

PARLIAMENT PASSES SCHEDULED CASTES AND SCHEDULED TRIBES (PREVENTION OF ATROCITIES) AMENDMENT BILL, 2018

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Ministry of Social Justice & Empowerment

Parliament Passes Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2018

Posted On: 09 AUG 2018 7:13PM by PIB Delhi

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2018 which was passed by the Lok Sabha on 6th August 2018, has been passed by the Rajya Sabha today. Union Minister for Social Justice and Empowerment Shri Thaawarchand Gehlot today moved the Amendment Bill, 2018 in Rajya Sabha.

Point-wise details: Section 18A has been inserted to nullify conduct of a preliminary enquiry before registration of an FIR, or to seek approval of any authority prior to arrest of an accused, and to restore the provisions of Section 18 of the Act.

Section 18A, inserted in the Act, states that:-

(1) For the purpose of the PoA Act, -

(a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or

(b) the investigating officer shall not require approval for arrest, if necessary, of any person, against whom an accusation of having committed an offence under the PoA Act has been made and no procedure other than provided under the PoA Act or the Code of Criminal Procedure, 1973, shall apply.

(2) The provision of section 438 of the Code shall not apply to a case under the Act, notwithstanding any judgment or order or direction of any Court.

Background : The directions of Hon'ble Supreme Court in their judgment dated 20.03.2018 in Criminal Appeal No. 416 of 2018 (Dr. Subhash Kashinath Mahajan Vs the State of Maharashtra and Another) amount to amending the PoA Act and have diluted the provisions of the PoA Act.

The directions of the Hon'ble Court to conduct a preliminary inquiry within seven days by the Dy. S.P. concerned to find out whether the allegations make out a case under the PoA Act and that arrest in appropriate cases may be made only after approval by the S.S.P., would delay registration of First Information Report (FIR) and will impede strict enforcement of the provision of the POA Act. It may also be difficult to get the preliminary inquiry conducted within seven days as sufficient number of Dy. S.P level officers are usually not in place. Typically, the Dy. S.P. are

located at the district level and not at taluk/block level. Other repercussions of the said directions of the Hon'ble Court are that delay in registration of FIR would result in delay in payment of admissible relief amount to the victims of atrocities admissible only on registration of FIR.

All this would adversely affect the very objective of the Act to prevent commission of atrocities against members of SC and ST and be severely detrimental especially in heinous offences like sexual exploitation of SC/ST women including rape, gangrape, acid attacks and murder etc.

This matter being of very sensitive nature had caused a lot of unrest and a sense of disharmony in the country. As such, a Review Petition dated 02.04.2018, was filed by the Union of India in the Hon'ble Court praying for recalling and reviewing their Order but no relief had so far been granted.

Hence, it was considered expedient and meaningful to reaffirm the reliance and trust of members of SCs and STs on the provisions of the PoA Act.

Sanjay Kumar/jk/MoSJE/09.08.2018

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