

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

BACKWARD CLASSES WELFARE DEPARTMENT - Guidelines for implementation of 10% Reservation to the Economically Weaker Sections for admissions into Educational Institutions for the academic year 2019-20 – Orders – Issued.

BACKWARD CLASSES WELFARE (F) DEPARTMENT

G.O.Ms.No. 60,

Dated: 27.07.2019
Read the following: -

1. From the Ministry of Law and Justice (Legislative Department), the Constitution (One Hundred and Third Amendment) Act, 2019, Dt:12.01.2019.
2. From the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), Government of India, Office Memorandum F.No.36039/1/2019-Estt (Res.) Dt: 19.01.2019.
3. Act No.14 of 2019, Dated.20.02.2019 and Act No.15 of 2019, Dated.20.02.2019, published in PART IV-B EXTRAODINARY, Dated: 20th February 2010.
4. G.O.Ms.No.45, and G.O.Ms.No.46, BCW(F) Dept., Dated: 08.03.2019.
5. G.O.Ms.No.52, BC Welfare (F) Dept., Dated: 06.05.2019.
6. W.P. (CIVIL) No. 343 of 2019 with I.A.No. 45038/2019 filed by Sri P.V. Ramakrishna and others before the Hon'ble Supreme Court of India.
7. W.P. No. 4568 of 2019 filed by Dr. Gajula Madhusudana and others before the Hon'ble High Court of Andhra Pradesh.
8. W.P. No. 5206 of 2019 filed by Dr. Gajula Madhusudana and others before the Hon'ble High Court of Andhra Pradesh.
9. W.P. No. 8556 of 2019 filed by Sri Kalle Chandra Sekhar Sharma and Smt. Kalle Mitravinda before the Hon'ble High Court of Andhra Pradesh.

ORDER:

The Government of India, in the reference 1st read above, has brought out the Constitution (One Hundred and Third Amendment) Act, 2019 inserting Clauses 15 (6) and 16 (6) in the Constitution providing for 10% reservation in admissions into Educational Institutions and appointments to posts in favour of Economically Weaker Sections of citizens other than the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes.

2. In pursuance of the Constitution (One Hundred and Third Amendment) Act, 2019, the Government of India have, in the reference 2nd read above, prescribed the eligibility criteria to get the benefit of 10% reservation in admissions into Educational Institutions and appointments to posts provided in favour of Economically Weaker Sections of citizens other than the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes among others which are as follows:

- 1) The persons who are not covered under existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes and whose gross annual family income is below Rs.8.00 lakh are to be identified as EWS for the benefit of reservation.
- 2) The persons whose family owns or possesses any of the following assets shall be excluded from being identified as EWS for the benefit of reservation, irrespective of the family income.

- i. Five (5) Acres of agricultural land and above.
- ii. Residential flat of 1000 Sq. Ft. and above.
- iii. Residential plot of 100 Sq. Yards and above in notified Municipalities / Corporations.
- iv. Residential plot of 200 Sq. Yards and above in areas other than notified Municipalities / Corporations.

The property held by a "Family" in different locations or different places/cities would be clubbed while applying the land or property holding test to determine EWS status.

The term "Family" for this purpose will include the person who seeks benefit of reservation, his/her parents and siblings below the age of 18 years as also his/her spouse and children below the age of 18 years.

3. After passing of the Constitution (One Hundred and Third Amendment) Act, 2019, the Government of Andhra Pradesh have bifurcated the 10% reservation and brought out two Acts, namely, Act No.14 of 2019, Dated.20.02.2019 and Act No.15 of 2019, Dated.20.02.2019, providing for 5% reservation to Economically Weaker Sections among Kapus and 5% reservation to Economically Weaker Sections among other than Kapus respectively, towards admissions into Educational Institutions and appointments to posts in the Public Services under the State. There shall be 1/3rd horizontal reservation for women within in the reservation provided both to Kapus and other than Kapus.

4. In the reference 4th read above, the Government have issued orders bringing the provisions of the Act 14 of 2019 and Act 15 of 2019 into force with effect from 08.03.2019.

5. In the reference 5th read above, Government have constituted a Committee for formulation of draft guidelines for implementation of 5% reservation provided to Economically Weaker Sections among Kapus and 5% reservation provided to Economically Weaker Sections other than Kapus.

6. Meanwhile, a Writ Petition bearing No. WP (CIVIL) No. 343 OF 2019 with I.A.NO. 45038/2019 has been filed before the Hon'ble Supreme Court of India praying for quashing the Constitution (One Hundred and Third Amendment) Act, 2019 as violative of basic structure of the Constitution and also quashing Act 14 & Act 15 of 2019 enacted by Government of Andhra Pradesh as being violative of Articles 15 (1) & 16 (2) of the Constitution.

7. In the reference 7th & 8th read above, two Writ Petitions have been filed before the Hon'ble High Court of Andhra Pradesh praying for issuing an appropriate Writ or Order or direction more particularly one in the nature of Writ of Mandamus to the respondents to notify the Rules for implementing the 10% reservation provided to Economically Weaker Sections among Kapus and other than Kapus in Act No.14 of 2019 and Act No.15 of 2019 enacted by the State of Andhra Pradesh.

8. In the reference 9th read above, one more Writ Petition has been filed before the Hon'ble High Court of Andhra Pradesh praying for issuing an appropriate Writ or Order or direction more particularly one in the nature of Writ of Mandamus declaring Act No.14 of 2019 and Act No.15 of 2019 as ultra vires and un-constitutional, violative of the purport of the 103rd Constitutional Amendment Act, 2019 and violative of Article 15 of the Constitution of India and consequently, Act No.14 of 2019 and Act No.15 of 2019, have to be struck down. The Hon'ble High Court of Andhra Pradesh passed the following interim orders in this case;

"Notice before admission.

Petitioners filed the Writ Petition seeking Mandamus declaring Act 14 and Act 15 of 2019, as ultra vires, unconstitutional, violative of the purport of the 103rd Constitutional Amendment, violative of

Article 15 of the Constitution of India and consequently to strike down Act 14 and Act 15 of 2019.

Petitioners also sought interim relief, to direct the Respondents 6 and 7 to follow 103rd Constitutional Amendment Act during admissions into Medical and Engineering Courses and allot seats in the supernumerary seats created by the 4th Respondent, only in accordance with the policy of the 4th Respondent, with regard to Economically Weaker Sections, pending disposal of the writ petition.

It is the case of the petitioners that Act 14 and Act 15 of 2019, creating reservation in Educational Institutions to Kapu community based on their economic backwardness, is contrary to the 103rd Amendment.

In fact, it is brought to the notice of the Court that a petition challenging 103rd Constitutional Amendment is pending before the Honourable Supreme Court, but the main contention is that Act 14 and Act 15 are inconsistent with the purport of 103rd Constitutional Amendment. At this stage, it is not possible to decide the core issue i.e. the vires of Act 14 and 15 of 2019, making another class within the original class, without inviting counter-affidavit from the respondents.

Therefore, there shall be a direction to the respondents to complete the admission process, pending further orders, subject to the result of the Writ Petition, by obtaining an undertaking from the petitioners to the effect that in case the petitioners do not succeed in the writ petition, they shall not claim any equities in future based on the admissions.

Post after three weeks, by which time respondents shall file their counter-affidavits”.

9. In view of the above Government hereby decided to fill up the EWS quota of supernumerary seats in Higher Educational Institutions in accordance with 103rd Constitutional Amendment Act, 2019 and the guidelines issued by Govt., of India vide Office Memorandum F.No.36039/1/2019-Estt(Res.) Dated: 19.01.2019. The guidelines relevant for current academic year 2019-2020, in regard to the subject matter consistent with 103rd Constitutional Amendment, would read as under:

- i. All Castes which are not covered under any reservation category (SC / ST / BC) are entitled to avail of the reservation facility under EWS Category.
- ii. The students admitted under EWS Category will be adjusted against the 10 percent of the sanctioned seats granted additionally, as is followed by the Government of India. However, 1/3rd (33 1/3) of the seats enhanced for the purpose of accommodating the EWS Category students shall be earmarked to women among them.
- iii. The model format of the EWS Certificate prescribed by Government of India in Annexure-I vide their O.M.No.36039/1/2019-Estt. (Res), Dated: 31-1-2019 shall be followed along with the conditions referred in para 2 above.
- iv. The persons seeking the benefit of reservation under EWS category shall obtain the necessary EWS Certificate issued by the Tahsildar concerned.
- v. The eligibility conditions for a person to avail of the facility of EWS reservation are the same as fixed by the Government of India as referred in Para 2 above:

10. Further, in regard to implementation of reservations to EWS Category in appointments to the posts or services under State, necessary orders will be issued separately.

11. All the Administrative Departments concerned / Districts Collectors are therefore requested to take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**R. KARIKAL VALAVEN
SPECIAL CHIEF SECRETARY TO GOVERNMENT**

To

All the Departments in Secretariat.

All the Heads of Departments in the State.

All the District Collectors in the State.

The Secretary, APPSC, Vijayawada.

The Advocate General, A.P.

The Law Department, A.P. Secretariat.

The Registrar (Admn.), Hon'ble High Court of A.P.

The Hon'ble High Court of A.P., Amaravathi.

Copy to :-

The P.S. to Secretary to the Hon'ble C.M.,

The P.S. to the Hon'ble Minister for B.C. Welfare.

The OSD to Chief Secretary to Government.

The P.S. to Spl. C.S, B.C. Welfare Dept.

Sc/Sf.

//FORWARDED :: BY ORDER//

SECTION OFFICER