

Bill No. XXXVIII of 2009

THE CONSTITUTION (AMENDMENT) BILL, 2009

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BILL

further to amend the Constitution of India

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2009.

Short title
and commen-
cement.

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

2. In article 16 of the Constitution, after clause (4A), the following clause shall be inserted, namely:—

Amendment
of article 16.

"(4B) Where the total percentage of reservation to the Scheduled Castes and the Scheduled Tribes in any State exceeds fifty per cent or is close to fifty per cent, nothing in the article shall prevent the State from reserving further seats for other Backward Classes of citizens in Government services even if the total percentage of seats reserved including seats reserved for the Scheduled Castes and the Scheduled Tribes exceeds fifty per cent.

3. In article 16 of the Constitution, clause (4B) shall be re-numbered as (4C).

STATEMENT OF OBJECTS AND REASONS

In the State of Tripura, the percentage of ST people is thirty-one and that of SC people is seventeen per cent the total of the two being forty-eight per cent. It is very close to fifty per cent. The OBC population in the State is twenty-four per cent. That is why the State Government cannot provide reservation to the OBC persons on account of the bar of the upper limit of fifty per cent to the total percentage of reservation in a State. The State Government have no right to cross that upper limit. The unemployed youth belonging to OBC are getting seriously deprived of the reservation facilities in the State Government services. Similar nature of problems is prevalent in some other States of the country also. This is not a common type of problem. Rather, this is an extraordinary nature of problem for which extraordinary provision may be permissible. This amendment will go a long way in providing reservation facility to the OBC people and will, hence, benefit the unemployed youths belonging to Tripura and some more States. The significance of the amendment is deep and necessity is inevitable.

Hence this Bill.

MATILAL SARKAR

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

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.

(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.

(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.

RAJYA SABHA

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(Shri Matilal Sarkar, M.P.)