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Part IV—Section 4

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi the 27th September 2013/Asvina 5, 1935 (Saka)

THE READJUSTMENT OF REPRESENTATION OF SCHEDULE CASTES AND SCHEDULE TRIBES IN PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES (THIRD) ORDINANCE, 2013.

No. 10 OF 2013

Promulgated by the President in the Sixty-fourth Year of the Republic of India.

An Ordinance to provide for readjustment of seats in the the House of the People and in the Legislative Assembly of the States, and for the readjustment of territorial constituencies therefore, insofar as such readjustment is necessitated by inclusion in, or exclusion from, the lists of the Scheduled Castes and the Scheduled Tribes and for matters connected therewith or incidental thereto.

WHEREAS the Readjustments of representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Bill, 2013 to provide for the aforesaid matters, was promulgated by the President on the 30th January, 2013;

WHEREAS the Readjustments of representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Bill, 2013 was introduced on the 26th February, 2013 in the Council of States to replace the said Ordinance;

AND WHEREAS the said Bill was referred by the Chairman of the Council of States to the Department-related Parliament Standing Committee on Personnel, Public Grievances, Law and Justice on the 18th March, 2013.

AND WHEREAS the said Standing Committee presented its Fifty-ninth Report to the Council of States on the 2nd May, 2013 recommending that the Bill may be passed;

AND WHEREAS the said Bill could not be passed by the Council of States and the said Ordinance ceased to operate on the 4th April, 2013;

AND WHEREAS the Readjustments of representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Ordinance, 2013 was promulgated by the President on the 5th June, 2013;

AND WHEREAS the said Bill pending in the Council of States was withdrawn and the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Bill, 2013 was introduced on the 7th August, 2013 in the Council of States to replace the said Second Ordinance;

AND WHEREAS the Reajustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Bill, 2013 could not be passed by the Council of States;

AND WHEREAS the said Second Ordinance ceased to operate on the 15th September, 2013.

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to validate the actions taken under the said Ordinance so ceased to operate and to take further action to provide for the aforesaid matter;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and
commence
ment.

1. (1) This Ordinance may be called the Readjustment of Representation Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Third) Ordinance, 2013.

2. It shall be deemed to have come into force on the 30th day of January, 2013.

2. In this Ordinance, unless the context otherwise requires,—

Definitions

37 of 1948.

(a) "Censes Commission" means the Censes Commissioner appointed under sub-section (1) of Section 4 of the Census Act, 1948;

(b) "Commission" means the Election Commission referred to in article 324 of the Constitution;

33 of 2002.

(c) "Delimitation Act" means the Delimitation Act, 2002;

(d) "Delimitation Order" means the Delimitation of Parliamentary and Assembly Constituencies Order, 2008;

(e) "Last census" means the census held in India in 2001;

(f) "Scheduled Castes Orders" means the Constitution (Scheduled Castes) Order, 1950, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962 and the Constitution (Puducherry) Scheduled Castes Order, 1964, made by the President under article 341 of the Constitution;

(g) "Scheduled Tribes Orders" means the Constitution (Scheduled Tribes) Order, 1950, the Constitution (Scheduled Tribes) (Union Territories) Order, 1951, the Constitution (Scheduled Tribes) (Uttar Pradesh) Order, 1967 and the Constitution (Sikkim) Scheduled Tribes Order, 1978, made by the President under article 342 of the Constitution;

(h) "State" includes a Union territory having a Legislative Assembly, but does not include the State of Jammu and Kashmir.

3. (1) As soon as may be after the commencement of this Ordinance, 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 Commissioner.

Estimation of population of Scheduled Castes and Scheduled Tribes.

(2) Where by reason of the amendments made in the Scheduled Castes Orders and the Scheduled Tribes Orders after the last census and upto 31st May, 2012, the population of the Scheduled Castes or the Scheduled Tribes as at the last census is varied in a State, the Census Commissioner shall ascertain or estimate as on the 1st day of March, 2001, the population of the Scheduled Castes or the Scheduled Tribes so varied, and also ascertain or estimate the proportion of such population of the Scheduled Castes or the Scheduled Tribes, respectively, to the total population of the State in the last census.

(3) The population figures ascertained or estimated under sub-section (2) shall be notified by the Census Commissioner in the Gazette of India.

(4) The Population figures notified under the sub-section (3) shall be taken to be the relevant population figures as ascertained or estimated 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.

4. (1) After the population figures have been notified for any State under Section 3 the Commission shall make such amendments as may be necessary in the Delimitation Order, having regard to the provisions of article 81, 170, 330 and 332 of the Constitution, Section 8 of the Delimitation Act, and of this Ordinance, for the purpose of giving proper representation to the Scheduled castes or, as the case may be, to the Scheduled Tribes of that State, and the First Schedule and the Second Schedule to the Representation of the People Act, 1950 shall be deemed to have been amended accordingly.

Readjustment of territorial constituencies by Commission.

43 of 1950.

(2) In making any amendments in the Delimitation Order 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 States 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 its before for date so specified and for such consideration hold one or more public sittings at such place or places in each State as it thinks fit; and

(d) thereafter make necessary amendments in the Delimitation Order..

Procedure and powers of Commission.

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

5 of 1908

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the production of any documents; 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 purposes of enforcing the attendance of witnesses, the jurisdiction of the Commission shall be the limites of the territory of India.

Publication of amendments and their dates of operation.

6. (1) The Commission shall cause the amendments made by it in the Delimitation Order to be published in the Gazette of India and in the Official Gazettes of the States concerned.

(2) On and from the date of 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 and in the Official Gazette of the State, every such amendment shall be laid before the House of the People and the Legislative Assembly of the State concerned.

(4) Subject to the provisions of the sub-section (5), the readjustment of seats and 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 Order, and provided for in that Order as so amended shall apply in relation to every election to the House of the People or, as the case may be, to the Assembly to any State, held after the publication of such amendments in the Gazette of India, and shall so apply notwithstanding such provisions contained in the Representation of the People Act, 1950.

43 of 1950

(5) Nothing contained in the foregoing sub-section shall affect the representation in the House of the People or in the Legislative Assembly of a State, until the dissolution of the House of the People or of the Assembly of any state, as the case may be, existing on the date of publication of the amendments made by the Commission in the Gazette of India.

Certain other powers of Commission.

7. (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 Order as amended under the Ordinance 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 Delimitation 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.

8. All things done and all steps taken before the commencement of this Ordinance by the Census Commissioner for the ascertainment or estimation of population of the Scheduled Castes and the Scheduled Tribes, or by the Commission for the purpose of readjustment of the seats and territorial constituencies shall, in so far as they are in conformity with the provisions of this Ordinance, 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 undertaken.

Validation of acts done before the commencement of Ordinance.

9. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance, as appear to it to be necessary or expedient for removing the difficulty.

Power to remove difficulties.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of Parliament.

10. Notwithstanding the fact that the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Ordinance, 2013 has ceased to operate, anything done or any action taken or purported to have been done or taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Ordinance as if such provisions had been in force at all material times.

Validation of acts done under Ordinance 6 of 2013.

PRANAB MUKHERJEE,
President.

P.K. MALHOTRA,
Secretary to the Government of India.

(Re-published by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government
Law Department.*

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi the 28th September 2013/Asvina 6, 1935 (Saka)

THE INDIAN MEDICAL COUNCIL (AMENDMENT) SECOND ORDINANCE, 2013

No. 11 OF 2013

Promulgated by the President in the Sixty-fourth Year of the Republic of India.

An Ordinance further to amend the Indian Medical Council Act, 1956.

WHEREAS the Indian Medical Council (Amendment) Ordinance, 2013 was promulgated by the President on the 21st day of May, 2013;

AND WHEREAS the Indian Medical Council (Amendment) Bill, 2013 with certain modifications was introduced in the Council of States to replace the said Ordinance, which has not been passed and is pending in that House;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the said Ordinance with certain modifications;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title and
commence-
ment.

1. (1) This Ordinance may be called the Indian Medical Council (Amendment) Second Ordinance, 2013.

(2) It shall be deemed to have come into force on the 15th day of May, 2013.

Amendment of
long title.

2. In the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), for the long title, the following long title shall be substituted, namely:—

102 of 1956.

“An Act to provide for the constitution of the Medical Council of India and for the determination, Co-ordination, maintenance and regulation of standards of medical education, the practice of medicine, maintenance of Indian Medical Register and to make endeavour in making available doctors in all States and for matters connected therewith or incidental thereto.”.

Amendment
of
section 2.

3. In section 2 of the principal Act, in clause (1), after the words “a medical faculty”, the following shall be inserted, namely:—

“but does not include Deemed University for the purpose of section 3 of the Act”.

Amendment
of
section 3.

4. In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) after clause (a), the following clause shall be inserted, namely:—

(aa) one member, to represent the Union territories by rotation, to be nominated by the Central Government;”;

(ii) for clause (b), the following clause shall be substituted, namely:—

“(b) one member from each University, to be elected from amongst the members of the medical faculty of the University by members of the Senate of the University or in case the University has no Senate, by members of the Court or in case the University has no Court, a body equivalent to the Senate or the Court:

Provided that where there is Health University in a State, the Senate of the Health University or in case the Health University has no Senate, by members of the Court or in case the University has no Court; a body equivalent to the Senate or the Court of that University, shall elect one representative for every ten medical colleges affiliated to it, from amongst the medical faculty of those medical colleges, to represent such medical colleges:

Provided further that a Health University with less than ten medical colleges affiliated to it, shall also be eligible to elect one representative to represent such medical colleges:

Provided also that such number of representatives shall be reviewed by the Central Government after every four years;”;

(iii) clause (d) shall be-Omitted;

(b) in sub-section (2), the following proviso shall be inserted, namely:—

”Provided that no person shall hold office as the President or, as the case may be, the Vice-President for more than two terms.”.

5. After section 3A of the principal Act, the following section shall be inserted. namely:—

Insertion of
new section
3AA.

“3AA. The Central Government shall, after the commencement of the Indian Medical Council (Amendment) Second Ordinance, 2013, reconstitute the Council, by notification in the Official Gazette, and publish the names of the members nominated or elected to the Council under sub-section (1) of section 3 within a period not exceeding one hundred and eighty days:

Reconstitution
of Council.

Provided that the Board of Governors constituted under sub-section (4) of section 3A shall continue to exercise the powers and perform the functions of the Council till the new Council is reconstituted or for such period not exceeding one hundred and eighty days, whichever is earlier.”.

6. In section 4 of the principal Act, in sub-section (1),—

Amendment
of
section 4.

(a) the words, brackets and letter “or clause (d)” shall be omitted;

(b) the words, brackets, letter and figures “and any rules so made provide that pending the preparation of the Indian Medical Register in accordance with the provisions of this Act, the members referred to in clause (d) of sub-section (1) of section 3 may be nominated by the Central Government instead of being elected as provided therein,” shall be omitted.

7. In section 7 of the principal Act,—

Amendment
of section 7

(a) in sub-section (1), for the words “five years”, the words “four years” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Subject to the provisions of the Act, a member, whether nominated or elected, shall hold office for a term of four years.”;

(c) in sub-section (6), for the words “five years”, the words “four years” shall be substituted.

8. After section 9 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new
section 9A

“9A. (1) The Council shall, subject to the provisions of the Act and rules made thereunder, take measures to determine, coordinate and maintain the standards of medical education and practice in medicine, the Indian Medical Register and make endeavour in making available doctors in all States.

Functions of
Council.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to in sub-section (1), may, *inter alia*, provide for all or any of the following matters, namely:-

(a) lay down the standards of professional ethics in the practice of medicine;

(b) grant or withdraw permission for establishment of medical college and course of study in medical education and ensure compliance of its terms and conditions for such permission;

(c) maintain the Indian Medical Register;

(d) render advice to the Central Government or the State Government on matters relating to the medical education and practice in medicine;

(e) facilitate medical education in the institutions situated outside the country;

(f) undertake and recommend to the Central Government or the State Government such measures as may be necessary to regulate medical education in or outside the country;

(g) organise seminars, symposiums and workshops in order to promote continuous medical education and practice in medicine; and

(h) perform such other functions as may be laid down in the rules made by the Central Government.”.

Amendment
of
section 13.

9. In section 13 of the principal Act,-

(a) in sub-section (2) and (3), for the words “a citizen of India”, the words “a citizen of India or an overseas citizen of India” shall respectively be substituted;

(b) in sub-section (4A), for the words “a citizen of India”, the words “a citizen of India or an overseas citizen of India” shall be substituted;

(c) sub-section (4B) and the proviso relating thereto shall be omitted;

(d) in sub-section (4C), for the words, brackets, figures and letters “sub-sections (4A) and (4B)”, the word, brackets, figure and letter “sub-section (4A)” shall be substituted;

(e) after sub-section (5), the following Explanation shall be inserted, namely:-

‘Explanation.-For the purposes of this section, the expression “overseas citizen of India” shall have the meaning assigned to it in clause (ee) of sub-section (1) of section 2 of the Citizenship Act, 1955.’.

57 of 1955

Amendment of
section 14.

10. In section 14 of the principal Act, in the proviso to sub-section (1), the words “for the time being for the purposes of teaching, research or charitable work” shall be omitted.

Amendment of
section 21.

11. In section 21 of the principal Act,-

(a) in sub-section (1), for the words “the names”, the words “the names and biometric details” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:-

‘(2A) The Council shall, in addition to the Indian Medical Register referred to in sub-section (1), maintain the Medical Register in electronic form containing the particulars included in the Indian Medical Register.

Explanation.-For the purpose of this sub-section, the expression, “electronic form” shall have the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.’.

21 of 2000.

Insertion of
new section
30A.

12. After section 30 of the principal Act, the following section shall be inserted, namely:-

"30A. (1) The President, Vice-President or any member of the Council may, by notice in writing under his hand addressed to the Central Government, resign from his office:

Resignation,
removal and
suspension
of
President.
Vice
President or
members of
Council.

Provided that the President, Vice-President or any member of the Council shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of a period of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may remove from office the President, Vice-President, or any member of the Council, who-

(a) has been adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as such President, Vice-President, or other member; or

(c) is of unsound mind and stand so declared by a competent court; or

(d) has been convicted of an offence involving moral turpitude; or

(e) has acquired such financial or any other interest in any medical institution falling within the purview of the Council, which is likely to affect prejudicially the exercise of his functions as the President, Vice President, or a member; or

(f) is unable to perform or has made persistent defaults-

(i) in the performance of the duties imposed on him under this Act or has exceeded or abused his position; or

(ii) either wilfully or without sufficient cause neglects to comply with the directions issued by the Central Government under sections 33A and 33B; or

(g) has been guilty of proved misbehaviour or his continuance in office would be detrimental in public interest.

(3) No person shall be removed from his office on the grounds specified in clause (e) or clause (f) or clause (g) of sub-section (2), unless he has been given a reasonable opportunity of being heard in the matter."

13. In section 32 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:-

Amendment
of
section 32.

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

(a) the manner of election of the Council under sub-section (1) of section 4;

(b) such other functions of the Council under clause (h) of sub-section (2) of section 9A as may be laid down by the Central Government;

(c) the conditions and payment of fees for filing of an appeal before the Central Government under sub-section (2) of section 24;

(d) any other matter which is required to be, or may be, provided by rules or in respect of which provision is to be made by rules."

14. In section 33 of the principal Act, for clause (ma), the following clause shall be substituted, namely:--

Amendment
of
section 33.

"(ma) the modalities for conducting screening test under sub-section (4A) of section 13;"

Insertion of
new
sections
33A. 33B
and
33C

15. After section 33 of the principal Act the following sections shall be inserted, namely:

Power of
Central
Government
to give
directions.

“33A. Without prejudice to the foregoing provisions of this Act, the Council shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time, and the question whether the direction given is one of policy or not shall be decided by the Central Government.

Powers of
Central
Government
to direct
regulations
to be made
or to make or
amend
regulations.

33B. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Council to make any regulations or to amend or revoke any regulations already made by it, within such period as the Central Government may specify in this behalf.

(2) If the Council fails or neglects to comply with such order within the specified period, the Central Government may make the regulations or amend or revoke the regulations made by the Council, as the case may be, in such manner as the Central Government thinks fit.

Laying of
rules and
regulations

33C. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or both Houses agree that the rule and regulation should not be made, the rule and regulation shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule or regulation.”.

Validation and
savings.

16. Notwithstanding the fact that the Indian Medical Council (Amendment) Ordinance, 2013 has ceased to operate, anything done or any action taken or purported to have been done or taken or any permission or direction given under the said Ordinance shall be deemed to have been done, taken or given under the corresponding provisions of this Ordinance.

Ord 4 of 2013.

PRANAB MUKHERJEE,
President.

P.K. MALHOTRA,
Secretary to the Government of India.

(Re-published by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government
Law Department.*