

## **From The Editorial Desk**

Of late, the National Commission for Scheduled Castes and Scheduled Tribes as well as the Parliamentary Committee for Welfare of Scheduled Castes/Scheduled Tribes have emphasised due observance of the constitutional mandate for Scheduled Castes/Scheduled Tribes in service matters. In terms of Article 12 (Part III of the Constitution of India which deals with fundamental rights), unless the context otherwise requires, “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India. The expression “other authorities” includes instrumentalities of the State as well as statutory corporation(s) established by an Act of Parliament but does not include entities owned by the private sector. Article 16 lays down the general rule that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Article 16(4) categorically provides that nothing in the 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. By the Constitution (Seventy-seventh Amendment) Act, 1995, clause (4-A) has been inserted in Article 16 which provides that nothing in the Article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of Scheduled Castes/Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State. By the Constitution (Eighty-first) Amendment Act, 2000, clause (4-B) has been inserted in Article 16 which provides that nothing in the 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 (4-A) 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 of total number of vacancies of that year. In terms of Article 335, the claims of members of Scheduled Castes and 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. Proviso to this Article, which has been inserted by the Constitution (Eighty-second) Amendment Act, 2000, states that nothing in this Article shall prevent the 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 standard of evaluation for reservation in matters of promotion to any class or classes of service or posts in connection with the affairs of the Union or of a State. Every instrumentality of the State and statutory corporation must formulate policy, keeping in view the guidelines if any, of the Central/State Governments, wherever applicable with regard to the Scheduled Caste and the Scheduled Tribe persons in matters of employment consistent with the mandate of the Constitution of India. Of course, the policy would be subject to Judicial Review in a Court of law.

This issue begins with the concluding part of the article, “A Critical Evaluation of the Legal Reforms Mitigating Banking Crisis” published in the last issue. This is followed by another article giving a detailed examination of the issues of construction of referential legislation. Yet another article examines the topical issue of restricting the borrowing powers of the Central Government in the context of the Fiscal Responsibility and Budget Management Bill, 2000. The last piece in this section looks at the lures of multilevel marketing, its dynamics, perils and the connected legal issues.

In the Judgements Section, we have, as usual, included a variety of judgements of the Supreme Court and the High Courts on matters of current interest, particularly to the banks and financial institutions. The Legislation Section covers the Trade Unions (Amendment) Act, 2001 and also the recent amendments to the Reserve Bank Directions issued to Financial Companies. In the Bibliography and Book Review Section, we have given the gist of a number of articles on law relevant to bankers published recently in different journals and also reviewed two books, one on Affidavits and the other on the Trade Unions Act. And to conclude, we have all other usual features like LD News and Mail Bag.

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