

PUNJAB VIDHAN SABHA

Bill No. 20-PLA-2018

THE PUNJAB SCHEDULED CASTES AND BACKWARD CLASSES  
(RESERVATION IN SERVICES) AMENDMENT BILL, 2018

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BILL

*further to amend the Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006.*

BE it enacted by the Legislature of the State of Punjab in the Sixty-ninth Year of the Republic of India as follows :—

1. (1) This Act may be called the Punjab Scheduled Castes and Backward Classes (Reservation in Services) Amendment Act, 2018.

Short title and commencement.

(2) It shall be deemed to have come into force on and with effect from the 20th day of February, 2018.

2. In the Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006, in section 4,—

Amendment in section 4 of Punjab Act 22 of 2006.

(i) sub-sections (3) and (4) shall be omitted;

(ii) after sub-section (2), the following sub-sections shall be inserted, namely :—

“(3) The percentage of reservation for filling up the vacancies by promotion by Scheduled Castes in Group ‘A’ and Group ‘B’ Services shall be fourteen per cent.

(4) The percentage of reservation for filling up the vacancies by promotion by Scheduled Castes in Group ‘C’ and Group ‘D’ Services shall be twenty per cent.”;

(iii) sub-section (8) shall be omitted; and

(iv) after sub-section (7), the following sub-section shall be added, namely :—

“(8) Reservation shall also be applicable to proforma promotion and appointment by transfer.”.

## STATEMENT OF OBJECTS AND REASONS

The Scheduled Castes in the State of Punjab have been enjoying the facility of 14% reservation in promotion in Group-A, Group-B and 20% reservation in Group C and Group-D. To negate the effect of Judgment dated 16th November, 1992 in the case of Indira Sawhney and others v/s Union of India and others, Government of India by 'The Constitution (Seventy Seventh Admendment) Act, 1995' has inserted the Clause 4A under Article 16 to provide the reservation to the SCs in promotions. Government of India by 'The Constitution (Eighty Fifth Amendment Act), 2001' has further amended the clause 4A of the Article 16 to provide the benefit of consequential seniority to the SC employees promoted on the basis of reservation.

2. To ensure that the reservation is properly implemented, State Government has enacted and notified the "The Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006" on 5th October, 2006. Hon'ble Supreme Court of India *vide* its judgment dated 19th October, 2006 in M. Nagaraj Case has uphold the validity of 77th and 85th Constitution Amendment subject to the existence of compelling reasons i.e. Backwardness, Inadequacy of representation and overall Administrative efficiency. In pursuance of the judgment dated 19th October, 2006 of Hon'ble Supreme Court, State Government had collected the quantifiable data and presented before the Council of Ministers in its meeting held on 3rd November, 2010. The Council of Ministers has approved the implementation of 85th Constitutional Amendment. However, the detailed notification was not issued. Hon'ble Punjab and Haryana High Court *vide* its Judgment dated 20th February, 2018 in CWP No. 16039 of 2014 titled Aman Kumar v/s State of Punjab and others has struck down the section 4(3), 4(4) and 4(8) of 'The Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2016' on the ground that State Government has not complied with the mandate of Hon'ble Supreme Court given *vide* Judgment 19th October, 2006 in M. Nagaraj case.

3. In view of the commitment of the Government to protect the interests of Scheduled Castes of the State, State Government has again completed the exercise and collected the quantifiable data regarding backwardness from various source *viz* the Census-2011, Agricultural Census-2011, Socio-Economic Caste Census (SECC)-2011, DPI (Secondary), 6th Economic Census (2012-13). Regarding the representation of SCs in public employment,

the data was collected from 160 departments/Boards/Corporations/Universities. The analysis of quantifiable data shows the existence of compelling reasons i.e. SCs are backward as compared to others and are inadequately represented in public employment. Moreover, there is no relaxation for SCs in bench mark for promotions, as such, there is no effect in overall Administrative efficiency. The quantifiable data was submitted before the Council of Ministers in its meeting held on 30th July, 2018 and Council of Ministers after considering the quantifiable data has approved the restoration of provision of promotions to SCs by re-enacting the sub-section (3), (4) and (8) of the section 4 of Act, 2006 by promulgating an Ordinance. Council of Ministers in its meeting held on 21st August, 2018 has again considered the matter and decided to restore the provision of promotion to SCs by re-enacting the sub-section (3), (4) and (8) of section 4 of the said Act of 2006 by introducing a Bill in the Punjab Vidhan Sabha to protect the interests of the employees belonging to the Scheduled Castes.

Hence this Bill.

SADHU SINGH DHARAMSOT

Minister for Social Justice, Empowerment and  
Minorities, Punjab.

CHANDIGARH :  
The 26th August, 2018.

SHASHI LAKHANPAL MISHRA,  
Secretary.

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*N.B.*— The above Bill was published in the *Punjab Government Gazette (Extraordinary)*, dated the 26th August, 2018 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).