

Acts and Rules on Caste/Tribe Identification

IDENTIFICATION ACT

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

NOTIFICATION

No. 1352-L.—3rd August 1994.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information: -

West Bengal Act XXXVIII of 1994

THE WEST BENGAL SCHEDULED CASTES AND SCHDEULED TRIBES (IDENTIFICATION) ACT, 1994.

[Passed by the West Bengal Legislature]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 3rd August, 1994.]

An Act to provide for the identification of the Scheduled Castes and the Scheduled Tribes in West Bengal and for matters connected therewith or incidental thereto

WHEREAS it is expedient to provide for the identification of the Scheduled Castes and the Scheduled Tribes in West Bengal and for matters connected therewith or incidental thereto;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows: --

1. (1) This Act may be called the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994.

**Short title,
extent and
commence-
ment.**

(2) It extends to the whole of West Bengal.

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

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

Definitions. ¹(a) “Committee” means the state scrutiny Committee constituted under section 8A for verification of social status of a person in whose favour a certificate is issued under section 5.

²(aa) “Constitution” means the Constitution of India;

(a) “notification” means a notification published in the *Official Gazette*;

(b) “prescribed” means prescribed by rules made under this Act;

* 1st day of October, 1994 appointed as date of effect vide Notification No. 534-TW/EC dated 21st September, 1994.

¹ Inserted by West Ben. Act IV of 2007 w. e. f. 10-5-2007.

² Section 2(a) renumbered as section 2(aa) by West Ben. Act IV of 2007 w. e. f. 10-5-2007.

- (c) "Scheduled Castes" shall have the same meaning as in clause (24) of article 366 of the Constitution;
- (d) "Scheduled Tribes" shall have the same meaning as in clause (25) of article 366 of the Constitution;
- (e) "the Constitution (Scheduled Castes) Order" means the Constitution (Scheduled Castes) Order, 1950, made by the President in exercise of the powers conferred by clause (1) of article 341 of the Constitution;
- (f) "the Constitution (Scheduled Tribes) Order" means the Constitution (Scheduled Tribes) Order, 1950, made by the President in exercise of the powers conferred by clause (1) of article 342 of the Constitution.

3. Any person belonging to any of the castes, races or tribes or parts of or groups within castes, races or tribes, specified in Part XIII of the Schedule to the Constitution (Scheduled Castes) Order, and resident in the locality specified in relation to him in that Part of such Schedule, may be identified, by a certificate, to be a member of the Scheduled Castes.

Identification of members of Scheduled Castes.

4. Any person belonging to any of the tribes or tribal communities or parts of or groups within tribes or tribal communities, specified in Part XII of the Schedule to the Constitution (Scheduled Tribes) Order, and resident in the locality specified in relation to him in that Part of such Schedule, may be identified, by a certificate, to be a member of the Scheduled Tribe.

Identification of members of Scheduled Tribes.

5. A certificate under section 3 or section 4 may be issued, --

Issue of certificate of identification.

- (a) in the district, by the Sub-divisional Officer of the sub-division concerned, and
- (b) in Calcutta, by the District Magistrate, South 24 Parganas, or by such Additional District Magistrate, South 24-Parganas, as may be authorised by the District Magistrate, South 24-Parganas, in this behalf.

Explanation I. —"Calcutta" shall mean the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866.

Ben. Act IV of 1866

Explanation II. —For the removal of doubt, it is hereby declared that for the purposes of this Act, the District Magistrate, South 24-Parganas, or the Additional District Magistrate, South 24-Parganas, authorized by the District Magistrate, South 24-Parganas, under clause (b) of this section, shall have jurisdiction over Calcutta.

6. A certificate under this Act may be issued on application by the person requiring the certificate under this Act in such form and manner, and upon production of such evidence, as may be prescribed.

Procedure of issue of certificate.

7. If the Sub-divisional Officer or the District Magistrate, South 24-Parganas, or the Additional District Magistrate, South 24-Parganas, authorised by the District Magistrate, South 24-Parganas, under clause (b) of section 5, as the case may be (hereinafter referred to as the certificate issuing authority), is not satisfied with the evidence produced by any person under section 6 and the rules made thereunder for the issue of a certificate under section 5, he may refuse, in writing, to issue such certificate after giving such person a reasonable opportunity of being heard.

Power to refuse to issue certificate.

8. (1) An appeal against any refusal under section 7 to issue any certificate shall lie--

Appeal against refusal to issue certificate.

- (a) to the District Magistrate, or the Additional District Magistrate authorised by the District Magistrate in this behalf, where the certificate is refused by the Sub-Divisional Officer, and
- (b) to the Commissioner, Presidency Division, where the certificate is refused by the District Magistrate, South 24-Parganas, or the Additional District Magistrate, South 24-Parganas, authorised by the District Magistrate, South 24-Parganas, under clause (b) of section 5, as the case may be:

Provided that every such appeal shall be made in such manner and within such time as may be prescribed:

Provided further that every such appeal shall be disposed of within three months from the date on which the appeal is made:

Provided also that no such appeal shall be disposed of without giving the appellant a reasonable opportunity of being heard.

(2) The decision of the District Magistrate or the Additional District Magistrate or the Commissioner, Presidency Division, as the case may be, on any appeal under sub-section (1) shall be final.

³8A. (1) The State Government may, by order, constitute a Committee to be called the state **Constitute of State Scrutiny Committee and its** Scrutiny Committee to be called the State Scrutiny Committee for verification of social status of a person in whose favour a certificate is issued under section 5.

(2) The Committee shall consist of the following Members:-

- a) the Secretary, Backward Classes Welfare Department, Government of West Bengal. Chairperson;
Explanation.-Secretary shall include a special secretary.
- b) The Commissioner, Directorate of Backward Classes Welfare, West Bengal or any officer not below the rank of Deputy Director, duly authorized by him, Convenor;
- c) the Director, Cultural Research Institute, Backward Classes Welfare Department or any officer not below rank of Deputy Director, duly authorised by him. Expert Member.

(3) Subject to any general or special order of the State Government, provisions of this Act and rules made thereunder, the Committee shall have powers-

- a) to verify the social status of a person in whose favour a certificate is issued under section 5;
- b) to issue direction to the Vigilance Cell constituted under section 8B;
- c) to make an inquiry in connection with the contravention of any provision of this Act;
- d) to issue notice to any person or authority in such manner as may be prescribed;

³ Inserted by West Ben. Act IV of 2007 w. e. f. 10-5-2007.

- e) to call for information from any person or authority for the purpose of satisfying itself whether there has been any contravention of any provision of this Act or any rule or order made or direction issued thereunder;
- f) to require any person or authority to produce or deliver any document or thing useful or relevant to the inquiry;
- g) to examine any person acquainted with the facts and circumstances of the case;
- h) to issue direction under sub-section (2) of section 9 to the certificate issuing authority;
- i) to do such other things and perform such other acts not inconsistent with the provisions of this Act as may appear to be necessary or expedient for the proper conduct of its function, or which may be prescribed.

(4) The Committee shall meet as such place and time, and the meeting shall be conducted in such manner, as may be prescribed.

(5) All order or direction of the Committee shall be authenticated by the Chairperson or by such officer of the Committee as may be authorised by the Chairperson on this behalf.

Constitution of
Vigilance Cell
and its power

8B. (1) The state Government may, by order, constitute a Vigilance Cell for each district of the West Bengal.

(2) The Vigilance Cell shall consist of—

- a) an Officer-in-charge not below the rank of Deputy Superintendent of Police, and
- b) such number of investigating officers not exceeding three from amongst the police officers in the rank of Inspector.

(3) Subject to any general or special order of the State Government or the provisions of this Act and rules made thereunder, the Vigilance Cell shall have powers—

- a) to inquire the cases relating to social status claims of a person in whose favour a certificate is issued under section 5;
- b) to make an inquiry in connection with the contravention of any provision of this Act;
- c) to issue notice to any person or authority in such manner as may be prescribed;
- d) to call for information from any person or authority for the purpose of satisfying himself whether there has been any contravention of any provisions of this Act or any rule or order made or direction issued thereunder;
- e) to require any person or authority to produce or deliver any document or thing useful or relevant to the enquiry;
- f) to examine any person or authority acquainted with the facts and circumstances of the case;
- g) to do such other things and perform such other acts not inconsistent with the provisions of this Act as may appear to be necessary or expedient for the proper conduct of its function, or which may be prescribed.

⁴9. (1) If the certificate issuing authority is satisfied that a certificate under this Act has been obtained by any person by furnishing any false information or by misrepresenting any fact or by suppressing any material information or by producing any document which is an act of forgery, it may cancel, impound or revoke such certificate in such manner as may be prescribed.

**Power to cancel,
impound or revoke
certificate.**

⁴ Sec 9 renumbered Sec 9(1) vide West Ben. Act IV of 2007 w. e. f. 10-5-2007.

Amendment of section 9. ⁵(2) Notwithstanding anything contained in sub-section (1), if the Committee is satisfied that a certificate under this Act has been obtained by any persons by furnishing any false information or by misrepresenting any fact or by suppressing any material information or by producing any document is an act of forgery, it may issue a direction to the certificate issuing authority, in such manner as may be prescribed, to cancel, impound or revoke such certificate and, on receipt of such direction, the certificate issuing authority shall, by order in writing, cancel, impound or revoke such certificate.

10.. Whoever—

Offences and penalties. (a) knowingly furnishes any false information, or
(b) knowingly misrepresents any fact, or
(c) knowingly suppresses any material information, or
(d) knowingly produces any document which is an act of forgery,
with a view to obtaining a certificate under this Act, ⁶[shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both].

11. Notwithstanding anything contained in this Act, any certificate identifying any person

Validation of certificate. to be a member of the Scheduled Castes or the Scheduled Tribes, issued by any authority, competent under any law for the time being in force to issue such certificate, prior to the commencement of this Act, shall be valid and shall be deemed to have been issued under this Act unless such certificate is proved to have been obtained by furnishing any false information or by misrepresenting any fact or by suppressing any material information or by producing any document which is an act of forgery, and in every such case, the certificate issuing authority shall have the power to cancel, impound or revoke such certificate in accordance with the provisions of this Act and the rules made thereunder.

⁷11.A. (1) If the appointing authority or the head of an establishment from which a person in whose favour a certificate is issued under section 5 is going to derive benefit as a holder of the certificate, has any doubt that such certificate has been obtained by furnishing false information or by misrepresenting any fact or by suppressing any material information or by producing any document which is an act of forgery, it shall send an application along with the certificate to the committee for verification.

Explanation.— The expressions “appointing authority” and “establishment” shall have the meaning respectively as assigned to them in clauses (a) and (b) of section 2 of the West Bengal Scheduled Castes and Scheduled Tribes (Reservation of vacancies in Services and Posts) Act, 1976. **West Ben. Act XXVII of 1976**

(2) The Committee shall dispose of the application referred to in sub-section (1) in such manner as may be prescribed.

⁵ Inserted by West Ben. Act IV of 2007 w. e. f. 10-5-2007.

⁶ Substituted for the words “shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees” by West Ben. Act IV of 2007 w. e. f. 10-5-2007.

⁷ Inserted by West Ben. Act IV of 2007 w. e. f. 10-5-2007.

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

Power to make rules. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which, under any provision of this Act, are required to be prescribed or to be provided for by rules.

By order of the Governor,
S. MAITRA,
Special Officer & ex-officio
Jt. Secy. to the Govt. of West Bengal.