

AS INTRODUCED IN LOK SABHA

Bill No. 263 of 2019

THE CONSTITUTION (AMENDMENT) BILL, 2019

By

SHRI P.P. CHAUDHARY, M.P.

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BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2019.

Short title and
commencement.

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

5 2. In article 16 of the Constitution, in clause (4), for the words “backward class of citizens”, the words “socially and educationally backward class of citizens” shall be substituted.

Amendment
of article 16.

STATEMENT OF OBJECTS AND REASONS

The Constitution prohibits discrimination on the grounds of religion, race, caste, sex or place of birth and provides for equality of opportunity in matters of public employment. It also allows the State to make certain provisions for the advancement of persons belonging to the backward classes or for the Scheduled Castes and the Scheduled Tribes.

Article 15(4) of the Constitution allows the State to make special provisions for the advancement of any 'socially and educationally' backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. Article 15(5) allows the State to make special provisions, by law, for advancement of persons belonging to the backward classes or for the Scheduled Castes and the Scheduled Tribes in relation to their admission to educational institutions, including private and aided or unaided institutions other than minority institutions as referred to in article 30(1).

Article 16(4) allows the State to make any provisions for the reservation of appointments or posts in favour of any backward class of the citizens, which in the opinion of the State, is not adequately represented in the services under the State.

It may be seen that under articles 15(4) and (5) of the Constitution, the State can make any special provision for advancement of any socially and educationally backward classes of the citizens or for the Scheduled Castes and the Scheduled Tribes, whereas under article 16(4), the State can make any provision for reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State. Article 16(4) is a broader constitutional provision for the representation of backward classes whereas article 15(4) and (5) restrict to socially and educationally backward classes of citizens. This divergence goes against the Constitutional principles of equality as the opportunities that are made available to all classes and sub-groups of people by the State should be equal, without elevating one sub-group over the other. Hence, it is imperative that opportunities in services under the State under article 16(4) of the Constitution should also be provided on the basis of the same parameters to Backward Classes as are provided in the matters of admission and other means of advancement under article 15(4) and (5) of the Constitution. A different set of parameters should not be used for the advancement of the same classes.

The proposed amendment is also important in light of the fact that article 16(4) in its current form is too broad and allows scope for misuse. It also brings a number of people under its purview that may not in fact be deserving for availing benefits of reservation under above mentioned articles of the Constitution. It is important that benefits that are provided to the persons belonging to the backward classes should reach to those who deserve the most and such a criterion can only be established when those who are socially and educationally backward are given priority. The limited resources of the State must be apportioned for the benefits of those who deserve and require them the most and for this purpose this Bill has proposed an amendment in article 16(4) of the Constitution.

Hence, this Bill.

NEW DELHI;
October 28, 2019.

P. P. CHAUDHARY

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

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16.(1)*	*	*	*
(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.			Equality of opportunity in matters of public employment.
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