discontinued. In addition, it should be verified that all other conditions for a valid adoption, including the physical transfer of the adopted person to the family of the adoptive parents and that he has severed all ties with the original parents are fulfilled.

### **Relevant Office Memoranda etc.**

1	<a href="#">MHA O.M. No.1/6/64-Estt.(SCT)(I)</a>	19.3.1964
2	<a href="#">MHA letter No. 21/3/70-Estt(B)</a>	31.3.1970
3	<a href="#">MHA O.M. No.27/2/70-Estt.(SCT)</a>	21.4.1970
4	<a href="#">MHA's OM 1/1/70-Estt(SCT)</a>	25.7. 1970
5	<a href="#">DOP&amp;T O.M. No.27/4(iv)/70-Estt.(SCT)</a>	2.9.1970
6	<a href="#">DOPT OM No. 8/12/71-Estt(SCT)</a>	19.10.1971
7	<a href="#">Deptt. of Personnel O.Ms. No.1/9/69-Estt.(SCT)</a>	15.11.1971
8	<a href="#">DP&amp;AR O.M. No.1/1/73-Estt.(SCT)</a>	10.12.1973
9	<a href="#">DP&amp;AR O.Ms. No.16/4/74-Estt.(SCT)</a>	18.4.1974
10	<a href="#">DOP &amp; AR OM No. 16/32/74-Estt(SCT)</a>	3.4.1976
11	<a href="#">DP&amp;AR O.M. No.36022/13/76-Estt.(SCT)</a>	14.9.1976
12	<a href="#">No.36013/18/77-Estt.(SCT)</a>	4.9.1978
13	<a href="#">DOPT OM No. 36026/3/85-Estt(SCT)</a>	24.6.1985
14	<a href="#">DOP&amp;T O.M. No.36022/4/2005-Estt.(Res)</a>	13.7.2005
15.	<a href="#">M/o Home Affairs' Circular letter No. 35/1/72-RV(SCTV)</a>	2.5.1975.



ગુજરાત સરકાર  
શિક્ષણ વિભાગ  
કરાવ ક્રમાંક-પરચ/૧૦૨૦૧૯/૧૨૯/૨  
સચિવાલય, ગાંધીનગર  
તા. ૦૧/૦૩/૨૦૧૯

સહાયક અનુદાન મેળવતી કે સહાયક અનુદાન ન મેળવતી હોય તે સહિતની તમામ શૈક્ષણિક સંસ્થાઓમાં આર્થિક રીતે નબળા વર્ગો (Economically Weaker Sections) ના બાળકોને પ્રવેશ આપવા માટે ૧૦ ટકા અનામત રાખવા બાબત.

વંચાણે લીધા-

- (૧) ગુજરાત સરકારના સામાજિક ન્યાય અને અધિકારીતા વિભાગના તા.૨૩/૦૧/૨૦૧૯ના કરાવ ક્રમાંક ઇ.ડબલ્યુ.એસ/૧૨૨૦૧૯/૪૫૯૦૩/અ.
- (૨) ભારત સરકારના માનવ સંસાધન વિકાસ મંત્રાલયના ડીપાર્ટમેન્ટ ઓફ હાયર એજ્યુકેશનના તા.૧૭/૦૧/૨૦૧૯ ના ઓફિસ મેમોરેન્ડમ નં-12-4/2019-U1

આમુખ:

ભારતના બંધારણના આર્ટિકલ ૧૫ અને ૧૬ ની જોગવાઈ અનુસાર, હાલમાં સહાયક અનુદાન મેળવતી કે સહાયક અનુદાન ન મેળવતી હોય તે સહિતની શૈક્ષણિક સંસ્થાઓમાં પ્રવેશ માટે અનુસૂચિત જાતિ, અનુસૂચિત જનજાતિ, સામાજિક અને શૈક્ષણિક રીતે પછાત વર્ગો/અન્ય પછાતવર્ગો માટે અનામત રાખવાની જોગવાઈ અનુસાર લાભો આપવામાં આવે છે. ગુજરાત રાજ્યમાં શૈક્ષણિક સંસ્થાઓમાં પ્રવેશ માટે અનુસૂચિત જાતિ માટે ૭%, અનુસૂચિત જનજાતિ માટે ૧૫ % અને સામાજિક અને શૈક્ષણિક રીતે પછાત વર્ગો માટે ૨૭% જગ્યાઓ અનામત રાખવામાં આવે છે.

ભારતની સંસદ દ્વારા બંધારણ(એકસો ત્રણમો સુધારો) અધિનિયમ-૨૦૧૯ થી, બંધારણના આર્ટિકલ ૧૫ અને ૧૬ માં સુધારો કરવામાં આવેલ છે. તે સુધારા મુજબ સહાયક અનુદાન મેળવતી કે સહાયક અનુદાન ન મેળવતી હોય તે સહિતની શૈક્ષણિક સંસ્થાઓમાં પ્રવેશ માટે તેમજ મુલકી સેવા અને જગ્યાઓ માટે અનુસૂચિત જાતિ, અનુસૂચિત જનજાતિ, સામાજિક અને આર્થિક રીતે પછાત વર્ગો/અન્ય પછાતવર્ગો માટે હાલમાં અનામત જગ્યાઓ રાખવામાં આવે છે તે ઉપરાંત આર્થિક રીતે નબળા વર્ગ (Economically Weaker Sections)ના નાગરિકોને પણ અનામતનો લાભ મળે તેવી



જોગવાઈ કરવામાં આવી છે. આ બંધારણીય સુધારાનો અમલ તા.૧૪/૦૧/૨૦૧૯ થી કરવામાં આવેલ છે.

ભારતની સંસદ દ્વારા પસાર કરવામાં આવેલ બંધારણીય સુધારાને અનુલક્ષીને સામાજિક ન્યાય અને અધિકારીતા વિભાગના વંચાણે લીધેલ ક્રમાંક(૧) સામેના તા.૨૩/૦૧/૨૦૧૯ ના ઠરાવથી અનુસૂચિત જાતિ, અનુસૂચિત જનજાતિ, સામાજિક અને શૈક્ષણિક રીતે પછાત વર્ગો/અન્ય પછાતવર્ગો માટેની અનામત યોજનામાં આવરી લેવામાં આવ્યા નથી તેવા આર્થિક રીતે નબળા વર્ગો(Economically Weaker Sections)ના નાગરિકોને ૧૦% અનામતનો લાભ આપવાની ખાસ જોગવાઈ કરવામાં આવી છે. આ જોગવાઈને અનુલક્ષીને શૈક્ષણિક સંસ્થાઓમાં પ્રવેશ માટે આર્થિક રીતે નબળા વર્ગો (Economically Weaker Sections)ના નાગરિકોને ૧૦% અનામત આપવાની બાબત સરકારશ્રીની વિચારણા હેઠળ હતી.

### ઠરાવ:

સરકારશ્રીની પુખ્ત વિચારણાને અંતે, સામાજિક ન્યાય અને અધિકારીતા વિભાગના વંચાણે લીધેલ ક્રમાંક(૧) સામેના તા.૨૩/૦૧/૨૦૧૯ ના ઠરાવથી અનુસૂચિત જાતિ, અનુસૂચિત જનજાતિ, સામાજિક અને શૈક્ષણિક રીતે પછાત વર્ગો/અન્ય પછાતવર્ગો માટેની અનામત યોજનામાં આવરી લેવામાં આવ્યા નથી તેવા આર્થિક રીતે નબળા વર્ગો (Economically Weaker Sections)ના નાગરિકોને ૧૦% અનામતનો લાભ આપવાની જોગવાઈ, હાલ પ્રવર્તમાન વ્યવસ્થા પ્રમાણે અનામત લાગુ પાડતી સહાયક અનુદાન મેળવતી કે સહાયક અનુદાન ન મેળવતી હોય તે સહિતની, તમામ શૈક્ષણિક સંસ્થાઓમાં, વિદ્યાર્થીઓને પ્રવેશ માટે અનુસૂચિત જાતિ, અનુસૂચિત જનજાતિ, સામાજિક અને શૈક્ષણિક રીતે પછાત વર્ગો/અન્ય પછાતવર્ગો માટે અનામત રાખવામાં આવે છે તે કેટેગરીમાં સમાવિષ્ટ કરવામાં આવેલ હોય તે સિવાયના આર્થિક રીતે નબળા વર્ગો (Economically Weaker Sections)ના નાગરિકોને ૧૦% અનામતનો લાભ આપવાનું આથી ઠરાવવામાં આવે છે.

૨. ભારતના બંધારણના આર્ટિકલ-૩૦(૧) અન્વયે જાહેર કરવામાં આવેલી લઘુમતિ સંસ્થાઓને આ પ્રકારની અનામતની જોગવાઈ લાગુ પડતી નથી.

૩(અ). દરેક શૈક્ષણિક સંસ્થાએ સક્ષમ સત્તામંડળની પૂર્વમંજૂરી મેળવીને, સંસ્થાને વિદ્યાશાખા માટેની વાર્ષિક ધોરણે ફાળવેલ બેઠકોમાં વધારો કરવાનો રહેશે કે જેથી સંબંધિત વિદ્યાશાખામાં, આર્થિક રીતે નબળા વર્ગો(EWS) માટે આરક્ષિત બેઠકોની સંખ્યા બાદ કરતાં, અન્ય વર્ગો માટે ઉપલબ્ધ બેઠકોની સંખ્યામાં કોઈ

ઘટાડો થાય નહીં. બેઠકોની સંખ્યામાં આ વધારો આ ઠરાવના પછીના શૈક્ષણિક વર્ષથી કરવાનો રહેશે.

૩(બ). જ્યારે કોઈ શૈક્ષણિક સંસ્થા રજુઆત કરે અને નાણાકીય, ભૌતિક અથવા શૈક્ષણિક મર્યાદાઓના કારણે અથવા શિક્ષણની ગુણવત્તા જાળવવાના આશયથી, આ ઠરાવના પછીના શૈક્ષણિક વર્ષથી, કોઈપણ વિદ્યાશાખામાં બેઠકોની સંખ્યામાં વધારો કરી શકાય તેમ નથી તેવું સક્ષમ સત્તામંડળને જણાય તેવા સંજોગોમાં સક્ષમ સત્તામંડળ, આ ઠરાવના પછીના શૈક્ષણિક વર્ષથી મહત્તમ બે વર્ષ સુધી વાર્ષિક બેઠકોની સંખ્યા વધારવાની પરવાનગી આપી શકે છે. આર્થિક રીતે નબળા વર્ગો માટેની અનામત એ રીતે આપવાની રહેશે કે જેથી પ્રત્યેક શૈક્ષણિક સત્ર માટે અનુસૂચિત જાતિ, અનુસૂચિત જનજાતિ અને સામાજિક અને શૈક્ષણિક પછાત વર્ગો માટેની અનામત બેઠકો તથા ટકાવારીમાં કોઈ ઘટાડો થાય નહીં.

૪. વંચાણે લીધેલ ક્રમાંક(૧) સામેના તા.૨૩/૦૧/૨૦૧૯ના ઠરાવ મુજબ મૂળ ગુજરાતના અને જે નાગરિકો તા.૦૧/૦૪/૧૯૭૮ અથવા તે અગાઉની તારીખે ગુજરાત રાજ્યમાં સ્થાયી થયેલ હોય તે પૈકીના આર્થિક રીતે નબળા વર્ગો (Economically Weaker Sections)ના નાગરિકોને ૧૦% અનામતનો લાભ આપવાનો રહે છે.

૫. આર્થિક રીતે નબળા વર્ગના લોકો માટેની ૧૦% જગ્યાઓ પૈકી, ૩૩% જગ્યાઓ મહિલાઓ માટે અનામત રાખવાની જોગવાઈ કરવાની રહેશે.

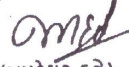
૬. વંચાણે લીધેલ ક્રમાંક(૧) સામેના તા.૨૩/૦૧/૨૦૧૯ના ઠરાવથી નક્કી થયા મુજબ અનુસૂચિત જાતિઓ, અનુસૂચિત જાન જાતિઓ અને સામાજિક અને શૈક્ષણિક રીતે પછાત વર્ગો/અન્ય પછાત વર્ગો સિવાયની જાતિઓ પૈકીના આર્થિક રીતે નબળા વર્ગોને નવી અનામત નીતિનો લાભ આપવા માટે રાજ્ય સરકારે અરજદારના કુટુંબના તમામ સ્ત્રોત મળીને થતી કુલ આવક રૂ.૮,૦૦,૦૦૦/- (અંકે રૂપિયા આઠ લાખ પૂરા) કરતા ઓછી થતી હોય તેવી વ્યક્તિઓ/ઉમેદવારોને અનામતનો લાભ આપવાનું ઠરાવ્યું છે.

૭. વંચાણે લીધેલ ક્રમાંક(૧) સામેના તા.૨૩/૧/૨૦૧૯ના ઠરાવથી આર્થિક રીતે નબળા વર્ગોને અનામત માટે પાત્રતા પ્રમાણપત્ર આપવાનું ઠરાવ્યું છે અને સક્ષમ અધિકારીઓ અધિકૃત કરેલ છે તથા પાત્રતા પ્રમાણપત્રના સંબંધમાં અપીલની જોગવાઈ સુનિશ્ચિત કરવામાં આવી છે.



૮. વંચાણે લીધેલ ક્રમાંક(૧) સામેના તા.૨૩/૧/૨૦૧૯ના ઠરાવ તથા વંચાણે લીધેલ ક્રમાંક(૨) સામેના ભારત સરકારના તા.૧૭/૧/૧૯ ઓફીસ મેમોરેન્ડમની જોગવાઈઓ તથા અન્ય કાયદાકીય જોગવાઈ, નિયમો, ભારત સરકારની સૂચનાઓ વગેરે ધ્યાને લઈ શિક્ષણ વિભાગ હેઠળ સંલગ્ન તમામ પ્રભાગ/શાખાએ તેમના કાર્યક્ષેત્ર માટે સંબંધિત હોય તેવી દરેક જોગવાઈઓ આવરી લઈને જરૂરી જણાય ત્યાં અલગથી ઠરાવ કરવાનો રહેશે.

ગુજરાતના રાજ્યપાલશ્રીના હુકમથી અને તેમના નામે,

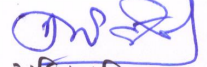
  
(જબરેશ્વર દવે)  
ઉપ સચિવ  
શિક્ષણ વિભાગ

પ્રતિ,

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- માન.વિરોધપક્ષના નેતાશ્રીના અંગત સચિવશ્રી, ગુજરાત વિધાનસભા સચિવાલય, ગાંધીનગર
- માન.મંત્રીશ્રી(શિક્ષણ)ના અંગત સચિવશ્રી, સ્વર્ણિમ સંકુલ-૧, ગાંધીનગર
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૨/- શિક્ષણ વિભાગના, ગાંધીનગરના ઉક્ત તા.૦૮/૦૩/૧૯ ના ઠરાવ ક્રમાંક: ૫૨૫/૧૦૨૦૧૯/૧૨૦/૨ થી જણાવેલ તમામ સૂચનાઓ અનુસાર કરવાની થતી કાર્યવાહી કરવા સારૂ

  
અધિક કમિશનર  
ઉચ્ચ શિક્ષણ કમિશનરની કચેરી  
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