THE UTTAR PRADESH STATE COMMISSION FOR BACKWARD CLASSES ACT, 1996[1]

(President's Act No.I of 1996)

[Enacted by the President in the Forty-sixth year of the Republic of India]

Amended by

U.P. Act No. 28 of 2001
U.P. Act No. 18 of 2005
U.P. Act No. 10 of 2007
U.P. Act No. 4 of 2014

AN

ACT

to constitute a Commission for the State of Uttar Pradesh for Backward Classes other than the Scheduled Castes and the Scheduled Tribes and to provide for matters Connected therewith or incidental.

In exercise of the powers conferred by Section 3 of the Uttar Pradesh State Legislative (Delegation of Powers) Act, 1995, the President is pleased to enact as follows:-

CHAPTER-I
Preliminary

Short title and commencement

1.(1) This Actmaybe calledtheUttar Pradesh State Commission for Backward Classes Act, 1996.

(2) It shall be deemed to have come into force on November 17, 1994

Definition

2.In this Act–

(a)"backward Classes" means such classes of citizens as are defined in clause (b) of section 2 of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and other Backward Classes) Act, 1994 as amended from time to time:

(b)"Commission" means the State Commission for Backward Classes constituted under Section 3:

(c) Member" means a Member of the Commission and includes the Chairman:

(d) "Schedule" means Schedule I to the Uttar Pradesh Public Services (Reservation for Schedule Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 as amended from time to time.

CHAPTER-II
The State Commission for Backward Classes

Constitution of the State Commission for Backward Classes

3.(1) The State Government shall constitute a body to be known as the State Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2) The headquarters of the Commission shall be at such place as the State Government may, by notification, specify.

1.For Reasons of the enactment *see* at the end of this Act.

[The Uttar Pradesh State Commission for Backward Classes Act, 1996]

Amendment Act no. 1, 1996 of sec. 3 of President

[1][(3) The Commission shall consist of a Chairman, two Vice-Chairman and [2][twenty-five other Member's] nominated by the State Government from amongst persons of eminence, ability and integrity]

[3](b) Provided that at least one representative from minority community shall be nominated as member in the Commission.

Explanation-*For* the purposes of this Act the word 'minority' shall have the same meaning as defined in the Uttar Pradesh Commission for Minorities Act, 1994 (U.P.
Act no. 22 of 1994).]

Term of office and condition of Service

4.(1)[4][The Chairman, Vice-Chairman or every other member shall hold office for a term of one year from the date he assumes office:

Provided that the Chairman, Vice-Chairman or other member shall hold office as such during the pleasure of the State Government.]

(2) A member may, by writing under his hand addressed to the Governer, resign from the office of Chairman or, as the case may be, of Member at any time but shall continue to hold office until his resignation is accepted.

(3) [5][x x x]

(4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh appointment.

(5) The salaries and allowances payable to, and other terms and conditions of service of the Chairman and Members shall be such as may be prescribed.

[6][(6) (a) The Chairman shall be having the status of a Minister of the State.

(b) The Vice-Chairman shall be having the status of the Deputy Minister of the State;]

Officers and other employees of the Commission

5.(1) The State Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission.

(2) The salaries and allowances payable to, and others terms and conditions of service of, the Secretary and other officers and employees appointed for the purpose of the Commission shall be such as may be prescribed.

1.*Subs.* by *sec.* 2 of U.P. Act No. 10 of 2007.

2- *Subs.* by *sec.* 2(a) of U.P. Act No. 4 of 2014.

3- *Subs.* by *sec.* 2(b) of U.P. Act No. 4 of 2014.

4.*Subs.* by *sec.* 3(a) of U.P. Act No. 10 of 2007.

5.*Omitted* by *sec.* 3(b) of *ibid.*

6.*Ins.* by *sec.* 3(c) of U.P. Act No. 10 of 2007.

Salaries and allowances to be paid out of grants

6.The salaries and allowances payable to the Chairman and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in Section 5, shall be paid out of the grants referred to in sub-section (1) of section 12.

Vacancies, etc. not to invalidate proceedings of the Commission

7.No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Procedure to be regulated by the Commission

8.(1)The Commission shall meet as and when necessary at such time and place as the Chairman may think fit.

(2)The Commission shall regulate its own procedure.

(3)All orders and decision of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorized by the Secretary in this behalf.

CHAPTER-III

Functions and powers of the Commission

Functions of

9.(1) The Commission shall perform all or any of the

the Commission following functions, namely:-

(a)the Commission shall examine requests for inclusion of any class of citizens as a backward class in the schedule and hear complaints of wrong inclusion or non-inclusion of any backward class in the Schedule and tender such advice to the State Government as it deems appropriate;

(b)to investigate and monitor all matters relating to the safeguards provided for the backward classes under any law for the time being in force or under any order of the State Government and to evaluate the working of such safeguards;

(c)to enquire into specific complaints with respect to the deprivation of right and safeguards of the backward classes;

(d)to participate and advice on the planning process of socio-economic development of the backward classes and to evaluate the progress of their development;

(e) to present to the State Government Annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(f)to make in such reports recommendations, as to the measures that should be taken by the State Government for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the backward classes; and

(g)to discharge such other function in relation to the protection, welfare, development and advancement of the backward classes as may be referred to it by the State Government.

[The Uttar Pradesh State Commission for Backward Classes Act, 1996]

(2) The State Government shall cause the reports of the Commission to be laid before each House of the State Legislature alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations and the reason for the non-acceptance, if any, of any of such recommendations.

Powers of the Commission

10. The Commission shall, while performing its functions under sub-section (1) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:-

(a)summoning and enforcing the attendance of any person and examining him on oath;

(b)requiringthe discovery and production of any document;

(c)receiving evidence on affidavits;

(d)requisitioning any public record or copy thereof from any court or office:

(e)issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

Periodic revision of the Schedule by the State Government

11.(1) The State Government may at any time and shall, at the expiration of ten years from the coming into force of the Act and every succeeding period of ten years thereafter, undertake revision of the Schedule with a view to excluding from the Schedule those classes who have ceased to be backward classes or for including in the schedule new backward classes.

(2) The State Government shall, while undertaking any revision referred to in sub-section (1), consult the Commission.

CHAPTER-IV

Finance, accounts and audit

Grants by the State Government

12.(1) TheState Governmentshall, after dueState Governmentappropriationmade by the State Legislature by law in this behalf, pay to be Commission by way of grants such sums of money as the State Government to think fit for being utilized for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

Accounts and Audit

13.(1) The commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed.

(2)The accounts of the Commission shall be audited by such auditor and at such intervals as may be prescribed.

(3) The auditor shall have such powers of requiring the production of books, accounts, connected vouchers and other documents and papers and for inspecting any of the offices of the Commission as may be prescribed.

[The Uttar Pradesh State Commission for Backward Classes Act, 1996]

Annual report

14. The Commission shall prepare annual report for each financial year, in such form and at such time, as may be prescribed giving a full account of its activities during that financial year and forward a copy thereof to the State Government.

Annual report and audit report to be laid before the State legislature

15. The State Government shall cause the annual report, together with a memorandum of action taken on the advice tendered by the Commission under Section 9 and the reasons for the non-acceptance, if any, of any such advice, and the audit report to be laid as soon as may be after they are received before both the Houses of the State Legislature.

CHAPTER-V

Miscellaneous

Chairman, Members& employees of the Commission to be public servants

16. TheChairman,membersandemployeesofthe Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Power to make rules

17.(1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

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

(a)Salaries and allowances payable to and other terms and conditions of service of the Chairman and Members under sub section (8) of section 4 and of officers and other employees, under sub-section (2) of section 5:

(b)the form in which the annual statements of accounts shall be maintained under sub-section (1) of section 13;

(c)the form in, and the time at which the annual report shall be prepared under section 14;

(d)any other matter which is required to be or may be prescribed.

Penalty

18. Whoever, being legally bound to obey any order or direction of the Commission under Section 10 disobeys such order of direction shall be punishable under Section 174, 175, 176, 178, 179 or 180 of the Indian Penal Code, as the case may be.

Cognizance of offences

19. No court shall take cognizance of any of the offences specified in section 18 except on the complaints in writing of the Chairman or a member or of an officer of the Commission authorised in this behalf by the Commission.

Protection of action taken in good faith

20. 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 in pursuance of the provisions of this Act or the rules made thereunder.

[The Uttar Pradesh State Commission for Backward Classes Act, 1996]

Power to remove difficulties

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may,by a notified

order, make provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient, for removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration or a period of two years from the commencement of this Act.

(3) The provisions of sub-section (1) of section 23-A of the **U.P. Act no. 1** Uttar Pradesh General Clauses Act,1904 shall apply to the order **of 1904** made under sub-section (1) as they apply in respect of rules made by the State Government under any Uttar Pradesh Act.

Saving

22. Notwithstanding anything in this Act the Commission constituted by the Uttar Pradesh Government Order No. 22/16/92-Ka-2-93, dated March 9, 1993, shall be deemed to have been duly constituted under the provisions of this act and the term of three years of the Chairman and other Members of the said Commission shall be computed from the date of which they had assumed charge of their respective officers.

Repeal and savings

23.(1) The Uttar Pradesh State Commission for Backward Classes (Amendment) Ordinance, 2014 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal act as **U.P.** amended by the Ordinance referred to in sub-section (1), shall **Ordinance no. 34 of 1995** be deemed to have been done or taken under the corresponding provisions of the principal act as amended by this Act as if the provisions of this act were in force at all material times.

[The Uttar Pradesh State Commission for Backward Classes Act, 1996]

Reasons for the enactment

In pursuance of the judgement of the Hon'ble Supreme Court in the Mandal Commission Case (Indira Sahani Vs. Union of India), the State Government constituted a commission for Backward classes by notification dated 9th March, 1993. It was decided to regulate the constitution of the said Commission by an enactment. It was further decided that besides examining the request for inclusion of any class of citizens as backward class and complaints of wrong inclusion or non- exclusion in the list of Backward Classes, the Commission may also perform other specified functions with a view to safeguard of the interest and welfare of the Backward classes.

2. Since the State Legislature was not m session immediate legislative action in the matter was necessary, the Uttar Pradesh State Commission for Backward Classes Ordinance, 1994 (U.P. Ordinance No. 26 of 1994) was promulgated by the Governor on the 17th November, 1994. To replace the provisions of the aforesaid Ordinance the Uttar Pradesh State Commission for Backward Classes Bill, 1995 was introduced in the Uttar Pradesh Legislative Council on the 6th February, 1995 but since the said Bill could not be passed by the Uttar Pradesh Legislative Council, the Uttar Pradesh State Commission for Backward Classes Ordinance, 1995 (U.P. Ordinance No.12 of 1995) was promulgated by the Governor on the 30th March, 1995 to keep the provisions of the aforesaid Ordinance in force.

3. Since the aforesaid bill could not be passed in the session of the State Legislature, commencing from the 14th July,1995, and remained pending with the Legislative Assembly, the Uttar Pradesh State Commission for Backward Classes (Second) Ordinance, 1995 (U.P. Ordinance No. 34 of 1995) was promulgated by the Governor on the 25th August, 1995 to replace the provisions of the aforesaid U.P. Ordinance No.I 2 of 1995.

4.The President issued a proclamation on the 18th October, 1995 under Article 356 of the Constitution, in relation to the State of Uttar Pradesh, declaring, inter alia, that the powers of Legislature of the State shall be exercised by or under the authority of Parliament. Parliament has,under Article 357(1)(a) of the Constitution, now conferred on the President, the powers of the Legislature of the State of Uttar Pradesh to make laws vide the Uttar Pradesh State Legislature (Delegation of Powers) Act, 1995 (2 of 1996).

5.The said Ordinance could not be replaced by an Act and the Ordinance is expiring on the 7th January, 1996. It is, therefore, decided that the said Ordinance shall be replaced by a President's Act.

6.Under the Provisions to sub-section (2) of Section 3 of the Uttar Pradesh State Legislature (Delegation of Powers) Act, 1995 (2 of 1996) the President shall, before enacting any President's Act, consult a Committee constituted for the purpose consisting of the members of both the Houses of Parliament. As the said Committee has yet not been constituted and the matter is very urgent, it is proposed to enact the measure without reference to the said Committee.