

Bill No. IV of 2018

THE CONSTITUTION (AMENDMENT) BILL, 2018

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BILL

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2018.

Short title and commencement.

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

2. In article 15 of the Constitution, for clause (4) and clause (5) the following clauses shall be substituted, namely:—

Amendment of article 15.

“(4) Nothing in this article or in clause (2) of article 29 shall prevent the
10 State from making any special provision for the advancement of any socially and educationally backward classes of citizens, or for the Scheduled Castes and the Scheduled Tribes:

Provided that the provision for the advancement of socially and educationally backward classes of citizens shall be proportionate to their population.

(5) Nothing in the article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30: 5

Provided that the provision for the advancement of socially and educationally backward classes of citizens shall be proportionate to their population. 10

Explanation.— In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

Amendment
of article 16.

3. In article 16 of the Constitution, for clause (4), the following clause shall be substituted, namely:— 15

“(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, are not represented in the services under the State, proportionate to their population. 20

Explanation.— The expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.”

STATEMENT OF OBJECTS AND REASONS

The enabling content of articles 15(4) and 16(4) as they stand today, empower the State to make provisions for reservation in education and in public employment in relation to the population of the Socially and Educationally Backward Classes (SEBCs) as identified by the respective Backward Classes Commissions. The percentage of reservation in central institutions, both in education and public services in 27 per cent, so as to keep the overall percentage of reservations under the judicially mandated limit of 50 per cent, while the population of SEBCs so far identified and recognized as such, is over 55 per cent.

2. The issue of provision of reservations and affirmative action has been an on-going debate in the country more particularly, about the adequacy of the measures taken by the elected Government to ameliorate the conditions of socially and educationally backward classes. Judicial dicta have limited the overall percentage of reservations to only 50 per cent of the available educational opportunities in respect of such SEBCs including Scheduled Castes (SCs) and Scheduled Tribes (STs), having regard to the enabling provision requiring the said measures on the principle of adequacy of representation enshrined under article 16(4) of the Constitution. There have been many agitations about the sheer inadequacy of such measures, to meet the aspirations of such classes, more particularly in regard to educational opportunities and services.

3. A few States such as Tamil Nadu, have already enhanced the reservations in excess of 50 per cent and the challenge to such measures are awaiting judicial adjudication. The present state of affairs shows that existing opportunities in the education and services sector are not meeting the requirements of the population of the already identified SEBCs. The constitutional protection granted to SCs and STs of affording reservations to them in all sectors, such as education, services, political representation, proportional to their population, is required to be extended to SEBCs also, having regard to the march of time, and increase in the population of the SEBCs.

4. Hence, this present Bill.

V. VIJAYASAI REDDY

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

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(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.

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RAJYA SABHA

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(Shri V. Vijayasai Reddy, M.P.)