

HARYANA VIDHAN SABHA

Bill No. 16 — HLA OF 2024

**THE HARYANA MUNICIPAL (AMENDMENT)
BILL, 2024**

A

BILL

further to amend the Haryana Municipal Act, 1973.

Be it enacted by the Legislature of the State of Haryana in the Seventy-fifth Year of the Republic of India as follows:-

1. (1) This Act may be called the Haryana Municipal (Amendment) Act, 2024.
(2) It shall be deemed to have come into force with effect from the 16th August, 2024.
2. In section 10 of the Haryana Municipal Act, 1973,-
 - (a) after sub-section (4), the following sub-section shall be inserted, namely:-

Short title and commencement.

Amendment of section 10 of Haryana Act 24 of 1973.

“(4A) (i) The seats shall be reserved for the Backward Classes ‘B’ in every Municipal Council/Committee and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in that Municipal Council/Committee as one-half of the proportion of Backward Classes ‘B’ population to the total population in that Municipal Council/Committee and rounded off to the next higher integer in case the decimal value is 0.5 or more; and such seats shall be allotted by draw of lots among three times of the number of seats, proposed for reservation of Backward Classes ‘B’, after excluding those seats already reserved for Scheduled Castes and Backward Classes ‘A’, drawn from those seats which are having the largest percentage population of Backward Classes ‘B’ and also by rotation in the subsequent elections:

Provided that the Municipal Council/Committee shall have at least one member belonging to the Backward Classes ‘B’ if their population is two per centum or more of the total population of the Municipal Council/Committee:

Provided further that where the number of seats so reserved for Backward Classes ‘B’ under this sub-section added to the number of seats reserved for the Scheduled Castes and Backward Classes ‘A’ exceeds fifty per centum of the total number of seats in that Municipal Council/Committee, then the number of seats reserved for Backward Classes ‘B’ shall be restricted to such largest number that shall lead to the total of the seats reserved for the Scheduled Castes, Backward Classes ‘A’ and Backward Classes ‘B’ not exceeding fifty per centum of the total seats in that Municipal Council/Committee.

Explanation.- (1) For the purposes of reservation of Backward Classes 'B' under this sub-section, the population of the Municipal Council/Committee area and the population of Backward Classes 'B' in that Municipal Council/Committee shall be such as drawn from the Family Information Data Repository established under the provisions of the Haryana Parivar Pehchan Act, 2021 (20 of 2021) on such date, as may be notified by the Government.

Explanation.- (2) For the purposes of the second proviso, fifty per centum of the total seats in the Municipal Council/Committee shall be taken as one-half of the total seats of the Municipal Council/Committee rounded up to the next higher integer where the decimal value is 0.5 or more or rounded down to the next lower integer where the decimal value is less than 0.5.

(ii) Not less than one-third of the total number of seats reserved under this sub-section shall be reserved for women belonging to the Backward Classes 'B' and such seats may be allotted by rotation and by lots amongst the wards reserved under this sub-section.”;

(b) for sub-section (5), the following sub-section shall be substituted, namely:-

“(5) The offices of Presidents in the municipalities shall be filled up from amongst the member belonging to the general category, Scheduled Castes, Backward Classes 'A', Backward Classes 'B' and women by rotation and by lots in the manner as may be prescribed.”.

3. (1) The Haryana Municipal (Amendment) Ordinance, 2024 (Haryana Ordinance No. 2 of 2024), is hereby repealed.

(2) Notwithstanding such repeal, anything done or action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Repeal and savings.

STATEMENT OF OBJECTS AND REASONS

1. The composition of Municipalities is guided by the reservation policy contemplated in Article 243-T of the Constitution of India, wherein clause (6) provides that 'Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.' Hon'ble Supreme Court of India vide its judgment dated 11.05.2010 in *Dr. K. Krishna Murthy & Ors. Versus Union of India & Anr. (2010) 7 SCC 202* while upholding the constitutional validity of the Article 243-T(6) observed that this provision enables State Legislatures to reserve seats and chairperson posts in favour of backward classes.

2. Hon'ble Supreme Court of India vide its judgment dated 04.03.2021 passed in writ petition (Civil) No. 980 of 2019 titled as *Vikas Kishanrao Gawali Versus State of Maharashtra* and others further observed that the State Legislation cannot simply provide uniform and rigid quantum of reservation of seats for Backward Classes in the Local Bodies across the State, that too without a proper inquiry into the nature and implications of backwardness by an independent Commission. The triple test conditions required to be complied with by the State before reserving seats in the Local Bodies for Backward Classes are as under:-

- (1) To set up a dedicated Commission to conduct contemporaneous rigorous empirical inquiry into the nature and implications of the backwardness qua Local Bodies, within the State;
- (2) To specify the proportion of reservation required to be provisioned, Local Body-wise, in the light of recommendations of the Commission, so as not to fall foul of over breadth; and
- (3) In any case such reservation shall not breach the upper ceiling of 50% vertical reservation in favour of SCs/STs/OBCs taken together.

In another Writ Petition (Civil) No. 278 of 2022 titled '*Suresh Mahajan Versus State of Madhya Pradesh and Another*', the Hon'ble Supreme Court vide its order dated 10.05.2022, has observed that until the triple test formality is completed 'in all respects' by the State Governments, no reservation for OBCs can be provisioned and directed all the State Governments and the respective State Election Commissions to abide by the same without fail to uphold the constitutional mandate.

Further, Hon'ble Punjab and Haryana High Court passed interim order dated 17.05.2022 in CM-3239-CWP-2022-IN CWP-18977-2021 with CM-3200-CWP-2022-IN CWP-21883-2021 to comply with the orders dated 10.05.2022 passed by the Hon'ble Supreme Court of India.

3. Haryana Backward Classes Commission was constituted vide Government notification dated 12.07.2022 of Welfare of Scheduled Castes and Backward Classes Department, among other functions, to study and recommend the proportion of reservation for backward classes required to be provisioned in Panchayati Raj

Institutions and Municipalities in the State. Earlier, the Haryana Backward Classes Commission recommended to provide reservation for Backward Classes 'A' in the elections of municipalities, which were accepted in Council of Ministers meeting dated 08.05.2023. Accordingly, provision was made under Section 10 of the Haryana Municipal Act, 1973 vide Act No. 24 of 2023 dated 19.09.2023 that the seat shall be reserved for the Backward Classes 'A' in every municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in that municipality as one-half of the proportion of Backward Classes 'A' population to the total population in that municipality.

4. The last census in India in which the data on caste was included was conducted in 1931. Since 1951 every census has published the population of Scheduled Castes and Scheduled Tribes only. Thus figures of population of Backward Classes 'A' are not available in the Census. Government has established Family Information Data Repository (FIDR) under the Haryana Parivar Pehchan Act, 2021 (20 of 2021) wherein the information about residents of Haryana constituted in families is available which is dynamically updated and periodically verified.

5. Hence, data available in FIDR has been considered for purpose of reservation for Backward Classes 'A' in the elections of municipalities. Reservation of seats for Backward Classes 'A' and fixation of total number of seats for each municipality shall be done on the basis of population figures including that of Backward Classes 'A' drawn from Family Information Data Repository established under the Haryana Parivar Pehchan Act, 2021 (20 of 2021) on such date as may be notified by the Government.

6. According to elector-population (EP) ratio, for every 1000 persons, the number of eligible electors is nearly 700 in State. As enrolling for Family Id is a voluntary process and there is a likelihood that in certain pockets a majority of residents may not have registered in FIDR, thus it has also been considered that where the population as drawn from Family Information Data Repository is less than 140 per centum of the number of electors registered in such areas as per the last published Electoral Roll, the population shall be considered equal to 140 per centum of the number of voters in the last published Electoral Roll of the area. Further, the limit for variation of population in wards of a municipality has been increased from 10 per centum to 20 per centum above or below the average population per ward by amending the Rule 7 of the Haryana Municipal Delimitation of Ward Rules, 1977 in consultation with State Election Commission, Haryana.

7. For incorporating the recommendation of Haryana Backward Classes Commission to provide eight per centum reservation for Backward Classes 'A' in the Offices of Presidents in Municipal Councils and Municipal Committees, a provision has been made under Rule 70A of the Haryana Municipal Election Rules, 1978 in consultation with the State Election Commission, Haryana.

8. Now, the Haryana Backward Classes Commission has also recommended vide its report dated 05.08.2024 to provide the reservation for Backward Classes 'B' in the elections of municipalities to the extent that the number of seats so reserved

shall bear, as nearly as may be, the same proportion to the total number of seats in that municipality as one-half of the proportion of Backward Classes 'B' population to the total population in that municipality. An Ordinance No. 02 of 2024 has been promulgated on dated 16.08.2024 for provisioning the reservation to the Backward Classes 'B' for contesting the elections in Municipal Councils and Municipal Committees.

Further, it has been recommended to provide five per centum reservation for Backward Classes 'B' in the Offices of Presidents in the Municipal Councils and Municipal Committees, for which provision is to be made under Rule 70A of the Haryana Municipal Election Rules, 1978 in consultation with the State Election Commission, Haryana.

9. To comply with the third condition of the triple test laid down by the Hon'ble Supreme Court of India, the total reservation in seats for Scheduled Castes, Backward Classes 'A' and Backward Classes 'B' shall not exceed 50 per centum of the total number of seats in a municipality. If so happens, then firstly the number of seats reserved for Backward Classes 'B' and secondly the seats reserved for Backward Classes 'A' shall be restricted to such largest number that shall lead to total seats reserved for Scheduled Castes, Backward Classes 'A' and Backward Classes 'B' not exceed 50 per centum of the total number of seats in that municipality. The reservation of seats for Backward Classes 'B' for each municipality shall be done on the basis of population figures drawn from Family Information Data Repository established under the Haryana Parivar Pehchan Act, 2021 (20 of 2021) on such date as may be notified by the Government.

10. Hence, for provisioning the reservation to the Backward Classes 'B' in the seats of each municipality, an amendment in Section 10 of the Haryana Municipal Act, 1973 is required to be made w.e.f. dated 16.08.2024 i.e. the date to notify the Ordinance No. 2 of 2024.

VIPUL GOEL,
Urban Local Bodies Minister, Haryana.

Chandigarh:
The 7th November, 2024

Dr. Satish Kumar,
Secretary.

N.B.— The above Bill was published in the Haryana Government Gazette (Extraordinary), dated the 7th November, 2024, under proviso to rule 128 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly.

ANNEXURE**EXTRACT FROM THE HARYANA MUNICIPAL
ACT, 1973****10. Reservation of seats.-**

(1) XXX XXX XXX XXX XXX

(2) XXX XXX XXX XXX XXX

(3) XXX XXX XXX XXX XXX

(4) XXX XXX XXX XXX XXX

(5) The office of presidents in the municipalities shall be filled up from amongst the members belonging to the general category, Scheduled Castes, Backward Classes 'A' and women by rotation and by lots in the manner prescribed.

(6) XXX XXX XXX XXX XXX

(7) XXX XXX XXX XXX XXX

(8) XXX XXX XXX XXX XXX