

मध्य प्रदेश शासन
सामान्य प्रशासन विभाग
मंत्रालय
वल्लभ भवन, भोपाल-462004

क्रमांक एफ-07-37/2021/आ.प्र.एक
प्रति,

भोपाल, दिनांक 02 सितम्बर, 2021

अपर मुख्य सचिव/प्रमुख सचिव/सचिव,
शासन के समस्त विभाग,
समस्त संभागायुक्त,
समस्त विभागाध्यक्ष,
समस्त कलेक्टर,
समस्त मुख्य कार्यपालन अधिकारी, जिला पंचायत,
मध्यप्रदेश।

विषय:-अन्य पिछड़ा वर्ग के लिए 27 प्रतिशत आरक्षण के संबंध में।

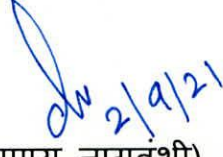
मध्यप्रदेश लोक सेवा (अनुसूचित जातियों, अनुसूचित जनजातियों एवं अन्य पिछड़े वर्गों के लिए आरक्षण) संशोधन अधिनियम, 2019 द्वारा अन्य पिछड़ा वर्ग को लोक सेवाओं एवं पदों में सीधी भरती के प्रक्रम में आरक्षण का प्रतिशत 14 से बढ़ाकर 27 किया गया है, जो कि दिनांक 08 मार्च, 2019 से प्रभावशील है।

2/ उक्त संशोधन अधिनियम, 2019 में प्रावधानित अन्य पिछड़े वर्ग के आरक्षण प्रतिशत 14 से बढ़ाकर 27 प्रतिशत किये जाने को चुनौती दी जाकर माननीय उच्च न्यायालय, जबलपुर में याचिकाएं दायर की गई हैं।

3/ माननीय उच्च न्यायालय में पिछड़ा वर्ग के उक्त आरक्षण के संबंध में प्रचलित प्रकरणों में महाधिवक्ता के द्वारा दिनांक 25 अगस्त 2021 को विधिक अभिमत दिया गया है, जिसकी प्रति संलग्न है। उनके द्वारा इस विधिक अभिमत की कंडिका-5 में उल्लेखित प्रकरणों को छोड़कर शेष समस्त परीक्षाओं/भर्तियों में पिछड़ा वर्ग के लिए 27 प्रतिशत आरक्षण के प्रावधानों के अनुरूप कार्यवाही करने का स्पष्ट अभिमत दिया है।

4/ समस्त विभागों से अपेक्षा है कि वह महाधिवक्ता के उक्त विधिक अभिमत के अनुरूप परीक्षाओं/भर्तियों की कार्यवाही करने का कष्ट करें।

संलग्न- यथोपरि


(दिशा प्रणय नागवंशी)
उप सचिव
मध्य प्रदेश शासन
सामान्य प्रशासन विभाग

प क्रमांक एफ-07-37/2021/आ.प्र./एक
प्रतिलिपि:-

भोपाल, दिनांक 02 सितम्बर, 2021

1. प्रमुख सचिव, महामहिम राज्यपाल, राजभवन, मध्यप्रदेश भोपाल।
 2. प्रमुख सचिव, माननीय मुख्यमंत्रीजी, मंत्रालय, भोपाल।
 3. माननीय मंत्री/राज्यमंत्री के निज सचिव/निज सहायक, म.प्र.शासन, भोपाल।
 4. प्रमुख सचिव (समन्वय), मुख्य सचिव कार्यालय, मंत्रालय भोपाल।
 5. अध्यक्ष, राजस्व मण्डल, ग्वालियर।
 6. अध्यक्ष, म.प्र. व्यावसायिक परीक्षा मण्डल/माध्यमिक शिक्षा मण्डल, भोपाल।
 7. महानिदेशक, प्रशासन अकादमी, मध्यप्रदेश भोपाल।
 8. प्रमुख सचिव, मध्यप्रदेश विधान सभा सचिवालय, भोपाल।
 9. रजिस्ट्रार जनरल, उच्च न्यायालय, मध्यप्रदेश जबलपुर।
 10. सचिव, लोकायुक्त मध्यप्रदेश भोपाल।
 11. सचिव, लोक सेवा आयोग मध्यप्रदेश, इंदौर।
 12. मुख्य निर्वाचन पदाधिकारी/सचिव, राज्य निर्वाचन आयोग, मध्यप्रदेश।
 13. महाधिवक्ता/उपमहाधिवक्ता, मध्यप्रदेश जबलपुर/इंदौर/ग्वालियर।
 14. महालेखाकार, मध्यप्रदेश ग्वालियर/भोपाल।
 15. निदेशक, राष्ट्रीय अनुसूचित जनजाति आयोग, क्षेत्रीय कार्यालय, कमरा नं0 309, निर्माण सदन, सीजीओ बिल्डिंग, 52-ए, अरेरा हिल्स, भोपाल।
 16. निदेशक, अनुसूचित जाति आयोग, क्षेत्रीय कार्यालय, फ्लेट नं0-103, तेजस्वी अपार्टमेंट, द्वितीय तल, द्वारकापुरी, पंजागुट्टा, हैदराबाद-500082।
 17. सचिव, मध्यप्रदेश राज्य अनुसूचित जाति आयोग/अनुसूचित जनजाति आयोग/पिछडा वर्ग आयोग, भोपाल।
 18. प्रमुख सचिव/सचिव/उप सचिव, म.प्र. शासन, सामान्य प्रशासन विभाग,
 19. आयुक्त, जनसंपर्क, मध्यप्रदेश भोपाल।
 20. अवर सचिव, मध्यप्रदेश शासन, सा.प्र.वि. अधीक्षण/अभिलेख शाखा, मंत्रालय।
- की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु अग्रेषित ।

(दिशा प्रणय नागवंशी)
उप सचिव
मध्यप्रदेश शासन
सामान्य प्रशासन विभाग

Purushaindra Kaurav

Advocate General
Madhya Pradesh



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Date :

August 25, 2021

To,

The Additional Chief Secretary,
General Administration Department,
Vallabh Bhawan, Bhopal (M.P.)

SUB: - Clarification regarding stay orders granted by the Hon'ble High Court in the cases relating to OBC reservation.

1. There are various writ petitions pending before the Hon'ble High Court of Madhya Pradesh, Principal Seat at Jabalpur, where the provisions of the M.P. Lok Seva (Anushuchit Jatiyo, Anushuchit Janjatiyo Or Anya Pichde Vargo Ke Liye Aarakshan) Sanshodhan Adhiniyam, 2019 are under challenge, whereby the reservation for the OBC class has been increased from 14% to 27%.
2. There are other sets of cases also where 10% reservation is provided to economical weaker section is also under challenge. Apart from these two important sets of cases there are few other cases, details thereof is not necessary at present for the purpose of this clarification.
3. Earlier this office through the Additional Advocate General had given the opinion on 18.08.2020 to National Health Mission, whereby it was advised under the special circumstances prevalent at that point of time due to spread of COVID 19 situation that, the appointments on the posts related to some contractual appointment in NRHM Department can be made confining the OBC reservation to the tune of 14%. However, it was made clear that, the merit positions for entire 27% should be maintained and remaining 13% will depend upon the final outcome of the case.
4. It is seen that, on the basis of the said opinion certain interpretations were being made to show as if the same is the opinion of the office of Advocate General for all cases in general. It is clarified that, the said opinion was

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confined to those appointments under NRHM because of the COVID 19 special situation owing to the medical staff emergency etc.

5. The position of interim orders in pending cases are as under:-

- i. **W.P. No. 5901/2019 (Ashita Dubey and others vs. State of M.P. and another)** – This case relates to the admission in PG course 2019-20, where the petitioners on the basis of apprehension that, the 27% reservation notification would be made applicable to the admission in PG course also have filed the petition. On 19.03.2019, the Hon'ble High Court directed that, the respondents shall not provide reservation of more than 14% for OBC category in admission made to the colleges. On 31.01.2020, it was clarified by this Hon'ble Court that, the Public Service Commission be allowed to proceed for selection of candidates as per notification but Public Service Commission shall not finalize and make appointment without prior permission of Court. However, on 13.07.2021 to the extent of 14% post of OBC category of Medical Officers has been permitted to be filled up.
- ii. **W.P. No. 8923/2020 (Chandra Kant Dwivedi vs. State of M.P. and others), W.P. No. 8930/2020 (Swatendra Kumar Jain and others vs. State of M.P. and others), W.P. No. 9328/2020 (Shivangna Shukla and another vs. State of M.P. and another) and W.P. No. 3757/2020 (Shantilal Joshi and others vs. State of M.P. and others)** – This set of cases relate to the Teacher Eligibility Test conducted for the purposes of selecting candidates for the appointment on the post of Teachers which is conducted by Professional Examination Board. In the said bunch of cases on 20.07.2020, the order passed in W.P. No. 5901/2019 dated 31.01.2020 has been made applicable.

- iii. The another case is W.P. No. 25181/2019 (Piyush Jain Vs. State of M.P. and others) where the recruitments being conducted by the Public Service Commission is under challenge and in this case on 28.01.2020, the order dated 19.03.2019 passed in W.P. No. 5901/2019 has been followed.
6. Hence, the provisions of the Amended Act of 2019, whereby the reservation to the extent of 27% has been prescribed, the operation of such provisions has not been stayed specifically anywhere in any of the writ petitions. The interim orders where passed are applicable to the examination / subject matter in question which are impugned in the respective petitions. Therefore, the State Government is free to proceed with the implementation of the provisions of the Act of 1994 as amended on 14.08.2019 to the extent of 27% except the examinations / recruitments where as stated above the specific orders are applicable passed by the Hon'ble High Court. In rest of the recruitment / selection, the State is free to proceed as per the amended provisions of law.
7. It is further clarified that, except the subject matter of W.P. No. 5901/2019 which only relates to admission in PG, there is also no other stay in admission to be made by any other education department. Therefore, the State is free to proceed as per the reservation policy as applicable as on date
8. The matter is fixed for hearing on 01.09.2021.


(PURUSHAINDRA KAURAV)
ADVOCATE GENERAL