

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XXXVIII of 1994

THE WEST BENGAL SCHEDULED CASTES AND
SCHEDULED 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.]

[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
commenc-
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.

(a) "Constitution" means the Constitution of India;

(b) "notification" means a notification published in the *Official Gazette*;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "Scheduled Castes" shall have the same meaning as in clause (24) of article 366 of the Constitution;

(e) "Scheduled Tribes" shall have the same meaning as in clause (25) of article 366 of the Constitution;

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(Sections 3-6.)

- (f) "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;
- (g) "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.

Identification
of members
of Scheduled
Castes.

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
Tribes.

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 Tribes.

Issue of
certificate of
identification.

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

- (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, authorised by the District Magistrate, South 24-Parganas, under clause (b) of this section, shall have jurisdiction over Calcutta.

Procedure of
issue of
certificate.

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.

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(Sections 7-9.)

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.

9. 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.

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(Sections 10-12.)

Offences and
penalties.

10. Whoever—

- (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, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

Validation
of certificate.

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

Power to
make rule.

12. (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 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.
