

8 DEC 2006

Bill No. 84 of 2006

THE CONSTITUTION (AMENDMENT) BILL, 2006

By

DR. R. SENTHIL, M.P.

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further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Amendment) Act, 2006.

Short title.

2. In article 15 of the Constitution, after clause (5), the following clause shall be added, namely:—

Amendment of article 15.

"(6) In making any special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes, the State shall not apply or prescribe any criteria including economic criteria notwithstanding any judgement of any court or authority to the contrary."

STATEMENT OF OBJECTS AND REASONS

Article 15 (4) of the Constitution enables the State to make special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes. Accordingly, provision for reservation in jobs and educational institutions has been made.

The policy of reservation strengthens the concept of equality enshrined in the Constitution by promoting social equality in our country. The socially and educationally backward classes of citizens, the Scheduled Castes and the Scheduled Tribes were marginalized and oppressed for centuries as a result of caste system prevalent in the country. Even after independence they have not been able to attain the level of economical and educational advancement enjoyed by the upper caste. It must be realized that discrimination on the basis of caste threatens the very fabric of our nation and therefore, safeguards for reservation which is a tool for promoting social equity should find a place in our Constitution.

Even after sixty years of affirmative action, the caste based discrimination and caste based distinction exist on a large scale in our society. In its present form, it has not succeeded in building capabilities and offering opportunities to those it has sought to benefit. To make matters worse, efforts are being made to dilute the reservation system by introducing economic criteria and concept of 'creamy layer'.

It must be remembered that introducing economic or any criteria other than social and educational backwardness will only nullify the object of this affirmative action. The economic criterion is valid only in casteless societies. Since essence of discrimination and marginalization in the Indian society is based on caste, exclusion of backward classes from getting benefits under reservation on the basis of economic criteria or in the form of 'creamy layer' or in any other form would further marginalize the citizens belonging to these classes.

Hence this Bill.

NEW DELHI;
November 8, 2006.

R. SENTHIL.

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

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15. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

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further to amend the Constitution of India.

(Dr. R. Senthil, M.P.)