

THE KERALA STATE BACKWARD CLASSES (RESERVATION OF APPOINTMENTS OR POSTS IN THE SERVICES UNDER THE STATE) ACT, 1995 [1]

(ACT 16 OF 1995)

An Act to provide for the continuance of the existing system of reservation of appointments or posts in the services under the State for the Backward Classes of citizens in the State of Kerala.

WHEREAS, the policy of reservation for the social and educational advancement of the people belonging to the Backward Classes of citizens for appointments in the services under the erstwhile States of Travancore, Cochin and Madras was being implemented in the aforesaid States long before Independence;

AND WHEREAS, the people belonging to Backward Communities in the erstwhile Travancore had been denied the right to enter, public services due to the social stigma attached to their communities and on their persistent agitations and the Nivarthana (abstention) movement demanding representation to the various communities in the Government services on the basis of the strength of their population, the erstwhile Government of Travancore had, in their Order R. Dis. No. 893/Genl., dated the 25th day of June, 1935 inter alia provided reservation for the members of the Backward communities in certain posts in public services;

AND WHEREAS, after the formation of the erstwhile State of Travancore-Cochin on the 1st day of July, 1949, the rules regulating the recruitment to the public services in the erstwhile Travancore State were applied to the erstwhile Travancore Cochin State and fresh orders for reservation of posts to the Backward Classes under the Government and the distribution of such posts among the different communities coming under the Backward Classes were issued;

AND WHEREAS, reservation for the Backward Classes of citizens in appointments and posts was being implemented in the erstwhile Malabar District as defined in sub-section (2) of section 5 of the State Reorganisation Act, 1956 (Central Act 37 of 1956) as early as 1921;

AND WHEREAS, after the formation of the State of Kerala on the 1st day of November 1956 it was felt that there were differences in the rules of reservation obtaining in the erstwhile Travancore Cochin State and the Malabar District, and unified rules of reservation to the Backward Classes in appointments and posts were issued during 1957 enumerating the groups of citizen who are to be considered as Backward Classes for the purposes of clause (4) of Article 16 of the Constitution;

AND WHEREAS, the principles mentioned in the aforesaid orders have been embodied in the Statutory Rules 14 to 17 of Part II of the Kerala State and Subordinate Services Rules, 1958 framed under Article 309 of the Constitution for reservation to the Backward Classes of citizens in appointments and posts in the services under the State;

AND WHEREAS, certain amendments have been made in the said rules on the basis of the recommendations of the Committees on Backward Classes appointed by the Government and also on the basis of the policy adopted by the Government from time to time;

AND WHEREAS, the list of Backward Classes enumerated in the said rules which included Other Backward Classes has remained unchallenged;

AND WHEREAS, the Rules Committee of the Ninth Kerala Legislative Assembly in its Second Report dated 27th January, 1993 submitted to the Legislative Assembly after a study regarding the representation of the Backward Classes in the services of certain departments of the Government, public sector undertakings and autonomous bodies has found that the Backward Classes of citizens could not even secure the percentage of reservation in appointments and posts provided to them and recommended to the Legislative Assembly for the constitution of a separate committee for a more detailed study;

AND WHEREAS, on the basis of the recommendation of the Rules Committee of the Ninth Kerala Legislative Assembly, the Committee on the Welfare of the Backward Class Communities was constituted by the Ninth Kerala Legislative Assembly on the 4th day of February 1993;

AND WHEREAS, the Committee, on the Welfare of the Backward Class Communities after a more detailed study has reported to the Legislative Assembly in its reports that the Backward Classes of citizens of the State are still not adequately represented in the services under the State in proportion to their population;

AND WHEREAS, the said Committee has also recorded that the Backward Classes of citizens could not even secure the percentage of reservation in appointments and posts set apart for them in the services under the State;

AND WHEREAS, in the opinion of the State Government the Backward Classes of citizens who constitute the majority of the total population of the State are not adequately represented in the services under the State in proportion to their population and if, in the circumstances, the



existing system of reservation to the Backward Classes of citizens in appointments or posts is not continued as such, their social backwardness will further deteriorate resulting in failure on the part of the State to achieve social equality among citizens;

AND WHEREAS, the State Government have, after careful consideration of the provisions contained in clause (4) of Article 16 of the Constitution and the present condition of the Backward Classes of citizens in the State; taken a policy decision that the existing system of reservation of appointments or posts in the services under the State for the Backward Classes of citizens should at present be continued for ensuring their social status, welfare and adequate participation in the administration.

BE it enacted in the Forty-sixth Year of the Republic of India as follows:—

## **chapter I**

### **PRELIMINARY**

1. Short title, extent and commencement.—(1) This Act may be called the Kerala State Backward Classes (Reservation of Appointments or Posts in the Services Under the State) Act, 1995.

(2) It extends to the whole of the State of Kerala.

(3) Section 5 of this Act shall be deemed to have come into force on the 12th day of March, 1993 and the remaining provisions of this Act shall be deemed to have come into force on the 2nd day of October, 1992.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) 'Commission' means the Kerala State Commission for Backward Classes constituted under section 3 of the Kerala State Commission for Backward Classes Act, 1993 (11 of 1993);

(b) 'Backward Classes' means such Backward Classes of citizens (other than Scheduled Castes and Scheduled Tribes), as specified by the Government from time to time, and included in List III of the Schedule to Part I of the Kerala State and Subordinate Services Rules, 1958 framed under Article 309 of the Constitution;

(c) 'Government' means the Government of Kerala;

(d) 'State' means the State of Kerala.

3. Declaration.—It is hereby declared, having regard to known facts in existence in the State,—

(a) that there are no socially advanced sections in any Backward Classes who have acquired capacity to compete with forward classes; and

(b) that the Backward Classes in the State are still not adequately represented in the services under the State and they continue to be entitled to reservation under clause (4) of Article 16 of the Constitution.

## **Chapter II**

### **RESERVATION OF APPOINTMENTS OR POSTS IN THE SERVICES UNDER THE STATE**

4. Reservation of appointments or posts in the services under the State.— Notwithstanding anything contained in any law or in any judgment, decree or order of any court or other authority having regard to the social and educational backwardness of the Backward Classes of citizens, the system of reservations as in force on the date of commencement of this Act, as laid down in rules 14 to 17 of Part II of the Kerala State and Subordinate Services Rules, 1958, in appointments and posts in the services under the State for the Backward Classes of citizens, shall continue as such, for the present.

## **CHAPTER III**

### **MISCELLANEOUS**

5. Additional functions of the commission.—The Commission shall, in addition to the functions already conferred under the Kerala State Commission for Backward Classes Act, 1993 (11 of 1993), evaluate from time to time, the degree of backwardness of the Backward Classes, and shall submit periodical reports to the Legislative Assembly of the State.

6. Validation.—Notwithstanding anything contained in any judgment, decree or order of any court or other authority, the reservation of appointments or posts in the services under the State for the Backward Classes of citizens made, on the basis of the system of reservation as laid down in rules 14 to 17 of (Part II of the Kerala State and Subordinate Services Rules, 1958, shall, for all purposes, be deemed to be and to have always been validly made, in accordance with law, as if this Act had been in force at all material times when such reservations had been made.