

Bill No. XII of 2024

THE CONSTITUTION (AMENDMENT) BILL, 2024

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further to amend the Constitution of India.

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

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| 1. | (1) This Act may be called the Constitution (Amendment) Act, 2024. | Short title and commencement. |
| 5 | (2) It shall come into force on such date as the Central Government may, by notification in Official Gazette, appoint. | |
| 2. | In article 15 of the Constitution, for clause 4, the following new clause shall be substituted:— | Amendment of article 15. |
| 10 | “(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 proportionate to their caste census or for the Scheduled Castes and the Scheduled Tribes.” | |

3. In article 16 of the Constitution, for clause 4, the following new clause shall be substituted:—

Amendment
of article 16.

“(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 State, is not adequately represented in the services under the State proportionate to their caste census.” 5

STATEMENT OF OBJECTS AND REASONS

1. The Indian Constitution is the supreme law of this country which guarantees equality of status and opportunity. However, unequal cannot be treated equally and therefore the Indian Constitution allows for positive discrimination to foster equality. The origins of the reservation system may be traced back to India's old discriminatory caste system. With the object of making Indian society a democratic and egalitarian society, the framers of our Constitution framed the policy of reservation so that the oppressed and depressed classes can be joined in the mainstream. The reservations, therefore, were the exception to the general rule. Reservations in education and public employment are granted to elevate those regarded socially and educationally backward in the State's perspective or when a class of citizens is not properly represented in the services supplied by the State. Reservation is being offered to the SC/ST/OBC class of citizens in India, who have been disadvantaged and exploited socially and educationally for generations.
2. The Mandal Commission Report published in the year 1980 was the first to define reservations for Other Backward Classes of citizens in India. Before the Mandal Commission, caste discrimination existed on social, economic, and political levels. The living standards of the Scheduled Castes, Scheduled Tribes, and Backward Class families were deemed much poorer than the mainstream population, including Hindu forward castes and other religious groups. Therefore, the Mandal Commission recommended to grant 27% reservations to Other Backward Class citizens.
3. Over the years, there has been unrest amongst the citizens belonging to the socially and educationally backward classes for not being treated fairly and equally and that there is no level playing field when compared to the socially and educationally forward citizens. The concept of reservations introduced to uplift the socially and educationally backward classes of citizens for the injustice being done to them generation after generation did not achieve any greater results due to disparity in the quantum of reservations compared to their population. The fact remains that the reservation at 27% offered to the Other Backward Classes of citizens on the basis of the 1931 census over a period of time is not sufficient that too for a community, which is the largest in population in this country. The accumulation of the deficit in honoring their due representations and reservations for socially and educationally backward classes of citizens each year, again brings out inequality in the society.
4. Constitution being an organic document should stretch itself to take care of the demand and needs of the society. The founding fathers of our Constitution have designedly couched Articles 14, 15 and 16 in comprehensive phraseology so that the frail and emaciated section of the people living in poverty, rearing in obscurity, possessing no wealth or influence, having no education, much less higher education and suffering from social repression and oppression should not be denied of equality before law and equal protection of the laws and equal opportunity in the matters of public employment or subjected to any prohibition or discrimination on grounds of religion, race, caste, sex or place of birth. For achieving these objects, provisions were inserted under Articles 15 and 16 for providing reservations to the SC, ST and Socially and Educationally Backward Classes of citizens.

5. The Mandal Commission while determining the criteria for defining the socially and educationally backward classes of citizens identified that the Other Backward Classes (OBCs) constituted nearly 52% of the Indian population on the basis of the 1931 census. That after considering all facts and circumstances, the Commission initially recommended for reserving 52% of all posts under the Central Government and in educational institutions both under the Central and State Governments, for the backward classes of citizens. It was due to the legal constraint of 50% cap on all reservations that initially the quantum of Other Backward Class reservation was fixed at 27%, in order to arrive at a figure which when added to the 22.5% reservation for SCs and STs remains below 50%. The reservation of 27% in education was introduced after the 93rd Constitutional amendment with effect from 20.1.2006. The eighteen years of implementation of reservation in education has not enabled the entire socially and educationally backward classes of citizens to realise the benefits of the reservation and disparity still prevails in the society and there is no achievement of level playing field. Moreover, the reservation in appointments introduced in the year 1981 also did not enable the Other Backward Classes of citizens to get their rightful share in employment and still there is inadequate representation in employment including in the promotional posts. Considering the fact that there exists no mathematical limit of 50% in aggregate for reservations, therefore it is essential that reservations for the backward classes of citizens be increased in proportion to the increase in their population over the years and shall be made proportionate to the Caste Census.
6. Therefore, to achieve substantive equality, it is imperative that Articles 15 and 16 of the Constitution should be amended to increase the quantum of reservations of Socially and Educationally Backward Classes of citizens proportionate to their Caste Census.

Hence, this Bill.

P. WILSON

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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15. * * * * *

(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.

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

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16. * * * * *

(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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RAJYA SABHA

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further to amend the Constitution of India.

(Shri P. Wilson, M.P.)