

**ASSAM ACT XII OF 1979**  
**(Received the assent of the Governor on 23rd May 1979)**  
**THE ASSAM SCHEDULED CASTES AND SCHEDULED TRIBES**  
**(RESERVATION OF VACANCIES IN SERVICES AND POSTS) ACT, 1978**

**AN**  
**ACT**

to provide for reservation of vacancies in services and posts for the members of the  
Scheduled Castes and Scheduled Tribes.

**PREAMBLE**

Whereas the members of the Scheduled Castes and Scheduled Tribes who are Backward Classes of citizens are not adequately represented in the services and posts within the State;  
And Whereas it is expedient to provide for the reservation of vacancies in services and posts for them;  
It is hereby enacted in the Twenty-ninth Year of the Republic of India, by the Legislature of Assam, as follows:—

**Short title, extent and commencement**

1. 1) This Act may be called the Assam Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1978.
- 2) It extends to the whole of Assam.
- 3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

**Definition**

2. In this Act, unless the context otherwise requires, —
  - (a) “Appointing authority”, in relation to a service or post in an establishment, means the authority empowered to make appointment to such service or post;
  - (b) “Establishment”, means any Officer of the State Government, a local or statutory authority constituted under any State Act for the time being in force or a Corporation in which not less than fifty-one per cent of the paid up share capital is held by the State Government and includes Universities and Colleges affiliated to the Universities, Primary, Secondary and Multipurpose Schools and also other educational institutions which are owned or aided by the State Government and also includes an establishment in Public Sector;
  - (c) “Establishment in public sector” means any industry, trade, business or occupation owned, controlled or managed by —
    - (i) The State Government or any department of the State Government, or
    - (ii) A Government Company as defined in Section 617 of the Companies Act, 1956 or a Corporation established by or under a Central or State Act, in which not less than fifty-one percent of the paid up share capital is held by the State Government, or

- (iii) A local or statutory authority, constituted under any State Act for the time being in force;
- (d) “Establishment in private sector” means any industry, trade business or occupation which is not an establishment in Public Sector;
- (e) “Schedule” means the Schedule appended to this Act.

### **To apply in relation to certain employments**

- 3. This Act shall not apply in relation to —
  - a) Any employment under the Central Government;
  - b) Any employment in the Assam Judicial Service Grade I;
  - c) Any employment in domestic service.

### **Reservation for SC and ST in vacancies to be filed by direct recruitment**

- 4. At the commencement of this Act, all appointments the services and post in the establishment which are to be filled up by direct recruitment shall be regulated in the following manner, namely:—
  - (a) Subject to the other provisions of this Act, seven per cent of the vacancies shall be reserved for the candidates belonging to Scheduled Castes and ten percent for Scheduled Tribes (Plains) and five percent for Scheduled Tribes (Hills), in the manner set out in the Schedule:

Provided that the State Government may from time to time review the implementation of the reservation policy and take adequate measures including increase of percentage, mentioned in Clause 4 (a) of this Bill:

Provided also that in respect of the Assam Judicial Service, the percentage shall be seven for Scheduled Castes and ten for Scheduled Tribes (Plains) and five for Scheduled Tribes (Hills) in Grade II and III of the Service.

- (b) Fees, if any, prescribe for any examinations for selection to any service or post shall be reduced to half in the case of candidates belonging to the Scheduled Casts or Scheduled Tribes.
- (c) The members of the Scheduled Castes and the Scheduled Tribes shall be entitled to a concession of three years over the prescribed maximum age limit for appointment to any services or post.

### **Reservation for SC and ST in vacancies to be filled up by promotion**

- 5. Reservation for members of Scheduled Castes and Scheduled Tribes in vacancies to be filled up by promotion in any establishment shall be regulated in the following manner, namely:—
  - (a) There shall be reservation at seven per cent for members of the Scheduled Castes and ten per cent for the members of Scheduled Tribes (Plains) and five per cent for the members of the Scheduled Tribes (Hills):

Provided that the State Government may from time to time review the implementation of the reservation policy and take adequate measures including increase of percentage, mentioned in Clause 5(a) of this Bill.

- (b) A separate twenty point roster in the form given in the Schedule shall be maintained by every establishment.

#### **Power to exempt**

6. If the State Government is of opinion that the reservation for members of the Scheduled Castes or Scheduled Tribes shall not be applied to any specialised service or post in view of the specialised qualification or experience necessary and in absence of such qualified candidates from amongst the Scheduled Castes and Scheduled Tribes the State Government may, by notification in the Official Gazette, exempt such service or post from the provisions of this Act.

#### **Penalty**

7. If an appointing authority makes an appointment in contravention of the provisions of Section 4 or Section 5, he shall be punishable with fine which may extend to one thousand rupees and the State Government may also draw up proceedings against the respective Head of the Department asking for show cause and for further punishment:

Provided that nothing contained in this Section shall apply in relation to an appointment to any service or post of which the appointing authority is the Governor.

#### **Cognizance of Offences**

8. No prosecution for an offence under this Act shall be instituted except by, or with the sanction of the State Government.

#### **Protection of action taken in good faith**

9. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

#### **Removal of difficulties**

10. If any difficulty arises in giving effect to the provisions of the Act, the State Government may take such steps or issue such orders not inconsistent with the provisions of this Act, as the State Government may consider necessary for removing the difficulty.

#### **Power to amend the Schedule**

11. The State Government may, by order published in the Official Gazette, add to, amend or alter the Schedule.

#### **Submission of annual Report maintenance of other records and thereon**

12. 1) Every appointing authority shall maintain such records as may be prescribed by rules made in this behalf and shall furnish to the State Government in the prescribed manner as annual report on the appointments made by it, during the previous financial year.

- 2) Any Officer authorised by the State Government in that behalf may inspect any records or document which are maintained in relation to appointments made by such appointing authority.
- 3) It shall be the duty of the appointing authority to produce such records or documents for inspection by the officer authorised under sub-section (2), and furnish such information or afford such assistance as may be necessary for him to carry out his functions under this Act.
- 4) Notwithstanding anything contained in the Assam Civil Services (Conduct) Rules, 1965, any member of any Scheduled Castes or any Scheduled Tribes who is adversely affected on account of non-compliance with the provisions of this Act or the rules made thereunder by any appointing authority, may bring the fact to the notice of the State Government and upon application made by him the State Government may call such records or take such action thereon as it may think fit.

### **Power to make rules**

13. 1) The State Government may make rules for carrying out the purposes of the 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) Form in which every establishment shall submit annual report to the State Government regarding the number of person recruited in such establishment.
  - b) Any other matter which has to be or may be prescribed by rules made in this behalf.

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**THE SCHEDULE**  
**(see section 4)**

The reservation for the members of the Scheduled Castes and the Scheduled Tribes in services or posts /t an establishment shall be given effect to in the following manner, namely:

- (i) A roster of twenty vacancies will be necessary in give effect to the reservation of vacancies for the Scheduled Castes and the Scheduled Tribes The roster given below shall be adopted for the purpose by each establishment.

- 1st Vacancy Scheduled Tribes (Plains)
- 2nd Vacancy Unreserved
- 3rd Vacancy Scheduled Castes
- 4th Vacancy Unreserved
- 5th Vacancy Unreserved
- 6th Vacancy Unreserved
- 7th Vacancy Scheduled Tribes (Hills)
- 8th Vacancy Unreserved
- 9th Vacancy Unreserved
- 10th Vacancy Unreserved
- 11th Vacancy Scheduled Tribes (Plains)
- 12th Vacancy Scheduled Castes
- 13th Vacancy Unreserved
- 14th Vacancy Unreserved
- 15th Vacancy Unreserved
- 16th Vacancy Unreserved
- 17th Vacancy Unreserved
- 18th Vacancy Unreserved
- 19th Vacancy Unreserved
- 20th Vacancy Unreserved

Reservation points —

Scheduled Tribes (Plains) 1,11;  
Scheduled Castes 3.12;  
Scheduled Tribe (Hills) 7

- (ii) A register shall be maintained for giving effect to the instructions contained in paragraph (i)

- (iii) Before making an appointment by direct recruitment, the appointing authority shall ascertain by consulting the register whether the vacancy is reserved or unreserved and if it is reserved, for whom it is so reserved. Immediately after an appointment is made the particulars thereof shall be entered in the register and signed by the appointing authority.
- (iv) The roster is a running account for year to year and shall be maintained accordingly. If recruitment in a particular year stop at a particular point of the cycle, say at the 4th point, recruitment in the subsequent year shall begin at the next point the at the 5th point.
- (v) No gap shall be left in the roster in filling vacancies and if a reserved vacancy, say at the 5th point of the cycle, has, for want of a qualified Scheduled Caste candidate to be treated as unreserved the candidate appointed shall be shown against the point. An attempt shall be made at the time of filling each successive unreserved vacancy to recruit a Scheduled Caste candidate but if a Scheduled Caste candidate can not still be found in the year in which the vacancy is filed, the reservation shall be carried forward to the following year. The first unreserved vacancy in that year shall be reserved for the Scheduled Castes in addition to any other vacancy available to them according to the cycle.
- (vi) In the absence of a qualified Scheduled Caste/Scheduled Tribe candidate in a particular year, the vacancy shall be carried forward till the requisite percentage in that cadre is filled up.
- (vii) The roster, shall be maintained separately for permanent and temporary vacancies.
- (viii) A vacancy due to whatever cause, except termination of service during probation, shall be treated as a fresh vacancy.
- (iv) A candidate who claims to be a member of the Scheduled Castes or the Scheduled Tribes shall support his candidature by a Certificate from a Gazetted Officer or from such other authority as may be prescribed by rules made under the Act.

U. TAHBILDAR,  
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