

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 27th November 2010 and is hereby published for general information:—

**ACT No. 40 OF 2010.**

***An Act to provide preference in appointment in the services under the State to persons who have obtained the educational qualification prescribed for direct recruitment through Tamil medium of instruction.***

WHEREAS under Article 345 of the Constitution, the Legislature of the State has been given power to adopt any one or more of the languages in use in the State for official purposes;

AND WHEREAS the State of Tamil Nadu enacted the Tamil Nadu Official Language Act, 1956 ( Tamil Nadu Act XXXIX of 1956) and adopted Tamil as the Official language of the State under Article 345 of the Constitution;

AND WHEREAS the Official Languages Act, 1963 (Central Act 19 of 1963) provides for continuation of English language for all the official purposes of the Union and for the transaction of business in Parliament;

AND WHEREAS the first proviso to section 3 (1)(b) of Central Act 19 of 1963 provides that English shall be used for purposes of communication between the Union and the States;

AND WHEREAS Article 348 in Chapter III of Part XVII of the Constitution provides that notwithstanding anything contained in the provisions of that Part, until the Parliament by law otherwise provides, all proceedings in the Supreme Court and in every High Court shall be in the English language;

AND WHEREAS Tamil has been used as the language of Courts upto the district level inclusive of drafting of pleadings of parties, taking evidence, arguments of respective counsel for the parties and writing of judgements;

AND WHEREAS those who have studied in Tamil Medium have very little chances of getting selected in the employment of Central Government, other State Governments or in Private Sectors, and therefore preference need be given to them in the State Government Services;

AND WHEREAS under Article 14 of the Constitution, mere differentiation or inequality of treatment does not *per se* amount to differentiation within the inhibition of the equal protection clause and to attract the operation of the clause, it is necessary to show that the selection or differentiation is unreasonable or arbitrary; that it does not rest on any rational basis having regard to the object which the Legislature has in view;

AND WHEREAS the classification between persons who obtained the educational qualification prescribed for direct recruitment through Tamil medium of instruction and persons studied in other medium has a reasonable relation to the object sought to be achieved;

AND WHEREAS such classification neither crosses the frontiers of Article 16 of the Constitution nor prejudices the reservation policy of the State made thereunder;

AND WHEREAS the equality of opportunity of all citizens with similar qualifications relating to appointment to any services under the State does not get altered in view of such classification;

AND WHEREAS the provisions of the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the Services under the State) Act, 1993 (Tamil Nadu Act 45 of 1994) are not transgressed;

AND WHEREAS unless employment opportunities are provided for persons studied in Tamil medium, there is no scope for the populace of the State to pursue school and college career through Tamil medium;

AND WHEREAS in order to facilitate a conducive environment for the populace to prefer Tamil medium of instruction at all levels of education, appointment to any services under the State on preferential basis of persons studied in Tamil medium is a rational classification;

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil Medium Act, 2010.
- (2) It shall be deemed to have come into force on 7th day of September 2010.

Definitions.

2. In this Act, unless the context otherwise requires,—
  - (a) “direct recruitment” means first appointment of a person to any service under the State in accordance with the rules or regulations or orders in force;
  - (b) “Government” means the State Government;
  - (c) “persons studied in other medium” means persons who have obtained the educational qualification or qualifications prescribed for direct recruitment in the rules or regulations or orders applicable to any appointment in the services under the State through any medium of instruction other than Tamil;
  - (d) “persons studied in Tamil medium” means persons who have obtained the educational qualification or qualifications prescribed for direct recruitment in the rules or regulations or orders applicable to any appointment in the services under the State through Tamil medium of instruction;
  - (e) “preferential vacancies” means such vacancies available for persons studied in Tamil medium under sub-section (1) of section 3;
  - (f) “services under the State” includes the services under-
    - (i) the Government;
    - (ii) the Legislature of the State;
    - (iii) any local authority;
    - (iv) any Corporation or Company owned or controlled by the Government; and
    - (v) any other authority in respect of which the State Legislature has power to make laws.

Preferential appointment.

3. (1) Notwithstanding anything contained in any law for the time being in force and subject to section 5, twenty per cent of all vacancies in appointment in the services under the State which are to be filled through direct recruitment shall be set apart on preferential basis to persons studied in Tamil medium.
- (2) Selection for appointment under sub-section (1) shall be made in such manner as may be prescribed.
- (3) Nothing contained in sub-section (1) shall apply in the case of appointment to the posts in the services under the State for which the educational qualification prescribed in the rules or regulations or orders applicable to the post is a degree or diploma or any academic distinction in a language.

Right to compete for other vacancies not to be affected.

4. Persons studied in Tamil medium shall also be entitled to compete for the vacancies, other than preferential vacancies in appointment in the services under the State, along with persons studied in other medium.

Reservation to apply.

5. Preferential basis appointments to persons studied in Tamil medium under section 3 shall be made following the reservation as per law in force.

Filling up of vacancies in preferential allotment.

6. Notwithstanding anything contained in section 3, where adequate number of qualified and suitable persons studied in Tamil medium are not available for appointment in the preferential vacancies, such unfilled vacancies shall be filled up with persons studied in other mediums within the respective category.

7. The Government may, by general or special order, for just and equitable reasons, exempt any appointment or post in the services under the State from the provisions of this Act.

Power to exempt.

8. (1) The Government may make rules for carrying out the purposes of this Act.

Power to make rules.

(2) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.

(3) Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the Table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or order, or the Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

9. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order, published in the *Tamil Nadu Government Gazette*, make such provisions not inconsistent with the provisions of this Act as may appear to them to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of two years from the date of the publication of this Act in the *Tamil Nadu Government Gazette*.

10. (1) The Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil Medium Ordinance, 2010 is hereby repealed.

Repeal and saving.

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

(By order of the Governor)

S. DHEENADHAYALAN,  
Secretary to Government,  
Law Department.