

THE SCHEDULED CASTES AND SCHEDULED TRIBES ORDERS (AMENDMENT) ACT,
1976

(108 OF 1976)

[18th September, 1976.]

An Act to provide for the inclusion in, and the exclusion from, the lists of Scheduled Castes and Scheduled Tribes, of certain castes and tribes, for the readjustment of representation of parliamentary and assembly constituencies in so far as such readjustment is necessitated by such inclusion or exclusion and for matters connected therewith.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows: —

1. Short title and commencement.—(1) This Act may be called the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

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

(a) "census authority" means the Registrar General and *ex officio* Census Commissioner for India;

(b) "Commission" means the Election Commission appointed by the President under article 324 of the Constitution;

(c) "Delimitation Act" means the Delimitation Act, 1972 (76 of 1972);

(d) "last census" means the census held in India in 1971;

(e) "Scheduled Castes Order" means the Constitution (Scheduled Castes) Order, 1950, made by the President under article 341 of the Constitution;

(f) "Scheduled Tribes Orders" means the Constitution (Scheduled Tribes) Order, 1950 and the Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959, made by the President under article 342 of the Constitution;

(g) "State" means a State included in the Scheduled Castes Order and the Scheduled Tribes Orders, and includes the Union territory of the Andaman and Nicobar Islands.

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1. 27-7-1977: *Vide* Notifn. No. S.O. 589(E), dated 27.7.1977, Gazette of India, Extraordinary, Part II, Section 3(ii), page 2397.

2. Rep. by Act 19 of 1988, s. 2 and the First Sch.

5. Determination of population of Scheduled Castes and Scheduled Tribes.—(1) As soon as may be after the commencement of this Act, the population as at the last census of the Scheduled Castes or, as the case may be, of the Scheduled Tribes, in each State shall be ascertained or estimated by the census authority.

(2) Where by reason of the amendments made by section 3 or section 4—

(a) any locality in a State specified in relation to any caste or tribe in any of the parts of the Schedules to the Orders referred to in the said sections is varied so as to specify a larger area in relation to such caste or tribe, the census authority shall take into account the population figures of the caste or tribe as ascertained in the last census and in any previous census wherein the population figures of the caste or tribe in respect of the increased area had been ascertained and determine the population of that caste or tribe as on the 1st day of April, 1971 by increasing or decreasing such figures by the proportion in which the general population of the State or, as the case may be, the division, district, taluk, tahsil, police station, development block, or other territorial division in relation to which such caste or tribe has been specified by the said amendments has increased or decreased between the previous census aforesaid and the last census;

(b) any caste or tribe which is deemed to be both a Scheduled Caste and Scheduled Tribe in relation to a State or part thereof is varied so as to specify such caste or tribe only as a Scheduled Caste or Scheduled Tribe in relation to that State or part, the census authority shall take into account the population figures of such Scheduled Caste and Scheduled Tribe as ascertained in the last census:

Provided that it shall not be necessary for the census authority to determine the population of any Scheduled Caste or Tribe as on the 1st day of April, 1971, if the population of that caste or tribe was not ascertained at the last census and in any of the previous censuses and is, in the opinion of that authority, numerically small.

Explanation.—Where the population figures of any caste or tribe in respect of any increased area referred to in clause (a) had been ascertained in more than one previous census, the census authority shall take into account, for the purposes of that clause, the population figures of such caste or tribe as ascertained in the previous census which is nearest in point of time to the last census.

(3) The population figures ascertained or determined under sub-section (2) shall be notified by the census authority in the Gazette of India.

(4) The population figures so notified shall be taken to be the relevant population figures as ascertained at the last census and shall supersede any figures previously published; and the figures so notified shall be final and shall not be called in question in any court.

6. Re-adjustment of constituencies by the Election Commission.—(1) After the population figures have been notified for any State under section 5, it shall be the duty of the Commission to make such amendments as may be necessary in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 (without altering the extent of any constituency as given in such Order), having regard to the provisions of articles 81, 170, 330 and 332 of the Constitution, of section 8 of the Delimitation Act, and of this Act, for the purpose of giving proper representation to the Scheduled Castes or, as the case may be, to the Scheduled Tribes of that State on the basis of the number of reserved seats as specified in that Order as hereunder amended by the Commission, and the First Schedule and Second Schedule to the Representation of the People Act, 1950 (43 of 1950) shall be deemed to have been amended accordingly.

Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976
(PART II.—Acts of Parliament)

(2) In making any amendments under sub-section (1), the Commission shall, as far as may be necessary, have regard to the provisions of clauses (c) and (d) of sub-section (1) of section 9 of the Delimitation Act.

(3) The Commission shall—

- (a) publish its proposals for the amendments in the Gazette of India and the Official Gazette of the State concerned and also in such other manner as it thinks fit;
- (b) specify a date on or after which such proposals will be further considered by it;
- (c) consider all objections and suggestions which may have been received by it before the date so specified; and
- (d) thereafter make the necessary amendments in the order.

7. Procedure and Powers of the Commission.—(1) In the discharge of its functions under this Act, the Commission shall determine its own procedure and shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely:--

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the production of any document; and
- (c) requisitioning any public record from any court or office.

(2) The Commission shall have the power to require any person to furnish any information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, any matter under the consideration of the Commission.

(3) The Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Commission shall be the limits of the Territory of India.

8. Publication of amendments and their dates of operation.—(1) The Commission shall cause the amendments made by it in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 to be published in the Gazette of India and in the Official Gazettes of the States concerned.

(2) Upon publication in the Gazette of India, every such amendment shall have the force of law and shall not be called in question in any court.

(3) As soon as may be after such publication in the Gazette of India, every such amendment shall be laid before the House of the People and the Legislative Assemblies of the States concerned.

(4) Subject to the provisions of sub-section (5), the readjustment of representation of any territorial constituencies in the House of the People or in the Legislative Assembly of a State necessitated by any amendments made by the Commission in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 and provided for in that Order as so amended shall apply in relation to every election to the House or, as the case may be, to the Assembly, held after the publication in the Gazette of India under sub-section (1) of such amendments and shall so apply in supersession of the provisions relating to representation contained in the Representation of the People Act, 1950 (43 of 1950).

(5) Nothing contained in the foregoing sub-sections shall affect the representation in the House of the People or in the Legislative Assembly of a State, existing on the date of publication in the Gazette of India under sub-section (1) of the amendments made by the Commission under this Act.

Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976
Extracts from the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989
 (PART II.—Acts of Parliament)

9. Certain other powers of Election Commission.—(1) The Commission may, from time to time, by notification in the Gazette of India and in the Official Gazette of the State concerned—

(a) correct any printing mistake in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as amended under this Act, or any error occurring therein from any inadvertent slip or omission; and

(b) where the boundaries or the name of any district or any territorial division mentioned in the said Order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the Order up-to-date.

(2) Every notification under this section, shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.

10. Validation of acts done previous to the commencement of the Act.—All things done, and all steps taken, before the commencement of this Act by the census authority for the determination of population of Scheduled Castes and Scheduled Tribes, or by the Commission for the purpose of re-adjustment of constituencies shall, in so far as they are in conformity with the provisions of this Act, be deemed to have been done or taken under these provisions as if such provisions were in force at the time such things were done or such steps were taken.

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