

Bill No. 14, 2021

THE OTHER BACKWARD CLASSES AND ECONOMICALLY
WEAKER SECTIONS (CENSUS AND OTHER WELFARE
PROVISIONS) BILL, 2021

By

SHRI GANESH SINGH, M.P.

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to provide for separate enumeration of persons belonging to the Other Backward Classes and the Economically Weaker Sections and provision of separate budgetary allocation for their welfare and overall development.

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

1. (1) This Act may be called the Other Backward Classes and Economically Weaker Sections (Census and Other Welfare Provisions) Bill, 2021.

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

Short title and commencement.

Separate enumeration of Other Backward Classes and Economically Weaker Sections.

2. Notwithstanding anything to the contrary contained in any other law for the time being in force, on and from the next decennial census, the Central Government shall have separate enumeration of population of Other Backward Classes and Economically Weaker Sections in the country.

Framing and implementation of Comprehensive Welfare Policy.

3. After the completion of Census, the Central Government shall, on the basis of population of Other Backward Classes and Economically Weaker Sections, as ascertained in the Census, frame and implement comprehensive Welfare policies for overall development of the Other Backward Classes and the Economically Weaker Sections.

Budgetary allocation for Other Backward Classes and Economically Weaker Sections.

4. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, make separate budgetary allocations for the welfare and development of persons belonging to the Other Backward Classes and the Economically Weaker Sections, in proportion to their population.

(2) The budgetary allocations so earmarked under sub-section (1) shall be spent only on special schemes meant exclusively for the Other Backward Classes and the Economically Weaker Sections, in such manner, as may be prescribed.

(3) The budgetary allocations earmarked under sub-section (1) shall not be diverted for any other purposes or allowed to lapse.

Laying of annual report.

5. The Central Government shall cause an annual report to be prepared after the end of each year on the implementation of the provisions of this Act during that year and cause that annual report to be laid before both Houses of Parliament.

Power to make rules.

6. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) 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 the 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.

STATEMENT OF OBJECTS AND REASONS

The Mandal Commission in its report had stated that due to non-availability of the caste data in the Census of 1931, the Commission has been facing many difficulties. In this regard, the Chairperson of the Mandal Commission Shri B.P. Mandal had written a letter to the then President of India on 31st March, 1980 requesting him to get the caste based census done in respect of Other Backward Classes (OBCs). The then Government communicated to the Mandal Commission that the census of the year 1981 would not be done based on the caste and the current policy of conducting census in India without considering upon caste would continue to be followed.

Under article 16(4) of the Constitution of India, the persons belonging to the Other Backward Classes (OBCs) are being provided with reservations in the matter appointment to the posts in Government services based on the social and educational backwardness. Through 103rd Amendment to the Constitution, Economically Weaker Sections (EWS) are being provided ten percent. reservation in Government and non-Government Educational Institutions (except minorities based Educational Institutions) besides providing them appointment in Government services.

The following passage in the Judgement delivered by Hon'ble Justice P.V. Sawant of the Constitution Bench comprising of nine members of the Supreme Court (Para 522 Judgement Today, Clause-6, No. 9, 30 November 1992) elaborates the point more succinctly:—

"The correct criterion for judging the forwardness of the forwards among the Backward Classes is to measure their capacity not in terms of the capacity of others in their class, but in terms of the capacity of the members of the Forward Class, as stated earlier. If they cross the Rubicon of backwardness, they should be taken out from the Backward Classes and should be made disentitled to the provisions meant for the said classes."

There are various schemes and special provisions for the welfare of the Other Backward Classes (OBCs) and Economically Weaker Sections (EWS) in the country. Despite all these measures, there has not been any significant improvement in the social, educational and economic status of Other Backward Classes(OBCs). Therefore, in absence of the population data of the Other Backward Classes (OBCs), it has become difficult to work towards improving their social, educational and economic conditions and also to take policy decisions.

The notification has been issued for conducting the census during the current year of 2020 and no provision has been made regarding the census of Other Backward Classes (OBCs) and Economically Weaker Sections (EWS).

The Bill seeks to provide that the Central Government shall—

(i) take a special census of the Other Backward Classes (OBCs) and Economically Weaker Sections (EWS);

(ii) formulate and implement a welfare scheme for overall development of persons belonging to Other Backward Classes and Economically Weaker Sections;

(iii) make a separate budgetary allocation for welfare and development of persons belonging to Other Backward Classes and Economically Weaker Sections; and

(iv) ensure that budgetary allocation made for welfare of Other Backward Classes and Economically Weaker Sections, not diverted for any other purposes or allowed to be lapse.

Hence this Bill.

NEW DELHI;
March 11, 2020.

GANESH SINGH

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the Central Government to take a special census of the Other Backward Classes (OBCs) and Economically Weaker Sections (EWS). Clause 3 provides framing and implementation of Comprehensive Welfare Policy. Clause 4 provides budgetary allocation for Other Backward Classes and Economically Weaker Sections. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crores per annum would be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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(Shri Ganesh Singh, M.P.)