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THE ANDHRA PRADESH GAZETTE

PART IV-A EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 33]

AMARAVATI, SATURDAY, DECEMBER 2, 2017.

ANDHRA PRADESH BILLS

ANDHRA PRADESH LEGISLATIVE ASSEMBLY

The following Bill was introduced in the Andhra Pradesh Legislative Assembly on 2nd December, 2017.

L. A. BILL No. 33 of 2017

A BILL TO PROVIDE FOR RESERVATION OF SEATS IN EDUCATIONAL INSTITUTIONS IN THE STATE OF ANDHRA PRADESH AND OF APPOINTMENTS OR POSTS IN THE SERVICES UNDER THE STATE FOR THE TELAGA, KAPU, ONTARI AND BALIJA COMMUNITIES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Whereas, the policy of reservation for the social, economic and educational upliftment of the citizens not only for the admissions into educational institutions but also for appointments in the services under the State is being implemented in the State of Andhra Pradesh for a long time and the same was being implemented for the Backward Classes, Schedule Castes and Schedule Tribes;

And Whereas, Article 15(4) of the Constitution of India empowers the State to make provisions for the Social and Educational Advancement of the Backward Classes;

And Whereas, Article 15(5) of the Constitution of India empowers the State to make any special provision by law for the advancement of any socially and educationally Backward Classes of citizens or for the Schedule Castes or Schedule Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions either aided or unaided by the State other than the Minority Educational Institutions referred to in Clause (1) of Article 30;

J.No. 88/17-

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And Whereas, Article 16(4) of the Constitution of India empowers the State to make any provision for the reservation of appointments or posts in favour of any Backward Class of citizens, which in the opinion of the State is not adequately represented in the services under the State;

And Whereas, Article 31 (C) of the Constitution of India Notwithstanding anything contained in Article 13, no law giving effect to the policy of the State towards securing allorany of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14 or Article 19 and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy: Provided that where such law is made by the Legislature of a State, the provisions of this Article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

And Whereas, under Clause (1) of Article 38 of the Constitution of India, the State shall strive to promote the welfare of the people by securing and protecting as affectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of national life.

And Whereas, under Clause (2) of Article 38 of the Constitution of India, the State shall, in particular, strive to minimize the inequalities in income, and Endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations;

And Whereas, under Clause (b) of Article 39 of the Constitution of India, the State shall, in particular, direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

And Whereas, under Clause (c) of Article 39 of the Constitution of India, the State shall, in particular, direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

And Whereas, the State Government after having careful consideration of the long standing demand of Kapus for inclusion in the Backward Classes category for reservations in admissions and appointments, keeping in view the social, economic, educational backwardness and inadequate representation in government services in proportion to their population, basing on the Report of the Commission, the State Government came to a conclusion that there is every need for inclusion of Kapus into the



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Backward Classes category for reservation in admissions to educational institutions in the State and in the services under the State without there being any political reservation for their upliftment and to ensure their advancement in the State of Andhra Pradesh.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Sixty eighth year of the Republic of India as follows: -

1. (1) This Act may be called the Andhra Pradesh Kapu (Reservation of Seats in educational institutions and of appointments or posts in the services under the State) Act, 2017.

Short Title,
Extent and
Commencement:

(2) It extends to the entire State of Andhra Pradesh.

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

2. It is hereby declared that this Act is to give effect to the policy of the State to secure the principles laid down in Part-IV and in particular, Article 38 Clauses (1) and (2) and Article 39 Clauses (b) and (c) of the Constitution of India.

Declaration:

3. In this Act, unless the context otherwise requires:-

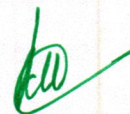
Definitions:

(1) "Kapu" means the people belonging to the Telaga, Kapu, Ontari, Balija communities of the State of Andhra Pradesh.

(2) "Backward Classes of people" means the class or classes of people who are socially and educationally backward, as may be notified by the Government in the Andhra Pradesh State Gazette from time to time.

(3) "Educational Institutions" mean

(i) any college or other educational institution maintained by the State or receiving aid out of the State funds or affiliated to any university established by law including an university college and a constituent college, or



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- (ii) any institute or training centre recognized or approved by the Government with the object of preparing, training or guiding its students for any certificate, degree or diploma or other academic distinctions granted or conferred by any university or authority established or approved in this behalf by the Government.

(4) "Government" means the Government of Andhra Pradesh.

Reservation of
Seats in
Educational
Institutions:

4. (1) Notwithstanding anything contained in any judgment, decree or order of any Court or other authority having regard to the social and educational backwardness of the Kapu people, the reservation in respect of the annual permitted strength in each branch or faculty for admission into educational institutions in the State for the Kapus shall be 5%.

(2) The reservation referred to in sub-section (1) shall, in respect of the persons belonging to the Backward Classes including the Kapus, the Scheduled Castes and the Scheduled Tribes, be as hereunder: -


(i) Backward Classes	-	Percent (%)	
Group - A	-	Seven Percent	(7%)
Group - B	-	Ten Percent	(10%)
Group - C	-	One Percent	(1%)
Group - D	-	Seven Percent	(7%)
Group - E	-	Four Percent	(4%)
Group - (F) (Kapus)	-	Five Percent	(5%)
(i) Scheduled Castes	-	Fifteen Percent	(15%)
(ii) Scheduled Tribes	-	Six Percent	(6%)

Reservations in
appointments or
posts in the
services under
the State:

5. (1) Notwithstanding anything contained in any judgment, decree or order of any Court or other authority, having regard to the inadequate representation in the services, of the Kapu people in the State of Andhra Pradesh, the reservation for appointments or posts in the services under the State, for the Kapus shall be 5% (Five percent).

(2) The reservation referred to in sub-section (1) shall, in respect of the persons belonging to the Backward Classes including the Kapus, the Scheduled Castes and the Scheduled Tribes, be as hereunder:-

(i) Backward Classes	-	Percent (%)	
Group - A	-	Seven Percent	(7%)
Group - B	-	Ten Percent	(10%)
Group - C	-	One Percent	(1%)


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Group - D	-	Seven Percent	(7%)
Group - E	-	Four Percent	(4%)
Group - F (Kapus)	-	Five Percent	(5%)
(i) Schedule Castes	-	Fifteen Perceny	
(ii) Schedule Tribes	-	Six Percent	(6%)

Explanation: For the purposes of this Act, "services under the State" includes the services under:-

- (i) State Government;
- (ii) State Legislature of Andhra Pradesh;
- (iii) Any local authority;
- (iv) Any Corporation or Company, Entity, owned and controlled by the Government; or
- (v) Any authority in respect of which the State Legislature has the power to make laws.

6. This Act shall not be construed as giving reservation to the political positions or political posts for the Kapus as the same is confined to the reservation for admissions into educational institutions in the State and in the services under the State.

No
reservation to the
Political posts or
positions:

7. Basing on the advice and recommendations made by the Andhra Pradesh State Backward Classes Commission, the Government, may from time to time by notification, classify or sub-classify the Backward Classes people for the purposes of this Act.

Classification of
Backward Classes
people:

8. (1) The Government may make rules for the purposes of this Act.

Power to make
Rules:

(2) (a) All rules made under this Act shall be published in the Andhra Pradesh Gazette and shall come into force on the day on which they are so published unless it is expressly mentioned to come into force on a particular day.

(b) All notifications issued under this Act shall come into force on the day on which they are published, unless it is expressly mentioned to come into force on a particular day.

(3) Every rule made under this Act shall be laid before each House of the State Legislature, immediately, if it is in session and if it is not in session, in the next session which follows immediately for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session


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in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall be with effect from the date of notification of such modification or annulment in the Andhra Pradesh Gazette is notified and have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties:

9. If there is any difficulty in giving effect to the provisions of this Act, the Government may, by an order published in the Andhra Pradesh Gazette, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty;

Provided that no such order shall be made after the expiry of two years from the date of the commencement of this Act.



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STATEMENT OF OBJECTS AND REASONS

For a country that has scarce and limited public resources, reservations unquestionably have important social, economic and political implications. The system of reservation in India comprises a series of affirmative action measures, such as reserving access to seats in the various legislatures, to government jobs, and to enrollment in higher educational institutions. The societal inequality in India is represented by the grossly inadequate representation of Scheduled Castes, Scheduled Tribes and Other Backward Castes in employment and education due to historic, societal and cultural reasons. At the same time it is incumbent on the part of the state to ensure that equality prevails in all sections of the society. The primary objective of the present-day reservation system is to enhance the social and educational status of underprivileged communities and thus improve their lives. The term 'backward classes', as originally used around 1919, referred to a section of population which was backward in a socio-economic sense. It did not limit itself to the matrix of caste. The Constitution gives great liberties to the individual states to determine the quantity and limits of reservation. Reservation in common terms refers to an act of reserving, keeping back or withholding. Reservation in India is a form of affirmative action whereby a percentage of seats are reserved in the public sector units, union and state civil services, union and state government departments and in all public and private educational institutions, except in the religious/ linguistic minority educational institutions, for the socially and educationally backward communities and the Scheduled Castes and Tribes who are inadequately represented in these services and institutions. The underlying theory for the provision of reservation by the state is the under-representation of the identifiable groups.

The policy of reservation for the social, economic and educational upliftment of the citizens not only for the admissions into educational institutions but also for appointments in the services under the State is being implemented in the State of Andhra Pradesh for a long time and the same was being implemented for the Backward Classes, Schedule Castes and Schedule Tribes.

The Hon'ble Supreme Court of India by its Judgment in Indira Sawhney vs. Union of India reported in (AIR 1993 SC 477) observed that the reservations may cross/exceed the 50% limit in appointments or posts when there is a reasonable case for exceeding the limit and the same shall be substantiated with the existence of extraneous circumstances for such an act.

There were amendments to the Articles 15 and 16 of the Constitution by 81st Amendment Act, 2000 and 93rd Amendment Act, 2005 respectively and the same were challenged and the Supreme Court of India by its Judgments M. Nagaraj & others vs. Union of India & others reported in [(2006) 8 SCC 212] and

AshokaKumar Thakur vs. Union of India reported in [(2008) 6 SCC 1] laid down the law that if a State wants to exceed 50% of reservation then it is required to base its decision on the quantifiable data.

The British Government in Madras Presidency had recognized Kapus as backward caste in 1915 and the backward classes list of Andhra region included Kapus also. With the formation of the State of Andhra Pradesh on 1st October, 1953, a list of Backward Classes as existed in the Composite Madras State was adopted with slight modifications and the Kapus enjoyed reservations. In the wake of formation of the State of Andhra Pradesh, including the Telangana area as on 1st November, 1956, the list that



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existed with the State of Hyderabad was continued, thereby maintaining two lists, one for Andhra and the other for Telangana area. In 1956, the then Andhra Pradesh Government deleted Kapus from the backward classes list. Again, though the successive Government tried to recognize them as other backward classes through a Government Order, the High Court struck down the G.O. on technical grounds.

There was a long standing demand for the inclusion of Kapu sub castes i.e., Telaga, Kapu, Ontari and Balija into the Backward Classes category. The State Government after having careful consideration of their long standing demand for inclusion in the Backward Classes category for reservations in admissions and appointments keeping in view the social, economic, educational backwardness and inadequate representation in government services in proportion to their population, basing on the expert advise rendered by the Andhra Pradesh State Backward Classes Commission, the State Government came to a conclusion that there is every need for inclusion of Kapus into the Backward Classes category for reservation in admissions to educational institutions in the State and in the services under the State without there being any political reservation, for their upliftment and to ensure their all round advancement in the State of Andhra Pradesh.

This bill seeks to give effect to the above decision.

K. ATCHANNAIDU
Minister for BC Welfare,
Transport and Handlooms &
Textiles.



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MEMORANDUM UNDER DELEGATED LEGISLATION

Clauses 1(3) 7 and 8 of the bill authorizes the Government to issue notifications or rules to make in respect of matters specified therein and generally to carry out the purposes of the Act. All such rules so made or notifications issued which are intended to cover the matters mostly of procedural in nature are to be laid on the table of the legislature of the state and will be subject to any modifications made by the State Legislature. The above provisions of the bill regarding Delegated Legislation are thus of normal type and are mainly intended to cover matters of procedure.

K. ATCHANNAIDU

Minister for BC Welfare,
Transport and Handlooms &
Textiles.


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**MEMORANDUM UNDER RULE 95 OF THE RULES OF PROCEDURE AND
CONDUCT OF BUSINESS IN THE ANDHRA PRADESH LEGISLATIVE
ASSEMBLY.**

The Andhra Pradesh Kapu (Reservation of Seats in educational institutions and of appointments or posts in the services under the State) Act, 2017 after it is passed by the Legislature of the State may be reserved by the Governor for the consideration and assent of the President under Article 31C of the Constitution of India.

K. ATCHANNAIDU
Minister for BC Welfare,
Transport and Handlooms &
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M. VIJAYA RAJU,
Secretary to State Legislature (l/c).



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