

Panaji, 12th December, 2023 (Agrahayana 21, 1945)

SERIES I No. 36

OFFICIAL GOVERNMENT OF GOA GAZETTE



PUBLISHED BY AUTHORITY

EXTRAORDINARY

GOVERNMENT OF GOA

Department of Law
Legal Affairs Division

Notification

7/40/2023-LA

The Goa Scheduled Castes, Scheduled Tribes and Other Backward Classes Category (Regulation of Issuance and Verification of Caste Certificate) Act, 2023 (Goa Act 45 of 2023), which has been passed by the Legislative Assembly of Goa on 03-08-2023 and assented to by the Governor of Goa on 1-12-2023, is hereby published for the general information of the public.

Dnyaneshwar Raut Dessai, Joint Secretary
(Law).

Porvorim, 12th December, 2023.

The Goa Scheduled Castes, Scheduled Tribes and Other Backward Classes Category (Regulation of Issuance and Verification of Caste Certificate) Act, 2023

(Goa Act 45 of 2023) [1-12-2023]

AN

ACT

to provide for the regulation of the issuance and verification of the Caste Certificates to

the persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes Category and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of Goa in the Seventy-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Scheduled Castes, Scheduled Tribes and Other Backward Classes Category (Regulation of Issuance and Verification of Caste Certificate) Act, 2023.

2. It shall come into force on such date, as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “appointing authority”, in relation to a Government servant, means,—

(i) the authority empowered to make appointments to the service of which the Government servant is for the time being a member or to the grade of the service in which the Government servant is for the time being included, or

(ii) the authority empowered to make appointments to the post which the Government servant for the time being holds, or

(iii) the authority which appointed the Government servant to such service, grade or post, as the case may be, or

(iv) where the Government servant having been a permanent member of any other service or having substantively held any other permanent post, has been in continuous employment of the Government, the authority which appointed him to that service or to any grade in that service or to that post, whichever authority is the highest authority.

(b) "Appellate Authority" means the Collector of the District.

(c) "Caste Certificate" means the certificate issued by the Competent Authority to an applicant indicating therein the Scheduled Caste, Scheduled Tribe or the Other Backward Class Category, as the case may be, to which such applicant belongs;

(d) "Competent Authority" means the Deputy Collector and Sub-Divisional Magistrate of the respective Talukas, having jurisdiction over the area or place to which the applicant originally belongs, unless specified otherwise;

(e) "educational institution" means any School, Junior College, Degree College, College of Education, Polytechnic, Industrial Training Institute, College of Fine Arts and Architecture, College of Music and Dance, Engineering College, Agricultural College, Veterinary College, Medical College, Dental College, Ayurvedic College, Homoeopathic College, Unani College, Nurses Training School, Health Visitors Training School, Vocational Training Institution, Deemed University, Open University and various colleges under the control of any University established by or under an Act of the State Legislature and such other Institution, by whatever name called, which is carrying on (either exclusively or among other activities) the activity of imparting education as may be

notified by the Government from time to time;

(f) "elective office" means a public office to be filled by a direct election against a seat in a Local Authority, the State Legislature or the Parliament.

(g) "Government" means the Government of Goa;

(h) "Local Authority", in relation to local areas, means the concerned Municipal Corporation, Municipal Councils and in relation to any other local area in the State, means the village panchayats, as the case may be, constituted under any law for the time being in force in the State of Goa;

(i) "Other Backward Classes" means any Socially and Educationally Backward Classes of citizens as declared by the Government and includes Other Backward Classes declared by Government of India in relation to the State of Goa;

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

(k) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in the clause (24) and clause (25) of Article 366 of the Constitution of India;

(l) "Scrutiny Committee" means the Committee constituted under sub-section (1) of section 6 of this Act;

(m) "Vigilance Cell" means the Vigilance Cell constituted under section 7 of this Act;

3. *Application for a Caste Certificate.*— Any person belonging to any of the Scheduled Castes or Scheduled Tribes or Other Backward Classes, who is required to produce a Caste Certificate in order to claim the benefit of any reservation provided to such Castes, Tribes or Classes, either in any public office (s) or for admission into any educational institution, or any other benefit under any special provisions made under clause (4) or (5) of Article 15 and clause (4) or (4A) of Article 16 of the Constitution of India, or for the purpose of contesting for an elective post

in the State Legislative Assembly or the Parliament or any local authority or in the Co-operative Societies, or any other purposes as may specified by the Government, shall apply three months prior to claiming such benefit, in such form and in such manner as may be prescribed, to the Competent Authority for the issue of a Caste Certificate.

4. *Caste Certificate to be issued by Competent Authority.*— (1) The Competent Authority may, upon receipt of an application under section 3, and after satisfying itself about the genuineness of the claim and by following the procedure as prescribed, issue a Caste Certificate within such time limit and in such form as may be prescribed or reject the application for reasons to be recorded in writing.

(2) The Competent authority shall reject the application for caste certificate, if it finds that there is any fraud, misrepresentation or suppression of facts by the applicant:

Provided that, the rejection by the Competent Authority on the ground of fraud, misrepresentation or suppression of facts shall not debar any person from applying de-novo for a caste certificate based on proper, genuine and authentic material.

(3) A Caste Certificate issued by any person, officer or authority other than the Competent Authority shall be invalid. The Caste Certificate issued only by the Competent Authority shall be valid and it shall be subject to the verification and grant of validity certificate by the Scrutiny Committee.

(4) Subject to the proviso of sub-section (2), no new application seeking issuance of a Caste Certificate shall be entertained by the Competent Authority, if the earlier request or claim of the same applicant has been rejected by the Competent Authority and the same is confirmed by the Appellate Authority or the validation of the Caste Certificate of same applicant stands rejected by the Scrutiny Committee on prior occasion.

5. *Appeal.*— (1) Any person aggrieved by an order of rejection of application passed by

the Competent Authority under sub-section (1) of section 4 may, within a period of 30 days from the date of receipt of order, appeal to the Appellate Authority, in such form and manner, as prescribed.

(2) The Appellate Authority shall within a period of three months, after giving the appellant an opportunity of being heard and after satisfying itself about the genuineness or otherwise of the claim of the appellant, either confirm the rejection order, or set aside the order of the Competent Authority and direct the Competent Authority to issue the Caste Certificate.

6. *Constitution of Scrutiny Committee.*— (1) The Government shall by notification in the Official Gazette, constitute one or more Scrutiny Committee(s) for verification of Caste Certificates issued by the Competent Authorities under sub-section (1) of section 4, which shall consist of the following members, namely:—

a) Collector or Additional Collector or Joint Secretary to the Government or any officer not below the rank of Joint Secretary to the Government-----Chairman.

b) Director or Deputy Director of the Directorate of Social Welfare-----Member.

c) Assistant Director of Back-ward Classes, Directorate of Social Welfare-----Member Secretary.

d) In the case of Scheduled Castes, officer who has intimate knowledge in the verification and issuance of the social status certificates-----Member.

e) In the case of the Scheduled Tribes, the Research Officer who has intimate knowledge in identifying the tribes, tribal communities, parts of or groups of tribes or tribal communities-----Member.

(2) The Scrutiny Committee shall perform such functions, conduct proceedings in such manner and exercise such powers, as prescribed.

7. *Constitution of Vigilance Cell.*— The Government shall constitute, by notification in the Official Gazette, a Vigilance Cell

consisting of Senior Deputy Superintendent of Police in over-all charge and such number of Police Inspectors, Sub-Inspectors or Constable as deemed appropriate, to investigate the claim, collect the facts, examine the records, examine the relations or friends and persons who know the social status of the applicant and submit a report to the Scrutiny Committee so as to facilitate the process of verification of caste and validation of the Caste Certificate of the applicant.

8. *Verification of Caste Certificate by Scrutiny Committee.*— (1) After obtaining the Caste Certificate from the Competent Authority, any person desirous of availing of the benefits or concessions provided to the Scheduled Castes, Scheduled Tribes or Other Backward Classes Category for the purpose specified in section 3, shall make an application, within a period of three months from the date of issuance of such Caste Certificate in such form and in such manner as prescribed, to the concerned Scrutiny Committee for the verification of such Caste Certificate and to issue a validity certificate:

Provided that where no application is made under sub-section (1) within a period of 3 months from the date of issuance of the Caste Certificate, the Caste Certificate issued by the Competent Authority shall lapse:

Provided further that such lapse shall not prevent the applicant from re-applying for a Caste Certificate before the Competent Authority under sub-section (1) of section 4.

(2) In case on the basis of a Caste Certificate issued by the Competent Authority, any person is selected for an appointment with the Government, local authority, public sector undertakings or admitted to an educational institution(s), or appointed in a co-operative society(s) or any other Government aided institution(s), or secured an elective office either in the local authority or State Legislature or Parliament, but has not obtained validity certificate from the Scrutiny Committee, the appointing authority of the Central or State Government, local authority, public sector undertakings, educational institutions, Co-operative Societies

or any such other authority, as the case may be, shall direct the person(s) so concerned to get his Caste Certificate verified by the Scrutiny Committee and obtain the validity certificate from the Scrutiny Committee within a period of 6 months, by making an application in such form and in such manner as prescribed:

Provided, that where such person(s) fails to procure the validity certificate within the said period, save as otherwise for any delay on part of the Scrutiny Committee, he shall cease to be entitled to continue with the appointment or admission or like benefit which are provisioned for the Schedule Tribes, Schedule Castes or Other Backward Classes Category.

(3) The Scrutiny Committee shall upon receipt of application under sub-section (1) and (2) shall seek a report from the Vigilance Cell and follow such procedure for verification of the Caste Certificate and adhere to such time limit for verification and grant of validity certificate, as prescribed.

9. *Confiscation and cancellation of false Certificate.*— (1) Where, before or after the commencement of this Act, a person not belonging to any of the Scheduled Castes, Scheduled Tribes or Other Backward Classes Category, has obtained a false Caste Certificate to the effect that either himself or his children belong to such Castes, Tribes or Classes; the Scrutiny Committee may, *suo motu* or otherwise, call for the record and enquire into the correctness of such certificate and if it is of the opinion that the certificate was obtained fraudulently, it shall, by an order cancel and confiscate the certificate by following such procedure as prescribed, after giving the person concerned an opportunity of being heard, and communicate the same to the concerned person and the concerned authority, if any.

(2) The order passed by the Scrutiny Committee under this Act shall be final and shall not be challenged before any authority or court except the High Court under Article 226 of the Constitution of India.

10. *Burden of Proof.*— Where an application is made to the Competent Authority under section 3 of the issue of a Caste Certificate in respect of Scheduled Castes, Scheduled Tribes or Other Backward Classes Category; and in any enquiry conducted by the Competent Authority and Scrutiny Committee or the Appellate Authority under this Act or any trial of offence under this Act, the burden of proving that the person belonged to such Caste, Tribe or Class shall be on such claimant applicant.

11. *Civil Court powers to Competent Authority, Appellate Authority and Scrutiny Committee.*— (1) The Competent Authority, the Appellate Authority and the Scrutiny Committee shall, while holding an enquiry under this Act, have all the powers vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) and in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any Court or office and;

(e) issuing Commissions for the examination of witnesses or documents.

(2) Any proceeding before the Competent Authority, the Appellate Authority and the Scrutiny Committee, shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

12. *Benefits secured on the basis of false Caste Certificate to be withdrawn.*— (1) Whoever not being a person(s) belonging to any of the Scheduled Castes, Scheduled Tribes or Other Backward Classes Category secures admission in any educational institution against a seat reserved for such Castes,

Tribes or Classes or secures any appointment in the Government, local authority or in any other Company or Corporation owned or controlled by the Government, or secures an elective office in a local authority, State Legislature or Parliament, or in any Government aided institution or Co-operative Society against a post reserved for such Castes, Tribes or Classes by producing a false Caste Certificate shall, on cancellation of the Caste Certificate by the Scrutiny Committee, be liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said employment or holding of elective office forthwith and any other benefits enjoyed or derived by virtue of such admission or appointment or election by such person as aforesaid shall be withdrawn forthwith.

(2) Any amount paid to such person(s) by the Government or any other agency by way of scholarship, grant, allowance or other financial benefit shall be recovered from such person as an arrears of land revenue.

(3) Notwithstanding anything contained in any other law for the time being in force, any Degree, Diploma or any other educational qualification acquired by such person(s) after securing admission in any educational institution on the basis of a Caste Certificate which is subsequently proved to be false shall also stand cancelled, on cancellation of such Caste Certificate by the Scrutiny Committee.

(4) Notwithstanding anything contained in any other law for the time being in force, a person shall be disqualified from being a member of statutory body, Local Authority, State Legislature or the Parliament, if he has contested the election for such local authority, State Legislature, Parliament, Co-operative Society or any statutory body on the seat reserved for any of Scheduled Castes, Scheduled Tribes or Other Backward Classes Category, by procuring and producing a false Caste Certificate as belonging to such Caste, Tribe or Class, upon such false Caste Certificate being cancelled by the Scrutiny Committee, and any benefits obtained by such

person shall be recoverable as arrears of land revenue and the election of such person shall be deemed to have been terminated retrospectively.

13. *Offences and penalties.*— (1) Whoever—

(a) obtains a false Caste Certificate by furnishing false information or filing false statement or documents or by any other fraudulent means; or

(b) not being a person belonging to any of the Scheduled Castes, Scheduled Tribes, or Other Backward Classes Category, secures any benefits or appointments exclusively reserved for such Castes, Tribes or Classes in the Government, local authority or any other company or corporation owned or controlled by the Government or in any Government aided institution or secures admission in any educational institution against a seat exclusively reserved for such Castes, Tribes or Classes or is elected to any of the elective offices of any local authority, State Legislature, Parliament or Co-operative Society, reserved for such Castes, Tribes or Classes by producing a false Caste Certificate;

shall, on conviction, be punished, with rigorous imprisonment for a term which shall not be less than six months but which may extend up to two years or with fine which shall not be less than ten thousand rupees, but which may extend up to one lakh rupees or both.

(2) No court shall take cognizance of an offence punishable under this section except upon a complaint, in writing, made by the Scrutiny Committee or by any other officer duly authorised by the Scrutiny Committee for this purpose.

14. *Offences under Act to be cognizable and non-bailable.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974).

(a) offences punishable under section 13 shall be cognizable and non-bailable;

(b) every offence punishable under this Act, shall be tried by any Magistrate of First Class in a summary way and provisions of section 262 to section 265 except sub-section (2) to section 265, both inclusive of the Code of Criminal Procedure, 1973 (2 of 1974) shall, as far as practicable may be applied to such trial.

15. *Penalty for issuing false Caste Certificate.*— (1) Any person or authority performing the functions of Competent Authority under this Act, who intentionally and knowingly issues a false Caste Certificate, shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend upto two years or with fine which shall not be less than two thousand rupees, but which may extend upto twenty thousand rupees or both.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government.

16. *Penalty for abetment.*— Whoever abets commission of any offence punishable under this Act shall be punished with punishment provided for in this Act for such offence.

17. *Bar of jurisdiction of Civil Courts.*— No Civil Court shall have jurisdiction to entertain, to continue or to decide any suit or proceedings relating to the issue of identification of the caste of a person and the process for verification thereof, as provided for under this Act; Or, proceed to pass any decree or order or execute wholly or partially any decree or order, if the claim involved in such suit or proceeding, or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

18. *Protection for acts done in good faith.*— No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

19. *Provisions of this Act to be in addition to any other law for time being in force.*— The provisions of this Act shall be in addition to the provisions of any other law for the time being in force.

20. *Power to make rules.*— (1) The Government may, subject to the previous publication, by notification in the Official Gazette, make rules to carry out all or any of the purposes of this Act.

(2) Every rule made under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

21. *Power to remove difficulties.*— (1) If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by order, published in the Official Gazette,

make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

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

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly of Goa.

Secretariat,
Porvorim-Goa.
Dated: 12-12-2023.

SANDIP JACQUES,
Secretary to the
Government of Goa,
Law Department
(Legal Affairs).

www.goaprintingpress.gov.in

Printed and Published by the Director, Printing & Stationery,
Government Printing Press,
Mahatma Gandhi Road, Panaji-Goa 403 001.

PRICE – Rs. 7.00

PRINTED AT THE GOVERNMENT PRINTING PRESS, PANAJI-GOA—333/160—12/2023.