

THE CONSTITUTION (EIGHTY-NINTH AMENDMENT) ACT, 2003

THE CONSTITUTION (EIGHTY-NINTH AMENDMENT) ACT, 2003

[28th September, 2003.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Constitution (Eighty-ninth Amendment) Act, 2003.

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

2. Amendment of article 338. - In article 338 of the Constitution,-

(a) for the marginal heading, the following marginal heading shall be substituted, namely:-

"National Commission for Scheduled Castes.";

(b) for clauses (1) and (2), the following clauses shall be substituted, namely:-

"(1) There shall be a Commission for the Scheduled Castes to be known as the National Commission for the Scheduled Castes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.";

(c) in clauses (5), (9) and (10), the words "and Scheduled Tribes", wherever they occur, shall be omitted.

3. Insertion of new article 338A. - After article 338 of the Constitution, the following article shall be inserted, namely:-

"338A. National Commission for Scheduled Tribes.- (1) There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission-

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person from any part of India 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;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes."

SUBHASH C. JAIN,

Secy. to the Govt. of India.

STATEMENT OF OBJECTS AND REASONS

The National Commission for the Scheduled Castes and Scheduled Tribes came into being consequent upon passing of the Constitution (Sixty-fifth Amendment) Act, 1990. The said Commission was constituted on 12.3.1992 replacing the Commission for the Scheduled Castes and Scheduled Tribes set up under the Resolution of 1987. Under article 338 of the Constitution, the National Commission for the Scheduled Castes and Scheduled Tribes was established with the objective of monitoring all the safeguards provided for the Scheduled Castes and the Scheduled Tribes under the Constitution or other laws.

2. Geographically and culturally, the Scheduled Tribes are different from the Scheduled Castes and their problems are also different from the Scheduled Castes. In October 1999, a new Ministry of Tribal Affairs was created to provide a sharp focus to the welfare and development of the Scheduled Tribes. It was felt necessary that the Ministry of Tribal Affairs should coordinate all activities relating to the Scheduled Tribes as it would not be administratively feasible for the Ministry of Social Justice and Empowerment to perform this role. Now, in order to safeguard the interests of the Scheduled Tribes more effectively, it is proposed to also set up a separate National Commission for the Scheduled Tribes by bifurcating the existing National Commission for the Scheduled Castes and Scheduled Tribes. The new Commission for the Scheduled Tribes shall consist of a Chairperson and two other Members and the National Commission for the Scheduled Castes shall consist of a Chairperson, Vice-Chairperson and three other Members. Accordingly, article 338 of the Constitution is required to be modified by amending articles 338 and inserting new article 338A.

3. The Bill seeks to achieve the aforesaid object.

JUALORAM.

NEW DELHI;

The 19th December, 2002.