

TO BE INTRODUCED IN LOK SABHA

Bill No. 124 of 2021

THE CONSTITUTION (ONE HUNDRED AND TWENTY-SEVENTH
AMENDMENT) BILL, 2021

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BILL

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (One Hundred and Twenty-seventh Amendment) Act, 2021. Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of article
338B.

2. In article 338B of the Constitution, in clause (9), the following proviso shall be inserted, namely:—

“Provided that nothing in this clause shall apply for the purposes of clause (3) of article 342A.”.

Amendment
of article
342A.

3. In article 342A of the Constitution,—

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(a) in clause (1), for the words “the socially and educationally backward classes which shall for the purposes of this Constitution”, the words “the socially and educationally backward classes in the Central List which shall for the purposes of the Central Government” shall be substituted;

(b) after clause (2), the following shall be inserted, namely:—

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‘Explanation.— For the purposes of clauses (1) and (2), the expression “Central List” means the list of socially and educationally backward classes prepared and maintained by and for the Central Government.

(3) Notwithstanding anything contained in clauses (1) and (2), every State or Union territory may, by law, prepare and maintain, for its own purposes, a list of socially and educationally backward classes, entries in which may be different from the Central List.’.

Amendment
of article 366.

4. In article 366 of the Constitution, for clause (26C), the following clause shall be substituted, namely:—

‘(26C) “socially and educationally backward classes” means such backward classes as are so deemed under article 342A for the purposes of the Central Government or the State or Union territory, as the case may be.’.

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STATEMENT OF OBJECTS AND REASONS

The Constitution (One Hundred and Second Amendment) Act, 2018 has inserted three new articles, that is, 342A, 366(26C) and 338B in the Constitution. Whereas article 338B has constituted the National Commission for Backward Classes, article 342A has dealt with the Central List of the socially and educationally backward classes (commonly known as the Other Backward Classes) and article 366 (26C) has defined the socially and educationally backward classes.

2. The legislative intent at the time of passing of the Constitution (One Hundred and Second Amendment) Act, 2018 was that it deals with the Central List of the socially and educationally backward classes (SEBCs). It recognises the fact that even prior to the declaration of the Central List of SEBCs in 1993, many States/Union territories are having their own State List/Union territory List of OBCs. The same was clarified in Parliament that the States and Union territories may continue to have their separate State List/Union territory List of SEBCs. The castes or communities included in such State List or Union List of Backward Classes may differ from the castes or communities included in the Central List of SEBCs.

3. Although since 1993, there always existed separate lists of the Central Government and that of the State Governments and Union territories, a question has arisen after enactment of the Constitution (One Hundred and Second Amendment) Act, 2018 as to whether the said amendments to the Constitution mandated for a single Central List of SEBCs specifying the SEBCs for each State, thereby taking away the powers of the State to prepare and maintain a separate State List of SEBCs.

4. In order to adequately clarify that the State Government and Union territories are empowered to prepare and maintain their own State List/ Union territory List of SEBCs and with a view to maintain the federal structure of this country, there is a need to amend article 342A and make consequential amendments in articles 338B and 366 of the Constitution.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 4th August, 2021.

VIRENDRA KUMAR.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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Socially and educationally backward classes. **342A.** (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 socially and educationally backward classes which shall for the purposes of this Constitution be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

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Definitions. **366.** In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

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(26C) “socially and educationally backward classes” means such backward classes as are so deemed under article 342A for the purposes of this Constitution;

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(Dr. Virendra Kumar, Minister of Social Justice and Empowerment)

MGIPMRND—623LS(S3)—05-08-2021.