

**Bill No. CI of 2022**

THE CONSTITUTION (AMENDMENT) BILL, 2022

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*further to amend the Constitution of India.*

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

Short title and commencement.

5 (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, for clause 4A, the following new clause shall be substituted, namely:—

Amendment of Article 16.

10 "(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, the Scheduled Tribes or Other Backward Classes which, in the opinion of the State, are not adequately represented in the services under the State."

## STATEMENT OF OBJECTS AND REASONS

The Constitution being a legal as well as a social document should be dynamic in nature. With the changing needs of society and the foray of new ideas, the Constitution must change from time to time for the welfare of the people of India. If existing impediments to the welfare of the people are not removed, the Constitution would suffer virtual atrophy.

2. The Constitution (Seventy-seventh Amendment) Act, 1995 inserted clause (4A) to article 16 to extend the benefit of reservations in promotions as clause (4) is confined only to reservation in initial appointments. Parliament felt that it was necessary to continue providing reservations in promotion posts as well in the case of the Scheduled Castes and Scheduled Tribes. However, the said amendment did not consider the case of Other Backward Classes (OBCs).

3. The discrimination faced by the OBCs is comparable and a similar level to the discrimination faced by the Scheduled Castes and the Scheduled Tribes. The abhorrent and inhuman system of classification of human beings merely based on their birth, over which they obviously had no control, led to systemic oppression and discrimination. The effect of this systemic discrimination was not just economic, it was social and psychological which was the primary reason to insert article 16(4) in the Constitution.

4. The founding fathers of our Constitution have designedly couched articles 14, 15 and 16 in comprehensive phraseology so that the frail and emaciated sections of the people living in poverty, rearing in obscurity, possessing no wealth or influence, having no education, much less high education and suffering from social repression and oppression should not be denied equality before law and equal protection of the laws or subjected to any prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. These people who have been historically ostracized from mainstream education and employment should be afforded equal opportunity in the matters of public employment. OBCs are constitutionally recognised to be socially backward but still there are no enabling provisions to provide reservations for them in promotional posts. Due to such non-inclusion, the OBCs are vastly unrepresented at the higher posts of the administration as they were never considered for promotions due to social status. Even the States which are interested in granting reservations in promotional posts for OBCs cannot do so for lack of enabling provision in the Constitution.

5. Recently, Parliament has extended the benefit of reservations to forward castes also in the category of economically weaker sections.

6. Due to absence of the aforesaid Constitutional mandate in promotions, the real oppressed and downtrodden are not brought into the mainstream till today. Mere entry into service is not sufficient. Only when the OBCs are duly represented in promotional posts, a truly representative administration could be achieved and real substantive equality is enabled. Historical injustice is still meted out to backward classes of citizens and their due share in jobs in the higher posts is denied and they are not adequately represented even till today.

7. Therefore, article 16 of the Constitution of India must be further amended to grant reservations in promotional posts with consequential seniority for the backward classes of citizens and this would result in true social justice as it would ensure adequate representation of the backward class of citizens in higher offices of the administration.

8. It is, therefore, proposed to amend the Constitution to achieve the above objectives.

P. WILSON.

*ANNEXURE*

EXTRACT FROM THE CONSTITUTION OF INDIA

16.\*

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Equality of  
opportunity  
in matters of  
public  
employment.

(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.

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*(Shri P. Wilson, M.P.)*