

2535/Gadmin/2009
19/12/09

GOVT. OF NCT OF DELHI
DIRECTORATE OF HIGHER EDUCATION
B-WING, 2ND FLOOR, 5-SHAM NAGH MARG, DELHI

S.No. (CA)

DHE.6(79)/2007-08/Part File-I/4348

Dated:- 16/10/09

To

The Secretary,
National Commission for Scheduled Tribes,
6th Floor, 'B' Wing,
Lok Nayak Bhawan,
Khan Market,
New Delhi-110 003.

Sub: Comments on the Delhi Educational Institutions (Reservation in Admission) Bill, 2009.

Sir,

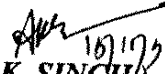
Please find enclosed herewith revised draft Bill 'The Delhi Educational Institutions (Reservation in Admission) Bill 2009 to provide for the reservation in admission of the students belonging to the Scheduled Castes, Scheduled Tribes and the Other Backward Classes of citizens, to certain educational institutions established, maintained or aided by the Govt. of National Capital Territory of Delhi.

Dir
V.A.
By hand

You are requested to please send your comments on the said draft bill within one week positively, since the bill has to be placed before the Cabinet for approval.


This may be treated as Most Urgent.

Yours faithfully,


(A.K. SINGH)
DY. DIRECTOR (Hr. Edn.)
Ph. No. 23831012

Encl: As above.

Pls open a file immediately
'Policy' & put up today itself


19/12/09

**THE DELHI EDUCATIONAL INSTITUTIONS
(RESERVATION IN ADMISSION) BILL, 2009**

A

BILL

to provide for the reservation in admission of the students belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes of citizens, to certain educational institutions established, maintained or aided by the Government of National Capital Territory of Delhi and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Sixtieth Year of the Republic of India as follows: -

Short title, 1. (1) This Act may be called the Delhi
extent and Educational Institutions (Reservation in
commencement. Admission) Act, 2009.

(2) It extends to the whole of the National Capital Territory of Delhi.

(3) It shall come into force with effect from the date of its publication in the official Gazette.

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

(a) "academic session" means the period in a calendar year, or a part thereof, during which an educational institution is open for teaching or instruction in any branch of study or faculty;

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- (b) "annual permitted strength" means the number of seats, in a course or programme for teaching or instruction in each branch of study or faculty authorized by an appropriate authority for admission of students to an educational institution;
- (c) "appropriate authority" means the University Grants Commission, the Bar Council of India, the Medical Council of India, the Bar Council of Delhi, the All India Council for Technical Education or any other authority or body established by or under a Central Act or an Act of the Legislative Assembly of Delhi for the determination, coordination or maintenance of the standards of higher education in any educational institution in Delhi;
- (d) "Delhi" means the National Capital Territory of Delhi;
- (e) "Delhi Educational Institution" means –
- (i) a university established or incorporated by or under an Act passed by the Legislative Assembly of Delhi;
 - (ii) an institution, declared as a deemed University under section 3 of the University Grants Commission Act, 1956, (37 of 56) and maintained by or receiving aid from the Government;
 - (iii) an institution maintained by or receiving aid from the Government, whether directly or indirectly, and affiliated to a university referred to in sub clause (i) or a constituent unit of an institution referred to in sub clause (ii) or affiliated to a university, established or incorporated by or under an Act passed by Parliament;
 - (iv) an educational institution set up by the Government under the Societies Registration Act, 1860(21 of 1860);

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- (f) "faculty" means the faculty of an educational institution as defined in clause (e);
 - (g) "Government" means the Lt. Governor of the National Capital Territory of Delhi appointed by the President under article 239 and designated as such under article 239 AA of the Constitution
 - (h) "minority educational institution" means an institution established and administered by the minorities under clause (1) of article 30 of the Constitution and so declared by an Act of Parliament or by the Central Government or by the State Government or declared as a minority educational institution under the National Commission for Minority Educational Institutions Act, 2004(2 of 2005);
 - (i) "Other Backward Classes" means the class or classes of citizens who are socially and educationally backward, and are so determined by the Government;
 - (j) "prescribed" means prescribed by rules made by the Government under this Act.
 - (k) "Scheduled Castes" means the Scheduled Castes notified under article 341 of the Constitution;
 - (l) "Scheduled Tribes" means the Scheduled Tribes notified under article 342 of the Constitution of India in relation to any State or Union Territory, migrated in the National Capital Territory of Delhi due to transfer or movement of their father or Guardian on account of business or service.
 - (m) "teaching or instruction in any branch of study" means teaching or instruction leading to four

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principal levels of qualifications at diploma, bachelor (undergraduate), masters (postgraduate) and doctoral levels, in agriculture and allied sciences, architecture, dentistry, engineering, law, management, medicine, nursing, pharmacy, technology, veterinary science or such other branch of study, as may be notified by the Government in the official Gazette;

Reservation of seats in educational institutions.

3. (1) The reservation of seats in admission and its extent in an educational institution shall be provided in the following manner, namely -

- (i) out of the annual permitted strength in each branch of study or faculty, seventeen percent seats shall be reserved for the Scheduled Caste;
- (ii) out of the annual permitted strength in each branch of study or faculty, the percentage of seats reserved for Scheduled Tribes, shall be prescribed by the Government from time to time but shall not exceed 7.5 percent of the annual permitted strength;
- (iii) out of the annual permitted strength in each branch of study or faculty, the percentage of seats reserved for the Other Backward Classes, shall be as prescribed by the Government from time to time .

Provided that the Government may, by notification in official Gazette, specify the percent of total seats to be filled on All-India basis in accordance with the reservation of seats provided under section 3 of the Central Educational Institutions (Reservation in Admission) Act, 2006 (5 of 2007).

- (2) The manner of providing reservation to the categories mentioned in sub-section (1) shall be as prescribed.

Act not to apply in certain cases. 4. The provisions of section 3 of this Act shall not apply to -

- (a) a minority educational institution as defined in this Act;
- (b) a course or programme at high levels of specialization, including at the post-doctoral level, within any branch of study or faculty, which the Government may, in consultation with the appropriate authority, notify in the official Gazette.

Mandatory
increase of seats

5. (1) Notwithstanding anything contained in clause (iii) of section 3 and in any other law for the time being in force, every educational institution shall, with the prior approval of the appropriate authority, increase the number of seats in a branch of study or faculty over and above its annual permitted strength so that the number of seats, excluding those reserved for the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes, is not less than the number of such seats available for the academic session immediately preceding the date of the coming into force of this Act.

(2) Where, on a representation by any educational institution, the Government, is satisfied that for reasons of financial, physical or academic limitations or in order to maintain the standards of education, the annual permitted strength in any branch of study or faculty of such institution cannot be increased for the academic session following the commencement of this Act, it may permit by notification in the official Gazette, such institution to defer in one or more courses of study or faculty, the reservation of seats for Other Backward Classes for a specified period or to increase the annual permitted strength over a maximum period of three years beginning with the academic session following the commencement of this Act; and then, the extent of reservation for the Other Backward Classes as

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provided in clause (iii) of section 3 shall be limited for that academic session in such manner that the number of seats available to the Other Backward Classes for each academic session are commensurate with the increase in the permitted strength for each year.

Reservation of seats in admissions to begin in calendar year, 2009. 6. The educational institutions shall take all necessary steps, which are required to give effect to the provisions of sections 3, 4 and 5 of this Act, for the purposes of reservation of seats in admissions to academic sessions commencing on and from the calendar year, 2009.

Power to make rules 7. (1) The Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- a. prescription of the percentage of seats reserved for the Other Backward Classes from time to time under clause (iii) of sub-section (1) of section 3;
- b. prescription of the manner of providing reservation to the categories mentioned in sub-section (2) of section 3;
- c. any other matter which is required to be, or may be, prescribed.

(3) Every rule made and every notification issued under this Act shall be laid, as soon as may be after it is made or issued, before the Legislative Assembly of Delhi, 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 immediately following the session or the successive sessions aforesaid, the Assembly agrees in making any modification in the rule or notification or the Assembly agrees that the rule or notification should not be made or issued, the rule or notification shall thereafter 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 under that rule or notification.

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STATEMENT OF OBJECTS AND REASONS

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Part IV of the Constitution containing the Directive Principles of State Policy, in article 38 and 46, lays down that the State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice. Access to education is of utmost important in insuring advancement of persons belonging to the Scheduled Castes, the Scheduled Tribes, and the socially and educationally backward classes of citizens, who are also referred to as the Other Backward Classes (OBCs).

2. The Constitution (Ninety third Amendment) Act, 2005, inserted clause (5) in article 15 of the Constitution, with a view to promote the educational advancement of the socially and educationally backward classes of citizens, the Scheduled Castes and the Scheduled Tribes through special provisions relating to admission of students belonging to these categories in all educational institutions, including private educational institutions, whether aided or unaided by the State. In terms of this provision, Parliament as well as the State Legislatures are empowered to make appropriate laws for the educational advancement of the weaker sections of the people.
3. With a view to give effect to the Constitutional provisions, it is expedient and necessary to make statutory provisions for reservation in matters of admissions for the students belonging to the Scheduled Castes (SCs), the Scheduled Tribes (STs) and the socially and educationally backward classes of citizens (OBCs) in the Delhi State educational institutions, including institutions deemed to be Universities established, maintained or aided by the Government of National Capital Territory of Delhi. The provisions of the Bill, inter alia, will not apply to the minority educational institutions referred to in clause (1) of article 30 of the Constitution.
4. The Bill seeks to achieve the above objectives.

Delhi:

(Sheila Dikshit)

Chief Minister

Dated: _____

FINANCIAL MEMORANDUM

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Clause 5 of the Bill makes provisions for mandatory increase of seats in the educational institutions, which will be attained over a maximum period of five years beginning with the academic session following the commencement of provisions of the Bill. Though, it may not be possible to quantify the financial requirement on this account at this stage, whatever be the expenditure, it would be met from the Consolidated Fund of the National Capital Territory of Delhi through Budgetary provision under the Department of Higher Education, Department of Training and Technical Education and the Department of Health and Family Welfare, Government of NCT of Delhi.

The Bill does not involve any other expenditure.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Government to make rules with respect to the following nature, namely:-

- (a) prescription of the percentage of seats reserved for the Other Backward Classes from time to time under clause (iii) of sub-section (1) of section 3;
- (b) prescription of the manner of providing reservation to the categories mentioned in sub-section (2) of section 3;
- (c) any other matter which is required to be, or may be, prescribed.

The matters in respect of which rules may be made are matters of administrative detail and procedure and, as such the delegation of legislative power is of a normal character.