

RESERVATION ACT

GOVT. OF WEST BENGAL LEGISLATIVE DEPARTMENT

NOTIFICATION

No. 1079-L, --5th May 1976. —The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:--

West Bengal Act XXVII of 1976

The West Bengal Scheduled Castes and Scheduled Tribes (Reservation of vacancies in Services and Posts) Act, 1976

[Passed by the West Bengal Legislature]

[Assent of the Governor was first published in the Calcutta Gazette, Extraordinary, of the 5th May, 1976]

An Act to provide for the reservation of vacancies in services and posts for the members of the Scheduled Castes and Scheduled Tribes.

WHEREAS the members of the Scheduled Castes and Scheduled Tribes who are backward classes of citizens are not adequately represented in the services and posts within the State;

And WHEREAS it is expedient to provide for the reservation of vacancies in services and posts for them;

It is hereby enacted in the Twenty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follow

- Short title, extent and commencement**
- (1) This Act may be called the West Bengal Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1976.
 - (2) It extends to the whole of West Bengal.
 - (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint^{*}

2. In this Act, unless the context otherwise requires, --

- Definition**
- (a) “appointing authority”, in relation to a service or post in an establishment, means the authority empowered to make appointment to such service or post;
 - ¹(aa) “cadre” means the strength of a service or a part of a service sanctioned as a separate unit;

^{*} 15th Day of August, 1976 appointed as the date of effect vide Notification No. 370-TW/EC dated 14th August, 1976 published in the Calcutta Gazette, Extraordinary dated 14th Aug, 1976.

¹ Inserted vide West Ben. Act XXI of 2005 w. e. f. 31-8-2005.

(b) “establishment” means any office of the State Government, a local or statutory authority constituted under any State Act for the time being in force, or a corporation in which not less than fifty-one per cent of the paid up share capital is held by the State Government, and includes universities and colleges affiliated to the universities, primary and secondary schools and also other educational institutions which are owned or aided by the State Government and also includes an establishment in public sector;

(c) “establishment in public sector” means any industry, trade, business or occupation owned, controlled or managed by—

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(i) the State Government or any department of the State Government,

(ii) a Government Company as defined in section 617 of the Companies Act, 1956 or a Corporation established by or under a Central or State Act, in which not less than fifty-one per cent of the paid up share capital is held by the State Government,

(iii) a local or statutory authority, constituted under any State Act for the time being in force;

(d) “establishment in private sector” means any industry, trade, business or occupation which is not an establishment in public sector;

(e) “Schedule” means the Schedule appended to this Act.

²(f) “single post cadre” means a cadre which has the strength of one post only.

3. This Act shall not apply in relation to, -

Act not to apply in relation to certain employments

(a) any employment under the Central Government;

(b) any employment in the West Bengal Higher Judicial Service;

(c) ³Omitted;

(d) any employment in private sector;

(e) any employment in domestic service.

(f) ²any employment in single post cadre.

⁴ 4. (1) After the commencement of this Act all appointments to services and posts in an establishment which are to be filled up by direct recruitment shall be regulated in the following manner, namely, --

² Inserted vide West Ben. Act XXI of 2005 w. e. f. 31-8-2005

² Inserted vide West Ben. Act XXI of 2005 w. e. f. 31-8-2005

³ Vide West Bengal Act XLII of 1994 w. e. f. 16-1-1995 ² Inserted vide West Ben. Act XXI of 2005 w. e. f. 31-8-2005

⁴ Vide West Bengal Act XLII of 1980

Reservation for Scheduled Castes and Scheduled Tribes in vacancies to be filled up by direct recruitment.

⁵(a) subject to the other provisions of this Act twenty-two per cent of the all be reserved for candidates belonging to Scheduled Castes and six per cent s belonging to Scheduled Tribes, in the manner set out in Schedule I⁶

Provided that the State Government may, from time to time, by notification in the *Official Gazette*, increase the percentage so, however, that the reservation shall not exceed twenty-five per cent in the case of Scheduled Castes and ten per cent in the case of Scheduled Tribes:

Provided further that different percentages may be fixed by the State Government for different districts in accordance with the percentages of population of Scheduled Castes and Scheduled Castes and Scheduled Tribes in such districts:

Provided also that in respect of the West Bengal Civil Service (Judicial), the percentage shall be ten for Scheduled Castes and five for Scheduled Tribes;

- (b) fees, if any, prescribed for any examination for selection to any service or post shall not be charged⁷ in the case of candidates belonging to the Scheduled Castes or the Scheduled Tribes;
- (c) the members of the Scheduled Castes and the Scheduled Tribes shall be entitled to a concession of five years over the prescribed maximum age limit for appointment to any service or post.

⁸(2) The member of any Scheduled Caste or Scheduled Tribe candidate qualifying on merit for appointment to any unreserved vacancy in a service or post in any establishment to be filled up by direct recruitment shall not be deducted from the quota reserved in such service or post for such candidate under sub-section (1).

5. Reservation for members of the Scheduled Castes and the Scheduled Tribes in vacancies to be filled up by promotion in any establishment shall be regulated in the following manner, namely, --

Reservation for Scheduled Castes and Scheduled Tribes in vacancies to be filled up by promotion.

⁹(a) There shall be reservation at twenty-two per cent for members of the Scheduled Castes and six percent for members of the Scheduled Tribes **in the manner set out in Schedule II:**¹⁰

Provided that the State Government may, from time to time, by notification in the *Official Gazette*, increase the percentage so, however, that the reservation shall not exceed twenty-five per cent in the case of Scheduled Castes and ten per cent in the case of Scheduled Tribes:

⁵ Vide West Bengal Act XLII of 1984

⁶ Vide West Bengal Act XXIV of 2000 w. e. f. 30-8-2000

⁷ Vide West Bengal Act XXIV of 2000 w. e. f. 30-8-2000

⁸ Vide West Bengal Act XLII of 1980

⁹ Vide West Bengal Act XLII of 1994

¹⁰ Vide West Bengal Act XXIV of 2000.

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¹⁷¹⁸[Provided that the State Government may, if it is satisfied that the appointing authority by genuine mistake or on account of an error of judgment or owing to ignorance has filled up any reserved vacancy otherwise than by a candidate for whom the vacancy is reserved and that there has been no *mala fide* intention in this regard on the part of the appointing authority, by order in writing, regularise the appointment, if so applied for by the appointing authority, on the basis of the carry forward principle. In such case, reservation against the reserved vacancy already filled up otherwise than by a candidate belonging to Scheduled Caste or Scheduled Tribe for whom the vacancy was originally reserved, shall,—

- (a) if such vacancy relates to an establishment other than the establishment in universities and colleges affiliated to the universities, primary and secondary schools and also other educational institutions which are owned or aided by the State Government, be carried forward to the nearest unreserved vacancy available at the time of consideration of any application; or
- (b) if such vacancy relates to an establishment in universities and college affiliated to the universities, primary and secondary schools and also other educational institutions which are owned or aided by the State government, be carried forward to the nearest unreserved vacancy available at the time of consideration of any application or to any unreserved vacancy which shall occur in future:]

Provided further that the State Government may, if it considers it necessary or expedient so to do, by notification in the *Official Gazette*, empower any other authority not below the rank of District Magistrate and District Commissioner for Reservation to exercise the power of the State Government to de-reserve a reserved vacancy under this sub-section.”

¹⁴“(2A) The appointing authority shall, for the purposes of sub-section (2), make an application to the State Government in such Form and in such manner, as may be prescribed by the State Government.”

¹⁵“(3) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, if, in the public interest, it is necessary or expedient to fill up any vacancy in any post in any primary, secondary or higher secondary school in any district owned or aided by the State Government, caused by deputation or leave of the incumbent of that post for a period not exceeding ten months and remaining unfilled on account of non-availability of a qualified Scheduled Caste or Scheduled Tribe candidate, as the case may be, the appointing authority may refer the vacancy to the District Commissioner for Reservation, referred to in sub-section (1), or sub-section (1A) as the case may be, of section 6B, for that district for de-reservation. Upon such reference, the District Commissioner for Reservation as aforesaid may, if he is satisfied that it

¹⁵ Vide West Bengal Act XV of 1996.

is necessary or expedient so to do, by order, dereserve the vacancy, subject to the condition that the reservation against the vacancy so dereserved shall be carried forward against the subsequent unreserved vacancy in any such post caused by such deputation or leave for such period.”

¹⁶6A(1) The State Government may appoint any officer, not below the rank of Secy to the Commissioner for reservation Govt.of West Bengal, to be the Commissioner for Reservation, West (hereinafter referred to as the Commissioner.)

Explanation.—Secretary shall include a Special Secretary.

(2). The Commissioner shall be responsible for ensuring reservation of vacancies in services and posts for the members of the Scheduled Castes and the Scheduled Tribes under this Act. by an appointing authority—

(a) having territorial jurisdiction throughout West Bengal, or

¹⁷“(a1) having its offices and fixed territorial jurisdiction in Calcutta, or”;

(b) having its offices in Calcutta without having any fixed territorial jurisdiction.

¹⁸“(2A) (a). The State Government may appoint an officer, not below the rank of Joint Secretary to the Government of West Bengal, to be the Joint Commissioner for Reservation, West Bengal (hereinafter referred to as the Joint Commissioner), an officer, not below the rank of Deputy Secretary to the Government of West Bengal, to be the Deputy Commissioner for Reservation, West Bengal (hereinafter referred to as the Deputy Commissioner), and an officer, not below the rank of Assistant Secretary to the Government of West Bengal, to be the Assistant Commissioner for Reservation, West Bengal (hereinafter referred to as the Assistant Commissioner).

(b) The Joint Commissioner, the Deputy Commissioner, and the Assistant Commissioner shall have the powers of the Commissioner for the purposes of this Act, subject to superintendence and control of the Commissioner.”;

Explanation.- “Calcutta” shall mean the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866.

Ben. Act IV of 1866

¹⁶ Vide West Bengal Act XLII of 1994 w. e. f. 16-1-1995

¹⁷ Vide West Bengal Act XV of 1996

¹⁸ Vide West Bengal Act XXIV of 2000 with immediate effect

- (3). If any appointing authority referred to in sub-section (2) contravenes any provision of this Act and thereby commits an offence punishable under sec 7, the Commissioner, or any Officer, not below the rank of an Inspector of Backward Classes Welfare Department,¹⁹ authorised by him in this behalf, may file a complaint in any court having jurisdiction against such appointing authority, and thereupon such court shall, subject to the provision of section 8, take cognizance of such offence.
- (4) “Where a complaint is filed in any court having jurisdiction against an appointing authority under sub-section (3) for contravening any provision of this Act and thereby committing an offence punishable under section 7, the burden of proof that no contravention of any provision of this Act has been made by him, shall lie with him.”

²⁰6B. (1) The State Government may appoint any District Magistrate of a district to be the District Commissioner for Reservation for that district (hereinafter referred to as the District Commissioner).

District Commissioner for Reservation

Explanation. - “District Magistrate” shall include an Additional District Magistrate.

²¹ (1A) “Omitted”

(2). The District Commissioner shall be responsible for ensuring reservation of vacancies in services and posts for the members of the Scheduled Castes and the Scheduled Tribes under this Act by an appointing authority-

(a) having territorial jurisdiction in the whole, or any part, of the district or

(b) having no fixed territorial jurisdiction in the district, but having his office in the district to which the jurisdiction of the District Commissioner extends.

(3). If any appointing authority referred to in sub-section (2) contravenes any provision of this Act and thereby commits an offence punishable under section 7, the District Commissioner or any officer, not below the rank of an Inspector of Backward Classes Welfare Department,²² authorised by him in this behalf, may file a complaint in any court having jurisdiction against

¹⁹ The words “Inspector of Scheduled Castes and Tribes Welfare Department” substituted by the words “an Inspector of Backward Classes Welfare Department” vide West Ben. Act XXIV of 2000 w. e. f. 30-08-2000

²⁰ Vide West Bengal Act XV of 1996

²¹ Vide West Bengal Act XXIV of 2000 with immediate effect

²² Vide West Bengal Act XXIV of 2000 with immediate effect

such appointing authority, and thereupon such court shall, subject to the provisions of section 8, take cognizance of such offence.

²⁰(4) Where a complaint is filed in any court having jurisdiction against an appointing authority under sub-section (3) for contravening any provision of this Act and thereby committing an offence punishable under section 7, the burden of proof that no contravention of any provision of this Act has been made by him, shall lie with him.

²³6C. For the purposes of section 6A and 6B—

Territorial jurisdiction (a) Territorial jurisdiction shall, in relation to an appointing authority mean the area to which its administrative jurisdiction extends; and
(b) an appointing authority, whose administrative jurisdiction does not extend to any fixed area, shall be deemed to be an appointing authority without having any fixed territorial jurisdiction.

²⁰7. If an appointing authority makes an appointment in contravention of the provisions of section 4 or section 5, or fails to maintain records, or to furnish the annual return, referred to in sub-section (1) of section 12, he shall be punishable with imprisonment for a term of five years, or with fine of two thousand and five hundred rupees, or with both;

Provided that nothing contained in this section shall apply in relation to an appointment to any service or post of which the appointing authority is the Governor.

8. No prosecution for an offence under Act shall be instituted except by, or with the **Cognizance of offences** of State Government.

9. No suit, prosecution or other legal proceeding shall lie against any person for anything, which is in good faith done or intended to be done under this Act. **Protection of action taken in good faith**

10. If any difficulty arises in giving effect to the provision of this Act, the State **Removal of difficulties** Government may take such steps or issue such orders not inconsistent with the provisions of this Act, as the State Government may consider necessary for removing the difficulty

11. The State Government may, by order published in the *Official Gazette*, **Power to amend any Schedule.** add to, amend or alter any Schedule.²⁴

²³ Vide West Bengal Act XLII of 1994 w. e. f.16-1-1995

²⁴ Substituted Vide West Bengal Act XXIV of 2000 with immediate effect

12. (1) Every appointing authority shall maintain such records and documents²⁵ as may be prescribed by rules made in this behalf and shall furnish to the State Government in the prescribed manner. an annual report on the appointments made by it, during the previous **year reckoned according to the British calendar.**²⁶
- Submission of annual report, maintenance of other records and inspection thereon**
- (2) Any officer authorised by the State Government in that behalf may inspect any records or documents, which are maintained in relation to appointments made by such appointing authority.
- (3) It shall be the duty of the appointing authority to produce such records or documents for inspection by the officer authorised under sub-section (2), and furnish such information or afford such assistance as may be necessary for him to carry out his functions under this Act.
- (4) Notwithstanding anything contained in **the West Bengal Services (Duties, Rights and Obligations of the Government Employees) Rules, 1980,**²⁷ any member of any Scheduled Castes or any Scheduled Tribes who is adversely affected on account of the non-compliance with the provisions of this Act or the rules made there under by any appointing authority, may bring the fact to the notice of the State Government and upon application made by him the State Government may call for such records or take such action thereon as it may think fit.
13. (1) The State Government may make rules for carrying out the purposes of this Act.
- Power to make rules** (2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters, namely,
- (a) form in which every establishment shall submit annual report to the State Government regarding the number of persons recruited in such establishment;
- (b) any other matter which has to be or may be prescribed by rules made in this behalf.

²⁵ Ins. vide West Bengal Act XXIV of 2000 with immediate effect

²⁶ Words “financial year” subs. vide West Bengal Act XXIV of 2000 with immediate effect

²⁷ Subs. for “West Bengal Government Servants’ Conduct Rules, 1959” vide West Bengal Act XXIV of 2000 with immediate effect

***SCHEDULE I**
(See Section 4.).

The reservation for the members of the Scheduled Castes and the Scheduled Tribes in services or posts in an establishment shall be given effect to in the following manner, namely: --

** (i) A roster of one hundred vacancies¹ will be necessary to give effect to the reservation of vacancies for the Scheduled Castes and the Scheduled Tribes for direct recruitment.² The roster given below shall be adopted for the purpose by each establishment.

1 st vacancy	Scheduled Caste
2 nd vacancy	Unreserved
3 rd vacancy	Unreserved
4 th vacancy	Scheduled Tribe
5 th vacancy	Unreserved
6 th vacancy	Unreserved
7 th vacancy	Scheduled Caste
8 th vacancy	Unreserved
9 th vacancy	Unreserved
10 th vacancy	Unreserved
11 th vacancy	Scheduled Caste
12 th vacancy	Unreserved
13 th vacancy	Unreserved
14 th vacancy	Unreserved
15 th vacancy	Scheduled Caste
16 th vacancy	Unreserved
17 th vacancy	Unreserved
18 th vacancy	Scheduled Caste
19 th vacancy	Unreserved
20 th vacancy	Unreserved
21 st vacancy	Scheduled Caste
22 nd vacancy	Unreserved
23 rd vacancy	Unreserved
24 th vacancy	Scheduled Tribe
25 th vacancy	Unreserved
26 th vacancy	Unreserved
27 th vacancy	Unreserved
28 th vacancy	Scheduled Caste

* Substituted Vide West Bengal Act XXIV of 2000 with immediate effect

** Vide West Bengal Act XLII of 1994 w. e. f.16-1-1995

¹ Words "A roster of fifty vacancies" substituted vide West Bengal Act XXIV of 2000 with immediate effect

² Ins. vide West Bengal Act XXIV of 2000 with immediate effect.

29 th vacancy	Unreserved
30 th vacancy	Unreserved
31 st vacancy	Unreserved
32 nd vacancy	Scheduled Caste
33 rd vacancy	Unreserved
34 th vacancy	Unreserved
35 th vacancy	Unreserved
36 th vacancy	Scheduled Caste
37 th vacancy	Unreserved
38 th vacancy	Unreserved
39 th vacancy	Unreserved
40 th vacancy	Scheduled Caste
41 st vacancy	Unreserved
42 nd vacancy	Unreserved
43 rd vacancy	Scheduled Tribe
44 th vacancy	Unreserved
45 th vacancy	Unreserved
46 th vacancy	Unreserved
47 th vacancy	Scheduled Caste
48 th vacancy	Unreserved
49 th vacancy	Unreserved
* [50 th vacancy	Unreserved
51 st vacancy	Scheduled Caste
52 nd vacancy	Unreserved
53 rd vacancy	Unreserved
54 th vacancy	Scheduled Tribe
55 th vacancy	Unreserved
56 th vacancy	Unreserved
57 th vacancy	Scheduled Caste
58 th vacancy	Unreserved
59 th vacancy	Unreserved
60 th vacancy	Unreserved
61 st vacancy	Scheduled Caste
62 nd vacancy	Unreserved
63 rd vacancy	Unreserved
64 th vacancy	Unreserved
65 th vacancy	Scheduled Caste
66 th vacancy	Unreserved
67 th vacancy	Unreserved
68 th vacancy	Scheduled Caste
69 th vacancy	Unreserved
70 th vacancy	Unreserved
71 st vacancy	Scheduled Caste
72 nd vacancy	Unreserved
73 rd vacancy	Unreserved

* Subs for 50th vacancy vide West Bengal Act XXIV of 2000 with immediate effect.

74 th vacancy	Scheduled Tribe
75 th vacancy	Unreserved
76 th vacancy	Unreserved
77 th vacancy	Unreserved
78 th vacancy	Scheduled Caste
79 th vacancy	Unreserved
80 th vacancy	Unreserved
81 st vacancy	Unreserved
82 nd vacancy	Scheduled Caste
83 rd vacancy	Unreserved
84 th vacancy	Unreserved
85 th vacancy	Unreserved
86 th vacancy	Scheduled Caste
87 th vacancy	Unreserved
88 th vacancy	Unreserved
89 th vacancy	Unreserved
90 th vacancy	Scheduled Caste
91 st vacancy	Unreserved
92 nd vacancy	Unreserved
93 rd vacancy	Scheduled Tribe
94 th vacancy	Unreserved
95 th vacancy	Unreserved
96 th vacancy	Unreserved
97 th vacancy	Scheduled Caste
98 th vacancy	Unreserved
99 th vacancy	Unreserved
100 th vacancy	Unreserved]

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- (ii) A register shall be maintained for giving effect to the instructions contained in paragraph (i).
- (iii) Before making an appointment by direct recruitment, the appointing authority shall ascertain by consulting the register whether the vacancy is reserved or unreserved and if it is reserved, for whom it is so reserved. Immediately after an appointment is made the particulars thereof shall be entered in the register and signed by the appointing authority.
- (iv) The roster is a running account from year to year and shall be maintained accordingly. If recruitment in a particular year stops at a particular point of the cycle, say at the 5th point, recruitment in the subsequent year shall begin at the next point, i.e., at the 6th point.

- ¹ (v) Omitted;
- ² (vi) Omitted;
- (vii) The roster shall be maintained separately for permanent and temporary vacancies.
- (viii) A vacancy due to whatever cause, except termination of service during probation, shall be treated as a fresh vacancy.
- ³ (ix) Omitted.

↑“**SCHEDULE II**
(See Section 5)

The reservation for the members of the Scheduled Castes and the Scheduled Tribes in vacancies to be filled up by promotion in an establishment shall be given effect to in the following manner, namely:--

- (i) A roster of fifty vacancies will be necessary to give effect to the reservation for the members of the Scheduled Castes and the Scheduled Tribes in vacancies to be filled up. The roster given below shall be adopted for the purpose by each establishment.

1 st vacancy	Scheduled Caste
2 nd vacancy	Unreserved
3 rd vacancy	Unreserved
4 th vacancy	Scheduled Tribe
5 th vacancy	Unreserved
6 th vacancy	Unreserved
7 th vacancy	Scheduled Caste
8 th vacancy	Unreserved
9 th vacancy	Unreserved
10 th vacancy	Unreserved
11 th vacancy	Scheduled Caste
12 th vacancy	Unreserved
13 th vacancy	Unreserved
14 th vacancy	Unreserved
15 th vacancy	Scheduled Caste
16 th vacancy	Unreserved
17 th vacancy	Unreserved

¹ Vide West Bengal Act XLII of 1994 w. e. f. 16-1-1995

² Vide West Bengal Act XLII of 1994 w. e. f. 16-1-1995

³ Vide West Bengal Act XV of 1996.

↑ Inserted vide Act XXIV of 2000 with immediate effect

18 th vacancy	Scheduled Caste
19 th vacancy	Unreserved
20 th vacancy	Unreserved
21 st vacancy	Scheduled Caste
22 nd vacancy	Unreserved
23 rd vacancy	Unreserved
24 th vacancy	Scheduled Tribe
25 th vacancy	Unreserved
26 th vacancy	Unreserved
27 th vacancy	Unreserved
28 th vacancy	Scheduled Caste
29 th vacancy	Unreserved
30 th vacancy	Unreserved
31 st vacancy	Unreserved
32 nd vacancy	Scheduled Caste
33 rd vacancy	Unreserved
34 th vacancy	Unreserved
35 th vacancy	Unreserved
36 th vacancy	Scheduled Caste
37 th vacancy	Unreserved
38 th vacancy	Unreserved
39 th vacancy	Unreserved
40 th vacancy	Scheduled Caste
41 st vacancy	Unreserved
42 nd vacancy	Unreserved
43 rd vacancy	Scheduled Tribe
44 th vacancy	Unreserved
45 th vacancy	Unreserved
46 th vacancy	Unreserved
47 th vacancy	Scheduled Caste
48 th vacancy	Unreserved
49 th vacancy	Unreserved
50 th vacancy	Unreserved

- (ii) A register shall be maintained for giving effect to the instructions contained in paragraph (i).
- (iii) Before giving any promotion, the appointing authority shall ascertain by consulting the register whether the vacancy is reserved or unreserved and if it is reserved, for whom it is so reserved. Immediately after a promotion is given, the particulars thereof shall be entered in the register and signed by the appointing authority.
- (iv) The roster is a running account from year to year and shall be maintained accordingly. If promotion in a particular year stops at a particular point of

the cycle, say, at the 5th point, promotion in the subsequent year shall begin at the next point, that is, at the 6th point.

- (v) The roster shall be maintained separately for permanent and temporary vacancies.
- (vi) A vacancy due to whatever cause, except termination of service during probation, shall be treated as a fresh vacancy.”