



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

बुधवार, मे २३, २००१/ज्येष्ठ २, शके १९२३

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद)

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Schedule Castes, Sheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Mah. Act No. XXIII of 2001), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

PRATIMA UMARJI,

Principal Secretary to Government.
Law and Judiciary Department

MAHARASHTRA ACT No. XXIII of 2001

(First published, after having received the assent of the President in the "Maharashtra Government Gazette", on the 23rd May 2001.

*An Act to provide for the regulation of the issuance and verification of the Caste Certificates to the persons belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward classes and Special Backward Category and for matters connected therewith or incidental thereto.*

WHEREAS it is expedient to provide for the regulation of the issuance and verification of the Caste Certificates to the persons belonging to the Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*) Nomadic Tribes, Other Backward Classes and Special Backward Category and for matters connected therewith or

incidental thereto; It is hereby enacted in the Fifty-first year of the Republic of India as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000.

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

Definitions.

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

(a) "Caste Certificate" means the certificate issued by the Competent Authority to an applicant indicating therein the Scheduled Caste, Scheduled Tribe, De-notified Tribe, (*Vimukta Jatis*), Nomadic Tribe, Other Backward Class or Special Backward Category, as the case may be, to which such applicant belongs ;

(b) "Competent Authority" means a officer or authority authorised by the Government, by notification in the *Official Gazette*, to issue a Caste Certificate, for such area or for such purposes as may be specified in the said notification and shall include all the Competent Authorities already designated by the Government before the coming into force of this Act, having jurisdiction over the area or place to which the applicant originally belongs, unless specified otherwise ;

(c) "De-notified Tribes (*Vimukta Jatis*)," means the Tribes, declared as such by Government from time to time ;

(d) "Educational Institution" means any School, Junior College, Degree College, College of Education, Polytechnic, Industrial Training Institute, College of Fine Arts and Architecture, College of Music and Dance, Engineering College, Agricultural College, Veterinary College, Medical College, Dental College, Ayurvedic College, Homeopathic College, Unani College Nurses Training School, Health Visitors Training School, Vocational Training Institution, Deemed University, Open University and various colleges under the control of any University established by or under an Act of the State Legislature and such other Institution, by whatever name called, which is carrying on (either exclusively or among other activities) the activity of imparting education as may be notified by the Government from time to time ;

(e) "Government" means the Government of Maharashtra ;

(f) "Local Authority" means in relation to local areas comprised within the jurisdiction of a Municipal Corporation, the concerned Municipal Corporation and in relation to any other local area in the State, the concerned Municipal Council, *Zilla Parishad*, *Panchayat Samiti*, Industrial Township, Nagar Panchayat or Village Panchayat, having the jurisdiction over such local area ;

(g) "Nomadic Tribes" means tribes wandering from place to place in search of their livelihood as declared by Government from time to time;

(h) "Other Backward Classes" means any Socially and Educationally Backward Classes of citizens as declared by the Government and includes other Backward Classes declared by Government of India in relation to the State of Maharashtra ;

(i) "prescribed" means prescribed by rules made by the Government under this Act ;

(j) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in the clause (24) and clause (25) of Article 366 of the Constitution of India ;

(k) "Scrutiny Committee" means the Committee or committees constituted under sub-section (1) of section 6 for the Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes or Special Backward Category for verification of the Caste Certificate and to perform the function of Scrutiny Committee under this Act ;

(l) "Special Backward Category" means Socially and Educationally Backward Classes of citizens declared as a Special Backward Category by Government.

3. Any person belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes or Special Backward Category, required to produce a Caste Certificate in order to claim the benefit of any reservation provided to such Castes, Tribes or Classes, either in any public employment or for admission into any educational institution, or any other benefit under any special provisions made under clause (4) of Article 15 of the Constitution of India or for the purpose of contesting for elective post in any local authority or in the Co-operative Societies ; or for purchase or transfer of land from a tribal land-holder or any other purposes specified by the Government, shall apply in such form and in such manner as may be prescribed, to the Competent Authority for the issue of a Caste Certificate.

Application
for a Caste
Certificate.

Caste
Certificate
to be issued
by
Competent
Authority.

4. (1) The Competent Authority may, on an application made to it under section 3, after satisfying itself about the genuineness of the claim and following the procedure as prescribed, issue a Caste Certificate within such time limit and in such form as may be prescribed or reject the application for reasons to be recorded in writing.

(2) A Caste Certificate issued by any person, officer or authority other than the Competent Authority shall be invalid. The Caste Certificate issued by the Competent Authority shall be valid only subject to the verification and grant of validity certificate by the Scrutiny Committee.

Appeal.

5. (1) Any person aggrieved by an order of rejection of application passed by the Competent Authority under sub-section (1) of section 4 may, within 30 days from the date of receipt of order, appeal to the Appellate Authority specified by the Government by notification in the *Official Gazette*.

(2) The Appellate Authority may within a period of three months, after giving the appellant an opportunity of being heard and after satisfying itself about the genuineness or otherwise of the claim of the appellant either confirm the rejection order, or set aside the order of the Competent Authority and direct the Competent Authority to issue the caste certificate.

Verification
of Caste
Certificate
by Scrutiny
Committee.

6. (1) The Government shall constitute by notification in the *Official Gazette*, one or more Scrutiny Committee(s) for verification of Caste Certificates issued by the Competent Authorities under sub-section (1) of section 4 specifying in the said notification the functions and the area of jurisdiction of each of such Scrutiny Committee or Committees.

(2) After obtaining the Caste Certificate from the Competent Authority, any person desirous of availing of the benefits or concessions provided to the Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes or Special Backward Category for the purposes mentioned in section 3 may make an application, well in time, in such form and in such manner as may be prescribed, to the concerned Scrutiny Committee for the verification of such Caste Certificate and issue of a validity certificate.

(3) The appointing authority of the Central or State Government, local authority, public sector undertakings, educational institutions,

Co-operative Societies or any other Government aided institutions shall, make an application in such form and in such manner as may be prescribed by the Scrutiny Committees for the verification of the Caste Certificate and issue of a validity certificate, in case a person selected for an appointment with the Government, local authority, public sector undertakings, educational institutions, Co-operative Societies or any other Government aided institutions who has not obtain such certificate.

(4) The Scrutiny Committee shall follow such procedure for verification of the Caste Certificate and adhere to the time limit for verification and grant of validity certificate, as prescribed.

7. (1) Where, before or after the commencement of this Act, a person not belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes or Special Backward Category has obtained a false Caste Certificate to the effect that either himself or his children belong to such Castes, Tribes or Classes, the Scrutiny Committee may, *suo motu*, or otherwise call for the record and enquire into the correctness of such certificate and if it is of the opinion that the certificate was obtained fraudulently, it shall, by an order cancel and confiscate the certificate by following such procedure as prescribed, after giving the person concerned an opportunity of being heard, and communicate the same to the concerned person and the concerned authority, if any.

Confiscation and cancellation of false Caste Certificate.

(2) The order passed by the Scrutiny Committee under this Act shall be final and shall not be challenged before any authority or court except the High court under Article 226 of the Constitution of India.

8. Where an application is made to the Competent Authority under section 3 for the issue of a Caste Certificate in respect of Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes or Special Backward Category and in any enquiry conducted by the Competent Authority and Scrutiny Committee or the Appellate Authority under this Act or any trial of offence under this Act, the burden of proving that the person belonged to such Caste, Tribe or Class shall be on such claimant applicant.

Burden of proof.

Civil Court
powers to
Competent
Authority
Appellate
Authority,
and
Scrutiny
Committee.

9. The Competent Authority, the Appellate Authority and the Scrutiny Committee shall, while holding an enquiry under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 and in particular in respect of the following matters, namely :—

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1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of any document ;
- (c) receiving evidence on affidavits ;
- (d) requisitioning any public record or copy thereof from any Court or office ; and
- (e) issuing Commissions for the examination of witnesses or documents.

Benefits
secured on
the basis of
false Caste
Certificate
to be
withdrawn.

10. (1) Whoever not being a person belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes or Special Backward Category secures admission in any educational institution against a seat reserved for such Castes, Tribes or Classes, or secures any appointment in the Government, local authority or in any other Company or Corporation, owned or controlled by the Government or in any Government aided institution or Co-operative Society against a post reserved for such Castes, Tribes or Classes by producing a false Caste Certificate shall, on cancellation of the Caste Certificate by the Scrutiny Committee, be liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said employment forthwith and any other benefits enjoyed or derived by virtue of such admission or appointment by such person as aforesaid shall be withdrawn forthwith.

(2) Any amount paid to such person by the Government or any other agency by way of scholarship, grant, allowance or other financial benefit shall be recovered from such person as an arrears of land revenue.

(3) Notwithstanding anything contained in any Act for the time being in force, any Degree, Diploma or any other educational qualification acquired by such person after securing admission in any educational institution on the basis of a Caste Certificate which is subsequently proved to be false shall also stand cancelled, on cancellation of such Caste Certificate, by the Scrutiny Committee.

(4) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for being a member of any statutory body if he has contested the election for local authority, Co-operative Society or any statutory body on the seat reserved for any of Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes or Special Backward Category by procuring a false Caste Certificate as belonging to such Caste, Tribe or Class on such false Caste Certificate being cancelled by the Scrutiny Committee, and any benefits obtained by such person shall be recoverable as arrears of land revenue and the election of such person shall be deemed to have been terminated retrospectively.

11. (1) Whoever,—

(a) obtains a false Caste Certificate by furnishing false information or filing false statement or documents or by any other fraudulent means ; or

(b) not being a person belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes, (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes or Special Backward Category secures any benefits or appointments exclusively reserved for such Castes, Tribes, or Classes in the Government, local authority or any other company or corporation owned or controlled by the Government or in any Government aided institution, or secures admission in any educational institution against a seat exclusively reserved for such Castes, Tribes or Classes or is elected to any of the elective offices of any local authority or Co-operative Society against the office, reserved for such Castes, Tribes or Classes by producing a false Caste Certificate ;

shall, on conviction, be punished, with rigorous imprisonment for a term which shall not be less than six months but which may extent upto two years or with fine which shall not be less than two thousand rupees, but which may extend upto twenty thousand rupees or both.

(2) No court shall take cognizance of an offence punishable under this section except upon a complaint, in writing, made by the Scrutiny Committee or by any other officer duly authorised by the Scrutiny Committee for this purpose.

2 of 1974. 12. Notwithstanding anything contained in the Code of Criminal Procedure, 1973—

(a) offences punishable under section 11 shall be cognizable and non-bailable ;

Offences
and
penalties.

Offences
under Act
to be
cognizable
and non-
bailable.

(b) every offence punishable under this Act, shall be tried by any Magistrate of First Class in a summary way and provisions of sections 262 except sub-section (2) to 265 both inclusive of this Code, shall as far as possible may be applied to such trial.

Penalty for
issuing
false Caste
Certificate.

13. (1) Any person or authority performing the functions of Competent Authority under this Act, who intentionally issues a false Caste Certificate, shall on conviction, be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years or with fine which shall not be less than two thousand rupees, but which may extend upto twenty thousand rupees or both.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government.

Penalty for
abatement.

14. Whoever abets any offence punishable under this Act shall be punished with the punishment provided for in this Act for such offence.

Bar of
jurisdiction of
Civil Courts.

15. No Civil Court shall have jurisdiction to entertain, to continue or to decide any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order, if the claim involved in such suit or proceeding, or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

Protection
for acts
done in
good faith.

16. No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

Provisions of
this Act to
be in
addition to
any other
law time
being in
force.

17. The provisions of this Act shall be in addition to the provisions of any other law for the time being in force.

Power to
make rules.

18. (1) The Government may, subject to the previous publication, by notification in the *Official Gazette*, make rules to carry out all or any of the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the

expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

19. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty :

Power to
remove
difficulties.

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of State Legislature.