

The Odisha : Z e

No. 1557, CUTTACK, WEDNESDAY, OCTOBER 15, 2014/ ASWINA 23, 1936

LAW DEPARTMENT

NOTIFICATION

The 15th October, 2014

No.9733—1-Legis-28/2011/L.—The following Act of the Odisha Legislative Assembly having been assented to by the President on the 12th September, 2014 is hereby published for general information.

ODISHA ACT 8 OF 2014

THE ODISHA SCHEDULED CASTES, SCHEDULED TRIBES AND BACKWARD CLASSES (REGULATION OF ISSUANCE AND VERIFICATION OF CASTE CERTIFICATES) ACT, 2011.

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 AND BACKWARD CLASSES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Legislature of the State of Odisha in the

Sixty-third Year of the Republic of India, as follows:—

Short title I. (1) This Act may be called the Odisha Scheduled Castes,

and

commence. Scheduled Tribes and Backward Classes (Regulation of Issuance and

ment.

Verification of Caste Certificates) Act, 2012.

(2) It shall come into force on such date, as the State Government

may, by notification, in the Official Gazette, appoint.

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Definitions.

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

(a) "Appellate Authority" means the Authority as mentioned in

section 5;

(b) "Backward Classes" means any Socially and Educationally

Backward Classes as defined in clause (e) of section 2 of the

Odisha Reservation of Posts and Services (for Socially and

Educationally Backward Classes) Act, 2008 and includes

Other Backward Classes declared by Government of India in

relation to the State of Odisha;

(c) "Caste Certificate" means the certificate issued by the

Competent Authority to an applicant indicating therein the

Odisha
Act of
2009.

Scheduled Caste, Scheduled Tribe or Backward Class, as

the case may be, to which such applicant belongs;

(d) "Competent Authority" means an Officer or authority authorised by the Government, by notification, to issue 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 commencement of this Act, having jurisdiction over the area or place to which the applicant originally belongs, unless specified otherwise;

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

(f) "Local Authority" means Grama Panchayats, Panchayat Samitis, Zilla Parishads and also includes a Municipality or Municipal Corporation or such other body legally entitled to function as local authority by the Government;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "public sector undertaking" means a Government Company as defined in section 617 of the Companies Act, 1956 or any Corporation established by or under any Central or State Act;

(1) "reserved category" means category of persons either belonging

to Scheduled Caste, Scheduled Tribe or Backward Class;

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

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(k) "Scrutiny Committee" means the Committee or Committees constituted under sub-section (1) of section 6 for verification of the Caste Certificate and to perform other functions as entrusted to the Scrutiny Committee under this Act.

Application for a Caste Certificate. 3. Any person belonging to any of the reserved category, required to produce a Caste Certificate in order to claim the benefit of any reservation provided to such reserved category 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.

Issue of Caste Certificate. 4. (1) The Competent Authority may, on an application made to it

Certificate
by
Competent
Authority.

undersection3, aftersatisfying
andfollowingtheprocedura
suchtime limit
andinsuchform
applicationforreasonstoberecordedin writing.

itselfaboutthegenuineness
prescribed,
asmaybeprescribed
oftheclaim
issuea Caste Certificate within
orreject the

(2) A Caste Certificate issued by any person, Officer or authority

other than the Competent Authority shall be invalid.

declare any officer higher in rank than the Competent Authority concerned as the Appellate Authority.

(2) 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.

(3) 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.

Scrutiny
Committee.

6. (1) The Government shall constitute by notification in the Official 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 Committees.

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(2) The appointing authority of the Government, Central Government, Local Authority, public sector undertakings, educational institutions, Co-operative Societies or any other Government aided institutions may make application, in such form and in such manner as

maybe prescribed, to the Scrutiny Committee concerned for the verification of the Caste Certificate, if any doubt arises about the genuineness of the Caste Certificate produced by any person to get any benefit on the basis of such Certificate:

Provided that the Scrutiny Committee shall also have the power to verify suo-motuo the genuineness of a Caste Certificate issued by the Competent Authority:

Provided further that the person whose Caste Certificate has been subjected to verification shall not be debarred to avail the benefit nor shall discontinuo to avail the benefit until the Caste Certificate is cancelled by the Scrutiny Committee.

(3) 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 may be prescribed.

Confiscation

7. (1) Where, before or after the commencement of this Act, it comes and

cancellation

of false

Certificate.

to notice that a person not belonging to any of the reserved category has obtained a false Caste Certificate to the effect that either himself or his children belong to such reserved category, 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 may be 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.

(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,

Burden of proof.

8. Where an application is made to the Competent Authority under

section 3 for the issue of a Caste Certificate in respect of any reserved category and in any enquiry conducted by the Competent Authority or Scrutiny Committee or the Appellate Authority under this Act or in any trial of offence under this Act the question arises about the genuineness of the claim of the applicant the burden of proving that the person belonged to such Caste, Tribe or Class shall be on such applicant.

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Powers of

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:—

5 of 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 officer; and

(e) issuing Commissions for the examination of witnesses or documents,

Withdrawal

of benefits

secured on

basis of

false Caste

Certificate.

10. (1) Whoever, not being a person belonging to any of the

reserved category, secures admission in any educational institution against a seat reserved for such reserved category or secures any appointment

the Government Local Authority or in any public sector undertaking or in

any Government aided institution or Co-operative Society against a post reserved for such reserved category 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 by any other authority referred to in sub-section (1) by way of scholarship, grant, allowance or in terms of any other financial benefit shall be returned by such person immediately, failing which it shall be recovered from such person as an arrear of land revenue.

(3) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for being a member of a Local Authority, a Co-operative Society or any other statutory body if he has contested for, or has been elected to, these seats reserved for any of the reserved category by producing a Caste Certificate which is found to be false and is cancelled by the Scrutiny Committee and the benefits, if any, obtained by such person, shall be recoverable as arrear of land revenue and the election of such person shall be terminated retrospectively.

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Offences
and
penalties.

11.(1) Whoever,—

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

(b) not belonging to any of the reserved category secures any benefit or appointment exclusively available for such reserved category in the Government, Local Authority or any public sector undertaking or in any Government aided institution or secures admission in any educational institution against a seat exclusively reserved for such reserved category or is elected to any of the elective offices of any Local Authority or Co-operative Society against the office reserved for such category 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 may extend to two years or with fine which shall not be less than two thousand to 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.

Offences to be

12. Notwithstanding anything contained in the Code of Criminal

Procedure, 1973= 1974.

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cognizable and non-bailable.

(a) offences punishable under section 11 shall 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 to 265 of the said Code both

inclusive except sub-section (2) of section 262 shall, as

far as possible, may be applied to such trial.

Penalty for 13. (1) Any person or authority performing the functions of issuing false Competent Authority under this Act, who intentionally issues a false Caste Certificate.

Certificate, shall, on conviction, be punished with rigorous imprisonment

for a term which shall not be less than six months but may extend to two

years or with fine which shall not be less than two thousand rupees, but

may extend to twenty thousand rupees or both.

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(2) No Court shall take cognizance of an offence punishable under

this section except with the previous sanction of the Government.

Penalty for 14. Whoever abets any offence punishable under this Act shall be

abatement.

punished with the punishment provided for the 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 claims 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

16. No suit, prosecution or other legal proceedings shall lie against

for acts

done in good faith.

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 are in addition to any other laws.

17. Save as otherwise provided, the provisions of this Act shall be

in addition to the provisions of any other law for the time being in force.

Powers to
make rules.

18. 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.

Power to
remove
difficulties.

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:

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 the State Legislature.

By Order of the Governor

MIHIR RANJAN PARIDA

Principal Secretary to Government, I/c.

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