

शुक्रवार, डिसेंबर ८, १९७८/अग्रहायण १७, शके १९००

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on 8th December 1978 :—

L. A. BILL No. LVII OF 1978.

A BILL

further to amend the Acts relating to certain Universities in the State of Maharashtra.

WHEREAS it is expedient further to amend the Acts relating to the Bombay, Poona, Shivaji, Marathwada, Nagpur and Shreemati Nathibai Damodar Thackersey Women's Universities in the State of Maharashtra, for the purposes hereinafter appearing; It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maharashtra Universities (Amendment) Act, 1978.

Short title
and
commence-
ment.

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

Amendment of section 2 of Mah. XXII to XXVII of 1974. 2. In each of the Universities Acts, that is to say, the Bombay University Act, 1974, the Poona University Act, 1974, the Shivaji University Act, 1974, the Marathwada University Act, 1974, the Nagpur University Act, 1974, and the Shreemati Nathibai Damodar Thackersey Women's University Act, 1974 (hereinafter referred to as "the said Universities Acts"), in section 2, after clause (25), the following clauses shall be inserted, namely :—

"(25-a) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Maharashtra under article 341 of the Constitution of India and, for the purposes of this Act, includes Nav-Boudhas ;

(25-b) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Maharashtra under article 342 of the Constitution of India residing in any part of the State of Maharashtra and, for the purposes of this Act, includes denotified and Nomadic Tribes ;"

Amendment of section 7 of Mah. XXII to XXVII of 1974. 3. In section 7 of each of the said Universities Acts, after sub-section (2), the following sub-section shall be added, namely :—

"(3) Nothing in sub-sections (1) and (2) of this section shall prevent the State Government or the University from making any provision for the reservation of appointments or posts either under the University or under the affiliated Colleges or recognised Institutions in favour of the members of the Scheduled Castes and Scheduled Tribes, which, in its opinion, are not adequately represented in the services under the University or under such Colleges or Institutions."

Amendment of section 10 of Mah. XXII to XXVII of 1974. 4. In section 10 of each of the said Universities Acts, in sub-section (7),—

(a) for the words "If a Professor" the words "Notwithstanding anything contained in any law or contract for the time being in force, if a Principal or Teacher" shall be, and shall be deemed always to have been, substituted ;

(b) for the words "conditions of service as Professor" the words "conditions of service as Principal or Teacher, as the case may be," shall be, and shall be deemed always to have been, substituted.

Amendment of section 14 of Mah. XXII to XXVII of 1974. 5. In section 14 of each of the said Universities Acts,—

(a) in sub-section (1), after the words "Executive Council" the following shall be added, namely :—

"either by nomination or by obtaining the services of a suitable officer on deputation from the Government of India or the State Government."

(b) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) Appointment of a person as the Finance Officer by nomination shall be made by the Executive Council on the recommendation of a Selection Committee constituted for the purpose. The appointment shall be for

such period and on such terms and conditions as the Executive Council may determine.”;

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

“(2-A) When any Government Officer is appointed as the Finance Officer on deputation, all expenditure on account of the remuneration, pension or provident fund contribution, leave allowance and other allowances and facilities, which may be admissible to him, shall be met from the University Fund.”

Mah. XXV-II of 1974. 6. (1) In section 20 of each of the said Universities Acts, other than the Shreemati Nathibai Damodar Thackersey Women's University Act, 1974, in sub-section (1),—

Amendment of section 20 of Mah. XXII to XXVII of 1974.

(a) under the heading “Elected Members”, in paragraph (B), in clause (iii), for the words “these seats being allotted faculty-wise but voting to be in common,” the words “these seats being allotted faculty-wise and voting shall also be faculty-wise,” shall be substituted;

(b) under the heading “Other Members”, in paragraph (C), in clause (ii), for the words “one member from amongst the employees of the University,” the words “two members, of whom one shall be from amongst the employees of the University and the other shall be from amongst the employees of the affiliated Colleges and recognised Institutions,” shall be substituted.

Mah. XXV-II of 1974. (2) In section 20 of the Shreemati Nathibai Damodar Thackersey Women's University Act, 1974, in sub-section (1),—

(a) under the heading “Elected Members”, in paragraph (B), in clause (iii), for the words “these seats being allotted faculty-wise but voting to be in common,” the words “these seats being allotted faculty-wise and voting shall also be faculty-wise,” shall be substituted;

(b) under the heading “Other Members”, in paragraph (D), in clause (ii), for the words “one member from amongst the employees of the University,” the words “two members, of whom one shall be from amongst the employees of the University and the other shall be from amongst the employees of the affiliated Colleges and recognised Institutions,” shall be substituted.

7. In section 29 of each of the said Universities Acts, in sub-section (2), in clause (ii), after the words, “in Colleges” the words “and recognised Institutions” shall be inserted.

Amendment of section 29 of Mah. XXII to XXVII of 1974.

8. In section 37 of each of the said Universities Acts, after clause (xvi), the following clause shall be inserted, namely:—

Amendment of section 37 of Mah. XXII to XXVII of 1974.

“(xvii) provision for reservation of adequate number of posts of Teachers, officers and other employees of the University and of the affiliated Colleges and recognised Institutions, for members of the Scheduled Castes and Scheduled Tribes;”

Amendment
of section 42
of Mah.
XXII to
XXVII of
1974.

9. In section 42 of each of the said Universities Acts, in sub-section (1),—

(a) after clause (a), the following clause shall be inserted, namely :—

“(a-a) the manner and mode of selection and appointment of Principals and Teachers ;”.

(b) after clause (g), the following proviso shall be inserted, namely :—

“Provided that in making any Statutes under this section in respect of Principals, Teachers and other employees in affiliated Colleges and recognised Institutions established and administered by minorities, whether based on religion or language, the Senate shall have due regard to the provisions of article 30 of the Constitution of India.”.

Amendment
of section
42 B of Mah.
XXII to
XXVII of
1974.

10. In section 42 B of each of the said Universities Acts, in sub-section (2), in the proviso, after the words “commencement of the said Act” the following shall be added, and shall be deemed always to have been added, namely :—

“or from the date of appointment of the Presiding Officer of the Tribunal, whichever is later.”.

Amendment
of section 57
of Mah.
XXII to
XXVII of
1974.

11. In section 57 of each of the said Universities Acts, in sub-section (4),—

(a) in clause (a), after the words “the number of posts to be filled,” the words “out of the posts to be filled the number of posts, if any, which are reserved for the members of the Scheduled Castes or Scheduled Tribes,” shall be inserted ;

(b) in clause (d), for the words “to the posts advertised” the words “to the general posts and the reserved posts, if any, as advertised” shall be substituted ;

(c) in clause (e), for the words “to fill the posts advertised” the words “to fill the general posts and reserved posts, if any, as advertised” shall be substituted.

Amendment
of section 62
of Mah.
XXII to
XXVII of
1974.

12. In section 62 of each of the said Universities Acts, in sub-section (1),—

(a) for the words “No person shall be appointed Finance Officer” the words “No person shall be appointed Finance Officer by nomination,” shall be substituted ;

(b) for clause (ii), the following clause shall be substituted, namely :—

“(ii) the Director of Accounts and Treasuries, Maharashtra State, or his nominee not below the rank of Deputy Director of Accounts and Treasuries ;”.

13. In section 77 A of each of the said Universities Acts, for the words "providing for the classification, manner and mode of selection and appointment, reservation of posts in favour of members of the Scheduled Castes and Scheduled Tribes,"

Amendment
of section
77 A of Mah.
XXII to
XXVII of
1974.

14. After section 77B of each of the said Universities Acts, the following section shall be inserted, namely :—

Insertion
of section
77 C in Mah.
XXII to
XXVII of
1974.

"77C. (1) The University, the affiliated Colleges and the recognised Institutions shall take into consideration, consistently with the maintenance of teaching standards and efficiency of administration, the claims of the members of the Scheduled Castes and Scheduled Tribes in making appointments to teaching and non-teaching posts under their respective control ; and the University shall make the necessary Statutes for reservation of adequate number of posts for members of such Castes and Tribes in the University, affiliated Colleges and recognised Institutions.

Special
provision for
Scheduled
Castes and
Tribes in
services and
posts in
University
and
Colleges and
Institutions.

(2) Notwithstanding anything contained in this Act, the State Government shall have power to give to the University, from time to time, such directions as it may consider necessary in regard to categories of posts in which reservation of posts shall be made in favour of the members of the Scheduled Castes and Scheduled Tribes, percentage of the posts to be reserved for them and any other matters connected with such reservation, and the University shall comply with such directions."

STATEMENT OF OBJECTS AND REASONS.

In pursuance of the provisions of clause (4) of article 16 of the Constitution, the State Government has made provision for the reservation of appointments and posts in favour of the Scheduled Castes and Scheduled Tribes and other backward classes of citizens which, in its opinion, are not adequately represented in the services under the State and has prescribed different percentage of reservation of posts for them. Government considers that such reservation of posts in favour of the members of the Scheduled Castes and Scheduled Tribes should also be provided in the services of the Universities and affiliated Colleges and recognised Institutions thereunder. The University Grants Commission has also made recommendations to the State Government on this subject. But as the provisions of the various Universities Acts stand at present, the appointments have to be made entirely on merit of the candidates and no reservation of any posts in favour of the members of the Scheduled Castes and Scheduled Tribes is feasible. It is, therefore, proposed to amend all the traditional Universities Acts, to empower the Universities to make Statutes for this purpose and also to empower the State Government to issue necessary directions to the Universities in that behalf for the purpose of achieving co-ordination in this matter.

2. Opportunity is also taken to make a few additional amendments in the said Acts, which are found necessary in the light of the experience gained, while administering these Acts. The following notes on clauses of the Bill explain the important provisions of the Bill.

Clauses 3, 8, 11, 13 and 14.—These clauses provide for reservation of adequate number of posts of Teachers, Officers and other employees of the University and of the affiliated Colleges and recognised Institutions for members of the Scheduled Castes and Scheduled Tribes as explained above and make the necessary consequential amendments in the relevant sections of the Acts.

Clause 4.—Under the existing provisions of section 10 (7) of the Acts, if a Professor in the service of any University in the State or of any College or Institution maintained, affiliated or recognised by any such University, is appointed as the Vice-Chancellor, he shall retain lien on the post occupied by him before appointment as the Vice-Chancellor. This protection of retaining lien which is at present confined only to Professors is proposed to be extended by amendment of section 10 (7) to the Principals and all Teachers appointed as Vice-Chancellors. In order to protect the position of some of the Principals already appointed as Vice-Chancellors, it is proposed to give retrospective effect to this amendment from the date of the commencement of the principal Acts.

Clauses 5 and 12.—The amendments proposed by these clauses would enable the University to appoint the Finance Officer not only by nomination as at present, but also by obtaining the services of a suitable officer from the Government of India or the State Government on deputation.

Instead of the Accountant-General, Maharashtra State, the Director of Accounts and Treasuries, Maharashtra State, would be the member of the Selection Committee constituted for appointment of Finance Officer by nomination.

Clause 6.—It is considered that the election of 25 Teachers to the Senate under section 20 (1) (B) (iii) faculty-wise would be better than the present system of the seats of the teachers being allotted faculty-wise but voting being common. It is also considered desirable to give representation to the employees of the affiliated Colleges and recognised Institutions on the Senate of the University.

Clause 7.—Along with the Heads of Departments in Colleges, the Heads of Departments in the recognised Institutions are also proposed to be given representation on the Boards of Studies.

Clause 9.—This clause amends section 42 of the Acts so as to empower the Senate specifically to make Statutes to provide for the manner and mode of selection of the Teachers and Principals of affiliated Colleges and recognised Institutions, other than those managed and maintained by Government or the University.

Clause 10.—Under section 42 B of the Acts, as inserted by Mah. XI of 1978, a provision has been made enabling the aggrieved employees to appeal to the Tribunals within 60 days from the date of commencement of the said Amendment Act i.e., the 11th August 1978. College Tribunals have, however, not yet been constituted with respect to all the Universities. Since Constitution of such Tribunals takes some time, the period of limitation for preferring appeals to the said Tribunals is proposed to be provided as 60 days from the date of commencement of the said Act or from the date of appointment of the Presiding Officer of the Tribunal, whichever is later.

S. S. VARDE,

Nagpur, dated the 7th December 1978.

Minister for Education.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves proposals for the delegation of legislative powers as follows:—

Clauses 3, 8 and 14.—The provisions of sections 7 and 37 of the six Universities Acts are being amended and a new section 77C is proposed to be inserted so as to enable the Senates of the Universities to make Statutes to provide for reservation of adequate number of posts of Teachers, Officers and other employees of the Universities and of the affiliated Colleges and recognised Institutions for members of the Scheduled Castes and Scheduled Tribes. Under sub-section (2) of the proposed section 77C the State Government is empowered to give to the Universities such directions as it may consider necessary in regard to all matters connected with such reservation of posts.

Clause 9.—Under the new clause (a-a) proposed to be inserted in sub-section (1) of section 42, the Senate is being empowered to make Statutes to provide for the manner and mode of selection and appointment of Principals and Teachers in the affiliated Colleges and recognised Institutions.

Clause 13.—The State Government is being empowered under this clause to provide the manner and mode of selection of appointment of the employees of the University, affiliated Colleges and recognised Institutions and for reservation of posts in favour of members of the Scheduled Castes and Scheduled Tribes in the Standard Code to be prescribed by it under section 77 A.

The proposals are of a normal character.

G. S. NANDE,

Secretary,

Nagpur, dated the 8th December 1978. Maharashtra Legislative Assembly.