

FOR OFFICE USE ONLY

BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)



**CONSTITUTIONAL PROVISIONS AND GOVERNMENT
POLICY/ ORDERS ON RESERVATION IN SERVICES FOR
SCHEDULED CASTES AND SCHEDULED TRIBES**

2009

**SCT Cell
BSNL Corporate Office
Room No. 221, Eastern Court, Janpath, New Delhi-110001**



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भारत संचार निगम लिमिटेड
(भारत सरकार का उद्यम)

BHARAT SANCHAR NIGAM LIMITED
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MESSAGE

I am glad to see that SCT Cell of BSNL Corporate Office has prepared Information Booklet 'Constitutional Provisions and Government Policy/Orders on Reservation in Services for Scheduled Castes and Scheduled Tribes.'

I hope our officers and staff will use this Booklet to have better ideas about the various statutory provisions and policy on reservation policy. I congratulate the Chief Liaison Officer (SCT), officers and staff of SCT Cell for their endeavor for preparing this Booklet.

R.K.Mishra, ITS
General Manager (Pers.)

R.K. Varun, ITS
Chief Liaison Officer



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FOREWORD

Since joining as Chief Liaison Officer(SCT) and visiting/inspecting many places in Circles in connection with implementation of reservation policies of Government of India, it has been felt necessary to bring a booklet up-to-date on reservation policies containing instructions issued by the Government to facilitate all officers dealing with such cases. It is also to mention that this booklet is only a ready reckoner on the subject and may not be taken as substitute for the Brochure issued by the Department of Personnel (Govt.). In case of any doubt on the subject, it may have to be get clarified by a specific reference to this office who will no doubt consult wherever necessary.

We hope that this booklet will prove its utility in your day to day working. Any suggestion for improvisation of this booklet will be highly appreciated.

Dated:


R.K. Varun, ITS
Chief Liaison Officer(SCT)

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CONSTITUTIONAL PROVISIONS AND SAFEGUARDS

The Constitution of India has provided, among other various protections and safeguards, safeguards for Public employment to the persons belonging to Scheduled Castes and Scheduled Tribes, keeping in view the discriminatory disabilities suffered by these classes to catch up and compete successfully with their more fortunate brethren and sisters in the matter of public employment. Specific provisions for reservations in services in favour of the members of Scheduled Castes and Scheduled Tribes have been made as follows in the Constitution of India:—

Article 16. Equality of opportunity in matters of public employment.—(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office [under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making 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.

²[(4A) Nothing in this article shall prevent the State from making any provision for reservation ³[in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.]

⁴[(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.]

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Article 335. Claims of Scheduled Castes and Scheduled Tribes to services and posts.—The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or grade of services or posts in connection with the affairs of the Union or of a State.

¹Notwithstanding the application to the State of Jammu and Kashmir, in Article 335, reference to the State or the States shall be construed as not including references to the State of Jammu and Kashmir.

Article 338. National Commission for Scheduled Castes and Scheduled Tribes.—(1) There shall be a Commission for the Scheduled Castes and Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of Chairperson, Vice-Chairperson and five 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 Castes and 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 Castes and Scheduled Tribes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and 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 Castes and Scheduled Tribes; and
- (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes and 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 Castes and Scheduled Tribes.

(10) In this Article, references to the Scheduled Castes and Scheduled Tribes shall be construed as including references to such other backward classes as the President may, on receipt of the report of the Commission appointed under Clause (1) of Article 340, by order specify and also to the Anglo-Indian community.

Article 341. Scheduled Castes.—(1) The President may with respect to any State or Union Territory and where it is a State, after consultation with the Governor thereof, by public notification, specify the castes, races, or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union Territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under Clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid, a notification issued under the said clauses shall not be varied by any subsequent notification.

Article 342. Scheduled Tribes.—(1) The President may, with respect to any State or Union Territory and where it is a State, after consultation with the Governor thereof by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall

1. Article 342 shall not apply to the State of Jammu and Kashmir.

for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under Clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid, a notification issued under the said clause shall not be varied by any subsequent notification.

In the light of the provisions of Articles 16 (4) and 335 of the Constitution, the Government of India reviewed its policy regarding special representation in services for Scheduled Castes and Scheduled Tribes candidates and issued fresh orders which were made applicable with effect from January, 1950. According to these orders, reservation was limited to only such posts filled by direct recruitment. Subsequently, reservations in promotion also have been introduced progressively.

. VERIFICATION OF CLAIMS OF SCHEDULED CASTES AND SCHEDULED TRIBES

1. Definition of SC and ST

(1) A person shall be held to be a member of a Scheduled Caste or Scheduled Tribe, as the case may be, if he belongs to a Caste or a Tribe which has been declared, under any of the following orders, to be a Scheduled Caste or a Scheduled Tribe for the area of which he/she is a resident:—

- (i) Constitution (Scheduled Castes) Orders, 1950; the Constitution (Scheduled Tribes) Order, 1950; the Constitution (Scheduled Castes) (Union Territories) Order, 1951. The Constitution (Scheduled Tribes) (Union Territories) Order, 1951 [as amended by the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956]. The Bombay Reorganization Act, 1960; the Punjab Reorganization Act, 1966; the State of Himachal Pradesh Act, 1970; the North-Eastern Areas (Reorganization) Act, 1971; the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976; the Constitution (Scheduled Tribes) Order (Amendment) Act, 1987; the Constitution (Scheduled Tribes) Order Amendment Act, 1991 and the Constitution (Scheduled Tribes) Order Second Amendment Act, 1991.
- (ii) The Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956.
- (iii) The Constitution (Andaman and Nicobar Islands) Scheduled Tribes Orders, 1959, as amended by the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976.
- (iv) The Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962.
- (v) The Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962.
- (vi) The Constitution (Pondicherry) Scheduled Castes Order, 1964.
- (vii) The Constitution (Uttar Pradesh) Scheduled Tribes Order, 1967.
- (viii) The Constitution (Goa, Daman and Diu) Scheduled Castes Order, 1968.
- (ix) The Constitution (Goa, Daman and Diu) Scheduled Tribes Order, 1968.
- (x) The Constitution (Nagaland) Scheduled Tribes Order, 1970.
- (xi) The Constitution (Sikkim) Scheduled Castes Order 1978.
- (xii) The Constitution (Sikkim) Scheduled Tribes Order, 1978.

(xiii) The Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989.

(xiv) The Constitution (Scheduled Castes) Orders (Amendment) Act, 1990.

(2) An up-to-date State-wise list of Scheduled Castes and Scheduled Tribes as declared in the Orders referred to, is given in Appendix - 1.

2. Certificate to be produced in support of claim

Every person who claims to belong to a Scheduled Caste or Scheduled Tribe has to produce a certificate to the Appointing Authority, as sufficient proof in support of the claim so as to make him eligible for the various relaxations and concessions.

2. The certificate should be in the prescribed form issued by one of the authorities empowered for the purpose. No other certificate will be accepted as sufficient proof (Prescribed form is given in Appendix-2 and authorities empowered in Appendix - 3.)

[Orders 1 and 61]

3. Provisional appointment subject to verification

Even where the prescribed certificates have been produced, the Appointing Authorities should include a clause in the offer of appointment as follows:—

“The appointment is provisional and is subject to the Caste/Tribe certificates being verified through the proper channels and if the verification reveals that the claim to belong to Scheduled Caste or Scheduled Tribe, as the case may be, is false, the services will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of false certificates.”

[Order 61]

4. Provisional appointment when prescribed certificates not produced

Where a candidate belonging to an SC or ST is unable to produce a certificate from any of the prescribed authorities, he may be appointed provisionally on the basis of whatever prima facie proof he is able to produce in support of his claim, subject to his furnishing the prescribed certificate within a reasonable time. If there is genuine difficulty in his obtaining a certificate, the Appointing Authority should itself verify his claim through the District Magistrate concerned. Appointment of an SC or ST candidate should not be withheld/delayed pending verification of caste status.

[Orders 1 and 24]

5. Further verification and action thereon

It is always open to the Appointing Authority, if it considers necessary for any reason, to verify the claim of a candidate through the District Magistrate of the place where the candidate and/or his family ordinarily resides.

2. If after appointment in any particular case, the verification reveals that the candidate's claim was false, his services may be terminated in accordance with the relevant rules/orders.

[Orders 1 and 61]

Caste status to be verified again at the time of promotion against reserved vacancy

The Appointing Authorities should verify the caste status of an SC/ST officer at the time of initial appointment and again at the time of promotion against a reserved vacancy for SC/ST. For this purpose, the caste and the community to which an SC/ST person belongs, his place of residence and the name of the State, should be pasted on the top of the Service Book, personal file or any other relevant document covering its employee to facilitate such verification. It may be mentioned that a Scheduled Caste person, whose caste has been descheduled after his initial appointment as a Scheduled Caste, is no longer entitled to enjoy the benefit of reservation in promotions. This verification of caste-status at every important upturn of employee's career is necessary so that the benefit of reservation and other scheme of concessions, etc., meant for SC/ST should go only to the rightful claimants and not those who become disintitiled to them.

[Orders 21 and 24]

7. SC candidate to intimate change of religion

A member of the Scheduled Castes should profess Hindu or Sikh or Buddhist religion. No member professing any other religion can be deemed to be a member of Scheduled Castes.

2. In view of this, the Appointing Authorities should stipulate in the letter of appointment issued to Scheduled Caste candidates that they should inform about the change, if any, of their religion to their appointing/administrative authorities immediately after such a change.

[Order 49]

8. Guidelines for issue of caste certificates

The authorities empowered to issue caste certificates are required to strictly adhere to the guidelines issued on the subject (Appendix - 4). Before issuing the certificates, it is necessary for the authorities concerned to make proper verification based primarily on revenue records and, if need be, through reliable enquiries.

2. Detailed guidelines for dealing with cases relating to Community Certificates are also given in Appendix-4.

3. Cases in which a doubt arises whether a person is an SC/ST or not may be referred to the Department of Personnel and Training.

PERCENTAGES AVAILABE FOR SCs, STs & OBCs IN RECRUITMENT & PROMOTION IN GOVERNMENT SERVICES

S.No.	Method of recruitment/promotion	Percentage	Roster applicable
	<u>Recruitment on All India Basis</u>		
1	i. By Open competition (including selections through any Public Service Commission or Recruitment Board without examination).	SC-15% ST-7.5% OBC-27%	200 Points
	ii. Otherwise than by open competition	SC-16.66% ST-7.5% OBC-25.84%	120 Points
2	Recruitment to Group C and D Posts normally attracting candidates from a <u>locality</u> or region.	Proportionately to the populations of SCs and STs in the respective States or regions, OBCs upto the percentages for SCs and STs taken together	100 Points
	<u>Promotions based on</u>		
3	i. Departmental competitive exams to Group B, C and D posts in which the element of direct recruitment, if any, does not exceed 75%.	SC-15% ST-7.5% OBC-Nil	200 Points
	ii. Selection to Group B, C and D and from Group B to the lowest rung of Group A in which the element of direct recruitment, if any, does not exceed 75%.	SC-15% ST-7.5% OBC-Nil	200 Points
	iii. Seniority subject to fitness to Group A, B, C and D posts in which the element of direct recruitment, if any, does not exceed 7.5%	SC-15% ST-7.5% OBC-Nil	200 Points

**MODEL ROSTER OF RESERVATION WITH REFERENCE TO
POSTS FOR DIRECT RECRUITMENT ON ALL INDIA
BASIS BY OPEN COMPETITION**

Sl. No. of Post	Share of entitlement			Category for which the post should be car-marked	Sl. No. of Post	Share of entitlement			Category for which the post should be car-marked
	SC @ 15%	ST @ 7.5%	OBC @ 27%			SC @ 15%	ST @ 7.5%	OBC @ 27%	
1.	0.15	0.075	0.27	UR	23.	3.45	1.725	6.21	OBC-6
2.	0.30	0.15	0.54	UR	24.	3.60	1.8	6.48	UR
3.	0.45	0.225	0.81	UR	25.	3.75	1.875	6.75	UR
4.	0.6	0.3	1.08	OBC-1	26.	3.90	1.95	7.02	OBC-7
5.	0.75	0.375	1.35	UR	27.	4.05	2.025	7.29	SC-4
6.	0.90	0.45	1.62	UR	28.	4.20	2.1	7.56	ST-2
7.	1.05	0.525	1.89	SC-1	29.	4.35	2.175	7.83	UR
8.	1.2	0.6	2.16	OBC-2	30.	4.50	2.25	8.1	OBC-8
9.	1.35	0.675	2.43	UR	31.	4.65	2.325	8.37	UR
10.	1.5	0.75	2.7	UR	32.	4.80	2.4	8.64	UR
11.	1.65	0.825	2.97	UR	33.	4.95	2.475	8.91	UR
12.	1.8	0.9	3.24	OBC-3	34.	5.10	2.55	9.18	OBC-9
13.	1.95	0.975	3.51	UR	35.	5.25	2.625	9.55	SC-5
14.	2.1	1.05	3.78	ST-1	36.	5.40	2.7	9.72	UR
15.	2.25	1.125	4.05	SC-2	37.	5.55	2.775	9.99	UR
16.	2.40	1.2	4.32	OBC-4	38.	5.70	2.85	10.26	OBC-10
17.	2.55	1.275	4.59	UR	39.	5.85	2.925	10.53	UR
18.	2.70	1.35	4.86	UR	40.	6.00	3	10.8	ST-3
19.	2.85	1.425	5.13	OBC-5	41.	6.15	3.075	11.07	SC-6
20.	3.00	1.5	5.4	SC-3	42.	6.30	3.15	11.34	OBC-11
21.	3.15	1.575	5.67	UR	43.	6.45	3.225	11.61	UR
22.	3.30	1.65	5.94	UR	44.	6.60	3.3	11.88	UR

Sl. No. of Post	Share of entitlement			Category for which the post should be earmarked	Sl. No. of Post	Share of entitlement			Category for which the post should be earmarked
	SC @ 15%	ST @ 7.5%	OBC @ 27%			SC @ 15%	ST @ 7.5%	OBC @ 27%	
45	6.75	3.375	12.15	OBC-12	76	11.40	5.7	20.52	UR
46	6.90	3.45	12.42	UR	77	11.55	5.775	20.79	UR
47	7.05	3.525	12.69	SC-7	78	11.70	5.85	21.06	OBC-21
48	7.20	3.6	12.96	UR	79	11.85	5.925	21.33	UR
49	7.35	3.675	13.23	OBC-13	80	12.00	6	21.6	ST-6
50	7.50	3.75	13.5	UR	81	12.15	6.075	21.87	SC-12
51	7.65	3.825	13.77	UR	82	12.30	6.15	22.14	OBC-22
52	7.80	3.9	14.04	OBC-14	83	12.45	6.225	22.41	UR
53	7.95	3.975	14.31	UR	84	12.60	6.3	22.68	UR
54	8.10	4.05	14.58	SC-8	85	12.75	6.375	22.95	UR
55	8.25	4.125	14.85	ST-4	86	12.90	6.45	23.22	OBC-23
56	8.40	4.2	15.12	OBC-15	87	13.05	6.525	23.49	SC-13
57	8.55	4.275	15.39	UR	88	13.20	6.6	23.76	UR
58	8.70	4.35	15.66	UR	89	13.35	6.675	24.03	OBC-24
59	8.85	4.425	15.93	UR	90	13.50	6.75	24.3	UR
60	9.00	4.5	16.2	OBC-16	91	13.65	6.825	24.57	UR
61	9.15	4.575	16.47	SC-9	92	13.80	6.9	24.84	UR
62	9.30	4.65	16.74	UR	93	13.95	6.975	25.11	OBC-25
63	9.45	4.725	17.01	OBC-17	94	14.10	7.05	25.38	SC-14
64	9.60	4.8	17.28	UR	95	14.25	7.125	25.65	ST-7
65	9.75	4.875	17.55	UR	96	14.40	7.2	25.92	UR
66	9.90	4.95	17.82	UR	97	14.55	7.275	26.19	OBC-26
67	10.05	5.025	18.09	OBC-18	98	14.70	7.35	26.46	UR
68	10.20	5.1	18.36	SC-10	99	14.85	7.425	26.73	SC-15*
69	10.35	5.175	18.63	ST-5	100	15.00	7.5	27	OBC-27*
70	10.50	5.25	18.9	UR	101	15.15	7.575	27.27	UR
71	10.65	5.325	19.17	OBC-19	102	15.30	7.65	27.54	UR
72	10.80	5.4	19.44	UR	103	15.45	7.725	27.81	UR
73	10.95	5.475	19.71	UR	104	15.60	7.80	28.08	OBC-28
74	11.10	5.55	19.98	SC-11	105	15.75	7.875	28.35	UR
75	11.25	5.625	20.25	OBC-20					