

Bill No. LVI of 2019

THE CONSTITUTION (AMENDMENT) BILL, 2019

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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 with immediate effect.

5 2. In article 16 of the Constitution, after clause (6), the following clause shall be inserted, namely:—

Amendment of Article 16.

10 "(7) Nothing in this 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 economically weaker section or the Scheduled Castes or the Scheduled Tribes, to provide in their favour reservation of appointments or posts in Private sector."

STATEMENT OF OBJECTS AND REASONS

India is a country of diverse people and religion. Some people have fared better than the others and therefore the concept of reservation was introduced in the system to bring at par the marginalized and backward classes of the people. Article 16 prohibits discrimination in employment in any government office. However, the government can allow reservation for any community if they are not adequately represented in service or posts under the State.

In this scenario, when the public sector is shrinking, the provisions for reservations of posts or appointments for weaker sections of the society, as contemplated under article 16(4) or under the Mandal Commission Report, are losing their significance, insofar as protection of the interests of the Scheduled Castes, Scheduled Tribes and Backward Classes are concerned. Therefore, in order to bring Scheduled Castes, Scheduled Tribes Backward Classes and economically weaker sections in the national mainstream, it is proposed that the State shall make special provision for reservation of posts, or appointments in government service and private service. The Bill seeks to amend article 16 of the Constitution to allow reservation in employment opportunities in private sector.

Hence, This Bill.

K.K. RAGESH

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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16. Equality of opportunity in matters of public employment.—(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 appointment 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.

(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 favour 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.]

⁶[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.

[(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category.]

RAJYA SABHA

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(Shri K.K. Ragesh, M.P.)